

Cabinet arrangements and procedure rules

This part of the constitution explains the council's executive arrangements and sets out the Cabinet procedure rules.

Cabinet's role

1. The Cabinet carries out all of the council's functions which are not the responsibility of any other part of the council, whether by law or under this constitution.

Membership

2. Cabinet is made up of the leader, together with up to nine councillors appointed to the Cabinet by the leader (one of whom will be appointed by the leader to act as deputy leader). The leader will allocate areas of responsibility (portfolios) to them.
3. The leader is a councillor elected to the position by the Council and normally holds office for a period of four years starting on the day of his/her election unless:
 - (a) he/she resigns from the office;
 - (b) he/she is no longer a councillor; or
 - (c) he/she is removed from office by resolution of the Council.
4. Only councillors may be appointed to the Cabinet. There are no substitutes for Cabinet members. Cabinet members cannot be appointed to a Scrutiny Committee, Planning Committee or Audit and Governance Committee.
5. The leader appoints other Cabinet members who hold office until:
 - (a) they resign from office;
 - (b) they are no longer councillors; or
 - (c) they are removed from office, either individually or collectively, by the leader.
6. The leader appoints a Cabinet member to be the deputy leader who carries out the functions of the leader when the leader is absent. The deputy leader holds office until the end of the term of office of the leader unless:
 - (a) he/she resigns from the office;
 - (b) he/she is no longer a councillor;
 - (c) he/she is no longer a member of the Cabinet; or
 - (d) he/she is removed from office by the leader.

Who can take Cabinet (executive) decisions?

7. The leader decides arrangements for the discharge of executive functions. These are set out in the scheme of delegation of the leader part 2 of this constitution. If they are not set out there, then the leader may decide how they are to be exercised. In either case, the arrangements or the leader may provide for executive functions to be discharged by:

- the Cabinet as a whole;
- a committee of the Cabinet;
- a member of the Cabinet;
- an officer of the council;
- an Area Committee;
- joint arrangements; and
- another local authority.

Delegation by the Cabinet

8. At the annual meeting of the Council, the leader will present to the Council a scheme of delegation of executive functions for inclusion in the council's scheme of delegation in part 2 of this constitution. The document presented by the leader will contain details of the nature and extent of any delegation to officers and individual Cabinet members with details of any limitation on that delegation, and the title of the officer to whom the delegation is made in relation to Cabinet functions for the coming year. The leader may at any time amend this scheme of delegation of executive functions but must report the revised scheme to the Council.
9. Where the Cabinet is responsible for a function, it may delegate further to a committee of the Cabinet, an Area Committee, a joint committee or an officer.
10. Even where Cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.
11. If the exercise of a Cabinet function has been delegated to an individual Cabinet member or a committee of the Cabinet, and a disclosable pecuniary interest or conflict of interest arises, then the function will be exercised by the Cabinet, the leader or an alternative Cabinet member authorised by the leader.

Executive decisions

KEY DECISIONS

12. Where executive key decisions are taken by Cabinet, by a committee of Cabinet, by a Cabinet member, by an officer, or by a joint committee, notice of these key decisions shall be sent to all councillors to commence the scrutiny call-in procedure, except where call-in has been waived by the Scrutiny Committee chair or in his/her absence, the chair of the Council. A key decision is a decision of the Cabinet, an individual Cabinet member, or an officer acting under delegated powers which is likely to:
 - (a) to incur expenditure, make savings or to receive income (except government grant) of more than £75,000;
 - (b) award a revenue or capital grant of over £25,000; or
 - (c) agree an action that, in the view of the chief executive or relevant head of service, would be significant in terms of its effects on communities living or working in an area comprising more than one ward in the area of the council.

PROCEDURE BEFORE TAKING KEY DECISIONS

13. Subject to the general exception rule and the special urgency rule below, a key decision may not be taken unless:
- (a) a notice (a Cabinet work programme) has been published containing the matter in question;
 - (b) at least 28 clear calendar days have elapsed since publication of the Cabinet work programme containing the matter in question;
 - (c) where the decision is to be taken at a meeting of the Cabinet, further notice of the meeting has been given; and
 - (d) when all, or any part, of the meeting will take place in private, that notice includes:
 - the reasons for all, or any part of, that meeting taking place in private;
 - any representations received about why the meeting should take place in public; and
 - the council's response to those representations.

CABINET WORK PROGRAMME

14. The Cabinet work programme will be prepared by the head of legal and democratic on behalf of the leader. The Cabinet work programme will contain matters which the leader has reason to believe will be the subject of a key decision to be taken by the Cabinet, a Cabinet member, a committee of the Cabinet, officers, or under joint arrangements in the course of the discharge of a Cabinet function. Officers may also voluntarily include in the Cabinet work programme other items that do not fit the key decision definition. Exempt information need not be included in a Cabinet work programme and confidential information cannot be included. The Cabinet work programme will describe the following particulars insofar as the information is available or might reasonably be obtained:
- (a) the decision to be made and, if that decision is to be made without the public present, the reason for confidentiality;
 - (b) where the decision taker is an individual, his/her name and title, and where the decision taker is a body, its name and details of its membership;
 - (c) the date on which, or the period within which, the decision will be taken;
 - (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
 - (e) how a person can make representations to the Cabinet or decision maker about a forthcoming decision; and
 - (f) a list of the documents used by the decision maker in making the decision.

