

# Executive Procedure Rules

## 1. Application of these Rules

- 1.1 These Rules apply to the Executive and meetings of the Executive (being either a meeting of a number of Members of the Executive or the Leader when taking a Key Decision by way of a Portfolio Holder Meeting). Some Rules also apply to a Member meeting alone.

## 2. Executive Decisions

- 2.1 Executive functions may be exercised by:

- 2.1.1 the Executive as a whole;
- 2.1.2 an individual Member of the Executive;
- 2.1.3 an officer;
- 2.1.4 an arrangement with another authority for the discharge of functions.

- 2.2 A Key Decision may not be taken by an individual Member of the Executive unless either it has been delegated to an individual Member of the Executive or it is a Key Decision on an urgent matter and is taken in accordance with Rule 3 of the Appendix to the Executive Procedure Rules.

## 2.3 Definition of Executive Meeting

An Executive meeting shall include:

- 2.3.1.1 a meeting open to all Members of the Executive.
- 2.3.1.2 An individual Member of the Executive (Portfolio Holder) when making Key Decisions.

## 3. Delegation by the Executive

- 3.1 The Leader or, in the absence of the Leader, the Deputy Leader will present to the Council a written record of delegations made by them at the Annual Meeting of the Council for inclusion in the Allocation of Responsibilities (set out in Part 3 of this Constitution).

- 3.2 The document presented by the Leader or, in the absence of the Leader, the Deputy Leader must contain the following information relating to Executive functions in the ensuing Municipal Year:
- 3.2.1 the name of the Executive Member who will serve as Deputy Leader;
  - 3.2.2 the names and Wards of the Councillors appointed to the Executive;
  - 3.2.3 the nature of the Portfolios to be held by each Executive Member;
  - 3.2.4 the extent of any authority delegated to those Executive Members individually, including details of the limitation on their authority;
  - 3.2.5 the nature and extent of any deputising arrangements within the Executive;
  - 3.2.6 any changes to the terms of reference and constitution of the Executive.
  - 3.2.7 any changes to the nature and extent of any delegation of Executive functions to any other authority or any arrangements with another authority for the discharge of functions and the names of those Executive Members appointed to any joint committee for the coming year;
  - 3.2.8 any changes to the nature and extent of any delegation of Executive functions to officers as set out in the Constitution with details of any limitation on that delegation, and the title of the officer to whom the delegation is made;
- 3.3 In an election year the documents referred to in 3.2 above may be presented by the Leader or, in the absence of the Leader, the Deputy Leader to the first appropriate Council meeting. This may be a special meeting convened for the purpose.

#### **4. The Council's Allocation of Responsibilities and Executive Functions**

- 4.1 The Council will approve a Scheme of Delegations or Allocation of Responsibilities section of the Constitution, and may amend it at any time by resolution, but will normally undertake any revision at its annual meeting. However, in years where whole Borough elections are held, notification of the Scheme of Delegation or Allocation of Responsibilities may be presented at the next Council meeting after the Annual Meeting.

#### **5. Conflicts of Interest**

- 5.1 If an individual Member of the Executive has a conflict of interest or if every Member has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in this Constitution.
- 5.2 If the exercise of an Executive function has been delegated to an individual Portfolio Holder and a conflict of interest arises, then the function may be exercised, by the Leader or Deputy Leader. In the case where an officer is unable to take a delegated decision due to a conflict of interest, and no scheme exists within the department which allows referral of that decision to another appropriate officer, that decision will be referred to the relevant Portfolio Holder, or the Leader or Deputy Leader.
- 5.3 If a conflict of interest arises for the Leader or Deputy Leader where the decision would have been referred to them, then that decision may be referred to Cabinet.

## **6. Urgent Business**

- 6.1 Urgent business may only be considered where:
- 6.1.1 the Access to Information Procedure Rules in this Constitution have been complied with; or
- 6.1.2 a Member of the Executive or any Statutory Officer has requested that an item is placed on the agenda for the meeting at any time before the start of the meeting and the Executive agrees to the item being included on the grounds of urgency. The grounds of urgency and the circumstances giving rise to the request must be recorded in the minutes of the meeting.

