

Part Two, Section D

The Cabinet (Executive) Functions

1 Introduction

- 1.1 The **Leader** and **Cabinet** will carry out the Council's **executive functions**. Functions that are not stated in the Local Authorities (Functions and Responsibilities) Regulations 2000 or in other legislation to be **non-executive functions** are, by default, executive functions.
- 1.2 The **Cabinet** will ordinarily carry out all of the executive functions unless the Leader decides to discharge them personally or allocate them to an individual **Cabinet member** or a committee of the Cabinet. The Leader may do this at any time.
- 1.3 Where the **Cabinet** is exercising these functions, it may delegate those functions to a committee of the Cabinet or officers, but not to an individual **Cabinet member**.
- 1.4 Where an individual **Cabinet member** is exercising these functions, he or she may delegate those functions to officers.
- 1.5 Where **executive functions** have been delegated, that does not prevent the discharge of those functions by the person or body who delegated them; or the **Leader** or **Cabinet** from reviewing decisions made in the discharge of those functions in accordance with the provisions of this **Part 2**.
- 1.6 All **executive functions** not expressly reserved to the **Leader**, the **Cabinet**, a committee of the Cabinet or an individual **Cabinet member** are delegated to officers, subject to the restrictions on officer powers set out in The **Officer Scheme of Delegation** at **Part 2** Section G of the Constitution.
- 1.7 The **Cabinet** is responsible for making proposals to the **Full Council** about what its priorities should be and how it should use its resources. Once approved by the Full Council, these proposals become the Council's **Budget and Policy Framework**.
- 1.8 The **Cabinet** is responsible for making all of the necessary arrangements to ensure that the priorities identified by the Council are delivered within the **Budget and Policy Framework** set by the **Full Council**. If the Cabinet wishes to make a decision which is not in line with the budget or policy framework, this must be referred to the Full Council as a whole to decide.

2 Composition

- 2.1 The **Cabinet** comprises the **Leader** of the Council together with up to nine other **Councillors**, all appointed by the Leader. **Cabinet members**, including the Deputy Leader, are appointed at the Annual Meeting of the **Full Council** at which the Leader

is appointed. The Mayor and Deputy Mayor of the Council cannot be appointed to the Cabinet. No substitution arrangements will apply to the Cabinet.

- 2.2 The **Leader** and **Cabinet members** cannot sit on the Overview and Scrutiny Committee. They can sit on any other committees of the Council and can chair them, but Cabinet members should not be in a majority.
- 2.3 The **Leader** decides the scheme of delegation in respect of **executive functions** and may authorise the Cabinet, a committee of Cabinet, **Cabinet members** or officers to exercise executive functions from time to time.

3 The Leader

- 3.1 The **Leader** will be a Councillor elected for a one year term to the position of Leader by simple majority of the **Full Council**. In the event that only one nomination is put forward, a vote will still be taken.
- 3.2 The Leader will hold office until:
 - a. They resign from the office; or
 - b. They cease to be a Councillor; or
 - c. They are removed from office by resolution of the **Full Council** that requires the support of a simple majority of those Councillors present; or
 - d. Annual Council one year after the term begins, when the position of Leader is elected by simple majority for the next year.
- 3.3 If the **Full Council** passes a resolution to remove the Leader, the Full Council shall elect another Councillor as Leader at the meeting at which the Leader is removed from office, or at a subsequent meeting of the Full Council. If there is a vacancy in the office of Leader for any other reason, the Full Council shall elect another Councillor as Leader at the first Full Council meeting after the vacancy occurs. In the interim the Deputy Leader will assume the responsibilities of the Leader.
- 3.4 The Leader may determine to exercise any of the Council's **executive functions** personally, or may arrange for the exercise of those functions by:
 - a. The **Cabinet**;
 - b. An individual **Cabinet member**;
 - c. A committee of the Cabinet;
 - d. An officer of the Council;
 - e. A joint committee

4 The Deputy Leader

- 4.1 The **Leader** shall appoint a Deputy Leader who shall be a member of the **Cabinet** and deputise for the Leader and carry out the functions delegated to the Leader in periods of their incapacity or absence.
- 4.2 The Deputy Leader shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until:
- a. They resign from the office;
 - b. They cease to be a **Cabinet member**;
 - c. They are removed from office by the Leader.
- 4.3 If for any reason the Leader is unable to act, or the office of Leader is vacant, and the Deputy Leader is unable to act, or the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place, or arrange for a Cabinet member to act in his/her place.

