

# **Cabinet Procedure Rules**

## **HOW DOES THE CABINET OPERATE?**

### **Role of the Executive**

1. The Cabinet takes decisions in relation to its functions and it operates in accordance with these Rules. More information about its functions are as set out in the Responsibilities for Functions Section.
2. Further details about the Cabinet's overall responsibilities and the individual Portfolio responsibilities are as set out in the Responsibility for Functions Section.

### **Who may make Executive Decisions?**

3. The Cabinet exercises the majority of its responsibilities collectively. However, the Leader has delegated some of its functions to individual Cabinet Members or Officers.

### **Conflicts of Interest**

4. Where the Leader, or any other Member of Cabinet, has a conflict of interest, this should be dealt with, as set out in the Council's Code of Conduct for Members and Co-opted Members.
5. Where any Cabinet function has been delegated to an individual Member or an Officer, and a conflict of interest arises, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise, as set out in the Council's Code of Conduct for Members and Co-opted Members.

### **Cabinet Meetings - When and Where?**

6. Cabinet will meet at least ten times per year at times to be agreed by Cabinet. Cabinet shall meet at the Town Hall, Darlington or another location agreed by Cabinet.

### **Public or Private Meetings of the Cabinet**

7. Generally, meetings of Cabinet will be open to the public except in the circumstances described in these Rules and the Access to Information Procedure Rules

8. A decision by Cabinet to hold a meeting in private shall not be taken unless at least 28 clear days prior to the private meeting, Cabinet have :-
  - (a) made available at the public office (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), notice of its intention to hold the meeting in private. This notice shall include a statement of the reasons for the meeting to be held in private; and
  - (b) at least five clear days prior to the private meeting, made available at the public office (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), a further notice of its intention to hold the meeting in private, including the reasons for the meeting to be held in private, details of any representations received by the Cabinet about why the meeting should be open to the public and a statement of its response to any such representations.
9. If the matter has not been included in accordance with the requirements of 8 above, then the decision to hold a meeting in private, may still be taken if the Cabinet obtains the agreement of the Chair or Vice-Chair of the relevant Scrutiny Committee that the meeting is urgent and cannot reasonably be deferred.
10. As soon as is reasonably practicable after Cabinet has obtained the agreement under 8 above, to hold a meeting in private, it must make available at the public office (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

## **Quorum**

11. The quorum for a meeting of Cabinet shall be a minimum of three of the total number of Members of Cabinet.

## **How are Decisions to be taken by the Cabinet?**

12. Cabinet decisions which have been delegated to Cabinet as a whole, will be taken at a meeting convened in accordance with these Rules and the Access to Information Procedure Rules.

## **HOW ARE CABINET MEETINGS CONDUCTED?**

### **Who Presides?**

13. If the Leader is present he/she will preside. In his/her absence, the Deputy Leader will preside and in his/her absence, the Cabinet will appoint, from amongst those present, a person to preside at the meeting.

### **Who May Attend?**

14. Subject to these rules and the Access to Information Procedure Rules and the Members Code of Conduct, other Members of the Council or the public may attend Cabinet meetings and ask questions and make representations.

### **What business?**

15. At each meeting of Cabinet, the following business will be conducted :
  - (a) attendance at the Meeting;
  - (b) consideration of the Minutes of the last meeting;
  - (c) declarations of interest;
  - (d) to hear relevant representation (from Members and the General Public) on items on this Cabinet Agenda;
  - (e) to consider any petitions if any presented to a previous meeting of Cabinet;
  - (f) matters referred to Cabinet (whether by Scrutiny Committee or by Council) for reconsideration by Cabinet, in accordance with the provisions contained in the Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules;
  - (g) issues arising from Scrutiny Committees;
  - (h) Key Decision; and
  - (i) other Decisions.

## **Consultation**

16. All reports to Cabinet shall contain details of the nature, extent and outcome of consultation. The level of consultation required will be appropriate to the nature of the matter under consideration.
17. The Leader and the relevant Portfolio Holder may decide to refer an item to Scrutiny where they consider that the views of Scrutiny should be sought before the matter is considered by Cabinet.