## **7. Executive Meetings**

### **7.1 Time, place and changes to meetings**

- 7.1.1 The Executive will meet at time and place published on the agenda.
- 7.1.2 The Leader or, in the absence of the Leader, the Deputy Leader may convene additional meetings of the Executive, provided that the requirements of the Access to Information Procedure Rules in this Constitution are complied with.
- 7.1.3 The date and time of a meeting of the Executive may be changed by the Leader or, in the absence of the Leader, the Deputy Leader upon giving

five clear working days' notice. In urgent situations, the meeting may be cancelled by the Leader or the Head of Governance, with a shorter notice period.

## **8. Special Meetings**

8.1 Those listed below may request the Head of Governance to call Executive meetings in addition to ordinary scheduled meetings:

8.1.1 the Executive by resolution;

8.1.2 the Leader of the Council;

8.1.3 the Monitoring Officer (where the proper officer is not also the Monitoring Officer); or Chief Financial Officer;

8.1.4 at least one-third of the Members of the Executive, if they have signed a requisition presented to the Leader of the Council and he/she has refused to call a meeting or has failed to call a meeting within five clear working days of the presentation of the requisition.

8.2 The date, time and place of special meetings will be set by the Head of Governance of the Council.

8.3 The Head of Governance must give public notice of the time and place of a public meeting by displaying it at the offices of the relevant local authority and publishing it on that authority's website, if it has one at least 5 clear days before the meeting or where the meeting is convened at shorter notice, at the time the meeting is convened.

8.4 Where a meeting is convened at short notice, no item of business shall be considered unless a copy of the agenda including the item of business has been available for inspection by the public from the time that the agenda for the meeting was sent to members.

## **9. Business**

9.1 Business at special meetings of the Executive shall be restricted to any item of business specified by the Executive, Leader, Monitoring Officer or Chief Financial Officer when calling the meeting or specified in the requisition presented by at least one-third of the Members of the Executive.

9.2 Business at the same special meeting may be added to the agenda subject to the agreement of the Monitoring Officer following consultation with the Leader of the Council and the leader(s) of the Opposition Group(s), stating reasons for urgency.

## 10. **Meetings of the Executive to be held in Public**

10.1 All meetings of the Executive will be held in public. These meetings will be governed by the Access to Information Procedure Rules in this Constitution. Where the Executive is considering reports on matters which contain confidential or exempt information it may pass a resolution to exclude the press and public in accordance with the Access to Information Procedure Rules, having given 28 clear calendar days' notice of the intention to hold a private meeting (or part private).

## 11. **Quorum**

11.1 Subject to Rule 11.2, the quorum for a meeting of the Executive shall be a minimum of three.

11.2 In order for an Executive meeting to be quorate, the Leader or Deputy Leader must be present unless they are precluded from participating in the item of business by reason of a conflict of interest.

## 12. **Procedure for Decision Making by the Executive**

12.1 Executive decisions taken by the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in this Constitution.

12.2 Where Executive Key Decisions are delegated to individual Executive Members, those decisions shall be taken in accordance with the Access to Information Procedure Rules in this Constitution.

## 13. **Conduct of Executive Meetings**

### 13.1 **Chair of the Executive**

13.1.1 At a meeting of the whole Executive the Leader shall preside if they are present. In the absence of the Leader, the Deputy Leader shall preside. If neither the Leader nor Deputy Leader are present, the meeting shall not

proceed unless they are precluded from participating in the item of business by reason of a conflict of interest.

## 13.2 **Petitions**

13.2.1 The Council has a petition scheme and this will be followed.

## 13.3 **Public Questions**

### 13.3.1 **General**

13.3.1.1 Questions should be submitted in writing to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any questions submitted after this time will not be considered. Questions must specify the item of business on the agenda which they relate to. Questions will be answered by the Leader in the meeting in order of receipt, alternating between residents. Residents will be able to ask one supplementary question per question answered. Questions will be published prior to the meeting. Any additional questions received will not be accepted. Residents submitting questions are able to send a substitute to ask their question if they are unable to attend the committee meeting. The Governance Officer supporting the meeting should be made aware of this prior to the meeting commencing. Any questions that are not answered at the meeting will be given a written response at the discretion of the Leader.

