

Article 6 – the Cabinet

Changes in red are amendments proposed by the Joint Constitution Review Group

6.1 Role

6.1.1 The Leader and Cabinet will carry 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.

6.2 Form and Composition

6.2.1 The Cabinet will be chaired by the Leader. It will comprise the Leader and **no fewer than two and up to nine*** other councillors appointed to the Cabinet by the Leader, one of whom shall be designated Deputy Leader and all of whom are to be known as Portfolio Holders. Only councillors will be appointed to the Cabinet. There will be no co-optees, no deputies and no substitutes for Cabinet members. The Leader and Portfolio Holders may not be members of any scrutiny committee. The Chairman and Vice-Chairman [*Mayor and Deputy Mayor*] of the Council may not be members of the Cabinet.

***This is the statutory maximum and is in the current SEBC constitution. FHDC are recommended to include this to allow maximum flexibility for the size of Cabinet..**

6.3 The Leader

6.3.1 The Leader will be a councillor elected to the position by the Council at its first annual meeting following the local government elections. The Leader will hold office until

- a. The next post-election annual meeting of the Council; or
- b. He/she resigns from the office of Leader; or
- c. He/she is removed from office by ordinary resolution on notice of the Council; or
- d. He/she is no longer a councillor.

6.3.2 When a vacancy arises in the office of the Leader, the Council shall fill the vacancy at the next ordinary meeting of the Council, or at a special or extraordinary meeting summoned for the purpose; or, if the vacancy occurs as a result of the removal of the Leader by resolution of the Council, at the meeting at which that resolution was passed or a subsequent meeting. The councillor appointed to

fill the vacancy shall hold office for the remainder of the original term, subject to the rules on earlier termination in 6.3.1 above.

6.3.3 The Leader shall appoint another member of the Cabinet as Deputy Leader to act when the Leader is unable to act or the office of Leader is vacant. The Leader may, if he or she thinks fit, remove the Deputy Leader from office. Where there is a vacancy in the office of Deputy Leader, the Leader must appoint another person to be Deputy Leader. Unless he or she is removed by the Leader, resigns as Deputy Leader or ceases to be a member of the council, the Deputy Leader shall hold office until the end of the Leader's term of office.

6.3.4 The Leader remains a member of the Council during his or her term of office as Leader and any enactment that provides for him or her to retire earlier as a councillor does not apply.

6.4 Other Cabinet Members (the Portfolio Holders)

6.4.1 The Leader will usually announce the Portfolio Holders at the annual meeting of the council. Re-appointments, appointments and the removal of Portfolio Holders announced in this way will take immediate effect. If the announcement is not made at the annual meeting, the Leader will give written notice to the Monitoring Officer of the Portfolio Holders as soon as practicable after the annual meeting and the re-appointments, appointments and removals made in this way will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.2 The Leader may also appoint Portfolio Holders during the municipal year to fill any vacancy or increase the size of the Cabinet (up to the maximum number set out in 6.2.1 above) by giving written notice to the Monitoring Officer. These appointments shall take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.3 Portfolio Holders shall hold office until:

- a. they resign from office; or
- b. they are no longer councillors; or
- c. they are removed by means of the Leader's notification at or as soon as practicable after the next annual meeting; or
- d. they are removed from office by the Leader giving written notice of the removal to the Monitoring Officer. The removal will take effect two working days after receipt of the notice by the Monitoring Officer.

6.4.4 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 of the office of Deputy Leader is vacant, the Cabinet must act in the Leader's place or must arrange for a Portfolio Holder to act in his/her place.

6.5—Cabinet Support Members*

~~From time to time the Leader may designate other councillors as Cabinet Support Members for a particular activity or range of activities. Such councillors will not be members of the Cabinet, cannot make executive decisions, cannot substitute for Portfolio Holders and will not receive special responsibility allowances, but will work with the relevant Portfolio Holder on the activities identified by the Leader. Where the Leader designates a councillor as a Cabinet Support Member, notification shall be made to the Monitoring Officer who will keep a record of such designations.~~

**This provision appears in the Forest Heath constitution but there is no equivalent in St Edmundsbury's, although equivalent roles have existing since 2002. SEBC members are asked to consider if they wish now to include it formally.*

6.6 Functions of the Cabinet

6.6.1 The Cabinet has the following functions:

- a. to make 'key decisions' as defined in Article 12 and published in the decisions plan;
- b. to formulate the budget and policy framework for submission to Council in accordance with the budget and policy framework procedure rules in Part 4 of the constitution;
- c. to implement the approved budget and policy framework;
- d. to determine recommendations and other matters referred to it by committees, sub-committees or council;
- e. to carry out all of the functions which by law the executive must carry out or has chosen to carry out* and which have not been delegated elsewhere;
- f. to ensure the publication of, and to consider, the plan of items likely to come before it for decision at least 28 days before the decision is due to be made.

