

APPENDIX ONE: PROPOSALS FOR NEW EXECUTIVE ARRANGEMENTS

PART 1

SUMMARY AND EXPLANATION

THE COUNCIL'S CONSTITUTION

The Bath and North East Somerset Council has agreed a constitution which sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that the Council's business is efficient, transparent and accountable to local people. Some matters addressed in this Constitution are required by the law, while others are a matter for the Council to choose.

The first volume of the Constitution is divided into 16 "Articles" which set out the basic rules and framework governing the Council's business. Following these are procedural rules governing the operation of the Council's decision making business. Other volumes of this Constitution set out in more detail how the Council operates.

WHAT'S IN THE CONSTITUTION?

Article 1 of the Constitution commits the Council to promoting the social, economic and environmental well-being of the area and carrying out its powers and duties subject to the law and the views of local people. Articles 2 - 16 explain the rights of citizens and how the key parts of the Council operate. The articles are:

- The Constitution (Article 1).
- Members of the Council (Article 2).
- Citizens and the Council (Article 3).
- The Council meeting (Article 4).
- Chairing the Council (Article 5).
- Overview and scrutiny of decisions (Article 6).
- The Cabinet (Article 7).
- Regulatory and other committees (Article 8).
- The Standards Committee (Article 9).
- Area Working (Article 10).
- Joint Arrangements (Article 11).
- Officers (Article 12).
- Decision making (Article 13).

- Finance, contracts and legal matters (Article 14).
- Review and revision of the Constitution ([Article 15](#)).
- Suspension, interpretation and publication of the Constitution ([Article 16](#)).

The Constitution also deals with the following:

- Formal Joint Arrangements entered into by the Council
- Delegated powers and the responsibility for exercising the Council's functions
- Members' Local Code of Conduct
- Member/Officer Protocol
- Other Protocols for effective working
- Financial Management Arrangements
- Budget Management Scheme
- Codes of Practice on Financial Administration (including Officers Code of Conduct)
- Contract Standing Orders
- Management Structure
- Scheme of Members' Allowances

HOW THE COUNCIL OPERATES

The Council comprises 65 councillors elected every four years and one Mayor elected across the area as a whole every four years. Councillors are democratically accountable to residents of their ward. The overriding duty of councillors is to the whole community, but they have a special duty to their constituents, including those who did not vote for them. The Mayor is accountable to all residents across Bath and North East Somerset, including those who did not vote for them.

The Directly Elected Mayor and Councillors have to agree to follow a code of conduct to ensure high standards in the way they undertake their duties. The Council has a Standards Committee responsible for promoting the highest standards of conduct within the Council and for investigating complaints of misconduct against members of the Council (as permitted by regulations). The Standards Committee has similar responsibilities in respect of Parish Councils.

All councillors and the Mayor meet together as the Full Council. Meetings of the Council are normally open to the public. Here, the Mayor and Councillors decide the Council's overall policies and set the budget each year.

~~At its Annual Meeting, the Council will formally appoint a councillor to be the Leader of the Council.~~

HOW DECISIONS ARE MADE

Most day to day service decisions are taken by the staff of the Council and in particular by their managers. ~~Elected Councillors sitting as the~~The F-full Council will decide an overall framework of policies governing how services are to be provided.

The ~~Leader of the Council~~Mayor approves the scheme of delegation of executive functions.

The Council's Cabinet, appointed by the Mayor, ~~-of councillors-~~ collectively will make recommendations to the Council about the policy framework and will itself take decisions that ensure services are provided within that framework.

For most “key” decisions to be made by the Mayor, by the Cabinet, by Cabinet Members or by Officers, the Council is required to publish in advance information about (a) the matter to be decided; (b) who will be making the decision and (c) the date or timescale for the decision and the place where the decision will be made.

The Mayor and Cabinet can only make decisions which are in line with the Council's overall Policy and Budget Framework. If it wishes to make a decision which is contrary to the Policy and Budget Framework, this must be referred to the full Council to decide.

The Council will appoint committees with power to carry out its non-Executive and other functions (eg planning and licensing). Non-executive functions are those which the Cabinet does not have the power to carry out.

ARTICLE 1 - THE CONSTITUTION

1.1 Powers of the Council

The Council will exercise all its powers and duties in accordance with statute and this Constitution.

1.2 The Constitution

This volume, and any other supplementary volumes, form the Constitution of the Bath and North East Somerset Council.

Copies of the Constitution may be inspected at Council Offices (including “Council Connect” points) and may be purchased from the Democratic Services team.

1.3 Purpose of the Constitution

The purpose of the Constitution is to:

1. enable the Council to provide clear leadership to the community in partnership with citizens, businesses and other organisations;
2. support the active involvement of citizens in the process of local authority decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;
7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
8. provide a means of improving the delivery of services to the community.

1.4 Interpretation and Review of the Constitution

The Council will make arrangements to monitor, review and evaluate the operation of the Constitution. Such arrangements will be consistent with any review arrangements set down in legislation.

Where a change in the political proportionality of the Council occurs, (*proportionality addresses the number of Council seats held by each confirmed political group and the number of committee places allocated in proportion*), the Council will as a consequence review this Constitution and make such changes as are appropriate to reflect the new position and which are consistent with the law.

In other circumstances, the Constitution may be reviewed by the Council on a motion from a member, or through a report from the Chief Executive, the Monitoring Officer or the Chief Financial Officer.

Any reference in this Constitution to the roles of the Chief Executive, Head of Paid Service, Monitoring Officer or Chief Financial Officer shall be taken to apply also to any officer nominated by those office-holders to act on their behalf or in their absence.

Any reference in this Constitution to the ~~Leader of the Council~~Mayor or any other office held by a member of the Council, shall be taken also to refer to any nominated deputy/deputies for that role.

Any issues of interpretation of the Constitution shall be determined by the Divisional Director Legal and Democratic Services (Monitoring Officer) after consultation with the Chief Executive.

