

LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT
IN HEALTH ACT 2007

HARROGATE BOROUGH COUNCIL – SCHEME OF
EXECUTIVE ARRANGEMENTS

Version 2 August 2010

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* Insofar as the Executive is referred to in these documents.

INTRODUCTION:

- 1.1 This document sets out Harrogate Borough Council's Executive Arrangements as required under Part 3 of the Local Government and Public Involvement in Health Act 2007.
- 1.2 During a consultation in February 2009, the Council received 853 responses regarding its proposals for a New Leadership Model and of these 78% of respondents stated a preference for a Leader and Cabinet model, based on a four year term of office.
- 1.3 At its meeting on 12 November 2009, the Council's General Purposes Committee agreed, subject to a resolution at an Extraordinary meeting of Council, a report setting out the changes to Executive arrangements to apply from the Annual Meeting of Council in May 2011.
- 1.4 In order to bring these arrangements into effect, a resolution of full Council called for the purpose is required. That meeting will take place at 5.30 pm on Thursday 14 October 2010.
- 1.5 During preparation of its new Executive Scheme, Council was required to consider how these arrangements would be likely to assist in securing continuous improvement in the way its functions are exercised.
- 1.6 The following factors were identified as relevant:
 - (i) clear public support for an Executive Leader rather than a directed elected Mayor;
 - (ii) a four year term of office for the Leader should facilitate longer term planning;
 - (iii) familiarity with the current Leader Model should lead to less time spent dealing with Constitutional queries from within the Council and more generally.
 - (iv) the retention of the power to remove the Leader by Motion at Council ensures that the holder of that office must continue to command the support of a majority of Council Members, thereby requiring the Leader to respond to Member concerns and priorities and encourage their democratic engagement.
 - (v) the cost of any referendum to introduce a Directly Elected Mayor. Subsequent elections and support arrangements following election would be avoided.
- 1.7 In the event of any query or comment please contact: Mr Peter Jordan, Head of Legal and Democratic Services, Council Offices, Crescent Gardens, Harrogate, HG1 2SG, telephone (01423) 556029, or email: peter.jordan@harrogate.gov.uk.

Article 16

Schedule 1: Description of Executive Arrangements

The following parts of this Constitution constitute Harrogate Borough Council's executive arrangements:

1. Article 7 The Executive;
2. Part of Article 11 Joint Arrangements made by the Executive;
3. Parts of Article 13 Decision making and the Access to Information Procedure Rules where they relate to the operation of the executive;
4. Sections 1a & 3 of Part 3 – Responsibility for Functions.
5. Extract of Standing Orders Relating to Leader (Standing Orders 1 and 6).
6. Access to Information Procedure Rules (insofar as they refer to the Executive).
5. The Executive Procedure Rules at Part 4 of the Constitution.

Article 7 – The Executive

7.01 Introduction

In this constitution the term “executive” refers to the Leader and Cabinet together and any other person or body carrying out executive functions delegated to them by the Cabinet or individual Cabinet Members. For the purposes of Section 14 (as amended) of the Local Government Act 2000 and interpretation of this Constitution the ‘Executive Leader’ means the Leader of the Council. The restrictions on individual Cabinet Member’s decision making powers are described in the Executive Procedure Rules at Part 4 of this Constitution. The restrictions on officers delegated powers are set out in Part 3(d) of this Constitution.

7.02 The Principles of Delegation

The Leader may arrange for any function to be discharged in accordance with the Council’s Executive arrangements.

- (i) by the Executive Cabinet;
- (ii) by another member of the Executive;
- (iii) by a Committee of the Executive;
- (iv) by an Officer of the authority.

Where any function may be discharged by the Executive then unless the Leader directs the Executive may arrange for the discharge of these functions by:

- (a) a Committee of the Executive, or
- (b) an Officer of the authority.

Where any functions may be discharged by a member of the Executive, then unless the Leader otherwise directs, the Member who may discharge the function may arrange for the discharge of any of these functions by an Officer of the authority.

Where any function may be discharged by a Committee of the executive, then unless the Leader otherwise directs, the Committee may arrange for the discharge of those functions by an Officer of the authority.