**Please note that draft regulations concerning what functions may or may not be carried out by Council or Cabinet have just gone out to consultation. There may be some changes to Article 6 and other parts of the draft constitution which are necessary as a result of the*

regulations that eventually come into law, but officers do not expect these to be major ones.

6.6.2 The Cabinet may carry out its functions:

- a. itself;
- b. by delegating power to an individual member of the Cabinet, to be exercised in accordance with the rules in Appendix B to this Article 6;
- c. by delegating power to an officer, who shall exercise that power in accordance with the scheme of delegation to officers contained in Part 3 of the constitution;
- d. by delegating power to a joint committee, area committee or another local authority.

6.6.3 The list of portfolio responsibilities will be maintained by the Leader and will set out which individual members of the Cabinet, officers and joint arrangements are responsible for the exercise of particular Cabinet functions. The full list is in Part 3 of the constitution and a brief list of portfolio responsibilities forms Appendix A to this Article 6. The Leader is empowered to amend the portfolios during the administrative year.

6.7 Meetings of the Cabinet

6.7.1 The Cabinet will hold public meetings as frequently as is required for the effective discharge of its functions on dates and at times agreed by the Leader. Meetings will be conducted in accordance with the Cabinet Procedure rules set out in Part 4 of the constitution. Meetings will usually be held at *[West Suffolk House, Bury St Edmunds/the District Council Offices in Mildenhall]* but can be held at other locations agreed by the Leader.

6.7.2 To ensure it is briefed and/or consulted upon its functions, the Cabinet may hold other informal (not public) meetings as are necessary for it to carry out its work effectively. However, to ensure transparency and facilitate good scrutiny, matters discussed at these meetings that are intended to be put to Cabinet or Council for decision will, unless a decision is required urgently, be included in the decisions plan which is referred to the appropriate committee (normally a scrutiny committee) before a recommendation is made to Cabinet/Council (*see paragraph X of Article 7 Overview and Scrutiny*).

This is a new provision for the constitution which was recommended by the Joint Constitution Review Group and approved by Councils to

ensure that the role of cabinet planning meetings is formalised as part of the decision-making process. The suggested means of doing this is to make better use of the decisions plan process. The scrutiny committee will be able to request more information or formal involvement in any decision-making for any matter on the plan. Part of developing this process will be seeking the feedback of the scrutiny committees on the level of detail they need in the decisions plan.

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Appendix A

List of Portfolio Responsibilities

[list here the portfolios and what responsibilities are included in each]

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Appendix B

Procedure for decision-making by individual Portfolio Holders

The procedure set out below is, with minor amendments highlighted, that which already applies to Portfolio Holders at Forest Heath.

1. Individual Cabinet members are empowered (subject to the exceptions listed below) to make Cabinet decisions within the Policy and Budget Framework in respect of their own portfolio area of responsibility.

The exceptions are as follows:

1.1 A decision that is a departure from the agreed Strategic Plan except where this falls within current agreed policy.

1.2 Decisions solely in relation to the Cabinet Member's own ward including, for example, making a grant, unless this is agreed by the Leader. This does not prevent the use of the Cabinet Member's Locality Budget.

1.3 Where the Leader has indicated before a decision is either taken by the Portfolio Holder or implemented that he requires the decision to be taken collectively by the Cabinet. Notification of this by the Leader must be made to the Head of **HR**, Legal & Democratic Services.

1.4 A decision in which the Cabinet member has either a **disclosable pecuniary** interest or some other conflict of interest.

1.5 Those decisions delegated to an officer unless the officer refers the decision to the Cabinet member.

1.6 A decision which in the view of the Chief Executive is one which should properly be treated as a key decision.

2. The Cabinet may delegate any decision to an individual Cabinet member who must then follow the procedure in this document in making that decision.

3. The decisions must be made in consultation with officers deemed appropriate by the Chief Executive and the Cabinet member must

take into account the professional, legal and financial implications and any advice given by those officers.

4. Where there are significant cross-cutting implications the decision should be made in consultation with other appropriate portfolio holder(s).

5. Where a decision has significant impact on an individual ward the Cabinet member should consult the appropriate ward member.

6. Where it is not clear in which portfolio an issue sits, the Leader shall decide. If the appropriate portfolio holder is unavailable and a decision needs to be taken urgently, then the Leader may take the decision in consultation with the Chief Executive.

Notification and Publication

Wherever possible, 5 clear working days' notice of the intention to make a decision under these delegated powers will be given to all Members of the Council, by notice sent electronically and published on the Council website together with any supporting report. Where 5 clear working days' notice is not practicable for exceptional reasons relating to the urgent need to action the decision the Cabinet Member should give notification of the intent to make the decision as soon as possible explaining the reasons for the short notice.

The decision must be recorded on the appropriate form prepared and published by **Democratic** Services. The decision will be published and may not be implemented until after either:

- the call-in period (5 working days after the date of publication) has expired; or
- a call-in process has been completed.

Call-in, using the procedure in the Council Procedure Rules, may be made within 5 days of the decision being published and the usual process shall be followed.