ARTICLE 2 - MEMBERS OF THE COUNCIL

2.1 Composition: The Council comprises 65 members, otherwise called councillors. One or more councillors will be elected by the voters of each ward in accordance with a scheme drawn up by the Local Government Commission and approved by the Secretary of State. There is a Mayor for Bath and North East Somerset, elected across the area. The Mayor will be treated as a Councillor unless the law provides otherwise. In particular the Mayor will be subject to the same rules about qualification and disqualification for office as Councillors. In particular, the Mayor will

- (i) be subject to the Code of Conduct for Members as set out in this Constitution and required to register and disclose relevant disclosable and non-disclosable interests as required by that Code
- (ii) be able to speak at any meeting of the Council, its Committees and Sub Committees and Panels, except Policy Development and Scrutiny Panels Committee. The Mayor may only speak at the PDS Panels when invited to do so and may not vote.
- (iii) if a member of a political group, be taken into account when calculating seat allocations on committees and panels of which he/she is a member when requirements of the political balance provisions of the Local Government and Housing Act 1989 apply
- (iv) be subject to the Members' Allowances Scheme
- (v) be subject to the requirements as to casual vacancies as they apply to Councillors.

2.2 Eligibility: Unless otherwise disqualified by virtue of the provision of the Local Government Act 1972, or any other Act, a person shall be qualified to be elected and to be a member of Bath & North East Somerset Council, or to be Mayor, if he/she is a British subject or a citizen of the Republic of Ireland and on the relevant day he/she has attained the age of 21 years and

- on that day he/she is and thereafter continues to be a local government elector for Bath & North East Somerset Council;
- he/she has during the whole of the 12 months preceding that day occupied as owner or tenant any land or other premises in Bath & North East Somerset;
- his/her principal or only place of work during that 12 months has been in Bath & North East Somerset; or
- he/she has during the whole of those 12 months resided in Bath & North East Somerset

“Relevant day” means

- except in the case of an election not preceded by the nomination of candidates, the day on which he/she is nominated as a candidate and also, if there is a poll, the day of the election; or
- where the election is not preceded by the nomination of candidates,, the day of election.

2.3 Election and term of office of councillors: The regular election of councillors will be held on the first Thursday in May every

four years. An election took place in May 2011. The terms of office of councillors start on the fourth day after being elected and finish on the fourth day after the date of the next regular election.

2.4 Election and term of office for Mayor: The regular election of Mayor will be held on the first Thursday in May every four years. An election took place in May 2017. The terms of office of the Mayor starts on the fourth day after being elected and finishes on the fourth day after the date of the next regular election.

2.5 Roles of all councillors: All councillors will:

- (i) collectively be the ultimate policy-makers and carry out a number of strategic and corporate management functions;
- (ii) represent their communities and bring their views into the Council's decision-making process, i.e. become the advocate of and for their communities;
- (iii) deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;
- (iv) balance different interests identified within the ward or electoral division and represent the ward or electoral division as a whole;
- (v) be involved in decision-making;
- (vi) be available to represent the Council on other bodies; and
- (vii) maintain the highest standards of conduct and ethics.

The Council will devise detailed guidance on the roles and responsibilities of councillors which will be used to help in their training and development.

2.-6 Roles of the Mayor

The Mayor will carry out the following principal roles:

- (i) Be the Council's principal spokesperson
- (ii) Give overall political direction to the Council
- (iii) Appoint the [Cabinet](#) and Deputy Mayor
- (iv) Decide on the scheme of delegation of Executive functions to [Cabinet](#) Members and officers, as the case may be

(v) Chair meetings of the [Cabinet](#)

2.7 Roles of the [Deputy Mayor](#)

(a) Appointment

At the first meeting of the Council after his/her election, the Mayor will appoint one of the Members of the Cabinet to act as Deputy Mayor.

(b) Term of Office

The Deputy Mayor will hold office until the end of the Mayor's term of office unless he/she is no longer a Member of the Council or the Cabinet, resigns as Deputy Mayor or is removed by the Mayor from the office of Deputy Mayor.

(c) Duties of Deputy Mayor

If, for any reason, the Mayor is unable to act, or the office of Mayor is vacant, the Deputy Mayor will act in his/her place until a new Mayor is elected or able to act again. If the Mayor is unable to act or the office is vacant at the same time as the Deputy Mayor is unable to act, or the office of Deputy Mayor is vacant, then the [Cabinet](#) must act in the Mayor's place, or arrange for a member of the Cabinet to do so.

(d) Removal from Office

The Mayor has the freedom to select or deselect the Deputy Mayor and his/her Cabinet. However any changes to the composition of the Cabinet including the position of Deputy Mayor, must be reported to the Council Monitoring Officer as soon as the change takes effect, who is required to report it to the next meeting of the Council.

2.8 Rights and duties of [the Mayor and Councillors](#): [The Mayor and](#) Councillors will have the following rights and duties:

- (i) rights of access to such documents, information, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law and in accordance with the Access to Information rules under Part 4B of this constitution.
- (ii) [The Mayor and](#) Councillors will not make public any information which is confidential or exempt (as defined in legislation and in accordance with Part 4B of this constitution) without the consent of the Council.
- (iii) [The Mayor and](#) Councillors will not divulge information given to them in confidence. Councillors may however divulge confidential information to other councillors or to officers, if there is a clear entitlement to the information. The Monitoring Officer will give advice to any councillor on this matter.
- (iv) For these purposes, "confidential" and "exempt" information are defined in the Access to Information rules set out in Part 4B of this constitution.

2.8 Conduct: The Mayor and all Councillors shall undertake in writing to observe the Council's Local Code of Conduct adopted by the Council on 19th July 2012. The Council also expects the Mayor and Councillors to observe the Protocol on Member/Officer Relations, the supplementary guidance on the Local Code of Conduct and the Code of Good Practice on Planning Matters set out in this Constitution.