5 Cabinet Members

- 5.1 Each Cabinet member will be appointed by the Leader to cover one of the specific portfolio responsibilities (other than those reserved to the Leader) determined by the Leader.
- 5.2 A Cabinet member shall hold office until such time as the term of office of the Leader who appointed him/her comes to an end, or until:
- a. They resign from the office;
 - b. They cease to be a Councillor;
 - c. They are removed from office by the Leader.

6 Individual Cabinet Member Decisions

- 6.1 Cabinet members shall have the responsibilities as determined by the Leader from time to time.
- 6.2 Cabinet members exercising executive functions may delegate those functions to officers.
- 6.3 Details of [current Cabinet members and their portfolios](#) are available on the Council's website.

7 Proceedings of the Cabinet

- 7.1 Proceedings of the Cabinet shall be conducted in accordance with the Cabinet Standing Orders.
- 7.2 The **Cabinet** may delegate the exercise of executive functions to a committee of the Cabinet or officers, but not to an individual **Cabinet member**.

8 Joint Executive Arrangements

- 8.1 Where joint arrangements are established with one or more local authorities and/or their **executives** to exercise functions which are **executive functions**, any joint committee appointed in accordance with those arrangements may, subject to the terms of those arrangements, discharge those executive functions. See the Council's Joint Arrangements.

9 General responsibilities of the Executive

- 9.1 The **Executive** is responsible for:
- a. ensuring the effective and efficient discharge of the functions delegated to them
 - b. ensuring that any Council services within their remit are appropriate for and responsive to the needs and views of the Council's citizens, and are delivered effectively and efficiently
 - c. ensuring that good external relationships and effective local liaison are promoted in relation to Council services within their remit
 - d. monitoring the functions of the Council within their remit and contributing to any Council aims, objectives and policies
 - e. determining policies and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing any necessary action
 - f. determining the Council's views on matters specific to their areas of responsibility and related external matters
 - g. ensuring the effective and efficient management of any services and resources within their remit and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person.

10 Matters reserved for the Executive

- 10.1 The following functions shall be exercised only by the **Executive** and will be taken by the Cabinet, or a committee or sub-committee appointed by it, unless the **Leader** chooses to exercise these functions personally or allocate them to an individual Cabinet member or a committee of the Cabinet.

- 10.2 Where the **Cabinet** is exercising an **executive function**, in whole or in part, as set out below, the Cabinet is empowered to take all necessary and appropriate decisions to fulfil the obligations placed upon it subject to any restrictions or constraints imposed by the law or this Constitution.
- 10.3 Insofar as such functions do not fall within any responsibilities delegated to individual **Cabinet members**, the Cabinet is responsible for:
- a. the development of policy/strategy for the Council, the monitoring of the effectiveness of policy/strategy and the review of policy/strategy (leading to revision and further development)
 - b. subject to consultation with the appropriate Scrutiny body or bodies, advising on Budget setting, including all other relevant financial matters, plans and proposals
 - c. ensuring that proper arrangements exist for the effective and efficient management of the Council's executive affairs and the delivery of policy/strategy
 - d. monitoring and auditing the lawful, proper and efficient conduct of the Council's financial affairs, including the extent to which budgets and financial policies are being and will be met, and requiring or approving any remedial action to be taken where it considers it necessary and appropriate
 - e. developing, monitoring and reviewing any Council Corporate personnel and human resources policies
 - f. approving, monitoring and reviewing the provision of services to the Council which are delivered by internal and/or external suppliers
 - g. overseeing, approving and co-ordinating policies on national and external communications, public and media relations and public affairs generally
 - h. overseeing relationships with, participation in and contribution to external organisations and partnerships, Local Government Association, or their successors or like bodies
 - i. ensuring officers exercising delegated powers on behalf of the Cabinet discharge their responsibilities efficiently and effectively
 - j. monitoring and reviewing issues relating to relating to the implementation of strategy and policy
 - k. supporting any relevant regional arrangements relating to regional policy, transportation, planning and environmental issues
 - l. promoting employment and investment in the Council's area, including the preparation and approval of any Economic Development and Tourism Strategies

- m. dealing with any executive Local Development Framework functions which are delegated to the Council by the Secretary of State
- n. promoting the Council's policies relating to climate change from time to time in force

10.4 The Cabinet may discharge these functions itself, through a Cabinet committee or sub-committee or by delegation to an officer. In addition, the Cabinet may appoint such advisory panels, including any Councillor, as it considers appropriate to provide advice to it.

