

Part 4D: Executive Procedure Rules

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Executive Procedure Rules

1. How does the Executive operate?

1.1 Who may make executive decisions?

The arrangements for the discharge of executive functions are determined by the Leader. The Leader may provide for executive functions to be discharged by:

- (i) the Executive as a whole;
- (ii) a committee of the Executive;
- (iii) an individual member of the Executive;
- (iv) an officer;
- (v) joint arrangements; or
- (vi) another local authority.

1.2 Delegation by the Leader

Following the annual meeting of the Council, the Head of Legal and Democratic Services, at the direction of the Leader, will draw up a written record of executive delegations made by the Leader for inclusion in Article 6 of this Constitution. This will contain the following information about executive functions in relation to the coming year:

- (i) the extent of any authority delegated to Executive members individually, including details of the limitation on their authority;
- (ii) the terms of reference and constitution of such Executive committees as the Leader appoints and the names of Executive members appointed to them;
- (iii) the nature and extent of any delegation of executive functions to any other authority or any joint arrangements; and
- (iv) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 Sub-delegation of executive functions

- (a) Where the Executive, a committee of the Executive or an individual member of the Executive is responsible for an executive function, they may delegate further to joint arrangements or an officer.
- (b) Unless the Leader directs otherwise, a committee of the Executive to whom functions have been delegated by the Leader may delegate further to an officer.
- (c) Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

1.4 The Council's scheme of delegation and executive functions

- (a) The Leader may amend the scheme of delegation relating to executive functions at any time. In doing so the Leader will give written notice to the Head of Legal and Democratic Services and to the person, body or committee concerned. The notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body or committee. The Head of Legal and Democratic Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (b) Where the Leader seeks to withdraw delegation from a committee of the Executive, notice will be deemed to be served on that committee when they have served it on its Chair.

1.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (c) If the exercise of an executive function has been delegated to a committee of the Executive, an individual member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

1.6 Executive meetings – when and where?

The frequency and timing of meetings of the Executive will be determined by the Leader.

The Executive will meet at the Council's main offices or another location to be agreed by the Leader which includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers, known as remote meetings.

1.7 Public meetings of the Executive?

The Executive will hold its meetings in public, except in the circumstances set out in paragraphs (a) to (c) of Regulation 4 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. Briefly, these circumstances cover:

- (a) confidential information;
- (b) exempt information;
- (c) disorderly conduct.

1.8 Private meetings of the Executive

If the Executive is to hold a meeting in private and this means a meeting or part of a meeting during which the public are excluded, then at least 28 clear days before the private meeting it must make available and publish on the Council website a notice of intention to hold the meeting in private.

The notice must include a statement of reasons for the meeting to be held in private.

Following that, at least 5 clear days before a private meeting, the Council must make available and publish on the website a further notice of its intention to hold the meeting in private.

The notice must include a statement of the reasons for the meeting to be held in private, details of any representations received about why the meeting should be open to the public and a statement of the Council's response to any such representation.

1.9 Urgent Private Meeting of the Executive

Where the date by which a private meeting must be held makes compliance with Rule 1.8 impracticable, the meeting may only be held in private where the Executive has agreement from:-

- (a) the Chair of the Corporate Overview and Scrutiny Management Board;
or
- (b) if they are unable to act, the Chair of the Council; or
- (c) where there is no chair, the vice-chair of the Council

that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after the Executive has obtained agreement to hold an urgent private meeting it must make available and publish on the Council website a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

1.10 Quorum

- (a) The quorum for a meeting of the Executive shall be 3 including the Leader or Deputy Leader.
- (b) The quorum for a meeting of a committee of the Executive shall be 2.

1.11 How are decisions to be taken by the Executive?

- (a) Executive decisions made by 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.
- (b) Where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.
- (c) Immediately after any vote is taken at a budget decision meeting of the Executive there must be recorded in the minutes of the proceedings of that meeting the names of the members who cast a vote for the decision or against the decision or who abstained from voting.

NOTE 1 - Budget decision means calculation of the Council tax requirement, calculation of the basic amount of Council tax, additional calculations where special items relate to part only of the area, calculation of Council tax for different variation bands, substitute calculations and calculation of the amount payable by billing authorities.

2. How are Executive Meetings Conducted?

2.1 Who presides?

The Leader will preside at any meeting of the Executive or its committees at which they are present. In their absence, the Deputy Leader will preside.

