

Rother District Council

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| Report to: | Cabinet |
| Date: | 12 June 2023 |
| Title: | Cabinet – Role and Functions |
| Report of: | Lorna Ford - Interim Chief Executive |
| Cabinet Member: | Councillor Oliver |
| Ward(s): | - |
| Purpose of Report: | To provide an outline of the role and functions of the Cabinet. |
| Decision Type: | Non-Key |
| Officer | |
| Recommendation(s): | It be RESOLVED : That the report be noted. |
| Reasons for Recommendations: | For all Councillors, not just those serving on Cabinet, to understand the role and functions of Cabinet as part of the induction process. |

Introduction

1. As part of the 2023 Member Induction process a report outlining each of the pertinent Committee's roles and responsibilities is being presented to the first meeting of each formal Council Committee in the new municipal year. This will aid both newly elected Members to understand the differing roles and responsibilities of the various elements which make up the decision-making structure at Rother and provides returned Members with a useful reminder.

Decision Making Structure at Rother

2. In accordance with the Local Government Act 2000, the Council has operated an Executive Leader and Executive Cabinet with Scrutiny model of decision-making governance structure since November 2001. The 2011 Localism Act has since provided the opportunity for Councils to return to a committee-style form of governance should they and the local community so chose. Furthermore, in accordance with the requirements of the Local Government and Public Involvement in Health Act 2007, the Council adopted the provisions of the "strong leader" Executive Leader and Executive Cabinet model, the key features being:
 - The Leader of the Council is elected for a four-year term at the first post-election annual Council meeting.
 - The Leader's term of office ends on the day of the post-election annual meeting four years later (i.e. it runs for four years from the first annual meeting following the whole council elections to the next annual meeting following the whole council elections – provided they are re-elected).

- The Leader can only be removed from office by a resolution of the Council. If the Council passes a resolution to remove the Leader, a new Leader is to be elected at the meeting at which the Leader is removed from office, or at a subsequent meeting.
- Two or more (up to a maximum of 10) Councillors of the authority must be appointed to the Cabinet by the Leader who will also determine the size of Cabinet within the statutory minimum and maximum.
- The Leader is responsible for the allocation and discharge of all executive functions (i.e. what Cabinet portfolios will exist, how they will be allocated and delegations etc).
- A Deputy Leader with the power to act in the Leader's absence must be appointed (and may also be removed) by the Leader. The Deputy Leader of the Council must be a Member of the Cabinet. It is noted that two Deputy Leaders have been appointed during the 2023/24 civic year.

Role and Responsibilities

3. The Cabinet makes all decisions on behalf of the Council, excluding those which by law it is unable to make, such as those in relation to regulatory functions, principally Planning and Licensing and those that have been delegated to officers. All other decisions, providing that they are within the approved Policy and Budget Framework set by the full Council, are taken by the Cabinet.
4. In order to clarify the role between the Overview and Scrutiny Committee and Cabinet, a flow chart of decision making showing which matters come before Cabinet and/or Scrutiny and in what order would be developed. The need for this had emerged from the Scrutiny Improvement Review undertaken in 2022.

Cabinet Meetings

5. The Cabinet is scheduled to meet 11 times per year (each month save for August), at times to be agreed by the Leader; currently meetings of Cabinet are usually held on a Monday at 6:30pm. Additional meetings are also sometimes called to facilitate matters that require an urgent decision, prior to the next available meeting or the reconsideration of an item called in by the Overview and Scrutiny Committee.

Confidential Meetings

6. In accordance with the provisions of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, all meetings of the Cabinet, and any committees or sub-committees thereof, are held in public except in limited prescribed circumstances where meetings can be closed and confidential items discussed. The majority of decision making is in the public domain with very little being designated as confidential in accordance with the regulations.
7. If the Council is minded to hold a Cabinet meeting or part thereof to consider a confidential matter in private, the Council has to give 28 calendar days' clear notice; this is to allow the public to make representations about why the meeting should not be held in private session. The notice has to be made available at the Council's offices and published on the Council's website and be sufficiently worded so that the nature of the item to be discussed is clear and to whom representations can be made.

Cabinet Decision Making

8. Meetings of the Cabinet are conducted in accordance with the Executive Procedure Rules at Part 4 of the Constitution. The Council Procedure Rules, which apply to all other meetings of the Council, do not apply to meetings of the Cabinet.
9. Under the “strong leader” model, the Leader is able to allocate decision-making powers to individual Cabinet Members, although this has not been implemented at Rother District Council. Currently, all Cabinet decisions are made collectively, by all Members of the Cabinet, unless delegated to officers. Under the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012, any executive decisions made by officers under delegated authority must be recorded in writing and made available to the public at the Council’s offices and on the website as soon as reasonably practical.
10. Cabinet is able to take three types of “decision” at its meetings, namely:
 1. **Recommendations to Council** – these are decisions which fall outside of the current budget and policy framework and require full Council approval and are referred to the next full Council meeting for determination.
 2. **Executive Decisions** – these are the decisions of Cabinet which have been resolved and will come into force on the expiry of five clear working days, following publication of the Minutes, subject to the call-in procedure (see paragraph 10 below).
 3. **Urgent Decisions** – these are decisions which the Chair of Council has agreed can be taken as a matter of urgency if any delay likely to be caused by the call-in process would seriously prejudice the Council’s or the public’s interests. These decisions are therefore not subject to the call-in arrangements. These decisions are reported to the next available full Council meeting for information.