2.9 Allowances: The Mayor and Councillors will be entitled to receive allowances in accordance with the Scheme of Allowances set out in this Constitution. Allowances are determined by the Council having taken into account the recommendations of its Independent Panel on Members' Allowances.

ARTICLE 7 - THE CABINET

7.1 Role

The Cabinet will carry out all of the local authority's functions which are not the responsibility of, or within the powers of, any other part of the Local Authority, whether by law or under this Constitution.

7.2 Form and composition

The Cabinet will comprise the Leader of the Council Mayor together with at least 2 but not more than 9 councillors appointed to the Cabinet by the Council Mayor to carry out executive decision making. The Leader Mayor and these other councillors will be known as "Cabinet Members".

7.3 Cabinet Members

Subject to a minimum and maximum numbers set out in 7.2 above, the size and composition of the Executive will be solely a matter for the Mayor to decide. He/she may choose to appoint Councillors from any political group or those not in a political group. The Executive need not reflect the political balance of the Council as a whole. The Mayor will report his/her appointments to the Monitoring Officer and the full Council as and when they are made. At its Annual Meeting, the Council will appoint the Leader of the Council ~~who~~ Mayor will appoint a minimum of one (or more) Deputy Leaders Mayors who will have all powers as may lawfully be conferred on someone other than the Leader Mayor in the event that the Mayor Leader of the Council is unavailable for a period greater than three working days, or where the Leader of the Council Mayor asks the Deputy Leader Mayor to act in his or her stead in accordance with the executive procedure rules in Part 4D of this constitution.

The Mayor will report changes to the composition of the Executive to the Monitoring Officer and the full Council as and when they are made. The details of the Mayor and these additional Councillors currently appointed as Cabinet Members are available at

Council Offices or on the Council's web site.

No substitutes for Cabinet Members are permitted. However, arrangements for the undertaking of business in the event of absence or where for any reason it is considered that the decision should not be made by a particular Councillor are set out in the Executive Procedure Rules within this Constitution.

7.4 Term of Office

~~Following the coming into force of the Local Government and Public Involvement in Health Act 2007, the Leader's term of office ends either when he or she is removed from office by resolution of the Council, or at the Annual General Meeting after the next elections due in 2019. The Mayor will serve a four-year term of office, unless they are no longer eligible to be a councillor; have resigned or are disqualified from office as a councillor.~~

It is ~~now~~ a function of the ~~Leader-Mayor~~ to appoint ~~Executive Councillors~~Cabinet members who remain in office ~~unless~~ they are removed from office by the ~~Leader-Mayor~~ or are no longer a Member of Council or until the end of the Mayor's term of office. ~~Annual General meeting in 2019.~~

7.5 Proceedings of the Cabinet

Proceedings of the Cabinet shall take place in accordance with the Executive Procedure Rules set out in Part 4D of this Constitution.

7.6 Responsibility for functions

The Council will maintain a list setting out which individual members of the Cabinet, committees of the Cabinet (if any), officers or joint arrangements are responsible for the exercise of particular executive functions. This list will be included within the Scheme of Delegation maintained by the Council Solicitor and will include the note of any temporary assignment of responsibilities permitted under the terms of the Constitution.

7.7 Terms of Rreference of the Cabinet

These are set out later in Part 5 of this Constitution.

7.8 Cabinet Advisory Bodies

The Cabinet may appoint Advisory Bodies to help it in its work. Those bodies will normally make their minutes available to all Council

Members. They may receive specific requests for advice from the Cabinet collectively or from an individual Cabinet Member. These advisory bodies will not be prevented from giving advice direct to an Overview and Scrutiny Panel when asked to do so.

7.9 Cabinet Committees

The Cabinet may appoint Committees to fulfil executive functions on its behalf. The details of any such committees will be included in the Scheme of Delegation maintained by the Council Solicitor.

ARTICLE 15 - REVIEW AND REVISION OF THE CONSTITUTION

15.1 Duty to monitor and review the constitution

The Standards Committee (on ethical issues) and the Monitoring Officer will monitor, review and evaluate the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

15.2 Protocol for monitoring and review of constitution by Monitoring Officer

A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by the Council, and to make recommendations for ways in which it could be amended in order better to achieve the purposes set out in Article 1. In undertaking this task the Monitoring Officer may:

1. observe meetings of different parts of the member and officer structure;
2. undertake an audit trail of a sample of decisions;
3. record and analyse issues raised with him/her by members, officers, the public and other relevant stakeholders; and
4. compare practices in this authority with those in other comparable authorities, or national examples of best practice.

15.3 Member initiated review and monitoring of Constitution and Executive Arrangements

Any proposal from members about the Constitution and executive arrangements will only be considered formally as an agenda motion to the full Council. The Member initiating the review, and the Council, will be required to consult the Monitoring Officer and/or the Chief Executive and shall take account of any advice given.

15.4 Changes to the Constitution

- a. **Approval.** Changes to the Constitution arising either from a review, a motion from Council or from the Monitoring Officer will only be approved by the full Council after consideration of the proposal by the Monitoring Officer and the Standards Committee (on ethical issues) and taking into account the views or recommendations offered.

- b. **Minor or inconsequential changes.** The Monitoring Officer (Solicitor to the Council) has delegated authority to update the Constitution arising from decisions of the Council or Cabinet or where legislation requires a change in wording or terminology, such changes to be reported to members of the Standards Committee.
- c. **Changes in the form of Executive.** Special procedures apply to changes in the form of Executive including (but not limited to) binding referendums when the law requires.
- d. **Delegations.** To reflect delegations lasting six months or more where a delegation is made to an Officer by the Council, a Committee, a Sub-Committee or the Cabinet, that delegation may need to be reflected within the Constitution (normally Part 3) in which case the Monitoring Officer (has authority to update the Constitution to reflect that change.
- e. **Changes that are predominantly managerial in their nature.** The Monitoring Officer (Divisional Director Legal & Democratic Services) has the authority to amend the Constitution in relation to matters that are predominantly managerial in their nature where there is agreement from the other two statutory officers, namely the Chief Executive and the Section 151 Officer and where the matter has been subject to consultation with the appropriate Members (normally the [Leader/Mayor](#), relevant Cabinet Member and Group Leaders). Any such changes will be reported subsequently to the Standards Committee.

