

Part 2 – Section 4: Responsibility for Executive Functions

1 THE EXECUTIVE

Roles

- 1.1 The Executive will exercise all of the Council's functions which are not the responsibility of any other part of the Council, by law or under this Constitution, and subject (in the case of executive functions only) to the Leader determining to make the decision personally or that it should be undertaken by an individual Executive Councillor, by an officer, by a Committee of Executive, or under joint arrangements.
- 1.2 Executive decision making (aside from those executive functions delegated to Officers and Committees of the Executive) shall be exercised by the Executive as a whole. The Leader may delegate executive functions to individual Executive Councillors (refer to the Leader's Scheme of Delegation published alongside this constitution).

Form

- 1.3 The Executive will consist of the leader together with at least two but not more than nine Councillors appointed to the Executive by the Leader.
- 1.4 No substitution arrangements will apply to the Executive, and neither the Chair nor Deputy Chair may be appointed to the Executive.

Leader

- 1.5 The Council has decided that the Leader will be a Councillor elected to the position of Leader by the Council following the four-yearly elections. The Leader will remain in position until the Annual Council meeting following the next four yearly elections, or until:
 - 1.5.1 they resign from office;
 - 1.5.2 they become ineligible to be a Member of the Council, either for a specific period or indefinitely;
 - 1.5.3 they cease to be a Councillor;
 - 1.5.4 they are removed from office by a resolution of the Council requiring a simple majority, in respect of which the motion has been fully set out in the agenda for the meeting.

(N.B. if the Leader is not elected or does not stand for re-election, they will remain in office during the period between the election and the Annual Council meeting when a new Leader will be elected.)

- 1.6 In the event of there being a vacancy in the office of Leader:

- 1.6.1 If this is in consequence of being removed by resolution of Council, a new Leader may be elected at the same meeting; or
- 1.6.2 Council shall elect a new Leader at its next ordinary meeting, or at an extraordinary meeting called for the purpose of electing a new Leader.

Other Executive Councillors

- 1.7 Other Executive Councillors will be Councillors appointed to the position by the Leader from time to time. They shall hold office until any of the events listed in 1.5.1 – 1.5.3 above apply to them or to the Leader, or until the Leader brings their term of office to an end.

Deputy Leader

- 1.8 The Leader shall appoint one Councillor of the Executive to be the statutory Deputy Leader who shall exercise the functions of the Leader in their absence. If the Deputy Leader is unable to act or the office is vacant, then the Executive must act in the Leader's place or must arrange for a Councillor of the Executive to act in their place, until a decision is made by the Council to appoint a new Leader.
- 1.9 The Deputy Leader shall hold office until such time as the term of office of the Leader who appointed them comes to an end, or until:
 - 1.9.1 They resign from the office;
 - 1.9.2 They cease to be an Executive Councillor;
 - 1.9.3 They are removed from office by the Leader.

2 PORTFOLIO RESPONSIBILITIES FOR EXECUTIVE COUNCILLORS

- 2.1 Executive Councillors shall have the responsibilities as determined by the Leader from time to time.
- 2.2 Details of the current Executive Councillors and the portfolios are set out in the Leader's Scheme of Delegation and are available on the Council's website.

3 GENERAL RESPONSIBILITIES OF THE EXECUTIVE

- 3.1 The Executive is responsible for:
 - 3.1.1 ensuring the effective and efficient discharge of the functions delegated to them;
 - 3.1.2 ensuring that any Council services within their remit are appropriate for and responsive to the needs and views of Councillors and Members of the Public, and are delivered effectively and efficiently;

- 3.1.3 ensuring that good external relationships and effective local liaison are promoted in relation to Council services within their remit;
- 3.1.4 monitoring the functions within their remit and contributing to any Council aims, objectives and policies;
- 3.1.5 determining policies and objectives for any Council services, within their remit, reviewing the extent to which they are met, and agreeing any necessary action;
- 3.1.6 determining the Council's views on matters specific to their areas of responsibility and related external matters; and
- 3.1.7 ensuring the effective and efficient management of any services and resources within their remit and, where appropriate, the effective and efficient discharge of the responsibilities of any subordinate bodies or person.