Call-in of a Cabinet Decision

11. Cabinet Minutes are usually published on the Council’s website within two/three days following each meeting and notification is sent to all Members via email, with a direct link to the Minutes. A five-day call-in period then operates in which time the Chair of the Overview and Scrutiny Committee (OSC) or any two non-executive Members of the Council, one of whom must have been physically (not just remotely) present at the Cabinet meeting in question can request that a Cabinet Executive decision be called-in. This decision is then held in abeyance until the conclusion of the call-in procedure.
12. Details of the call-in procedure can be found in the Constitution, Overview and Scrutiny Procedure Rule 16, but essentially the OSC must meet within 5 days of the call-in request and one option is to refer the matter back to the Cabinet for reconsideration. The date and time of the OSC meeting is agreed between the Head of Paid Service and the Chair of the OSC.
13. The operation of both the call-in and the urgent decision procedure are subject to an annual report to Council, via the OSC. During the last administration only

one Cabinet decision was subject to the call-in procedure by the Overview and Scrutiny Committee.

Steering Groups

14. During the last administration the Cabinet created several Steering Groups, made up of both Executive and non-Executive Members to work on various topics, with agreed terms of reference and report back to Cabinet. These Groups are distinct from the Overview and Scrutiny Task and Finish Groups as they originate from Cabinet and can have both Executive and Non-Executive Members appointed to them.
15. The Steering Groups that operated under the last administration were the Climate Change Steering Group, Community Governance Review Steering Group, Community Infrastructure Levy Steering Group and Constitution Review Steering Group. All but the Climate Change Steering Group were disbanded once their tasks were complete; as Members may be aware, the Climate Change Steering Group is to be made into a formal Committee of the Council in due course.

Cabinet Agenda – what business?

16. Executive Procedure Rule 10 dictates what business will be conducted at each meeting of the Executive. As well as including basic requirements such as to agree the Minutes of the last meeting, it also ensures that reports from the OSC are considered.
17. The Leader of the Council can put on the agenda of any Cabinet meeting any matter which they wish, whether or not authority has been delegated to the Cabinet or an officer in respect of that matter. The following can also request that items are placed on the Agenda:
 - a. Any member of the Cabinet.
 - b. The OSC or the Council.
 - c. Any Member of the Council with the Leader's agreement.
 - d. The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Head of Paid Service to call such a meeting in pursuance of their statutory duties.

Forward Plan of Key Decisions

18. In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, the Council must publish a document, known as the "Forward Plan of Key Decisions" to cover a period of four months, beginning with the first day of any month. It is prepared on a rolling four-month basis. The Forward Plan contains matters which the Leader believes will be the subject of a key decision (as well as non-key decisions) to be taken by the Cabinet, officers, area Committees or under joint arrangements in the course of the discharge of a Cabinet function during the period covered by the plan.
19. The purpose of the Forward Plan is to provide both members of the public and Members of the Council with early notice of when Key Decisions (or non-key decisions) are going to be taken by the Cabinet. This enables appropriate consultation with relevant stakeholders etc.

20. A Key Decision is one to be made by either the Cabinet or an officer and is likely to result in significant expenditure or savings (in excess of £100,000) or to have significant effects on those living or working in an area comprising two or more wards. Further information / details are to be found in Part 4-2 of the Constitution, Access to Information Rule 13.

Attendance and Speaking at Cabinet by non-Cabinet Members

21. All Members of the Council can attend all meetings of the Cabinet, both open (non-confidential matters) and closed (confidential matters).
22. The Cabinet is the decision-making body of the Council. It is not an opportunity for further debate and cross examination of officers by other Members present at meetings of the Cabinet. The Executive Procedure Rules state that:
- “With the agreement of the Leader the following may speak at Cabinet meetings:
- (a) any Member of the Council (who is not a member of the Cabinet) for the purpose of speaking to an item, the inclusion of which the Member has requested and the Leader has agreed;
 - (b) any Member of the Council (who is not a Member of the Cabinet) present at a meeting may address the Cabinet on any matter on the Agenda; and
 - (c) the Chair of any OSC for the purpose of presenting a report of the Scrutiny Committee to the Cabinet.”

Broadcasting of Cabinet Meetings

23. At the current time all meetings of Cabinet are live-streamed via the Council’s website and the recording made available for up to 6 months, following which it is available via YouTube. The recording of an item of business (or part of an item of business) which is considered in private in accordance with the Access to Information Rules contained within Part 4-2 of the Council’s Constitution will not be made publicly available.

Conclusion

24. It is hoped that non-Executive Members and Members newly appointed to the Cabinet will benefit from this summary report of the role and function of the Cabinet.

| Other Implications | Applies? | Other Implications | Applies? |
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| Human Rights | No | Equalities and Diversity | No |
| Crime and Disorder | No | Consultation | No |
| Environmental | No | Access to Information | No |
| Risk Management | No | Exempt from publication | No |
| Interim Chief Executive: | Lorna Ford | | |
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| Appendices: | None | | |
| Relevant previous Minutes: | None | | |
| Background Papers: | None | | |
| Reference Documents: | Rother District Council Constitution | | |