PART 3: RESPONSIBILITY FOR FUNCTIONS

SECTION 1. RESPONSIBILITY FOR LOCAL CHOICE FUNCTIONS

(These are functions which may be, but need not be, the responsibility of the Cabinet. The Council decides responsibility).

| Function | Decision Making Body |
|--|----------------------|
| 1. Any function under a local Act other than a function specified or referred to in regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000. | Cabinet |
| 2. The determination of an appeal against any decision made by or on behalf of the authority (where a right of appeal exists) | Council |

| | |
|--|---------|
| 3. The appointment of review boards under regulations under subsection (4) of section 34 (determination of claims and reviews) of the Social Security Act 1998 (see footnote a). | Council |
| 4. The making of arrangements pursuant to subsection (1) of section 67 of, and Schedule 18 to, the 1998 Act (appeals against exclusion of pupils) | Cabinet |
| 5. The making of arrangements pursuant to section 94 (1) and (4) of, and Schedule 24 to, the 1998 Act (admission appeals). | Cabinet |
| 6. The making of arrangements pursuant to section 95(2) of, and Schedule 25 to, the 1998 Act (children to whom section 87 applies: appeals by governing bodies). | Cabinet |
| 7. The making of arrangements under section 200 (questions on police matters at council meetings) or the Police Act 1996 (see footnote b) for enabling questions to be put on the discharge of the functions of a police authority. | Council |
| 8. The making of appointments under paragraphs 2 to 4 (appointment of members by relevant councils) of Schedule 2 (police authorities established under section 3) to the Police Act 1996 | Council |
| 9. Any function relating to contaminated land (see footnote c). | Cabinet |
| 10. The discharge of any function relating to the control of pollution or the management of air quality (see footnote d). | Cabinet |
| 11. The service of an abatement notice in respect of statutory nuisance (see footnote e). | Cabinet |

| | |
|---|--|
| 12. The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area (see footnote f) . | Cabinet |
| 13. The inspection of the authority's area to detect any statutory nuisance (see footnote g) . | Cabinet |
| 14. The investigation of any complaint as to the existence of a statutory nuisance (see footnote h) | Cabinet |
| 15. The obtaining of information under section 330 of the Town and Country Planning Act 1990 (see footnote i) as to interest in land. | Cabinet |
| 16. The obtaining of particulars of persons interested in land under section 16 of the Local Government (Miscellaneous Provisions) Act 1976 (see footnote j) . | Cabinet and all non-executive committees in relation to their functions |
| 17. The making of agreements for the execution of highways works (see footnote k). | Cabinet |
| 18. The appointment of any individual: (a) To any office other than an office in which he is employed by the authority; (b) To any body other than – (i) the authority (ii) a joint committee of two or more authorities; or (c) to any committee or sub-committee of such a body. and the revocation of any such appointment | Cabinet in relation to executive functions. Non-executive committees in relation to non-executive functions delegated. |
| 19. The responsibility for preparation, submission and modification of a draft Local Area Agreement | Cabinet |

Section 3: Responsibility for Executive Functions

| Body | Membership | Extent of Functions | Terms and Extent of Delegations |
|---|--|---|--|
| Cabinet | Leader of the Council Mayor and 7 other Cabinet Members | All Executive functions and those local choice functions specified as being the responsibility of the Cabinet, by another local authority or an executive of another local authority. (See separate entries for those functions which are delegated to joint arrangements) | The Cabinet itself shall make policy and budget framework recommendations to the Council. (For delegations to Officers see Section 4) |
| Another local authority or an executive of another local authority | | Discharge of executive functions | |
| Health and Wellbeing Board | See Terms of Reference | To oversee, monitor and make recommendations as to the commissioning of services for adults, children, and public health (including securing of the provision of and the performance management of those services). | |
| Avon Fire Authority (with the Fire Authority meeting the cost of the service) | | Licensing and Registration in relation to petroleum and explosives | |
| Joint Regional Environmental Records Centre | | Operation of the Regional Environmental records Centre | |

| Body | Membership | Extent of Functions | Terms and Extent of Delegations |
|--|--|---|---|
| Committee | | | |
| Cotswold AONB Partnership | | Advisory functions in relation to the Cotswold Area of Outstanding Natural Beauty. | |
| West of England Partnership Joint Waste and Joint Transport Committees and Planning, Housing & Communities board | Relevant Cabinet Member (plus an Executive Member from each of the Authorities covered by the West of England Partnership) | To enable joint governance arrangements via delegated powers to take executive decisions on behalf of the 4 participating Authorities | Detail contained within the Terms of Reference |
| | Individual Cabinet Members | Decisions falling within their area of responsibility (portfolio) set out in Section 3A below | <p>Responsibility delegated to each Cabinet Member for executive functions within the scope of their portfolio (see Section 3A) provided that:</p> <ul style="list-style-type: none"> • The matter is within the policy and budget framework • The matter is not in conflict with, or does not compromise, any existing or proposed policy • The matter has no corporate impact (does not apply to decisions within corporate aspects of portfolios) • The matter is within approved budgets or within virement or other approvals authorised within the Budget Management Scheme. <p>The matter is not considered (by the Cabinet Member or by the LeaderMayor) to be too sensitive or controversial to be decided “within portfolio” (and subject in all cases, to the MayorLeader being</p> |

| Body | Membership | Extent of Functions | Terms and Extent of Delegations |
|------|------------|---------------------|--|
| | | | <p>able to require any proposed decision to be taken by the Cabinet itself where he/she judges this to be appropriate).</p> <p>Provided the above criteria are satisfied, cross-portfolio decisions may be made by individual Cabinet Members in respect of their responsibilities provided there is agreement between the Cabinet Members concerned on the cross-portfolio decision to be taken. In the absence of this agreement, the decisions will fall to be made by the Cabinet.</p> |

PART 4 (D)

HOW THE CABINET OPERATES

RULE 1 - WHO MAY MAKE EXECUTIVE DECISIONS?

