

APPENDIX 4

[Text shown struck through is for deletion and text shown in italics and underlined is for insertion or addition. The paragraphs have also been reordered]

PART 2 - ARTICLES

Article 7 - The Leader and the Cabinet

7.01 The Leader

The Leader will be a councillor elected to the position of Leader by the Council. The Leader may exercise any “executive” functions of the local authority even if delegated elsewhere in this Constitution except those functions which by law must be discharged by an officer. Unless the context indicates otherwise, where there is a reference in this Constitution to a decision which may be taken by the Cabinet meeting, by a Cabinet Committee or subordinate body or by an individual Cabinet Member, that decision may be taken by the Leader personally. ~~powers delegated by the Cabinet within the specific portfolio responsibilities allocated to the Leader.~~

7.02 The Leader will hold office until:

- (a) He/she resigns from the office; or
- (b) He/she is suspended from being a councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension); or
- (c) He/she is no longer a councillor; or
- (d) He/she is removed from office by resolution of the Council under Article 7.06; or
- (e) The Annual Meeting following the Council Elections after his/her election as Leader. ~~year in which he/she is elected to the position of Leader save that the Council may remove the Leader from office at an earlier date in the event of a change in political control of the Council.~~

Council Election Year Provisions in 2010

In 2010 ~~a Council Election Year~~ the provisions below will apply in place of (e) above in the period between Election day and the Annual Meeting or the first election of a Leader if that occurs after the Annual Meeting:

- (i) If the Leader in office immediately before the Council Elections is re-elected as a councillor within and if there is ~~no change in~~ the political group having an overall majority of councillors after the Elections, then the Leader shall continue

in office until the election of a Leader by the Annual Meeting of the Council and may exercise any “executive” Cabinet functions under this Constitution, if necessary. The Leader may appoint an Interim Deputy Leader with power to exercise “executive” functions if the Leader is unable to act. The Leader shall not appoint other Cabinet Members. in

- accordance with (ii) below but only in cases of urgency,
- (ii) ~~All urgent and unavoidable Cabinet decisions shall be made by the Leader and those Cabinet Members re-elected as councillors acting collectively as The Cabinet in accordance with the provisions of the Cabinet Procedures and Urgency Procedures so far as practicable. Individual Cabinet Members shall not take decisions under these provisions other than collectively either relating to their previous portfolio areas or to other matters.~~
- (iii) ~~(ii)~~ If the Leader in office immediately before the Council Elections ceases to be a councillor or ceases to be within the political group having an overall majority of councillors after the Elections, then the Leader and Cabinet Members shall not continue in office and delegated power is granted to the Chief Executive to exercise all “executive” functions of the Council in consultation with the representative of the largest political group of councillors (or groups in the event of a parity of councillors) but only in cases of genuine urgency,
- (iv) ~~If there is no change in the political group having an overall majority of councillors after the Elections but the Leader is not re-elected as a councillor, then the Leader shall not continue in office and delegated power is granted to those of the former Cabinet Members who are re-elected as councillors to exercise all “executive” functions of the Council in accordance with (ii) above (except for the reference to the Leader) but only in cases advised by the Chief Executive to be urgent,~~
- (v) ~~(iii)~~ Decisions made under these Council Election Year Provisions must be reported to the first meeting of the appropriate body after the Annual Meeting which will normally is likely to be the first meeting of the newly constituted Cabinet of the Council.
- (iv) For the avoidance of doubt, the scheme of delegation to officers with respect to both “executive” and “non-executive” functions will remain in force.

7.03 ~~Role~~ The Cabinet

The Cabinet will carry out all of the local authority’s “executive” functions that are not the responsibility of any other part of the local authority, whether by law or under this Constitution, unless the Leader decides to discharge them personally or delegate them elsewhere.

7.04 Form and Composition

The Cabinet will consist of the Cabinet Leader together with between 2 and 9 other councillors ("Cabinet Members") appointed to the Cabinet by the Leader. Council

7.05 Other Cabinet Members

- (i) The Leader will determine the number of Cabinet Members to be appointed which will be between 2 and 9 (in addition to the Leader).
- (ii) Each Cabinet Member will be appointed elected by the Leader Council to cover one of the specific portfolio responsibilities (other than those reserved to that of the Leader) determined by the Leader. as agreed by the Council. The Leader or a Cabinet Member must hold the specific statutory portfolio responsibility for Children's Services and a separate portfolio responsibility for Adult Services.
- (iii) One Cabinet Member will be appointed as Deputy Leader with power to exercise the Leader's functions in the event that the Leader is unable to act or the office is vacant.
- (iv) Individual Cabinet Members may exercise powers delegated by The Leader Cabinet within their specific portfolio responsibilities as set out in Part 3.
- (v) Cabinet Members shall hold office until one of the events (a) to (e) below but in 2010 the Cabinet Members in office immediately before the Elections shall cease to hold office after the Council Elections whether or not they are re-elected as councillors: and ~~a Council Election Year the Provisions above will apply in place of paragraph (e) in the period between Election day and the Annual Meeting:~~

 - (a) They resign from office; or
 - (b) They are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension): or
 - (c) They are no longer councillors; or
 - (d) They are removed from office, either individually or collectively, by the Leader resolution of the Council; or
 - (e) The Annual Meeting following the Council Elections after their appointment. year in which he/she is elected to the position of Cabinet Member save that the Council may remove all Members of the Cabinet at an earlier date in the event of a change in political control of the Council.

7.06 Votes of No Confidence

The Leader A Member of the Cabinet shall cease to hold office as a Cabinet member if a vote of no confidence, of which notice appears on the agenda, is carried at a meeting of the full council by a majority of the members of the whole council

then present. The responsibilities of the Leader ~~that member~~ shall then be carried out by the Deputy Leader Cabinet collectively until such time as the election appointment of a replacement Leader, or the re-election ~~reappointment~~ of the previous Leader ~~member concerned~~, by full Council. The election of the new Leader may take place at the meeting when the vote of no confidence was carried or at a subsequent meeting. ~~In the event of all members of the Cabinet having been removed from office in this way at any time, Cabinet functions shall in the interim be carried out by the Chief Executive in consultation with the Mayor.~~

7.07 Default Provisions

(i) In the event that Leader is unable to act or the office of Leader is vacant and, at the same time, the Deputy Leader is unable to act or the office of Deputy Leader is vacant, then the other Cabinet Members shall act collectively in place of the Leader until such time as a new Leader is elected by the full Council.

(ii) In the event that no Cabinet Members remain in office or able to act then all functions of the Leader and Cabinet Members shall be exercised by the Chief Executive acting so far as is practicable in consultation with the Mayor, or Deputy Mayor if the Mayor is unable to act, until such time as a new Leader is elected by the full Council.

~~7.06~~ 7.08 Proceedings of the Cabinet

Proceedings of the Cabinet and decisions by individual Cabinet Members shall take place in accordance with the Cabinet Procedure Rules set out in Part 4.

~~7.07~~ 7.09 Responsibility for Functions

The Leader will maintain a list in ~~an appendix to this Constitution~~ or the appendices to it setting out which individual Cabinet Members, Committees of the Cabinet or officers are responsible for the exercise of particular Cabinet functions.