11 Responsibilities of all Cabinet Members

11.1 The following are the general responsibilities which apply to all **Cabinet members**, and the specific responsibilities which apply to individual Cabinet members. These responsibilities include various functions which are delegated to each Cabinet member to discharge.

11.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the **Cabinet member** with the primary responsibility shall take the lead and exercise their delegated powers, but in consultation with all Cabinet members with an interest.

11.3 Each **Cabinet member** is the spokesperson for the policy area or 'portfolio' they are responsible for. They also:

- a. lead on developing Council policy and make recommendations to the Cabinet
- b. provide guidance to the **Cabinet** on delivering services within their portfolio area
- c. give guidance to the Cabinet on budget priorities
- d. monitor performance and make sure policy is delivered
- e. lead on improving Council services
- f. ensure that activities meet the Council's overall vision, core values and guiding principles
- g. represent the Council at a national and local level
- h. contribute to debate and decision-making
- i. work with all Councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before relevant Overview and Scrutiny meetings and responding to Overview and Scrutiny Committee reports
- j. make decisions within the responsibility of the Cabinet member's portfolio

- k. ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

12 Delegations to all Cabinet Members

12.1 Each **Cabinet member** has the following authority delegated from the **Leader**:

- a. To incur expenditure or to make decisions in connection with the operation of services within the **Budget and Policy Framework** approved by Council, other than on contract award, IT projects, or where a more specific delegation is granted in this scheme, up to a value of £500,000.
- b. To authorise public consultation on strategies and policies within the **Budget and Policy Framework**.
- c. To comment on behalf of the Council on consultation papers issued by Government or any other public body.
- d. To approve the response to be taken to service action plans, external inspection reports, monitoring reports, scrutiny reports, and post-implementation reviews.
- e. Power to authorise officers to enter into agreements and arrangements with other local authorities, other public sector bodies and organisations undertaking activities of a public nature where this is expedient to the effective provision of services by the Council.
- f. Powers within the **Contract Standing Orders**.
- g. Determination of fees and charges for services in relation to **executive functions**.

13 Specific Responsibilities of individual Cabinet Members

13.1 Details of [current Cabinet members and their portfolios](#) are available on the Council's website.

14 The Leader

- 14.1 To chair the **Cabinet**.
- 14.2 To select the **Cabinet members** and determine their **portfolios of responsibility**.
- 14.3 To appoint committees and sub-committees of the Cabinet and to determine their powers.
- 14.4 To represent and act as ambassador for the Council (recognising the role of the Mayor of the Council).
- 14.5 To have overall responsibility for:

- a. policy development and design
 - b. Ministerial and Members of Parliament liaison
- 14.6 To act as Head of Cabinet.
- 14.7 To represent the Council's views on matters of corporate or strategic policy and any other matters which are within the Leader's terms of reference.
- 14.8 To submit to the **Cabinet**:
 - a. all policy and/or operational matters which have corporate implications or which cross the remits of the individual Cabinet members
 - b. any matter which crosses the portfolio of more than one Cabinet member, and which cannot be resolved, to the Cabinet for decision.
- 14.9 To provide appropriate and timely Cabinet responses to Scrutiny Committee recommendations and to monitor the implementation of those responses.
- 14.10 To act in the place of any Cabinet member having delegated authority under this scheme.

The [portfolio responsibilities](#) of the Leader can be found on the Council's website.

15 Cabinet Member with Portfolio Responsibility for Finance

- 15.1 Power to determine applications for hardship rate relief referred to the Cabinet member by the Section 151 Officer due to the special circumstances, the scale of potential job losses or significant budget implications.
- 15.2 Power to approve requests not to demand repayment of renovation grants, disabled facility grants or other grants of a like kind upon breach of grant conditions.

16 Cabinet Member with Portfolio Responsibility for Contracts

- 16.1 The acquisition (within the **Budget and Policy Framework** approved by Council) or the disposal of any interest in land or buildings at best consideration.
- 16.2 To authorise any lettings, lease renewals, rent reviews or licenses (at best consideration) either by the Council or to the Council, in respect of which the rent or licence payment does not exceed £150,000 per annum, in the case of lease renewals, rent and licence fee reviews the limit of £150,000 relates to the payment sum prior to the transaction.
- 16.3. Power to authorise works on Council land or buildings, within the annual Capital Programme.

