

## **CABINET PROCEDURE RULES**

### **1. HOW THE CABINET OPERATES**

#### **1.1 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 cabinet 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 cabinet, an individual member of the cabinet 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.

#### **1.2 How decisions are to be taken by the cabinet**

- a) Cabinet decisions which have been delegated to the cabinet as a whole will be taken at a meeting convened in accordance with the access to information rules in part 4 of the constitution and in accordance with the procedures in section 2 below.
- b) Where cabinet decisions are delegated to a committee of the cabinet, the rules applying to cabinet decisions taken by them shall be the same as those applying to those taken by the cabinet as a whole.
- c) Where cabinet decisions are delegated to individual members of the cabinet they will be taken in accordance with the procedures in section 3 below.
- d) Even where cabinet functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

### **2. HOW CABINET MEETINGS ARE CONDUCTED**

#### **2.1 Cabinet meetings – timing and location**

The cabinet will meet at least ten times per year at times to be agreed by the leader. The cabinet meetings must take place in the borough.

#### **2.2 Public or private meetings of the cabinet**

Meetings of the cabinet shall be open to the press and public unless the business under consideration is exempt or confidential as defined in the access to information rules as set out in part 4 of this constitution. ~~There will be no private meetings of the cabinet. If a meeting or part of the meeting is~~

closed the procedures for a closed meeting, set out in the access to information rules in part 4 of the constitution must be followed.

### 2.3 Quorum

- a) The quorum for a meeting of the cabinet shall be one quarter of the total number of members of the cabinet or 3, whichever is larger, including the leader or deputy leader; except where the leader is unable to act or the office is vacant; and the deputy leader is unable to act or the office of deputy leader is vacant.
- b) The quorum for a meeting of a cabinet committee shall be one quarter of the total number of members of the cabinet on the committee or 3, whichever is larger.

### 2.4 Who presides

If the leader is present he/she will preside. In his/her absence, then the deputy leader shall chair the meeting. In the absence of the leader and deputy leader, a cabinet member shall be appointed to preside by those present. A committee of the cabinet shall be chaired by the leader and in his absence the vice-chair of the committee as appointed by the leader shall chair the meeting.

### 2.5 Who may attend

Members of the public may attend all meetings subject to the restrictions set out in the access to information rules in part 4 of this constitution.

### 2.6 Business

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

- a) apologies for absence
- b) notification of urgent items, if any
- c) declarations of interest, if any
- d) public question time – 15 minutes
- e) minutes of the last meeting
- f) matters referred to the cabinet (whether by the overview and scrutiny committee or by the council assembly) for reconsideration by the cabinet 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
- g) consideration of reports from overview and scrutiny committees/sub-committees
- h) 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.

## 2.7 **Broadcasting And Recording**

Audio recording of the proceedings of a cabinet meeting by any member of the public, media or councillor shall be allowed. Photographing or filming of the proceedings of a council meeting by any member of the public, media or councillor shall only take place with the prior agreement of the chair. The chair will make an announcement at the beginning of the meeting on any arrangement agreed.

The chair has the discretion to terminate or suspend the recording or photograph or filming if, in the opinion of the Mayor, continuing to do so would prejudice the proceedings of the meeting.

The circumstances in which termination or suspension might occur could include:

- a) Public disturbance or suspension of the meeting
- b) Exclusion of public and press being moved and supported
- c) The Mayor, on advice of the monitoring officer, considering that continued recording/photograph/filming/webcasting might infringe the rights of any individual, and
- d) The Mayor, on advice of the monitoring officer, considering that a defamatory statement has been made.

## 2.8 **Consultation**

All reports to the cabinet from any member of the cabinet 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 relevant overview and scrutiny committees, 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.

## 2.9 **Who can put items on the cabinet agenda**

The leader will decide upon the schedule for the meetings of the cabinet. He/she may put on the agenda of any cabinet meeting any matter which he/she wishes, whether or not authority has been delegated to the cabinet, a committee of it or any officer in respect of that matter. The proper constitutional officer will comply with the leader's requests in this respect.

