

Rother District Council

Report to	-	Cabinet
Date	-	3 June 2019
Report of the	-	Executive Directors
Subject	-	Role and Functions

Recommendation: It be **RESOLVED:** That the report be noted.

Democratic Services Manager: Lisa Cooper
Lead Cabinet Member: Councillor Doug Oliver

Introduction

1. As part of the 2019 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. As a requirement of the Local Government Act 2000, the Council has operated an Executive Leader and Executive Cabinet model of decision making since November 2001. 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).
 - 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 is not required to be a Member of the Cabinet.

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.

Cabinet Meetings

4. The Cabinet is scheduled to meet 12 times per year, at times agreed by the Leader; currently meetings of Cabinet are usually held at 11:00am. Some meetings have been held during the evening, either before or after other meetings to facilitate a requirement to make recommendation / decision by a specific deadline. Additional meetings are also sometimes called to facilitate matters that require an urgent decision, prior to the next available meeting.

Confidential Meetings

5. 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.
6. 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

7. 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.
8. 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.
9. 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 Chairman 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.
10. Cabinet Minutes are usually published on the Council's website within two 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 Chairman of the Overview and Scrutiny Committee (OSC) in his / her own right or any two non-executive Members of the Council, one of whom must have been present at the Cabinet meeting in question can request that an Executive decision can be called in. This decision is then held in abeyance until the conclusion of the call-in procedure. Details of the call-in procedure can be found in the Constitution, Overview and Scrutiny Procedure Rule 16.
 11. The operation of both the call-in and the urgent decision procedure are subject to an annual report to Council, via the OSC.

Cabinet Agenda – what business?

12. 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.
13. The Leader of the Council can 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 an officer in respect of that matter. The following can also request that items are placed on the Agenda:
 - a. Any member of the Executive.
 - 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 an Executive 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

14. In accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 the Council has to 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 to be taken by the Executive, officers, area Committees or under joint arrangements in the course of the discharge of an Executive function during the period covered by the plan.
15. 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 are going to be taken by the Executive. This enables appropriate consultation with relevant stakeholders etc.
16. 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. Those decisions which are reserved for full Council do not have to be included – i.e. all decisions outside the current policy and budget framework. Further information / details are to be found in Part 4 of the Constitution, Access to Information Rule 13.

Attendance and Speaking at Cabinet by non Executive Members

17. All Members of the Council are able to attend all meetings of the Cabinet, both open (non-confidential matters) and closed (confidential matters).
18. 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 Executive meetings:

- (a) any Member of the Council (who is not a member of the Executive) 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 Executive) present at a meeting may address the Executive on any matter on the Agenda; and
- (c) the Chairman of the OSC for the purpose of presenting a report of the Committee to the Executive.”

Openness and of Local Government Bodies Regulations - New Public Rights

19. The Openness of Local Government Bodies Regulations 2014 amended the Public Bodies (Admission to Meetings) Act 1960, s.100A of the Local Government Act 1972 and the 2012 Regulations to allow any person to attend

a public meeting of a "relevant local government body", which includes District Councils, for the purposes of reporting, and allow any persons with the aim of reporting to use any communication methods, including the internet, to publish, post or otherwise share the results of their reporting activities, during or after the meeting.

20. 'Reporting' is defined as:
- filming, photographing or audio recording of proceedings;
 - using any other means for enabling persons not present to see or hear proceedings of a meeting as it takes place or later; and
 - reporting or providing commentary on proceedings of a meeting, orally or in writing.
21. The Regulations provided the Council with an opportunity to include these new provisions within the Constitution and to clarify the parameters under which this activity can take place.

Conclusion

22. It is hoped that non-Executive Members will benefit from this summary report of the role and function of the Cabinet and how it operates and are encouraged to attend meetings of the Executive, especially newly elected Members.

Malcolm Johnston
Executive Director

Dr Anthony Leonard
Executive Director

Risk Assessment Statement

There are no risks associated with this report.