17 Cabinet Member with Portfolio Responsibility for Planning

- 17.1 To authorise comments on the Development Plan or Local Development Framework of other local authorities.
- 17.2 Approval of draft Supplementary Planning Guidance and Supplementary Planning Documents for publication for public consultation, with the approval of the final Guidance/Document to be made by Cabinet.
- 17.3 To approve the annual Planning monitoring report.

18 Cabinet Member with Portfolio Responsibility for Traffic Management

- 18.1 To authorise public consultation on proposed traffic regulation and parking orders.
- 18.2 To authorise the final decision on implementing traffic regulation orders where:
 - a. 10 or more representations from separate addresses are received (and not withdrawn) which are in objection to the officer recommendation; and/or
 - b. Where a local ward Councillor has called in the proposed works.
- 18.3 Power to authorise officers to make temporary orders and other arrangements to enable events of a public ceremonial or celebratory nature in the Borough.

19 Scope of, and Limitations to, Individual Cabinet Member Decision-Making

- 19.1 All decisions taken by individual **Cabinet members** will be notified, by email, to all Councillors as soon as possible after the decision has been taken. The record of all decisions shall be recorded and publicised in accordance with the Access to Information Standing Orders.
- 19.2 The procedure for “Call-In” is set out in the Overview and Scrutiny Standing Orders.
- 19.3 **Cabinet members** are empowered to make delegated decisions as set out here except:
 - a. Decisions already taken by the **Cabinet** or by an officer acting under delegated powers
 - b. Decisions involving a departure from the Council’s **Budget and Policy Framework** or any **Cabinet** or Committee Policy. (This would include any variations or supplementary estimates and is subject to the provisions of the Finance and Contract Procedure Rules)
 - c. Decisions involving expenditure or savings of £500,000 or more
 - d. Decisions which the **Leader** requests are not taken by an individual Cabinet member but are referred to Cabinet because of their significance or sensitivity.

- 19.4 **Cabinet members** may take a **key decision** subject to the limitations above and subject to the usual requirements in relation to key decisions (including advance publication) detailed in the Access to Information Standing Orders.
- 19.5 **Cabinet members** may refer a decision to the **Cabinet**.
- 19.6 **Cabinet members** may delegate a function or decision to an officer. If a function is so delegated, the Cabinet member shall complete a written record in the agreed form to be recorded in accordance with Council procedure.

20 Procedure for Taking Individual Cabinet Member Decisions

- 20.1 Decisions must be made following consultation with one or more of the following officers/Councillors as appropriate:
- a. **Chief Executive**
 - b. Appropriate Executive Head or Head of Service
 - c. **Monitoring Officer**
 - d. **Chief Finance Officer**
 - e. Where there are implications across portfolios – other appropriate Cabinet member(s)
- 20.2 The **Cabinet member** must take into account professional, legal and financial advice and implications.
- 20.3 If any of the above officers give advice that a decision would fall outside the powers of the Cabinet member, the Cabinet member shall refer the matter to the **Leader** or the **Cabinet**.
- 20.4 Where it is not clear in which **portfolio** an issue sits, the Leader will decide.
- 20.5 Decisions by individual Cabinet members must be recorded on a Decision Notice in an agreed format. The signed copy of the Decision Notice will be held by the Democratic Services team. The decision will be published electronically.
- 20.6 Any decisions by individual **Cabinet members** which constitute **key decisions** must follow the statutory requirements in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and provided for in the Access to Information Standing Orders.

21 Committees of the Executive

- 21.1 The **Leader** or the **Cabinet** may delegate any of its functions to a committee of the Cabinet. Committees of the Cabinet shall report to the Cabinet. The Leader or the Cabinet may establish decision-making committees which may only include **Cabinet**

members. The Leader or the Cabinet may establish advisory committees, the membership of which need not be limited to Cabinet members. The Leader or the Cabinet may change them, abolish them, or create further ones, at its own discretion.