## **Who can put items on the Cabinet Agenda?**

18. The Leader will decide upon the schedule for the meetings of Cabinet. He/she may put on the agenda of any Cabinet meeting, any matter which he/she wishes, whether or not authority has been delegated to Cabinet, a Committee of it, or an Officer in respect of that matter. The Assistant Director Law and Governance will comply with the Leader's requests in this respect.
19. Any Member of Cabinet may require the Proper Officer (the Assistant Director Law and Governance), to make sure that an item is placed on the agenda of the next available meeting of Cabinet for consideration. If he/she receives such a request, the Proper Officer (the Assistant Director Law and Governance) will comply.
20. Any Chief Officer may place an item on the agenda that they feel Cabinet needs to have a view or take a decision on.
21. The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer (the Assistant Director Law and Governance) to call such a meeting in pursuance to their statutory duties. If there is no meeting of Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.
22. The Proper Officer (the Assistant Director Law and Governance) will ensure that an item is placed on the agenda of the next available meeting of Cabinet if a relevant Scrutiny Committee or the Full Council has resolved that an item must be considered by Cabinet. However, there may only be up to three such items on any one agenda.

## **Record of Decisions by Cabinet**

23. As soon as is reasonably practicable after any meeting of Cabinet, whether held in public or private, the Proper Officer (the Assistant Director Law and Governance) or, where the Proper Officer was not present, the person presiding at the meeting, shall ensure a written statement is produced in respect of every Cabinet decision made at that meeting, which must include :-
- (a) a record of the decision, including the date it was made;
  - (b) a record of the reason(s) for the decision;
  - (c) details of any alternative options considered and rejected by the decision-making body at the meeting at which the decision was made;
  - (d) a record of any conflict of interest in relation to the matter decided which is declared by any Member present at the meeting which made the decision; and
  - (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

## **Record of Cabinet Decisions Made by the Leader or an Individual Cabinet Member**

24. As soon as reasonably practicable after the Leader or an individual Cabinet Member has made any Cabinet decision, he/she shall produce, or if he/she instructs the Proper Officer (the Assistant Director Law and Governance), to do so, the Proper Officer shall produce, a written statement which must include :-
- (a) a record of the decision, including the date of the decision;
  - (b) a record of the reason(s) for the decision;
  - (c) details of any alternative options considered and rejected by the Member at the time when he made the decision;
  - (d) a record of any conflict of interest declared by any Cabinet Member who was consulted by the Member who made the decision; and

- (e) in respect of any declared conflict of interest, a note of any dispensation granted by the Council's Head of Paid Service.

### **Record of Key Decisions by Officers**

25. As soon as is reasonably practicable after an Officer has made a key decision, the Officer shall produce a written statement which must include :-

- (a) a record of the decision, including the date of the decision;
- (b) a record of the reason(s) for the decision;
- (c) details of any alternative options considered and rejected by the Officer at the time when he made the decision;
- (d) a record of any conflict of interest declared, in relation to the decision, by any Cabinet Member who was consulted by the Officer who made the decision; and
- (e) in respect of any declared conflict of interest in relation to the decision, a note of any dispensation granted by the Council's Head of Paid Service.

### **Inspection of Documents Following Cabinet Decisions**

26. Subject to the Access to Procedure Rules, after any meeting of Cabinet, whether held in public or private; after an individual Member has made a Cabinet decision; or, after an Officer has made a key decision; the Proper Officer (the Assistant Director Law and Governance), shall ensure that a copy of :-

- (a) any records prepared in accordance with paragraphs 23 to 25 above; and
- (b) any report considered at the meeting or, as the case may be, considered by the individual Member or Officer and relevant to a decision recorded in accordance with paragraphs 23 to 25 above, or, where only part of the report is relevant to such a decision, that part,

shall be available for inspection by members of the public, as soon as is reasonably practicable, at all reasonable hours at the offices of the Council (Town Hall, Darlington) and on its website

[www.darlington.gov.uk](http://www.darlington.gov.uk)

27. Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under paragraph 26 above, those documents shall be supplied for the benefit of the local newspaper by the Council, on payment by the newspaper of postage, copying or other necessary charge for transmission.

### **Meetings of Cabinet and their Committees to be Held in Public**

28. Subject to the Access to Procedure Rules where the Leader, or any other person likely to preside at the meeting, reasonably believes that one of the circumstances specified in paragraph 29 below, applies in relation to a meeting, or part of a meeting, of a decision-making body, that meeting or part of the meeting must be held in public.

29. The circumstances are :-

- (a) a decision to be made will be a key decision;
- (b) a matter that is included on the Forward Plan or is the subject of a notice given under paragraphs 36 to 38 below, is likely to be discussed; and
  - (i) the decision on that matter is likely to be made within 28 days; and
  - (ii) an Officer, who is not a political adviser or assistant, will be present at the discussion.