4 GENERAL RESPONSIBILITIES OF ALL EXECUTIVE COUNCILLORS

- 4.1 The following are the general responsibilities which apply to all Executive Councillors.
- 4.2 There are occasions when matters affect more than one portfolio of responsibility. On such occasions, the Executive Councillor with the primary responsibility shall take the lead, but in consultation with all Executive Councillors with an interest.
- 4.3 Each Executive Councillor is the spokesperson or "**Portfolio Holder**" for the policy area or 'portfolio' they are responsible for. They also:
 - 4.3.1 lead on developing Council policy and make recommendations to the Executive;
 - 4.3.2 provide guidance to the Executive on delivering services within their portfolio area;
 - 4.3.3 give guidance to the Executive on budget priorities;
 - 4.3.4 monitor performance and make sure policy is delivered;
 - 4.3.5 lead on improving Council services;
 - 4.3.6 ensure that activities meet the Council's overall vision, core values and guiding principles;
 - 4.3.7 represent the Council at a national and local level;
 - 4.3.8 contribute to debate and decision-making;
 - 4.3.9 work with all Councillors and officers to make sure that the overview and scrutiny process works correctly including appearing before

relevant Overview and Scrutiny meetings and responding to Overview and Scrutiny Committee reports; and

- 4.3.10 ensure appropriate consultation and liaison with partners and the community on matters within the scope of their portfolio.

5 MATTERS RESERVED FOR EXECUTIVE

- 5.1 All the functions of the Council are executive functions except for those which are the responsibility of the Council or a body established by the Council.
- 5.2 Executive functions will be exercised by the Executive collectively except where the matter is dealt with under joint arrangements or delegated to an officer or where the Leader has delegated the decision to an individual Executive Councillor.
- 5.3 **Key Decisions** will be taken by the Executive collectively except where the matter is dealt with under joint arrangements or delegated to an officer or where the Leader has delegated the decision to an individual Executive Councillor.

6 INABILITY OF WHOLE TO ACT

- 6.1 If each and every one of the Councillors of the Executive are unable to act for any reason the Council will appoint an interim Executive to discharge the relevant executive functions.

7 PROCEEDINGS OF THE EXECUTIVE

- 7.1 Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in **Part 3** of this Constitution.

8 RESPONSIBILITY FOR FUNCTIONS

- 8.1 The Leader will present a Scheme of Delegation for executive functions to be maintained and published in [Part 2](#) of this Constitution by the Monitoring Officer, setting out which individual Executive Councillors, Executive Committees, officers or joint arrangements are responsible for the exercise of particular executive functions.
- 8.2 The Leader will be invited before each Annual Meeting of the Council to consider at that stage whether they wish to make any amendments to the arrangements for the exercise of executive functions by Executive Councillors, Executive Committees, officers or joint arrangements. Any such arrangements will be reported to Council for information.

- 8.3 The Leader may also make in-year amendments to the Scheme of Delegation which shall be reported to the Monitoring Officer who shall place the amendments before the next available ordinary meeting of the Council for information.

9 COMMITTEES OF THE EXECUTIVE

- 9.1 The Leader or the Executive may delegate any of its functions to a committee of the Executive. Executive Committees shall report to the Executive. If the Committee is to have decision-making powers then the Committee may only include Executive Councillors. The Leader or the Executive may also establish advisory committees, the membership of which need not be limited to Executive Councillors. The Leader or the Executive may change them, abolish them, or create further ones, at its own discretion.
- 9.2 Committees established by the Leader or the Executive shall be empowered to perform these functions with immediate effect unless the Leader or the Executive impose any express restriction when they are established. Unless stated otherwise, all decision-making committees will continue in operation until expressly abolished by the Leader or the Executive and all advisory or consultative liaison committees will continue in operation only until the first meeting of the Executive in the next civic year following their establishment when they must be expressly renewed or they cease to exist.
- 9.3 All functions that have been delegated to a committee established by the Leader or the Executive can still be carried out by the Executive as the parent body (where the Executive has delegated that function) or by the Leader either personally or in accordance with the Leader's delegation of those functions to an individual Executive Councillor or an alternative committee of the Executive.
- 9.4 The establishment, abolition or cessation of committees and the amendment of their terms of reference will be reported to Council in due course for noting in the Council's Constitution.