None of the above arrangements are to prevent the Leader, Executive, Member of the Executive or Committee of the Executive by whom the arrangements are made from exercising those functions.

7.03 Role

The executive will carry out all of the Local Authority’s functions which are not the responsibility of any other part of the Local Authority, whether by law or under this Constitution.

7.04 **Form and composition**

The Cabinet will consist of the Council's Executive Leader together with at least 2, but not more than 9, councillors appointed to the Cabinet by the Leader. Normally there will be seven Cabinet Members including the Leader.

7.05 **Appointment of Council Leader and Cabinet**

a) The nomination for Leader of the Council will be made by the majority Group of the Council from their number at the first Annual Meeting after the Leader's normal day of retirement as a Councillor. There will be a separate item of business for the election of the Leader.

b) In the event of there being no majority Group at the time of the relevant Annual Meeting, nominations must be made to the Head of Legal and Democratic Services not less than 24 hours before the time fixed for the Annual Meeting and each nomination must be seconded by no less than five Members of Council in addition to the proposer of the motion.

c) At the Annual Meeting of Council, the Leader will be elected by the Council and will inform the Council of the names of members of the Cabinet which the Council will formally endorse.

d) The Cabinet may be formed only from duly elected councillors

e) The Mayor and Deputy Mayor may not be appointed to the Cabinet.

f) The broad structure of the portfolios of the Cabinet Members will be as set out in Part 3 of this Constitution. The actual extent and nature of each portfolio from time to time is a matter for the Leader of the Council. The broad parameters of the portfolios are:-

The Leader – (Chair of Cabinet)

Cabinet Member for Cultural Services

(Deputy Leader)

Cabinet Member for Environment

Cabinet Member for Finance and

Resources

Cabinet Member for Housing

Cabinet Member for Public Protection and

Rural Affairs

Cabinet Member for Planning, Transport

and Economic Development

7.06 The Deputy Executive Leader

- 1) (a) The Leader shall appoint one of the Members of the Executive to act as Deputy Executive Leader;
- (b) The Deputy Executive Leader (subject to paragraph (c) below, unless he resigns as Deputy Executive Leader, or ceases to be a Member of the authority, is to hold office until the end of the term of office of the Executive Leader;
- (c) The Executive Leader may, if he thinks fit, remove the Deputy Executive Leader from office;
- (d) Where a vacancy occurs in the office of Deputy Executive Leader the Executive Leader must appoint another person in his place and shall arrange for Members of the Council to be notified in accordance with the procedure set out in Section 7.07 (2) below;
- (e) If, for any reason, the Executive Leader is unable to act or the office of Leader is vacant the Deputy Leader must act in his place;
- (f) Where both the office of Leader and Deputy Leader are vacant or they are unable to act the Executive must act in the Executive Leaders' place or must arrange for a Member of the Executive to act in his place..

7.07 Terms of Office of Leader and Cabinet

- 1) (a) The Leader will hold office until:-
 - (i) he/she resigns from office;
 - (ii) he/she is suspended from being a councillor under Part III of the Local Government Act 2000;
 - (iii) he/she is no longer a councillor or until the first Annual Meeting after the Leader's normal day of retirement as a Councillor;
 - (iv) he/she is removed from office by resolution of the Council.
 - (b) The Leader of the Council may be removed from office against his/her wishes following a majority vote on a notice of motion to the Council, in accordance with the Council's Rules of Procedure at Part 4 of this Constitution.
 - (c) If the Leader of the Council is removed by resolution of the Council, then he or she may not stand for re-election at the Council meeting where they are removed.
 - (d) The Council meeting will adjourn to the next evening, following the removal of the Leader by notice of motion, and the new Leader will be appointed at the adjourned meeting.
- 2) (a) A Cabinet Member other than the Leader will hold office until