- 21.2 Committees established by the **Leader** or the **Cabinet** shall be empowered to perform these functions with immediate effect unless the Leader or the Cabinet impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Cabinet and all advisory or consultative liaison committees will continue in operation only until the first meeting of the Cabinet in the next civic year following their establishment when they must be expressly renewed or the cease to exist.
- 21.3 All functions that have been delegated to a committee established by the Leader or the Cabinet can still be taken by the Cabinet as the parent body (where the Cabinet has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual **Cabinet member** or an alternative committee of the Cabinet.
- 21.4 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to **Full Council** in due course for noting in the Council's Constitution.

SECTION D1 SHAREHOLDERS SUB-COMMITTEE

The purpose of the Shareholders Sub-Committee is to approve and oversee the Council's strategic objectives across Havant Borough **Council's companies** and to support the development of these companies in line with the Council's regulations and ambitions. The Shareholders Sub-Committee will provide strategic oversight of the Council's companies and provide assurance to the **Cabinet** that these companies are compliant with the Council's constitution, rules and procedures; achieving best value; and are fit for purpose.

The Shareholders Sub-Committee will not have operational control over the **Council's companies**. The day-to-day operation of each company is the responsibility of the Directors of each company. Operational liaison with the Council's companies will be between the client service of the Council and the managing Director of each company.

1 Composition

- 1.1 The Shareholders Sub-Committee will comprise the **Leader** of the Council, the **Cabinet Member with Portfolio Responsibility** for Finance and 3 other Cabinet Members.
- 1.2 The **Head of Paid Service**, the **Chief Finance Officer (Section 151 Officer)** and the **Monitoring Officer** and representatives of the group companies shall be invited to all meetings on a non-voting basis.
- 1.3 The Leader of the Council shall be elected as Chairman.

Quorum

- 1.4 The Shareholders Sub-Committee quorum will be 3 Councillors.

Reserves

- 1.5 Members of the Shareholders Sub-Committee may appoint reserve members from within the Cabinet.

Competency

- 1.6 All members of the Shareholders Sub-Committee and Cabinet members attending as reserves must:
 - a. have undertaken mandatory training in the relevant law and procedures which relate to the Sub-Committee's work; and
 - b. undertake further mandatory training, on an ad hoc basis, when there are changes to procedure or relevant legislation that are deemed significant by the relevant Director.

2 Matters reserved for the Shareholders Sub-Committee

- 2.1 The Shareholders Sub-Committee has the right to access the following information from **Council companies** to undertake the work of the Sub-Committee:
- a. The statutory accounts of the company;
 - b. Business plans including risk registers;
 - c. Reports on major projects;
 - d. Any reports on engagement and commercial activity; and
 - e. Any additional information it considers necessary to undertake the work of the Sub-Committee.
- 2.2 To hold the **Council's companies** to account, providing strategic oversight of the arrangements with the companies including the delivery by the companies of the Council's policy aims
- 2.3 To be consulted on the following by the **Council's companies**:
- a. the strategy, business plan, financial and corporate performance of the company;
 - b. Company policies;
 - c. matters reserved for shareholder approval as and when appropriate; and
 - d. emerging issues and opportunities which may impact the company, to discuss solutions proposed by the company.
- 2.4 To provide assurance that:
- a. strategic commissioning arrangements for the Council's companies are fit for purpose or provide recommendations to ensure that they are;
 - b. the overarching performance arrangements for each of the Council's companies are fit for purpose or provide recommendations to ensure that they are;
 - c. the arrangements for Council's companies comply with the Public Contract Regulations 2015; and
 - d. all Council's companies are complying with the relevant statutory and regulatory framework for their respective areas of operation.
- 2.5 To prepare and maintain a strategic risk register in relation to the Council's companies.

- 2.6 To advise the **Cabinet** and make recommendations to the Cabinet on:
- a. the exercising of any shareholder consents;
 - b. the approval as shareholder of the business plans of each of the Council's companies including providing strategic advice to the Cabinet on the robustness and suitability of each of the business plans;
 - c. any proposals to make a significant capital or revenue investment in any of the Council's companies; and
 - d. on any decisions that need to be made in relation to the overall commissioning arrangements.
- 2.7 To review and analyse the annual statement of accounts of each of the **Council's companies**.
- 2.8 To review any proposal by the **Council's companies** to submit a tender for services to a client other than the Council.
- 2.9 To determine the distribution of any surplus or the issue of any dividends from any of the **Council's companies**
- 2.10 To prepare and present a strategic report to the **Cabinet** at least once a year on the overall governance, financial and performance arrangements for the **Council's companies**.