Highways and Transport Strategic Board

- 9.5 The Council has established a Highways and Transport Strategic Board as a Committee of the Executive, formed as follows:
- 9.5.1 The Highways and Transport Strategic Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine
- 9.5.2 The Chair and Vice Chair of each Community Panel shall have the right to attend and speak at meetings. They will not have voting rights.
- 9.5.3 The Committee will meet at such times as shall be agreed by its members.
- 9.5.4 The Committee shall not be quorate unless three voting members are present.

- 9.5.5 One of the relevant Executive Councillors shall act as its Chair.
- 9.5.6 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
- 9.5.7 Any local councillor for a ward directly affected by a matter being considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person if they so wish (any failure to receive notification will not invalidate a decision).

Terms of Reference

- 9.6 The Highways and Transport Strategic Board is a Committee of the Executive and shall be responsible for the exercise of the following executive functions (unless or until the Leader or Executive shall determine otherwise):
- (c) To agree and keep under review the implementation of the rolling 3 year strategic programme for highways and transport (revenue and capital) and the one year delivery plan.
 - (d) To recommend to Council any Highways or Transport Strategies and Policies within the Policy Framework for example the Local Transport Plan.
 - (e) To agree strategies and policies relating to Highways and Transport that are not in the Policy Framework.
 - (f) To agree responses to highways and transport consultation papers when referred by the Director or not reserved by Executive.
 - (g) To authorise the entering of agreements with public transport operators to provide financial support for services which are not available commercially.
 - (h) To consider and determine traffic management matters, other than those matters that are the responsibility of the Community Panels under the agreed Locality Scheme Budget, that fall entirely within one ward, that require urgent determination or are of a temporary nature. The relevant local Councillor shall be notified of the matter.
 - (i) To consider information and updates provided by the Director on highways asset management strategy and delivery plan for promoting best practice and the implementation of asset management principles for all highway maintenance activities.
 - (j) To receive and consider referrals from Community Panels on Highways and Transport matters.
 - (k) To receive and consider petitions, questions and motions as appropriate.

Nuclear Issues Board

9.7 The Council has established a Nuclear Issues Board as a Committee of the Executive, formed as follows:

- 9.7.1 The Nuclear Issues Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine.
- 9.7.2 The Committee will meet at such times as shall be agreed by its members.
- 9.7.3 The Committee shall not be quorate unless three voting members are present.
- 9.7.4 One of the relevant Executive Councillors shall act as its Chair.
- 9.7.5 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
- 9.7.6 Any local councillor for a ward directly affected by a matter to be considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person (any failure to receive notification will not invalidate a decision).
- 9.7.7 The Committee is able to invite such other persons, representatives and stakeholders as it considers will assist and inform its work (who shall be able to speak but not vote).

Terms of Reference

- 9.7.8 The Nuclear Issues Board is a Committee of the Executive and shall be responsible for the exercise of the following executive functions (unless or until the Leader or Executive shall determine otherwise):
 - (a) to advise the Executive on policy and issues relating to the nuclear industry in Cumberland including public and worker safety, environmental issues, socio-economic impact, the decommissioning of existing facilities and the possible development of new capacity.

In carrying out its duties the Committee will, as and when necessary, liaise with industry stakeholders, with other local authorities, regional and central government and other governmental agencies and make recommendations on research.

Shareholder and Trustee Committee

9.8 The Council has established a Shareholder and Trustee Committee as a Committee of the Executive, formed as follows:

- 9.8.1 The Shareholder and Trustee Committee is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine.
- 9.8.2 The Committee will meet at such times as shall be agreed by its members.
- 9.8.3 The Committee shall not be quorate unless three voting members are present.
- 9.8.4 One of the relevant Executive Councillors shall act as its Chair.
- 9.8.5 There shall be a right on the part of any member of the Committee to require the reference of any matter to the full Executive for determination.
- 9.8.6 Any local councillor for a ward directly affected by a matter to be considered by the Committee shall receive notification of that matter to enable them to make representations to the Committee in writing or in person (any failure to receive notification will not invalidate a decision).
- 9.8.7 The Committee is able to invite such other persons, representatives and stakeholders as it considers will assist and inform its work (who shall be able to speak but not vote)