- (i) he/she resigns from office;
 - (ii) he/she is suspended from being a councillor under Part III of the Local Government Act 2000;
 - (iii) he/she is no longer a councillor;
 - (iv) he/she is removed from office by the Leader of the Council.
- b) Any Cabinet Member will be eligible to be reappointed as a Cabinet Member by the new Leader. The Leader of the Council, who has resigned or been removed by resolution of the Council, will also be eligible to be appointed as a Cabinet Member by the new Leader.
- c) If a Cabinet Member wishes to resign then their resignation must be tendered to the Leader of the Council.
- d)(i) Where a Cabinet Member resigns or is removed the Leader will so notify the Head of Legal and Democratic Services and name the new Cabinet Member, if (s)he then considers fit. The retirement of the Member will take effect on receipt of that notification by the Head of Legal and Democratic Services. This will be assumed to be received on the next working day after the date of the letter, fax or e-Mail sent by the Leader. The Head of Legal and Democratic Services will notify all Members of Council of the retirement and the appointment of a new member of Cabinet and the appointment will take effect at the same time as the retirement of the retiring Cabinet Member. An item shall be placed on the agenda of the next Ordinary meeting of the Council in order that the new appointment may be formally noted.
- (ii) If for any reason the Leader chooses not to replace a retiring Cabinet Member by an immediate appointment then the Leader shall notify the Head of Legal and Democratic Services of the name and title of the existing Cabinet Member who will act as deputy for the vacant portfolio and the Head of Legal and Democratic Services will notify all Members of Council.
- (iii) At the next Council meeting the Leader will explain to the Council whether, and if so how, he/she intends to reorganise the portfolios of the Cabinet, or shall appoint a new Cabinet Member to the vacant post. The Council shall formally note either a reorganisation of the portfolios or the appointment of the new Cabinet Member and any consequential amendment of the Executive Arrangements set out at Schedule 1 to these Articles will be submitted to the next Council meeting through the General Purposes Committee by the Head of Legal and Democratic Services.

7.08 Proceedings of the executive

Proceedings of the executive shall take place in accordance with the Executive Procedure Rules at Part 4 of this Constitution.

7.09 Planning Cabinet Member

The Cabinet Member for Planning, Transport and Economic Development will be entitled to attend all meetings of the Planning and Development Control Committees and to speak at the meetings but will not be entitled to vote.

7.10 Responsibility for functions

The Leader will maintain a list in Part 3 of this Constitution setting out which individual Cabinet Member, committees of the executive, officers or joint arrangements are responsible for the exercise of particular executive functions.

Article 11 – Joint Arrangements

11.01 Arrangements to promote well being

In order to promote the economic, social or environmental well-being of its area the Council or the executive may subject to any legal restrictions:

- (a) enter into arrangements or agreements with any person or body;
- (b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
- (c) exercise on behalf of that person or body any functions of that person or body.

11.02 Joint arrangements to exercise functions

- (a) The Council may establish joint arrangements with one or more local authorities and/or their executives to exercise functions which are not executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities.
- (b) The Cabinet may establish joint arrangements with one or more local authorities to exercise functions which are executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities or the setting up of agency arrangements to carry out executive functions.
- (c) Except as set out below, the Cabinet may only appoint Cabinet members to a joint committee and those members need not reflect the political composition of the local authority as a whole.
- (d) The Cabinet may appoint members to a joint committee from outside the Cabinet where the joint committee has functions for only part of the area of the authority, and that area is smaller than two-fifths of the authority by area or population. In such cases, the Cabinet may appoint to the joint committee any councillor who is a member for a ward which is wholly or partly contained within the area. The political balance requirements do not apply to such appointments.
- (e) Details of any joint arrangements which include any delegations to joint committees will be found in the Council's scheme of delegations in Part 3 of this Constitution.

11.03 Access to information of Joint Committees

- (a) The Access to Information Rules in Part 4 of this Constitution apply.

- (b) If all the members of a joint committee are members of the executive in each of the participating authorities then its access to information regime is the same as that applied to the Cabinet.
- (c) If the joint committee contains members who are not on the executive of any participating authority then the access to information rules in Part VA of the Local Government Act 1972, as amended, will apply.

11.04 **Delegation to and from other local authorities**

- (a) The Council may delegate non-executive functions to another local authority or, in certain circumstances, the executive of another local authority.
- (b) The Cabinet may delegate executive functions to another local authority or the executive of another local authority in certain circumstances.
- (c) The decision whether to accept such a delegation, even of executive arrangements, from another local authority shall be reserved to the Council as a whole by virtue of the Council's budget and policy framework rules in Part 4 of this Constitution.