The ~~Leader of the Council~~Mayor will decide how executive functions are to be exercised. The arrangements may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a committee of the Cabinet;
- iii) an individual Cabinet member;
- iv) an officer;
- v) an Area Committee;
- vi) another body under an approved joint or agency arrangement; or
- vii) another local authority.

RULE 2 – THE ~~LEADER'S~~MAYOR'S SCHEME OF DELEGATION AND EXECUTIVE FUNCTIONS

The ~~Mayor~~Leader must approve a scheme of delegation of executive functions which will contain the details required in Article 7 and set out in part 3 of this Constitution

The ~~Leader of the Council in~~Mayor in consultation with the Deputy ~~Mayor~~ may vary the allocation of portfolio responsibilities, or the scope of any portfolio responsibility.

If the Cabinet or a committee of the Cabinet, or an individual Cabinet Member responsible for an executive function, decides to delegate to a committee of the Cabinet, an Area Committee (where these are established), a joint Committee or an officer, or amend or withdraw a delegation, written notice must be given to the Chief Executive. The notice must set out the extent of the amendment to the scheme of delegation and whether it entails the withdrawal of delegation from any person or body. These amendments will be published via the Weekly list.

RULE 3 SUB DELEGATION OF EXECUTIVE FUNCTIONS

Where the ~~Mayor~~Cabinet, a committee of the Cabinet or an individual Cabinet Member is responsible for an executive function, they may delegate further to a committee of the Cabinet, an Area Committee, a joint committee or an officer.

Even when executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated nor obliges the person/body to exercise that power or duty.

RULE 4 – REQUISITION OF SINGLE MEMBER PLANNED DECISION

A planned executive decision by an individual Cabinet Member acting under delegated powers will be published in advance in accordance with the provisions of Access to Information Rule 20.

During that publicity period or at any time before that period, following publication of the planned decision in the Executive Forward Plan, a Cabinet Member may require that the decision is made instead by the Cabinet.

Such a requisition shall be made in writing to the Chief Executive.

The effect of such a requisition is that the delegated power of the individual Cabinet Member to make the specific decision as published is cancelled.

The Cabinet Member to whom the delegated power is given, may him/herself refer the matter instead to the full Cabinet for determination under this Rule.

RULE 5 – PUBLICATION OF PROPOSED EXECUTIVE DECISIONS AND DECISIONS TAKEN

All proposed executive decisions and executive (Cabinet) decisions taken will be published in accordance with the Access to Information Procedure Rules at Part 4B of this Constitution.

RULE 6 - CABINET MEETINGS – WHEN AND WHERE?

The Council at its Annual Meeting may set dates and times for formal meetings of the Cabinet. It is open for the Cabinet to make additional or alternative arrangements for its formal meetings.

The Cabinet may decide the location of its meetings.

RULE 7 – SPECIAL (OR EXTRAORDINARY) MEETINGS

Those listed below may request the Chief Executive to call a special formal meeting of the Cabinet in addition to scheduled ordinary meetings:

- (i) The ~~Leader of the Council~~ Mayor or a Deputy ~~Leader~~ Mayor
- (ii) The Cabinet by resolution;
- (iii) No less than 50% of the membership of the Cabinet if they have signed a requisition presented to the ~~Mayor~~ Leader and s/he has refused to call a meeting or has failed to call a meeting within 7 clear working days of the presentation of the requisition to the Chief Executive (i.e. the summons to the meeting is not sent out within 7 clear working days);
- (iv) The Chief Executive, the Monitoring Officer or the Chief Financial Officer.

RULE 8 - DECISIONS TAKEN BY THE CABINET AT A MEETING

Executive 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 the Constitution.

Where executive decisions are delegated to a Committee of the Cabinet, the rules applying to executive decisions taken by that Committee shall be the same as those applying to those taken by the Cabinet itself.

RULE 9 – CONSULTATION ON AND NOTICE OF EXECUTIVE DECISIONS

All reports to the Cabinet from any member of the Cabinet or from an Officer on proposals relating to the Policy and Budget Framework must contain

- (a) details of the nature and extent of consultation with stakeholders and relevant Overview and Scrutiny bodies (See Rule 13 below) and Officers,

and

(b) the outcomes of that consultation.

Reports about other matters (eg secondary policies – see Policy and Budget Framework Rule 7) 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 and in any event will be consistent with the Council's consultation policy and practice.

The public will be able to access information about the Cabinet's forward agenda plan and executive decisions. These will be published on the Council's website and through other access arrangements.

The Cabinet and Cabinet Members as appropriate may arrange informal sessions at which other councillors and nominated persons may be briefed or consulted on issues before a decision is made. Similarly, arrangements may be made to receive public comments prior to a decision being made.

The Cabinet collectively and Cabinet Members exercising portfolio responsibilities will be expected to consult with or inform local ward councillors on all relevant issues.

RULE 10 - INVOLVEMENT OF OFFICERS

Where delegated decision making powers are given to them, the relevant Cabinet Member will discuss the matter fully with all relevant senior officers before making a decision or formulating a recommendation to another body.

All meetings of the Cabinet will have access to advice from the Head of Paid Service, the Monitoring Officer and the Chief Financial Officer. These Officers will have the right to see all draft reports prior to publication and to attend all formal meetings for the purpose of giving advice as required.

The Chief Executive will determine other Officer attendance required at formal meetings of the Cabinet.

Agenda planning will try to ensure that the most effective use is made of members' and officers' time in expediting the business of the meeting.

RULE 11 – ABSENCE OF CABINET MEMBER OR ~~LEADER~~ MAYOR OR INABILITY TO ACT THROUGH CONFLICT OF INTEREST OR ANY OTHER INHIBITION

A Cabinet Member may be absent and unable to take a decision or unavailable to be consulted by an Officer or may otherwise feel they are unable to act by virtue of a prejudicial or other interest.