GENERAL EXCEPTION RULE

15. If a matter which is likely to be a key decision has not been published in the Cabinet work programme for 28 clear days, then subject to the special urgency rule below, the decision may still be taken if:
- (a) the decision must be taken by such a date and it is impracticable to defer the decision until it has been published in the Cabinet work programme for 28 clear days;
 - (b) the proper officer has informed the Scrutiny Committee chair by notice in writing;

- (c) the proper officer has set out reasons why compliance with paragraph 14 is impracticable;
- (d) the proper officer has made copies of that notice available to the public at the offices of the council and on its website; and
- (e) at least five clear working days have elapsed since the proper officer complied with (b) to (d).

SPECIAL URGENCY RULE

16. If the general exception rule cannot be followed due to urgency, then a key decision can be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the Scrutiny Committee chair that the decision cannot be reasonably deferred. If the Scrutiny Committee chair is unavailable, or unable to act, then the agreement of the chair of the Council, or in his/her absence the vice-chair of the Council will suffice. The proper officer will make available at the council's offices, and on its website, a notice setting out the reasons why the decision is urgent and cannot reasonably be deferred. The leader will submit a report to Council on the key decisions taken under the special urgency rule.

REPORT TO COUNCIL

17. If the Scrutiny Committee thinks that a key decision has been taken which was not included in the Cabinet work programme or did not follow either the general exception procedure or the special urgency procedure, the committee can require Cabinet to submit a report to the next meeting of the Council. The proper officer may require such a report on behalf of the committee when so requested by the chair or any five councillors. The report will set out particulars of the decision, the individual or body making the decision, and if the leader is of the opinion that it was not a key decision the reasons for that opinion.

RECORD OF DECISIONS

18. The proper officer will produce a record of every decision taken as soon as reasonably practicable after any meeting of the Cabinet or any of its committees, or a Cabinet member has made a key decision, or an officer has made a key decision. This record will be made available for inspection at the council's offices and on its website, as soon as reasonably practicable and shall include:
- (a) details of the decision;
 - (b) the date it was made;
 - (c) reasons for the decision;
 - (d) details of any alternative options considered and the reasons they were rejected; and
 - (e) any conflict of interest by the decision-maker and any dispensations granted.

Time and place of meetings

19. Cabinet will meet at times agreed by the leader. The time and place of meetings will be notified in the agenda for each meeting.

Notice of, and agenda for, meetings

20. The head of legal and democratic will give notice to the public of the time and place of any meeting. At least five clear working days before a meeting, the head of legal

and democratic will publish the agenda on the council's website and available for public inspection at the council's offices, except where the matter under consideration contains confidential or exempt information. The agenda will set out the date, time and location of the meeting, and will specify the business to be transacted. The agenda may contain reports about matters for Cabinet's consideration. Where not all reports are available with the agenda they will be published as soon as they become available. Cabinet agendas will also be available for six years after a meeting.

Chair of meeting

21. If the leader is present, he/she will chair Cabinet meetings. In the leader's absence, the deputy leader will chair the meeting. In the absence of both the leader and the deputy leader, a person shall be elected from among those Cabinet members present to chair the meeting. The chair may choose to indicate how they wish to be addressed, according to personal preference.

Quorum

22. At least three Cabinet members must be present for a legally valid meeting. During any meeting, if the chair counts the number of councillors present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.
23. If there is no quorum at the published start time of the meeting, a period of 15 minutes will be allowed. If there remains no quorum at the expiry of this period, the meeting shall be declared null and void. The business will be considered at a time and date fixed by the chair. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

Duration of meeting

24. No meeting shall exceed two and a half hours in duration unless the Cabinet, prior to the expiry of the period, vote for the meeting to continue for a further period not exceeding 30 minutes. Remaining business will be considered at the next ordinary meeting.

Public participation

25. Cabinet meetings are open to the public, except where confidential or exempt information is being discussed.
26. Councillors who are not members of the Cabinet may attend Cabinet meetings, including where confidential or exempt information is being discussed.

SPEAKING AT CABINET MEETINGS

27. The public may address Cabinet meetings by asking a question, making a statement or presenting a petition. Every question must relate to an agenda item for that meeting. Statements or petitions must relate to the council's powers or duties or to a matter that affects the district. Public questions, statements or petitions will only be

accepted at a special meeting of the Cabinet if they relate to the item due to be discussed at that meeting.