13.3.1.2 Written comments must specify the item of business on the agenda which they relate to. Cabinet agendas are published on the Council's website five clear working days prior to the meeting. Residents should state their road and postcode when submitting comments. Each written comment is limited to 100 words. Written comments should be submitted to the relevant Governance Officer by 10am on the third working day prior to the meeting. Any written comments received after this time will not be considered. A resident may submit one written comment per agenda item. Written comments will be reported to the Cabinet and published alongside the agenda papers for the meeting.

#### **13.4 Time limit for questions and comments**

13.4.1 At cabinet meetings a time period of up to 30 minutes is available for public questions and comments in total. Questions and comments will be dealt with in order of receipt.

#### **13.5 Scope of questions**

13.5.1 The Monitoring Officer may reject a question if it:

13.5.1.1 is not about a matter for which the Authority has a responsibility or which does not affect the Borough;

13.5.1.2 would risk defamation of an individual or is frivolous or offensive; or otherwise improper;

13.5.1.3 is substantially the same as a question which has been put at any meeting of the Executive in the last six months; or

13.5.1.4 requires the disclosure of confidential or exempt information.

#### **13.6 Questions by Members**

##### **13.6.1 Questions with Notice**

13.6.1.1 A Councillor may ask a Portfolio Holder (Member of the Executive) a question (which depending on its nature may be dealt with in either public or private session) on any matter in relation to which the Executive has powers or duties. For the avoidance of doubt, a Member is not limited to asking a single substantive question at any one Executive meeting.

13.6.1.2 A limit of 15 minutes shall be given to the asking and answering of written questions by Councillors under this Rule. Notice of questions should be given in writing by 10am the third working day before the meeting.

#### **13.7 Response**

13.7.1 In response to a Non-executive Member speaking at Cabinet, an answer may be given by the Leader or Portfolio Holder.

A response may take the form of:

- 13.7.1.1 a direct oral answer;
- 13.7.1.2 where the desired information is a publication of the Council or other published work, a reference to that publication; or
- 13.7.1.3 where the reply cannot conveniently be given orally, a written answer supplied later to the questioner.

## 13.8 Invalid Questions

13.8.1 The Chair may, in consultation with the Monitoring Officer, rule out of order questions which in their opinion:

- 13.8.1.1 would risk defamation of an individual or is frivolous or offensive; or otherwise improper; or
- 13.8.1.2 do not relate to a matter for which the Executive has powers or duties or which does not affect the London Borough of Barnet; or
- 13.8.1.3 would require the disclosure of confidential or exempt information; or

is substantially the same as a question which has been put at any meeting of the Executive in the last six months.

### 6 Month Rule

13.8.1.4 No deputation, public question or comment shall be accepted within 6 months after a deputation, public question or comment has appeared before on the same or a similar subject.

## 13.9 The Business of Meetings

13.9.1 At each meeting of the Executive, the following business will be conducted where appropriate.

## 13.10 Apologies



- 13.10.1 Approving the minutes of the last meeting;
- 13.10.2 Declarations of interest and any dispensations granted by the Monitoring Officer
- 13.10.3 Petitions and questions, comments and deputations (if any);
- 13.10.4 Matters referred to the Executive (whether by the Overview and Scrutiny Call-in sub-committee or by the Council) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in this Constitution.
- 13.10.5 Consideration of reports from the Overview and Scrutiny Committee or Scrutiny sub-committees;
- 13.10.6 Consideration of proposals for the budget and policy framework, prior to making decisions on them;
- 13.10.7 Consideration of the Key Decision Schedule (KDS);
- 13.10.8 Other matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions in accordance with the Access to Information Procedure Rules set out in this Constitution.
- 13.10.9 Reports of statutory officers
- 13.10.10 Matters referred to the Cabinet.