Any member of the cabinet may require the proper constitutional officer to make sure that an item is placed on the agenda of the next available meeting of the cabinet for consideration. If he/she receives such a request the proper constitutional officer will comply.

The proper constitutional officer will make sure that an item is placed on the agenda of the next available meeting of the cabinet where the overview and scrutiny committee or the full council have resolved that an item be considered by the cabinet.

Any member of the council may ask the leader to put an item on the agenda of a cabinet meeting for consideration, and if the leader agrees the item will

be considered at the next available meeting of the cabinet. The notice of the meeting will give the name of the councillor who asked for the item to be considered.

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 proper constitutional officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where any two of the head of paid service, chief finance officer and monitoring officer are of the opinion that a meeting of the cabinet needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of a cabinet meeting. If there is no meeting of the cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

## **2.10 Formal records to be maintained**

No meeting of the cabinet shall commence or conduct business unless the monitoring officer or her/his representative is present. All meetings are to be clerked by a representative of the proper constitutional officer, with minutes to be produced including details of members attending each meeting and details of decisions taken. Copies of all agendas and minutes are to be maintained by the proper constitutional officer.

## **2.11 Public questions at cabinet meetings**

1. The time during which public questions shall be taken shall not exceed 15 minutes.
2. A resident or business ratepayer of the borough may ask one written question (limited to 50 words) on any matter in relation to which the council have powers. The question must be received three clear working days in advance of the cabinet meeting by the proper constitutional officer.
3. Each question must provide the name and address of the questioner and name the cabinet member to whom the question should be put.

### **Scope of questions**

4. The leader in consultation with the monitoring officer may reject a question if it:
  - a) is not about a matter for which the council has powers or duties or which affects Southwark
  - b) is defamatory, frivolous or offensive
  - c) is substantially the same as a question which has been put at a meeting of the cabinet in the past three months
  - d) requires the disclosure of confidential or exempt information
  - e) concerns a planning or licensing application

- f) raises a grievance for which there are other established processes for resolution
- g) relates to an investigation by (whether completed or not), or ruling of, the standards committee or sub-committee insofar as the question relates to the behaviour or conduct of an individual member or members.

**Record of questions**

- 5. The proper constitutional officer will maintain a record of each question which will be open to public inspection. Rejected questions will include reasons for rejection.

**Asking the question at the meeting**

- 6. The leader will invite the questioner to put the question to the member named in the notice.

**Supplemental question**

- 7. Any supplemental question will be at the discretion of the chair.

**Written answers**

- 8. 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.

**Late or urgent questions**

- 9. To preserve the ability for public questions to take place in connection with late or urgent items added to the cabinet agenda after the normal deadlines for such questions, the leader or in his/her absence the deputy leader shall at the meeting have the discretion to decide whether or not accept a late and urgent public question.

**2.12 Deputations to the cabinet**

**Who may request a deputation?**

- 1. Deputations can only be made by a group of people resident or working in the borough.

**Composition of deputation**

- 2. The deputation shall consist of no more than six persons, including the spokesperson.

**Scope of deputations**

- 3. The chair in consultation with the monitoring officer may reject a deputation if it:
  - a) is a request from a group of people who have alternative means of expressing their views through recognised channels, e.g. employees of

the authority or trade unions representing staff employed by the authority

- b) is not a matter for which the council has powers or duties or which affects Southwark
- c) is defamatory, frivolous or offensive
- d) requires the disclosure of confidential or exempt information
- e) concerns a planning or licensing application
- f) raises a grievance for which there are other established processes for resolution
- g) relates to an investigation by (whether completed or not), or ruling of, the standards committee or sub-committee insofar as the deputation relates to the behaviour or conduct of an individual member or members.

**Form of the deputation**

- 4. Each deputation request must provide the name and address of the persons/group requesting the deputation and a brief summary of the subject matter of their request.
- 5. Any written representations associated with a deputation should be submitted at the same time as the request for a deputation.

**Deadlines**

- 6. An application for a deputation to be heard shall be submitted by a representative of the deputation in writing to the proper constitutional officer no later than nine clear working days before the day of the cabinet meeting. The date and time of the receipt of such requests will be recorded.

