



Executive Procedure Rules

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LEADER AND EXECUTIVE

1.0 HOW DOES THE EXECUTIVE OPERATE?

1.1 Who may make Executive decisions?

The arrangements for the discharge of executive functions are set out in the executive arrangements adopted by the Council. The Leader has responsibility for the discharge of all executive functions. He/she can delegate any/all of these functions (except those reserved functions) to:

- (i) the Executive as a whole;
- (ii) an officer with identified delegated powers to act on the Council's behalf;
- (iii) nominated members of the Executive acting under joint arrangements with another local authority.
- (iv) nominated members of the Executive.

1.2 The Leader will determine the scope of the portfolios and allocate them to members of the Executive.

1.3 Delegation of Executive Functions

- (a) Where the Executive is responsible for an Executive function, it may delegate further to joint arrangements with another local authority, a nominated member of the Executive, or to an officer of the Council.
- (b) Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the Executive, should the occasion arise.

1.4 The Council's Scheme of Delegation and Executive Functions

The Council's Scheme of Delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.
- (b) If any member of the Executive has a conflict of interest this should be dealt with as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.

- (c) If the exercise of an Executive function has been delegated and should a conflict of interest arise, the function will be exercised in the first instance by the Executive and otherwise as set out in the Waverley Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive Meetings – When and Where?

The Executive will meet for decision making at least 10 times per year and meetings shall commence at 6.45 p.m., or in special circumstances at such hours as the Executive may fix from time to time. Meetings of the Executive should normally finish by 10.00 p.m. but at a convenient time before then, the Chairman may put to the meeting the options of extending the meeting until 10.30 p.m., continuing until its conclusion or adjourning the meeting. The Executive shall meet at the Council's main offices or another location to be agreed by the Leader. Special meetings may be convened to consider specific matters and will be called by the Head of Policy and Governance.

1.7 Public or Private meetings of the Executive?

The Executive will conduct all its decision-making business in compliance with the Local Government Acts and Access to Information legislation and all decisions will be taken by the Executive at meetings open to the public. This means, amongst other things, that the requirements of the Access to Information legislation will apply to its decision-making meetings. Public notice of meetings will be given and the agenda and reports will be on deposit for public inspection at least five clear working days before each meeting. Meetings will be open to the public and press, but they may be excluded when confidential or exempt business, as defined in the legislation, is to be transacted. All decisions will be recorded and published, together with the reasons and relevant background papers.

All meetings of the Executive that take any decisions will be held in public, except for those parts of the agenda which are exempt. The Access to Information Rules set out in Part 4 will be followed. Any members of the Council may receive briefings from officers which will not be open to the public and press.

1.8 Quorum

The quorum for a meeting of the Executive shall be three members.

1.9 How are decisions to be taken by the Executive?

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Rules in Part 4 of the Constitution and Council Procedure Rules in Part 4.

- (b) (i) Voting at a meeting of the Executive shall be by vocal consent provided that if one or more members shall indicate dissent then the vote shall be retaken on a show of hands.
- (ii) In the case of an equality of votes at a meeting of the Executive, the Chairman presiding shall have a second or casting vote.
- (iii) If three members of the Executive request it, the names of those voting for, against and abstaining will be recorded.
- (iv) If any member so desires he may request that it be recorded as to how his vote has been given.

1.10 Principles of Decision-Making

The following conditions should apply to decisions taken by or on the Council's behalf, both in the general public interest and in the interests of ensuring that the Council is able to defend its actions against legal challenge:-

- (a) That members are fully and effectively supported and advised by officers in exercising both executive and non-executive functions;
- (b) That decisions are only taken after the proper consideration of written reports which comply with the principles of the Access to Information legislation;
- (c) That relevant matters are fully taken into account in decision making;
- (d) That nothing irrelevant is taken into account;
- (e) That the Council's constitution is fully complied with including in particular:
 - Procedure Rules
 - Contract Procurement Rules
 - Financial Procedure Rules
 - Scheme of Delegation
 - Waverley Local Code of Conduct and the Members' Planning Code of Good Practice
 - Members should make any appropriate declarations of interests
 - Member/Officer Protocol
- (f) That decisions are recorded by officers and published, together with the reasons and relevant background papers.

This means that a clear audit trail of decision-making must be maintained and kept available for future reference. This applies not only to decisions taken by the full Council, the Executive and Committees or Sub-Committees, but also to those taken by officers acting under delegated powers. The Monitoring Officer will be responsible for ensuring that the Council's decision-making processes meet the requirements of the law and comply with principles of good governance.

The Council recognises the need to have an inclusive approach to member decision-making. Accordingly, reports relating to the budget or policy framework will normally be considered by an appropriate Overview and Scrutiny Committee before they are submitted to the Executive. In addition, the Overview and Scrutiny Committee may identify any item from the Forward Programme for overview. The comments of the Overview and Scrutiny Committee will be included in the report to the Executive.