Similarly, the ~~Leader of the Council~~ Mayor may feel that it is in the best interests of the Council that an individual Cabinet Member does not act on a particular executive matter.

When this happens, the ~~Leader of the Council~~ Mayor in consultation with the Deputy ~~Leader~~ Mayor may designate any other member of the Cabinet to take temporary responsibility for the absent member's portfolio and for any associated decision making during the period of absence.

The ~~Leader~~ Mayor, after the above consultation, may alternatively designate decisions falling within the absent Cabinet Member's portfolio as relevant instead for the whole Cabinet to determine, during the period of absence.

The ~~Leader's~~ Mayor's decisions on how to deal with such business will be notified to and published by the Chief Executive.

Where the ~~Leader of the Council~~ Mayor is absent and unable to exercise his or her functions for a period exceeding 3 consecutive working days, or as otherwise agreed by

the ~~Leader~~ Mayor in advance, or is otherwise unable to act by virtue of a prejudicial interest or for any other reason whereby he or she considers it would be inappropriate to act, the ~~Deputy Leader~~ Deputy Mayor ~~(if there is one)~~ shall have the power to exercise all the executive and leadership functions of the ~~Leader~~ Mayor

~~If there is no Deputy Leader appointed, the Council will determine what arrangements are to operate in the event of the Leader being absent for a stated period of time.~~

RULE 12 – ADVICE FROM OVERVIEW AND SCRUTINY BODIES

The Cabinet must provide a reasonable opportunity for the relevant Overview and Scrutiny body to consider issues relating to the development of those policies which comprise the Council's Policy and Budget Framework. (There is no obligation on an Overview and Scrutiny body to respond to such an opportunity nor to include Policy and Budget Framework items in its work programme)

The Cabinet, or an individual Cabinet Member, may invite a relevant Overview and Scrutiny body to comment on any other matter prior to the making of an executive decision.

RULE 13– ARRANGEMENTS FOR LIAISON WITH NON EXECUTIVE COUNCILLORS

Political Groups on the Council may nominate members to act as informal points of liaison for Cabinet Members.

The Chief Executive shall issue such guidance on this role to both Members and Officers.

RULE 14 – RIGHT OF OVERVIEW AND SCRUTINY CHAIR (PERSON) TO SPEAK TO OVERVIEW AND SCRUTINY REPORTS & RESPONSE OF CABINET TO THESE REPORTS

When an Overview and Scrutiny body presents a report to a meeting of the Cabinet on a Policy and Budget Framework item or any other item, the Chair of the relevant Overview and Scrutiny body (or his/her nominee) shall have a right to speak at the meeting.

A Chair (or his/her nominee) shall also have the right to present a report of his/her Overview and Scrutiny body directly to a Cabinet Member exercising decision making powers and to speak.

When it receives a report direct from a Policy Development and Scrutiny Panel, the Cabinet shall publish its response within 2 months, having considered

- any recommendations contained in the report;
- referring the report to a Cabinet Member for consideration and report back direct to the Policy Development and Scrutiny Panel – where the report covers issues falling within the portfolio of a single Cabinet Member;
- any further Officer advice needed in order to determine its response to the issues raised;
- any impact on the Policy and Budget Framework (in which case the procedure as set out in Policy and Budget Framework Procedure Rule 2 shall apply for any agreed actions)
- an action plan to deliver on those recommendations that are accepted;

- reporting back to the relevant Policy Development and Scrutiny Panel on its decisions and the reasons and rationale for accepting or rejecting the Panel’s recommendations.

and may invite the Council to comment on the matter before taking any action.

RULE 15: SIX- MONTH RULE

The Cabinet will not consider any matter which it has already considered within the previous 6 months unless:

- (1) the matter is coming to the Cabinet as part of a report from an Officer, an Overview and Scrutiny body or a Committee of the Council;
OR
- (2) written notice, requesting the Chief Executive to arrange for the Cabinet to reconsider the matter, and endorsed by no fewer than 3 Members of the Cabinet, is submitted to the Chief Executive. The term “endorsed” shall include individual signatures on the notice or electronic communications from individual members. The receipt of a communication from at least 3 Members signifying their endorsement of the action requested in the notice will be sufficient authority for the Chief Executive to take action to include the item on a Cabinet agenda.
- (3) Any 6-month Rule notice to the Chief Executive should be couched in the following terms:

“I hereby require the Cabinet to reconsider its decision of (date) as recorded in minute no (xx) about (subject) and accordingly request the Chief Executive to place an item on the agenda of the (next available) (specified date) Cabinet meeting, together with such reports as s/he thinks appropriate, to enable this reconsideration to take place.” - with the optional inclusion of a specific motion for the Cabinet to consider.

Similarly, no proposal which the Cabinet has rejected within the previous 6 months may be put forward, subject to (1) and (2) above.

Unless Access to Information Rule 15 (General Exception) or 16 (Urgency) applies, the issue coming forward will be required to be published in the Forward Plan of executive business before the matter can be considered. Those councillors signing a notice to the Chief Executive will be informed of the publication process and what that means in terms of the timetable for considering the issue.

PREPARATION FOR CABINET MEETINGS

RULE 16 – AGENDA PREPARATION

Prior to the agenda being finalised, Officers will brief the ~~Leader of the Council~~ Mayor, the ~~Deputy Leader (if there is one)~~ Deputy Mayor and relevant Cabinet Members on matters coming to the meeting for consideration.

No report shall be included on the agenda of a formal meeting of the Cabinet unless it has been discussed fully with the relevant Cabinet Member and with the Chief Executive, the Monitoring Officer and the Chief Financial Officer as appropriate.

RULE 17 – AGENDA DESPATCH

Items to be discussed at any meeting of the Cabinet will be set down in the agenda. The agenda will be sent to every Member of the Cabinet at least 5 clear working days before the meeting.