**Late or urgent deputations**

- 7. To preserve the ability for deputations to take place in connection with late or urgent items added to the cabinet agenda after the normal deadline for deputations, the leader or in his/her absence the deputy leader shall at the meeting have the discretion to decide whether or not to accept a late and urgent deputation.

**Agenda**

- 8. Deputations shall be dealt with in the order in which they are received.
- 9. Subject to complying with the regulations herein, details of written deputations will be included on the agenda papers for the meeting of the cabinet.
- 10. If the matter is not dealt with by cabinet, the matter shall be referred without debate to the relevant cabinet member who shall, after consideration, respond with an open reply to the sender.

**What happens at the meeting?**

11. The proper constitutional officer shall report the request for the deputation to the cabinet. The meeting, without debate, shall decide whether:
  - a) the deputation be received at this meeting or a future meeting
  - b) the deputation not be received
  - c) the deputation be referred to the most appropriate committee/sub-committee/community council.

The proper constitutional officer shall arrange for the attendance of any deputation. In doing so he/she shall inform the applicants that the cabinet has discretion as to whether or not to receive the deputation.

**Speech on behalf of deputation**

12. Only one member of the deputation shall be allowed to address the cabinet, her or his speech being limited to five minutes.

**Questions to the deputation and time limit**

13. Members of the cabinet may ask questions of the deputation, which shall be answered by their spokesperson or any member of the deputation nominated by her or him for up to five minutes at the conclusion of the spokesperson's address.

**No debate during deputation**

14. Members shall not debate any issues arising out of the deputation, or the item to which it relates, with any members of the deputation.

**Deputation to withdraw from the floor**

15. As soon as the questions to the deputation have been concluded, the deputation shall withdraw and return to the public area where they may remain (subject to any resolution excluding the attendance of the public).

**Debate, motion and amendments**

16. If more than one deputation is to be heard in respect of one subject there shall be no debate until each deputation has been presented. At the conclusion of the deputation(s) the subject of the deputation shall be then open to debate by the cabinet. If the subject does not relate to a report on the agenda, members may move motions and amendments without prior notice.

**Formal communication of the cabinet's decision**

17. The proper constitutional officer shall, in writing, formally communicate the decision of the cabinet to the person who submitted the request for the deputation to be received.

**Deputations concerning licensing or planning applications**

18. Deputations or representation received concerning licensing or planning applications will not be considered by cabinet. Any such representations received should be forwarded to the appropriate proper officer(s) for consideration as part of the formal consultation on such applications.

#### **2.12 Petitions to the cabinet**

*This rule cannot be suspended.*

##### **Which meetings consider petitions?**

1. Members of the public will be entitled to present petitions with 500 or more signatures to the chair at each meeting.

##### **Deadline**

2. The petition must be submitted to the proper constitutional officer at least 10 clear working days before the date of the meeting. A petition can be submitted by a person of any age who lives, works or studies in Southwark.

##### **Scope**

3. Petitions must relate to matters in which the council has powers or duties or which affects Southwark. Petitions shall not concern approval or otherwise of a planning or licensing application, or a statutory petition which is a petition allowed by other legislation. Petitions will also be disallowed where there is already an existing right of appeal or the petition is vexatious, abusive or otherwise inappropriate.

##### **Procedure at meeting**

4. The chair will call on the spokesperson to present petitions in the order in which they were notified to the proper constitutional officer.
5. The spokesperson presenting the petition may speak for up to five minutes on the subject matter and number of signatories contained within the petition. The cabinet will debate the petition for a period of up to 15 minutes. The cabinet may decide how to respond to the petition at this meeting. Receipt of the petition will be recorded in the minutes. The proper constitutional officer will arrange for a summary of any petition which addresses an issue within the direct responsibility of the council to be referred to the relevant cabinet member or chief officer.
6. The time during which petitions shall be considered shall not exceed 40 minutes.
7. The processes and procedures are set out in the council's petition scheme.