1.11 Information before taking decisions

Before taking decisions or making recommendations to the Council, the Executive will receive a written report. This will include:

- (a) whether the report contains information which is confidential or may be exempt information;
- (b) the issue to be decided together with analysis/relevant data, any relevant national or regional guidance etc.;
- (c) the justification for the recommendation and any other options;
- (d) whether the matter complies with the Council's policy framework and budget, or any subordinate strategies previously approved by the Executive; or whether the decision recommended would amount to a material departure from any of these policies, budgets or strategies;
- (e) any consultations undertaken with other public, private, voluntary and community sector agencies;
- (f) any resource, value for money, equality and diversity, climate change, legal or other implications;
- (g) any collective advice from the Management Board;
- (h) any comments and advice received from Overview and Scrutiny Committees;
- (i) the ward(s) affected;
- (j) a list of the background papers.

The majority of reports will be commissioned by the Leader and/or the Portfolio Holder, and the responsibility for the content of reports will rest collectively with the Management Board. In some cases, the Management Board will initiate a report. In all cases, the Portfolio Holder will be briefed and kept fully informed of the progress of reports at all stages.

The Executive will meet according to a published calendar and the Leader of the Council will be responsible for the overall management and conduct of its business. Together with a Forward Programme covering at least a four month period for the forthcoming business of the Executive, there will be an agenda for meetings of the Executive. This will help to inform the scrutiny process and enable all other members of the Council to be kept up to date on current issues.

Minutes will be kept of each meeting of the Executive. They will be published and made available on the Waverley website and to all members of the Council.

As with decisions taken by the Executive, any decisions taken by officers must be properly documented and should generally follow the principles set out in these procedure rules.

1.12 Executive Working Groups

The Executive may at the suggestion of the relevant Portfolio Holder establish an Executive Working Group to assist with the development of policy, in-depth examination of specific service proposals, or to progress major projects. Executive Working Groups have an advisory role only and cannot themselves take decisions. Executive Working Groups will be established and operate in accordance with the Executive Working Group Protocol at Annexe 1 to these Executive Procedure Rules.

2.0 HOW ARE EXECUTIVE MEETINGS CONDUCTED?

2.1 Who presides?

If the Leader is present he/she will preside. In his/her absence, then the Deputy Leader will preside. In the absence of both, a person appointed to do so by those present shall preside.

2.2 Who may attend?

Details are set out in the Access to Information Rules in Part 4 of this Constitution. All meetings of the Executive shall be open to the press and public although they may be excluded from a meeting of the Executive, according to law, whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that if members of the public were present, exempt information would be disclosed to them. In the case of the limited category of confidential information, the public must be excluded from the meeting.

2.3 What business?

At each meeting of the Executive the following business will be conducted:

- (i) consideration of the minutes of the last meeting;
- (ii) declarations of interest, if any;
- (iii) matters referred to the Executive (whether by an Overview and Scrutiny Committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- (iv) consideration of reports from Overview and Scrutiny Committees; and
- (v) matters set out in the agenda for the meeting, and which shall indicate which are key decisions and which are not in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

Special meetings convened to consider specific matters will not include public questions or the minutes of the last meeting.

2.4 Consultation

All reports to the Executive from any member of the Executive or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny Committees, and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation, as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the Executive agenda?

1. The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/she wishes, whether or not authority has been delegated to the Executive or any officer in respect of that matter. The Chief Executive will comply with the Leader's requests in this respect.
2. The Monitoring Officer and/or the Head of Policy and Governance may include an item for consideration on the agenda of an Executive meeting and may require the proper officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where the Chief Executive and Head of Policy and Governance/Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s)

entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.6 Who can attend and speak at Executive Meetings?

Any member of the Council who is not a member of the Executive shall be entitled to attend any meeting of the Executive but not to vote, but he shall be entitled to speak on any specific item for up to four minutes. Any member wishing to do this shall give notice to the Head of Policy and Governance by noon on the day of the meeting.

2.7 Dispute Resolution

Any dispute about the jurisdiction of the Executive, for example whether or not a matter is delegated to the Executive or contrary to the policy framework or budget, will be referred to the Monitoring Officer and/or the Head of Policy and Governance for advice as appropriate. If it is resolved not to accept such advice, the final decision as to whether the Executive can take a decision is for the Council to decide.

2.8 Urgent Decisions

Any urgent Executive or Non-Executive decisions may be taken by the Chief Executive after consultation with the Leader, Deputy Leader and appropriate portfolio holder under the existing provisions in the Scheme of Delegation. Any such decisions will be reported to the next appropriate Committee or Executive meeting.

2.9 Questions by the Public

Informal questions

2.9.1 Informal questions may be asked of the Leader, Deputy Leader or an appropriate Portfolio Holder before the start of each ordinary meeting of the Executive for up to 15 minutes, including replies. No prior notice needs to be given. Questions will be taken in the order in which questioners register with the Democratic Services Officer prior to the start of question time. When read out, each question must be concluded within 2 minutes. In the event that it is not possible to give a verbal response, a written response will be provided following the meeting.

Formal questions

2.9.2 Members of the public may ask formal questions at ordinary meetings of the Executive in accordance with the provisions in Council Procedure Rules 10.4 – 10.9. The Leader and/or the Deputy Leader or appropriate portfolio holder should be invited to respond to the question.