**13.11 Decisions to be taken only on a report**

- 13.11.1 The Executive, or an individual Executive decision-taker, may only take a decision upon consideration of a written report from the relevant officer of the Council.
- 13.11.2 Reports from officers will follow a standard format including the following statutory requirements:
  - 13.11.2.1 Resource implications (observations of the Chief Financial Officer)
  - 13.11.2.2 Legal and Constitutional References (observations of the Monitoring Officer)

- 13.11.2.3 Details of background papers
- 13.11.2.4 Reasons for Recommendation
- 13.11.2.5 Options Considered and Rejected
- 13.11.2.6 List of Background Papers which will be published on the website and made available to the public

## 13.12 Consultation

- 13.12.1 All reports to the Executive on draft proposals relating to the budget or policy framework must contain details of consultation to be undertaken with stakeholders and relevant Overview and Scrutiny Committee or Scrutiny sub-committees. Final proposals must include details of the outcome of that consultation.
- 13.12.2 Reports on other matters must set out the details and outcome of consultation as appropriate to the matter under consideration.

## 13.13 Executive Agenda

- 13.13.1 The Leader or any Member of the Executive may request that the Monitoring Officer places an item on the agenda of the next available Executive meeting.
- 13.13.2 The Monitoring Officer will place the item on the agenda of the next available meeting of the Executive in accordance with the Access to Information Procedure Rules if the Call-In sub-committee or if the full Council has resolved that an item must be reconsidered by the Executive.
- 13.13.3 The Monitoring Officer and Chief Financial Officer may include an item for consideration on the agenda of an Executive meeting and/or may call or be required to call a meeting in pursuance of their statutory duties. In other circumstances, where both the Chief Financial Officer and the Monitoring Officer are of the opinion that an Executive meeting needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive within an appropriate timescale to deal with the issue in question, then they may also require that a meeting be convened at which the matter will be considered.

## **13.14 Voting Procedure**

13.14.1 The Executive will decide all matters before it on a collective basis except where dissent is recorded by Members, by simple majority. The Chair will have a casting vote.

## **13.15 Individual recorded vote and explanation for vote**

13.15.1 If immediately before the vote is taken, any voting Member present at the meeting requests that his or her vote be recorded as voting for or against or not voting, it shall be so recorded in the minutes.

13.15.2 A recording of a vote or abstention in the minutes of the meeting shall be made without explanation save that in cases where it is necessary for the avoidance of ambiguity a brief note may be added at the Member's request explaining that Member's reason for voting or not voting.

## **13.16 Guillotine**

13.16.1 Meetings of the Executive will not last longer than 3 hours.

## **13.17 Key Decisions taken by Portfolio Holders**

13.17.1 A Key Decision may not be taken by an individual Member of the Executive unless it is a key decision on an urgent matter and is taken in accordance with Rule 3 of the Appendix to the Executive Procedure Rules.

13.17.2 All Key Decisions to be taken by a Portfolio Holder will follow the Access to Information Procedure Rules in this Constitution.

13.17.3 At each meeting, the following business will be conducted:

13.17.3.1 declarations of any dispensations granted by the Monitoring Officer;

13.17.3.2 petitions and public questions, if any;

13.17.3.3 matters referred to the Executive Member (whether by the Call-in Sub-Committee or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rule on the Call-In Procedure;

13.17.3.4 consideration of reports from the Overview and Scrutiny Committee or Scrutiny sub-committees;

13.17.3.5 consideration of items for decision as set out in the agenda for the meeting.

### **13.18 Who may speak**

13.18.1 Any Member of the Council may attend a meeting of a Portfolio Holder but may only speak if invited to do so by the Portfolio Holder.

### **13.19 Implementation of Executive Decisions**

13.19.1 In order to allow for Call-In, no Executive Key Decision can be implemented until the expiry of five clear working days after the decision has been published, unless the decision-taker resolves as part of the decision that its implementation is urgent when the provisions contained in the Overview and Scrutiny Procedure Rule on the Call-In Procedure apply.