2.2 Who may attend?

These details are set out in the Access to Information Rules in Part 4 of this Constitution.

2.3 What business?

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

- i. questions from the public;
- ii. consideration of the minutes of the last meeting;
- iii. declarations of interest, if any;
- iv. matters referred to the Executive (whether by the Corporate Overview and Scrutiny Management Board or one of the other Scrutiny Committees 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;
- v. consideration of reports from the Corporate Overview and Scrutiny Management Board and Scrutiny Committees; and
- vi. 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.

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 undertaken with stakeholders 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?

- (a) The Leader will decide upon the schedule for meetings of the Executive. The Leader may put any matter on the agenda of any Executive meeting whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.
- (b) Any member of the Executive may require the Head of Legal and Democratic Services to make sure that an item is placed on the agenda of the next available meeting of the Executive for consideration.
- (c) The Head of Paid Service, the Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive meeting and may require that such a meeting be convened in pursuance of their statutory duties.

2.6 Questions by the Public

On matters of concern or interest

- 2.6.1 Members of the public may ask questions of Members of the Executive on matters of concern or interest, during the first formal item of business at every ordinary cabinet meeting.

On reports to be considered by the Executive

- 2.6.2 Members of the public may ask questions of Members of the Executive on reports that are to be considered by the Executive which are listed on the agenda for that meeting.

Notice of questions

- 2.6.3 A member of the public may ask a question under rules 2.6.1, and 2.6.2 if notice has been given by delivering it in writing or by electronic mail to the Head of Legal and Democratic Services no later than midday 3 working days before the day of the meeting. Each question must give the name and address of the questioner. Under rule 2.6.1 questions can be asked informally at the meeting if the Leader permits, where the meeting is held remotely this provision is suspended.

Order of questions

- 2.6.4 Questions in relation to rule 2.6.1 will be asked in the order notice of them was received, and for those relating to rule 2.6.2 at the time that the agenda item was being considered. The Leader may group together similar questions.

2.7 Questions by Members

On reports to be considered by the Executive

- 2.7.1 A member of the Council may wish to ask questions of Members of the Executive on reports that are to be considered by the Executive which are listed on the agenda for that meeting. There is no general right for non-Cabinet members to address Cabinet at their meetings, however if the decision to be made affects their division, or they have some other relevant consideration this may be accepted subject to rule 2.7.2

Notice of questions

- 2.7.2 A member wishing to ask a question must give notice by delivering the question in writing or by electronic mail to cabinetquestions@durham.gov.uk for the attention of the Head of Legal and Democratic Services at no later than noon 3 working days before the day of the meeting, and must state the capacity in which they are asking the question (e.g Ward Councillor; Committee Member, Shadow Portfolio Holder, etc). . The Head of Legal and Democratic Services in consultation with the Leader of the Council will determine whether the question can be asked.

Order of questions

- 2.7.3 Questions will be asked in the order notice of them was received, and at the time that the agenda item was being considered.

Asking the question at the meeting

- 2.7.4 The Leader will invite the questioner to put the question to the Member named in the notice. If a questioner who has submitted a written question is unable to be present, a written reply will be given after the meeting. A restriction of 5 minutes per question will be applied, except at the discretion of the Leader.

2.8 Questions

Scope of questions

- 2.8.1 The Head of Legal and Democratic Services may reject a question from the public if it:

- (a) does not relate to a matter of concern or interest; or

The Head of Legal and Democratic Services may also reject a question from the public or a Member if it:

- (b) Subject to 2.8.1(a) above, is not about a matter for which the Executive is going to consider an item on the agenda for the meeting;
- (c) is defamatory, frivolous or offensive;
- (d) is vexatious or abusive;
- (e) is substantially the same or similar to a question which has been put at a meeting of the Executive in the past six months;
- (f) requires the disclosure of confidential or exempt information;
- (g) is lengthy, or a speech;
- (h) relates to a matter which is of purely personal concern to an individual or family members;
- (i) relates to court action or threatened court action that the person or group are taking against the Council;
- (j) is a request for compensation;
- (k) contains a statement which is untrue;
- (l) is an unintelligible question.

Record of questions

- 2.8.2 The Head of Legal and Democratic Services will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

The questions asked at the meeting and the responses will be referred to in the minutes of the meeting.

Written answers

- 2.8.3 Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

Reference of question to the Executive

- 2.8.4 Unless the Leader decides otherwise, no discussion will take place on any question.