28. Any person may address Cabinet for up to three minutes, providing they have first registered to do so by 5.00pm on the working day before the Cabinet meeting by contacting democratic services: democratic.services@southandvale.gov.uk.
29. The public address session at the start of each Cabinet meeting will be limited to fifteen minutes. Where the number of speakers exceeds the time available, each speaker's time will be reduced. The chair has discretion to change this.
30. Questions or statements will be considered by Cabinet in the order that they are registered with democratic services. Where multiple questions or statements are received from different people on the same subject, the chair may group these together.
31. Councillors who are not members of the Cabinet may request to speak at Cabinet meetings in the following circumstances:
 - when their motion has been referred to Cabinet for consideration;
 - where a matter under consideration affects their ward; and
 - on any other matter within Cabinet's remit.
32. The chair of the Cabinet meeting may reject a question or statement if he/she considers it to be defamatory, frivolous or offensive, or if it is substantially the same as a question or statement put to a Cabinet, Council or committee meeting in the previous six months, or if it requires the disclosure of confidential or exempt information.
33. Cabinet may ask questions of any points raised by public speakers, subject to the chair of the meeting being satisfied that the questions are relevant.
34. Where an answer cannot be given to a question at a meeting, a written answer will be provided.

What business?

35. Cabinet agendas may include the following business:
 - (a) adoption of the minutes of the last meeting;
 - (b) declarations of interest;
 - (c) matters referred to the Cabinet (whether by the Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the scrutiny committees' procedure rules (in part 2 of this constitution) or the budget and policy framework procedure rules set out in part 3 of this constitution;
 - (d) consideration of reports from the Scrutiny Committee; and
 - (e) matters set out in the agenda for the meeting.

Who can put items on the Cabinet agenda?

36. Any Cabinet member or any other councillor may ask the leader to place an item on a Cabinet agenda for consideration. Subject to the leader's agreement, the head of legal and democratic will include the item on the agenda for the next Cabinet meeting, provided that it is received at least seven clear working days before the day of the meeting.
37. The head of legal and democratic will make sure that an item is placed on the agenda for the next available Cabinet meeting where Scrutiny Committee or the Council have so requested.
38. Any five councillors may, by notice given in writing to the head of legal and democratic, require an item to be included in the Cabinet agenda for any function which Cabinet is responsible. On receipt of such notice, the head of legal and democratic will include the item on the next Cabinet agenda, provided that it is received at least seven clear working days before the day of the meeting.
39. The head of paid service, monitoring officer and/or the chief finance officer may include an item for consideration on the next Cabinet agenda and may require the head of legal and democratic to call such a meeting in pursuance of their statutory duties.

Consultation and reports

40. All reports to the Cabinet will contain officer recommendations. Where the relevant Cabinet member requires it, a report will also contain an alternative recommendation from the Cabinet member.
41. The relevant Cabinet member will introduce reports at Cabinet meetings and will propose recommendations, as appropriate.
42. All reports to the Cabinet from any Cabinet member 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 the relevant Scrutiny Committee, 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.

Voting

43. Only Cabinet members may vote at Cabinet meetings. Matters will be decided by a simple majority vote by a show of hands. If there are equal numbers of votes for and against a motion, the chair will have the second or casting vote. If the chair does not exercise his/her casting vote, the motion will be deemed to be lost.
44. Where any councillor requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

Minutes

45. The chair will sign the minutes of the proceedings at the next suitable meeting. The chair will move that the minutes of the previous meeting be signed as a correct record. Only the accuracy of the minutes may be discussed.

Record of attendance

46. All councillors present must sign the attendance list provided at the meeting.

Exclusion of the public

47. The public and press may only be excluded from attending a Cabinet meeting for the consideration of confidential or exempt business or under rules 53 and 54 (disturbance by public).

Councillors' conduct

48. If more than one councillor speaks, the chair will ask one to speak. Other councillors must remain silent whilst a councillor is speaking unless they wish to make a point of order or a point of personal explanation.

CHAIR SPEAKING

49. When the chair speaks during a debate, any councillor speaking at the time must stop.

COUNCILLOR NOT TO BE HEARD FURTHER

50. If a councillor persistently disregards the ruling of the chair by behaving improperly or offensively or deliberately obstructs business, the chair may move that the councillor be not heard further. If seconded, the motion will be voted on without discussion.

COUNCILLOR TO LEAVE THE MEETING

51. If the councillor continues to behave improperly after such a motion is carried, the chair may move that either the councillor leaves the meeting or that the meeting is adjourned for a specified period. If seconded, the motion will be voted on without discussion.

GENERAL DISTURBANCE

52. If there is a general disturbance making orderly business impossible, the chair may adjourn the meeting for as long as he/she thinks necessary.

Disturbance by the public

REMOVAL OF A MEMBER OF THE PUBLIC

53. If a member of the public interrupts the meeting, the chair will invite the person to stop. If they continue to interrupt, the chair will order their removal from the meeting room.

CLEARANCE OF PART OF THE MEETING ROOM

54. If there is a general disturbance in any part of the meeting room open to the public, the chair may call for that part to be cleared and if necessary, adjourn the meeting for as long as he/she thinks necessary.