### **13.20 Confidential Business**

13.20.1 All reports, other documents, information, discussions and proceedings of the Executive, or Portfolio Holder which are marked Exempt under Schedule 12A of the Local Government Act 1972, or Confidential must be treated as such by all Members. Members of the public will not have access to these papers and discussions. Confidential or exempt items will be marked as such and the relevant part of Schedule 12A will be specified on the document. Confidential and/or exempt items will be discussed in 'Part II' of the meeting following a resolution to exclude the press and public.

13.20.2 Executive Meetings and Key Decisions taken by the Leader (PHD Meeting) shall be subject to regulation 5 (Part 2) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The Access to Information Procedure Rules set out the requirements for advance notice of any private meeting.

### **13.21 Minutes of the Executive**

13.21.1 Minutes of the Executive shall be published on the Council's website.

### **13.22 Production of Decision Notices and Minutes for Cabinet Meetings**

13.22.1 A Decision Notice will normally be published on the Council's website on the day immediately following the Cabinet Meeting thereby setting/invoking the Call-in period. Minutes of the Cabinet and other Executive Meetings will normally be published within five clear working days of the meeting.

### **13.23 Exclusion of the Public**

13.23.1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in this Constitution or under Rule 14.4 (Disturbance by the Public) below.

## **14. Members' Conduct**

### **14.1 Precedence of Chair**

14.1.1 When the Chair speaks during a debate, any Member speaking at the time must stop speaking. The meeting must be silent.

### **14.2 Member not to be heard further**

14.2.1 If any Member present persistently disregards the ruling of the Chair by behaving improperly or offensively or deliberately obstructs business, the Chair may move that the Member be not heard further during the consideration of that item of business. If seconded, the motion will be voted on without discussion and the Member may be asked to leave the meeting.

### **14.3 General disturbance**

14.3.1 If there is a general disturbance, making business impossible, the Chair may adjourn the meeting for as long as they think it is necessary.

### **14.4 Disturbance by Public**

#### **14.4.1 Removal of Member of the Public**

14.4.1.1 If a member of the public interrupts proceedings, the Chair will warn the person concerned. If they continue to interrupt, the Chair will order their removal from the meeting room. (See also 27.1 above)

## 14.5 Deputations

- 14.5.1 Cabinet may receive a deputation on any matter appearing on the relevant agenda.
- 14.5.2 Requests to receive a deputation must be in writing and signed by at least five and no more than 24 citizens or representatives of local organisations or businesses in Barnet (documents with more than 24 signatures will be treated under the Petition Scheme). The signatories must clearly state their names and postcode qualifying education/business address. The request must explain why a deputation is required.
- 14.5.3 The request must be given to the Monitoring Officer/Head of Governance at least two clear working days before the day of the meeting.
- 14.5.4 The people nominated to speak should also be signatories to the original written request to make a deputation. All may speak but the total length of the speeches from the deputations must not exceed three minutes.
- 14.5.5 The total time allowed for deputations will be 30 minutes.
- 14.5.6 The deputation shall be heard at the beginning of the meeting. The Chair has complete discretion to move any items that are subject to a deputation on the agenda.
- 14.5.7 Members of the Council, co-optees and advisers shall not be signatories to, lead or form part of any deputation.
- 14.5.8 Members of staff may lead or join deputations only in their capacity as local electors and on issues other than those affecting their employment (either terms and conditions or the work that they are undertaking) with the Council.
- 14.5.9 Deputations are not permitted:
  - 14.5.9.1 If they don't relate to a substantive item on the agenda
  - 14.5.9.2 If they are defamatory, abusive, offensive or otherwise improper.
  - 14.5.9.3 If submitted from Council employees or trade unions on employment matters; there are avenues available for these to be addressed via the Terms of Reference of the Constitution & General Purposes Committee.