In the case of an urgent meeting of the Cabinet, a shorter period of notice may be given.

RULE 18 – AGENDA CONTENT AND ORDER OF BUSINESS

Formal meetings of the Cabinet which are required to make decisions will do so on the basis of clear agendas which identify:

- (a) matters on which the Cabinet has authority to act in implementing the Policy and Budget Framework set by the Council
- (b) matters on which the Cabinet is required to make recommendations to the Council
- (c) matters relating to an ongoing dialogue with Overview and Scrutiny bodies;
- (d) other business related to the discharge of executive functions.

In addition, each meeting will be invited to approve as a correct record the minutes of the previous meeting and to receive any declarations of interest.

Agendas for meetings of the Cabinet will be issued in advance of the meeting in accordance with the Access to Information Procedure Rules within this Constitution.

The order of business will be determined by the Chief Executive in consultation with the LeaderMayor. The LeaderMayor, or the meeting itself, may agree to vary the order of business at the meeting.

The agenda and any relevant reports will be endorsed with the name of any local ward to which the business specifically relates.

RULE 19 - WHO CAN PUT ITEMS ON THE CABINET AGENDA?

The Chief Executive shall be responsible for the effective management of Cabinet business.

The Chief Executive shall have the right to place on the agenda of the Cabinet any matter relating to an executive function of the Council.

Any member of the Council may request the Chief Executive to place an item on the agenda of the next available meeting of the Cabinet for consideration. This may include the submission of a form of words as a motion to be considered by the meeting, for which 7 clear working days' notice in advance of the meeting is required in order to satisfy the agenda despatch Rule 18 above.

The Council LeaderMayor, after consulting and taking into account the views of the Deputy MayorLeader and of the Chief Executive, will determine whether or not to include the member's item on the agenda.

If the item is included, the member will have the right to attend the meeting and to speak to the item. If the item is not included, a reason will be given.

There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by Overview and Scrutiny bodies. The Chair of the relevant Overview and Scrutiny body will have the right to attend and at the discretion of the LeaderMayor to speak to the item, but not to vote.

There will be a standing item on the agenda to enable the Cabinet to consider any items requisitioned by a Cabinet Member for consideration by the full Cabinet, in accordance with Executive procedure Rule 4.

The Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Chief Executive to call such a meeting in pursuance of their statutory duties.

Any member of the Council may make a written submission to the Cabinet or to the relevant Executive Councillor(s) about an item referred to in the forward agenda plan or on the published agenda of a Cabinet meeting or on the published notice of an imminent Cabinet Member decision.

The Cabinet/Cabinet Member is required to take into account the content of such a submission when making a decision or making a recommendation for consideration.

The motion will be signed by or on behalf of the Member(s) giving notice, with the name of the political group shown after the Member's name (unless the motion is to stand in the name of the Member only).

The meeting has the right to determine with advice from Officers whether it wishes to defer the motion to a future meeting for further Officer report/advice.

RULES RELATING TO PROCEDURES AT A MEETING OF THE CABINET

RULE 20 - SUSPENSION OF RULES

There are occasions when it is helpful to the conduct of a meeting, or for other reasons, not to apply a particular Rule(s). It is therefore open to any meeting to suspend one or more Rule.

In accordance with Article 16.1 of this Constitution, it is necessary for the suspension of a Rule to be proposed by a Councillor who should make it clear which Rule is being suspended and for how long. For example, it may be necessary to suspend a Rule for part or all of a meeting.

A majority of members present at a meeting must support the proposal to suspend a Rule.

RULE 21 – MINIMUM NUMBER OF MEMBERS PRESENT AND SUBSTITUTION

No business shall be transacted at a meeting of the Cabinet unless at least 50% of the membership is present.

No substitute Cabinet Members are permitted (but see Rule 12 above about absence of Cabinet Members).

RULE 22 – CHAIR OF THE MEETING

The ~~Leader of the Council Mayor~~ will normally preside at meetings of the Cabinet. In the absence of the Mayor Leader, the Deputy ~~Leader (if there is one) Mayor~~ shall preside. If both the ~~Leader Mayor~~ and the Deputy ~~Leader Mayor~~ are absent, the Cabinet will elect another Cabinet Member to preside at the meeting.

RULE 23 - RECORD OF ATTENDANCE

All members of the Cabinet present during the whole or part of a meeting must sign their names on the attendance sheet before the conclusion of every meeting.

RULE 24: RECORDING AT MEETINGS

Persons attending meetings may take photographs, film and audio record the proceedings and report on the meeting. However, oral commentary is not permitted during the meeting as it would be disruptive.

Many meetings are webcast and those who do not wish to be filmed need to make themselves known to the webcasting staff. However, members of the public need to be aware that they may be filmed by others attending and that is not within the Council's control.

RULE 25 - ATTENDANCE BY THE PUBLIC

All formal meetings of the Cabinet shall be held in public except where exempt or confidential information is to be discussed.

The agenda will state whether there is likely to be exempt or confidential business and will also describe the categories of exempt information that apply to the item(s).

The public and press will only be excluded if the Cabinet has passed the appropriate resolution under the Local Government Act, 1972 as amended.

RULE 26 - ATTENDANCE BY MEMBERS OF THE COUNCIL

Any member of the Council shall have the right to attend a meeting of the Cabinet in an observer capacity and may speak only at the discretion of the Chair of the meeting.

Nothing in this Rule shall prejudice the right of a member of the Council under the Rules which relate to submissions from councillors.

RULE 27 – CONDUCT OF MEETING

The Chair is responsible for conducting the meeting. In this s/he will be guided by the Chief Executive.

RULE 28 – POWERS AND DUTIES OF CHAIR

Council Procedural Rule 26 applies with regard to the powers and duties of the Chair. It is accepted that the proceedings of the Cabinet may need to be flexible and not structured rigidly in terms of debating process.