Terms of Reference

- 10 The Shareholder and Trustee Committee shall meet at least twice each year and shall exercise responsibility for the Council's functions as a corporate shareholder, corporate member (of an LLP or company limited by guarantee) and corporate trustee in relation to legal entities either wholly owned by the Council or has shared ownership of and which may include without limitation:

10.1.1 Shareholder duties

- (a) To determine the Shareholder Agreements or Member Agreements between the Council and the Companies
- (b) To make strategic decisions including approving annual business plans of the Companies
- (c) To hold the Companies to account for performance against objectives (including but not limited to financial performance)
- (d) To determine a guidance note for duties of directors and trustees (including conflicts of interests)
- (e) To approve and adopt a conflict of interest policy for the Committee and Officers
- (f) To make decisions that only the Council as shareholder can make by law e.g. altering a company's Articles of Association and using, where applicable the written resolution procedure to do so, as prescribed by the Companies Act 2006 or prescribed by a relevant Member Agreement or Shareholder Agreement
- (g) For non-Companies Act 2006 decisions, a process will be followed without using the formal written resolution procedure. In these circumstances, the Chair

of the Committee will sign a document to record the fact that they have approved the decision.

- (h) To consult with the Companies to determine a set of key operating principles the Companies will seek to adapt. These principles will ultimately be agreed by the Companies and the Committee
- (i) To appoint and dismiss directors of the Companies (where power to do so is reserved to the shareholder or member)
- (j) To appoint and remove a Company Secretary and Auditor
- (k) To agree any loan agreements or draw-down of Council financing (subject to funds being made available by the Council and any previous authorised delegations)
- (l) To agree any reserved matter required by the Articles of Associations, Shareholder Agreements or Member Agreement
- (m) To agree the Articles of Association or any amendment thereof
- (n) To approve the Companies Delegation Matrix
- (o) To agree and approve the allotment of shares (equity investments)
- (p) To agree to new members or shareholders
- (q) To agree proposals for the sale of shares in a Council Company or the closure of a Council Company

10.1.2 Trustee duties

- (a) To ensure compliance with and further each of the Charities' charitable objects, trust deeds and associated public benefit; including an annual review
- (b) To ensure the completion and submission of Charity Annual Account returns and the Charity Annual Trustee Report to the Charity Commission
- (c) To arrange a Trustee meeting to agree the accounts and Trustee's Annual Report within two months of the financial year ending
- (d) To comply with best practice (Statement of Recommended Practice, SORP) to produce annual accounts and a report that includes an explanation of what the charity has done for the public benefit during the year
- (e) To make strategic decisions including approving annual business plans, management agreements and leases
- (f) To annually review the purposes of the Charities and make any required applications to amend the Charities' governing documents to support effective management of the Charities
- (g) To approve and adopt a conflict of interest policy
- (h) To approve disposals (leases, licences) in accordance with S117 of the 2011 Charities Act 2011 including:
 - (i) To consult the public on the disposal of charity property where required to do so
 - (j) Issue public notices regarding proposed disposal of charity property where required to do so.
- (k) To approve the formation of management companies where considered to be a suitable mechanism for managing a charity. This could include the charity becoming a member of a management company where suitable to do so.

Budget Consultation Board

8.9 The Council has established a Budget Consultation Board as a Committee of the Executive, formed as follows:

- 8.9.1 The Budget Consultation Board is a Committee of the Executive and shall be comprised of such of the Executive Members as the Leader or Executive shall determine.
- 8.9.2 The Board will meet at such times throughout the Budget Setting process as shall be agreed by its members.
- 8.9.3 The purpose of the Board is to enable cross party discussion on budget formulation pre-decision to seek the views of political groups (this is not a substitute for the overview and scrutiny budget consultation).
- 8.9.4 One of the relevant Executive Councillors shall act as its Chair.
- 8.9.5 The Board shall have no decision making powers but will report into the Executive as part of the budget setting process
- 8.9.6 The Committee is able to invite such other persons, representatives and stakeholders as it considers will assist and inform its work (who shall be able to speak but not vote).