### **Key Decisions**

30. A key decision means a Cabinet decision which is likely to :-

- (a) result in the Borough Council incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
- (b) be significant in terms of its effects on communities living or working in an area comprising one or more wards in the Borough.

31. A key decision may only be made in accordance with the requirements of these Procedure Rules.

## **Individual Executive Decisions**

32. Where a Cabinet Member or Officer receives a report, which he intends to take into consideration when he makes a key decision, he shall not make that decision until the report has been made available for public inspection, pursuant to paragraph 33 below, for at least five clear working days.
33. Subject to the Access to Procedure Rules, the Member or Officer making the decision referred to in paragraph 32 above, shall ensure that the Proper Officer (the Assistant Director Law and Governance), makes the report referred to in that paragraph available for inspection by the public as soon as is reasonably practicable, at all reasonable hours, at the offices of the Council (Town Hall, Darlington) after that Officer or Member receives it.
34. Where a report has been submitted to a Cabinet Member or Officer with a view to it being considered by him when he makes a key decision, the person who submitted the report shall, as soon as is reasonably practicable, supply a copy of it to the Chair of the relevant Scrutiny Committee or, where there is no Chair, to every Member of the relevant Scrutiny Committee.
35. The Proper Officer (the Assistant Director Law and Governance), shall, in any report required by paragraph 32 above, to be available for inspection by the public, include a list of background papers for the report or part of the report, and shall ensure that sufficient copies of the background papers are available, or that facilities exist for the production of sufficient copies of those papers, to meet every reasonable request from members of the public for them.

## **Publicity in Connection with Key Decisions**

36. Where a decision maker intends to make a key decision, that decision shall not be taken unless a Forward Plan has been published in accordance with paragraph 37 below, which states :-
  - (a) that a key decision will be made on behalf of the Council;
  - (b) the matter in respect of which a decision is to be made;
  - (c) where the decision-taker is an individual, his/her name and title, and, where the decision-taker is a body, its name and details of membership;



- (d) the date on which, or the period within which, the decision will be taken;
  - (e) a list of the documents submitted to the decision-taker for consideration in relation to the matter;
  - (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
  - (g) that other documents relevant to those matters may be submitted to the decision maker; and
  - (h) the procedure for requesting details of those documents (if any) as they become available.
37. At least 28 clear days before a key decision is made, the document referred to in paragraph 36 above, must be made available at the Offices of the Council (Town Hall, Darlington) and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk)
38. Where, in relation to any matter :-
- (a) the public may be excluded under the Access to Information Rules, from the meeting at which the matter is to be discussed; or
  - (b) the documents relating to the decision are confidential and need not be disclosed to the public

the document referred to in paragraph 36 above, shall contain particulars of the matter but shall not contain any confidential or exempt information.

## **General Exception Rule**

39. Subject to paragraph 42 below, where the publication of the intention to make a key decision is impracticable, that decision shall only be made :-
- (a) where the Proper Officer (the Assistant Director Law and Governance), has informed the Chair or Vice-Chair of the relevant Scrutiny Committee, or, if both are not available, each Member of that Scrutiny Committee in writing, by notice, of the matter to which the decision is to be made;
  - (b) the Proper Officer (the Assistant Director Law and Governance), has made copies of that notice available to the public at the Offices of the Council and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk); and
  - (c) after five clear days have elapsed following the day on which the Proper Officer (the Assistant Director Law and Governance), made available the notice referred to in (a) and (b) above.
40. Where paragraph 39 above, applies to any matter, paragraphs 36 to 38 above, need not be complied with in relation to that matter.
41. As soon as is reasonably practicable after the Proper Officer (the Assistant Director Law and Governance) has complied with paragraph 39 above, he shall make available at the public offices of the Council and on its website [www.darlington.gov.uk](http://www.darlington.gov.uk) a notice setting out the reasons why compliance with paragraph 36 is impracticable.

## **Case of Special Urgency**

42. Where the date by which a key decision must be made, makes compliance with paragraphs 36 and 37 above, impracticable, the decision shall only be made where the decision-maker has obtained agreement from the Chair or Vice-Chair of the relevant Scrutiny Committee that the making of the decision is urgent and cannot be reasonably deferred.
43. As soon as is reasonably practicable after the Proper Officer (the Assistant Director Law and Governance) has obtained agreement under paragraph 39 above, that the making of the decision is urgent and cannot reasonably be deferred, the Proper Officer (the Assistant Director Law and Governance) at the public offices of the Council and

on its website [www.darlington.gov.uk](http://www.darlington.gov.uk), a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred.