Accordingly, there are no formal rules of debate set down for the Cabinet. The Chair has wide discretion to rule on conduct, process and procedural matters. However, such rulings shall not be inconsistent with the spirit of the Council Procedure Rules for conducting meetings or debate at meetings.

The Chair will exercise this discretion in a manner which preserves the best interest of the Council and the effective conduct of executive business.

RULE 29 – QUESTIONS FROM THE PUBLIC

Members of the public have the right to put forward questions for answer at a Cabinet meeting. This right extends to any resident of Bath & North East Somerset of any age and includes a homeless person, a traveller currently within the Council area or a member of the Council's staff provided the subject matter relates to their role as a private citizen. This right also exists for a representative of any Bath & North East Somerset organisation or of any South West regional or sub-regional organisation that has legitimate legal activity in the Bath & North East Somerset area or affecting Bath & North East Somerset citizens. All questions must be submitted in writing (this to include transmission by e mail).

All questions will be circulated to members of the Cabinet and visiting councillors and the public in advance of the meeting.

Notice of the question must be given to the Council Solicitor no later than close of business 2 clear working days before the day of the meeting (eg 4.30pm on a Friday for a meeting on a Wednesday).

Questions must only be asked of:

- a Cabinet Member (where the matter falls within his or her portfolio) or
- the ~~Leader-Mayor of the Council~~ or the Deputy ~~Leader-Mayor~~ (about any aspect of Council policy and practice, service delivery or community interest)

There is no requirement of the questioner to read out the question, nor of the relevant Cabinet Member to read out the answer if circulated. Where a written answer is circulated in advance, the relevant Cabinet Member may add to that answer orally at the meeting.

A Cabinet Member who is asked a question may

- nominate another Cabinet Member to reply on his or her behalf;
- indicate that a written answer will be provided, in which case that written answer shall be provided no later than 5 clear working days after the day of the meeting.

A question in multiple parts will be treated as a series of individual questions.

A question will not be accepted under this Rule if

- the answer would require exempt or confidential information to be divulged;
- the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where the question/answer process might prejudice the proper consideration of such an application or consent;
- it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;
- it contains an allegation against, or comments about, the conduct of individual councillors or officers.

RULE 30 – QUESTIONS FROM COUNCILLORS

A Councillor shall have the right to put forward a question for answer at a Cabinet meeting.

All questions must be submitted in writing (this to include transmission by e mail).

Notice of the question must be given to the Council Solicitor no later than close of business 4 clear working days before the day of the meeting (eg 5pm on a Wednesday for a meeting the following Wednesday).

All questions will be circulated to members of the Cabinet, visiting councillors and the public in advance of the meeting

There is no requirement of the questioner to read out the question nor of the relevant Cabinet Member to read out the answer if circulated. Where a written answer is circulated in advance, the relevant Cabinet Member may add to that answer orally at the meeting.

Questions must only be asked of:

- a Cabinet Member (where the matter falls within his or her portfolio) or
- the Mayor or the Deputy Leader–Mayor (about any aspect of Council policy and practice, service delivery or community interest) or

There shall be a limit of two supplementary questions permitted for each questioner at a meeting of the Cabinet.

A question in multiple parts will be treated as a series of individual questions.

A Cabinet Member who is asked a question or a follow-up question may

- nominate another Cabinet Member to reply on his or her behalf;
- indicate that a written answer will be provided, in which case that written answer shall be provided no later than 5 clear working days after the day of the meeting.

A question will not be accepted under this Rule if

- the answer would require exempt or confidential information to be divulged;
- the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where the question/answer process might prejudice the proper consideration of such an application or consent;
- it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;
- it contains an allegation against, or comments about, the conduct of individual councillors or officers.

The text of written questions to Cabinet, and their written or published responses, should contain no reference to political groups/parties.

PART 5 CABINET GENERAL DUTY

To deliver the Council's objectives as stated through its approved Policy and Budget Framework.

To make arrangements to discharge all the functions of the Council except those reserved to the Council and those remitted to Regulatory Committees and Officers under the Scheme of Delegation.

Functional responsibilities

1. To propose key Policy and Budget Framework items to the Council, including the budget;
2. To ensure that all action is taken to implement the key policies and objectives of the Council as contained in the Policy Framework, including the setting of secondary policies
3. To maintain an active dialogue with Overview and Scrutiny bodies in ensuring that the overall integrity of the decision making process and the delivery of Council services is maintained
4. To respond directly or through the Council meeting as appropriate to Overview and Scrutiny activity or to individual member initiatives

formally proposed at a Council meeting

5. To receive performance management reports including updates on action plans and major projects

6. To pursue as appropriate negotiations on local area agreements or similar in order to promote the economic, social and environmental wellbeing of the area and to determine such agreements except where it relates to a matter reserved to the Council for determination.

7. To perform its functional responsibilities in accordance with the arrangements prescribed in the Executive Procedural Rules within the Council's Constitution.

PORTFOLIO RESPONSIBILITIES

Individual Cabinet Members will be allocated personal portfolios of responsibility by the ~~Leader~~[Mayor](#). The details of those portfolios and the range and scope of individual member powers are set down in Section 3 of this Constitution.

Meeting frequency of Cabinet

Monthly.

Membership of Cabinet

~~Leader~~[Mayor](#) of the Council + ~~2 - 97~~ Cabinet Members, one of whom will be the Deputy ~~Mayor~~[Leader](#)

Executive Advisory Bodies and Project Groups

The Cabinet will, as soon as practicable after the Annual Meeting of the Council, and in year if appropriate, determine which Advisory Bodies and Consultative mechanisms it wishes to establish.

The Cabinet may establish time limited Project Groups to ensure that key projects are managed effectively.

To date the following Cabinet Advisory Bodies have been established:

- Trades Unions Consultative/Advisory body
- Bath Recreation Ground Trust
- Equal rights Advisory
- Admissions Forum

Individual Cabinet Members have the authority to establish such other Advisory bodies as they think appropriate. (Authority stems from Council Executive meeting 12th June 2002, Minute number 7)