### **3. HOW INDIVIDUAL CABINET MEMBER DECISION MAKING IS CONDUCTED**

#### **3.1 Who takes the decision**

The individual cabinet member who is responsible for the portfolio area or to whom the decision is delegated shall take the decision, except in the following circumstances:

- a) the leader, or in his/her absence, deputy leader may take the decision if the relevant individual cabinet member is unavailable



- b) the relevant individual cabinet member may indicate that they wish the decision to be referred to a meeting of the full cabinet
- c) the leader or the chief executive may direct that the decision be reserved to a meeting of the full cabinet
- d) where an individual cabinet member has a disclosable pecuniary interest in the decision the matter shall be referred to the full cabinet
- e) where the decision affects more than one portfolio or is a crosscutting issue the matter shall be referred to the full cabinet.

### **3.2 Who may inspect documents**

All reports for key individual cabinet member decisions shall be available for public inspection five clear working days prior to the decision, subject to the access to information rules in part 4 of this constitution.

### **3.3 Business**

The relevant individual cabinet member shall consider a report setting out the recommendation, the justification for the decision, any options to be considered, details of the consultation and any representations received.

A decision sheet shall be sent to the individual cabinet member with the report. This will state the earliest date when the decision-taker can take the decision.

The decision-taker can discuss the report with relevant officers if required.

### **3.4 Consultation/representations**

All reports to the individual cabinet member 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. Any representations received must be forwarded to the decision maker for consideration.

Where a ward member submits representations, the relevant individual cabinet member should discuss the matter with the councillor prior to taking the decision.

### **3.5 Formal records to be maintained**

The decision maker must complete and sign a decision sheet for each decision. The decision sheet has sections to be filled in giving the decision, date of the decision, reason for the decision, alternatives considered and any representations received by the individual decision maker.

All completed decision sheets must be forwarded to the proper constitutional officer. Copies of all reports and decision sheets are to be maintained by the proper constitutional officer.

### 3.6 Non-key decisions relating to contract standing orders

Rule 21 of the overview and scrutiny procedure rules in part 4 of this constitution will not apply to non-key decisions relating to contract standing orders.

### 3.7 All other decisions

All other decisions delegated to an individual in accordance with rule 1 above, will be subject to rule 21 of the overview and scrutiny procedure rules. The proper constitutional officer or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 21 of the overview and scrutiny procedure rules).

## 4. HOW INDIVIDUAL OFFICER EXECUTIVE DECISION MAKING IS CONDUCTED

### 4.1 Who takes the decision

Part 3 of the constitution states that any executive function that is not specially delegated by the leader of the council to the cabinet or an individual cabinet member is deemed to be delegated to the appropriate chief officer in the relevant department. The relevant chief officer as the senior officer in each department will maintain an internal scheme of management setting out individual delegations to officers.

### 4.2 Business

The following executive decisions are to be recorded in accordance with regulation 13(4)<sup>1</sup> by officers:

- (1) Contract reports that are key decisions
- (2) Other key decisions taken by officers, including those decisions which should always be treated as key decisions as set out in the protocol on key decisions
- (3) Any non-key decisions which are sufficiently important and/or sensitive that a reasonable member of the public would reasonably expect it to be publicly available.

### 4.3 Formal records to be maintained

1. The decision maker must complete and sign a decision sheet for each decision including the following information as set out below:
  - (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected by the officer when making the decision;
  - (d) a record of any conflict of interest declared by any cabinet member who is consulted by the officer which relates to the decision; and

<sup>1</sup> Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

All completed decision sheets must be forwarded to the proper constitutional officer. Copies of all reports and decision sheets are to be maintained by the proper constitutional officer.

**4.4 Non-key decisions relating to contract standing orders**

Rule 21 of the overview and scrutiny procedure rules in part 4 of this constitution will not apply to non-key decisions relating to contract standing orders.

**4.5 All other decisions**

All other decisions delegated to an individual officer in accordance with rule 4.1 and subject to recorded officer decision making in accordance with Regulation 13(4), will be subject to rule 21 of the overview and scrutiny procedure rules. The proper constitutional officer or his/her representative will circulate the decision to all members in accordance with the scrutiny call-in process (see paragraph 21 of the overview and scrutiny procedure rules).