### **Additional Rights of Access to Documents of Members**

44. Subject to paragraphs 48 and 49 below, any document which :-

- (a) is in the possession, or under the control, of Cabinet; and
- (b) contains material relating to any business to be transacted at a public meeting,

shall be available for inspections by any member of the Council.

45. Subject to paragraphs 48 and 49 below any document which :-

- (a) is in the possession, or under the control, of Cabinet; and
- (b) contains material relating to :-
  - (i) any business transacted at a private meeting;
  - (ii) any decision made by the Cabinet Sub-Committee, in accordance with Cabinet arrangements;
  - (iii) any decision made by an Individual Member in accordance with Cabinet arrangements; and
  - (iv) any decision made by an Officer in accordance with Cabinet arrangements,

shall be available for inspection by any Member of the Council when the meeting concludes or, where a Cabinet decision is made by an individual Member or a key decision made by an Officer, immediately after the decision has been made.

46. Any document which is required by paragraphs 44 and 45 above, to be available for inspection by any Member shall be made available for inspection, in any event, within 24 hours of the conclusion of the meeting or the decision being made as the case may be.

47. Paragraphs 44 and 45 above, do not require a document to be available for inspection if it appears to the Proper Officer (the Assistant Director Law and Governance), that it discloses exempt information of a description falling within Part I of Schedule 12(A) to the 1972 Act

(Descriptions of Exempt Information) (England) (as amended) but they do require the document to be available for inspection if the information is information of a description for the time-being falling within:-

- (a) paragraph 3 of the table contained in the Access to Information Procedure Rules, as detailed within this Constitution of Schedule 12(A) to the 1972 Act (except to the extent that the information relates to any terms proposed or to be proposed by or to the Council in the course of negotiations for the contract); or
- (b) paragraph 6 of the table contained in the Access to Procedure Rules.

48. Where it appears to the Proper Officer (the Assistant Director Law and Governance) that compliance with paragraph 45 and 46 above, in relation to a document or part of a document would involve the disclosure of advice provided by a political adviser or assistant that paragraph shall not apply as regards to that document or part.

49. The rights conferred by paragraphs 45 and 46 above, are in addition to any other rights that a Member of the Council may have.

### **Additional Rights of Access to Documents for Members of Scrutiny Committees**

50. Subject to paragraph 51 below, a Member of a Scrutiny Committee of the Council shall be entitled to a copy of any document which :-

- (a) is in the possession or under the control of the Cabinet; and
- (b) contains material relating to :-
  - (i) any business that has been transacted at a private meeting or a public meeting of a decision-making body of the Council;
  - (ii) any decision that has been made by the Cabinet Sub-Committee, in accordance with Cabinet arrangements;
  - (iii) any decision that has been made by an Individual Member of the Cabinet in accordance with Cabinet arrangements ; and
  - (iv) any key decision that has been made by an Officer of the Council in accordance with Cabinet arrangements.

51. No Member of a Scrutiny Committee shall be entitled to a copy:-

- (a) of any such document or part of a document as contains exempt or confidential information unless that information is relevant to:-
  - (i) an action or a decision that he is reviewing or scrutinising; or
  - (ii) any review contained in any programme of work of such a Committee or Sub-Committee of such a Committee; or
- (b) of a document or part of a document containing advice provided by a political adviser or assistant.

52. Where the Cabinet determines that a Member of Scrutiny is not entitled to a copy of a document or part of any such document for a reason set out in paragraph 50 or 51 above, it must provide the Scrutiny Committee with a written statement setting out its reasons for that decision.

### **Reports to Council Where the Key Decision Procedure is Not Followed**

53. Where a Cabinet decision has been made and :-

- (a) was not treated as being a key decision; and
- (b) a relevant Scrutiny Committee, is of the opinion, that the decision should have been treated as a key decision,

that Scrutiny Committee may require the Cabinet, which is responsible for the decision, to submit a report to the full Council within such reasonable period as the Committee may specify.

54. A report under paragraph 53 above, shall include details of :-

- (a) the decision and the reasons for the decision;
- (b) the decision-making body by which, or the individual by whom, the decision was made; and
- (c) if the Cabinet is of the opinion that the decision was not a key decision, the reasons for that opinion.

## **Cabinet's Report to Council**

55. The Leader shall submit to the Council at quarterly intervals, a report containing details of each Cabinet decision taken during the proceeding three months where the making of the decision was agreed as urgent in accordance with paragraph 42 above,
56. A report submitted for the purposes of 55 above, shall include:-
- (a) particulars of each decision made; and
  - (b) a summary of the matters in respect of which each decision was made.