- 14.5.9.4 If they would result in the release of confidential information, or which may prejudice enforcement.
- 14.5.9.5 If they relate to a matter where there is a right of appeal against any decision of the Council.
- 14.5.9.6 If they have been submitted by someone who has been deemed to be subject to the Management of Unreasonable Complainant Behaviour Policy and they relate to the particular subject matter for which the policy was imposed;
- 14.5.9.7 If they are received from people who are not Barnet citizens;

## 14.6 Responses to Deputations

14.6.1 The Cabinet may respond to deputations in the following ways:

- 14.6.1.1 To note the deputation and take no action.
- 14.6.1.2 Note the deputation in consideration of the report.
- 14.6.1.3 Ask officers to prepare a report for the next meeting (of either this committee or another relevant committee) on the deputation.
- 14.6.1.4 Ask officers to provide a written response to the deputation.

## **Appendix to Executive Procedure Rules**

### **Delegated Powers of Portfolio Holders**

#### **1. Key Decisions**

1.1 A Key Decision may not be taken by an individual Member of the Executive unless either it has been delegated to an individual Member of the Executive or it is a Key Decision on an urgent matter and is taken in accordance with Rule 3 of this Appendix.

#### **2. Decision taking by individual Portfolio Holders**

2.1 Where a non-key decision is to be made, individual Portfolio Holders may take those decisions in the following circumstances:

#### **3 Matters the subject of an agreed framework, set by the Executive and on a report from an officer.**

3.1 Where the Executive has already set a clear framework for a set of decisions, the Portfolio Holder may take that framework forward into implementation.

3.2 This power is subject to:

3.2.1 The same conditions as in 2(ii) above; and

3.2.2 Where the matter is controversial, or potentially controversial, the Portfolio Holder should refer the matter to the full Executive for decision.

**NB** The fact that a Portfolio Holder, having considered these rules and guidance, decides to take a decision does not render that decision invalid or improperly taken if the matter is later shown to be the subject of disagreement amongst the Members of the Executive.



#### **4. Urgent matters (non-key decisions)**

4.1 Portfolio Holders may take non-key urgent decisions within their terms of reference, provided the conditions above are satisfied.

4.2 It should be noted that where a decision is deemed to be urgent, and where Procedure Rule 16 of the Access to Information Rules has been followed, that decision will not be subject to the call-in procedure Rules provided the Chair of Overview and Scrutiny Committee agrees.

#### **5 Urgent Matters where the Portfolio Holder is not empowered to act (Key Decisions or matters that are outside the Portfolio Holder's terms of reference.)**

5.1 When an urgent decision needs to be taken in circumstances where to wait until the next scheduled meeting of the Executive would be prejudicial to the best interests of the Council, and where a Portfolio Holder is not empowered to act under paragraph (iv) above then:

5.2 The Leader, (or in his/her absence, the Deputy Leader) may, after consultation with the relevant Portfolio Holder, take the decision.

5.3 Before taking a Key Decision, the Leader (or Deputy Leader) must first consider whether the importance of the matter warrants the calling of a special meeting of the Executive.

5.4 The decision must be taken in a way that fully complies with the Procedural Rules of the Council and in particular, if relevant, with the rules relating to "Key Decisions".

5.5 A copy of the minutes of the decision must be published within two clear working days of the decision and published on the Council's website with electronic notification given and no hard copies circulated.

5.6 It should be noted that where a decision is deemed to be urgent, and where Procedure Rule 16 of the Access to Information Procedure Rules has been followed, that decision will not be subject to the call-in procedure provided the Chair of Overview and Scrutiny Committee agrees.

#### **6 Temporary Arrangements**

6.1 In the absence of the Leader, the Deputy Leader may undertake the responsibilities and exercise the delegated powers of the Leader, to the extent permitted by the Constitution.

6.2 In the absence of a Portfolio Holder the Leader may undertake the responsibilities and exercise the delegated powers of that Portfolio Holder.

6.3 If a Portfolio Holder is absent for a continuing period, the Leader may, on a temporary basis, allocate the responsibilities and delegated powers of that Portfolio Holder to one or more other Portfolio Holders. If the Leader makes such an allocation they must at the time notify all Members of Council of the temporary transfer of responsibilities and power and of the likely period of such arrangements.

**7 None of the delegated powers above authorise the taking of a decision, which either by law or by the operation of the Procedural Rules of the Council is required to be taken at a full meeting of Council.**