11.05 **Other Joint Arrangements**

- (a) Joint arrangements with access to meetings under the Access to Information Rules are in place for the arrangements listed at Part 3 of this Constitution. These bodies are advisory only as set out at Part 3.
- (b) The Council has legally formalised partnership arrangements as listed below. These are not agency arrangements but agreements for the provision of services under the Local Authorities (Goods and Services) Act 1970. There are no joint committees with delegated powers. The functions are carried out by officers as part of their day to day management of services. The functions involved are executive functions delegated to officers as shown at Part 3 of this Constitution.

(i) **North Yorkshire Concessionary Fares Partnership**

The Scheme under which concessionary fares operate is a statutory scheme under the Transport Act 2000. The North Yorkshire Authorities - Craven District Council, Hambleton District Council, Harrogate Borough Council, Richmondshire District Council, Ryedale District Council, Scarborough District Council, Selby District Council and York City Council - have entered into a formal arrangement for cooperation in the administration of the statutory scheme throughout the County. As lead authority the Borough Council is responsible for dealing with payments to the bus operators for all these North Yorkshire Authorities.

(ii) **CCTV: Craven District Council**

The Council has an agreement to operate a CCTV scheme for Craven District Council in Skipton town.

(iii) **Ripon City Leisure Centre Management Advisory Committee**

The Leisure Centre is now owned by the Borough Council. The Advisory Committee is the forum for resolving management and policy issues and its terms of reference are under review.

(iv) **Knaresborough Community Centre**

The Centre is owned by Knaresborough Town Council and leased to the Borough Council. The sub-lease arrangements with Knaresborough Community Association have recently failed and interim management by the Borough Council is in place whilst longer term managerial options are considered.

(v) **Joint Use Agreements**

The Borough Council and North Yorkshire County Council have formal joint use agreements with North Yorkshire County Council and schools at the following locations:

- Rossett High School, Harrogate
- Nidderdale High School, Pateley Bridge

(vi) **Ryedale Energy Conservation Group Ltd**

The Borough Council is one of the constituent authorities in the establishment of Ryedale Energy Conservation Group Ltd and an officer of the Council is one of the Directors. The Company provides the Council with data analysis, research and advice relating to domestic and small business energy matters. It is allied to the Council's Environmental Strategy and Home Energy Conservation Initiatives.

(c) In addition to the formal joint arrangements referred to at (a) and (b) above the Council has over two hundred working partnerships at both Officer and Member level covering the whole range of its services. The Harrogate District Strategic Partnership was set up in 2003 to support the Community Plan for promoting and improving the economic, social and environmental well-being of the District.

The full current list of joint working and partnership arrangements in which the Council participates is set out in the Corporate Action Plan and updated annually.

Public access is available to meetings of many of the partnerships but their access arrangements are not all under the control of the Council and depend upon the constitution of the body concerned. More information on access arrangements and partnerships can be obtained from the Council's contact point given in the Summary to this Constitution or from the Corporate Improvement Officer (Partnerships) telephone (01423) 556706.

11.06 Contracting out

The Council and the executive may contract out to another body or organisation functions which may be exercised by an officer and which are subject to an order under section 70 of the Deregulation and Contracting Out Act 1994, or under contracting arrangements where the contractor acts as the Council's agent under usual contracting principles, provided there is no delegation of the Council's discretionary decision making.

Article 13 – Decision Making

13.01 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

PRINCIPLES OF DECISION MAKING

All decisions made whether by the Council, its committees, or sub-committees or by the Cabinet whether by an individual Cabinet Member or collectively, or by Officers acting under powers delegated to them by the Council, a committee or sub-committee or the executive, will be taken in accordance with the principles set out below which are not listed in any order of priority or preference:-

- i) there is a presumption in favour of openness in decision making;
- ii) decisions will be taken in accordance with the law after obtaining all necessary legal advice;
- iii) all decisions will take into account respect for human rights as set down in the Human Rights Act 1998;
- iv) proper advice will be obtained on financial questions raised in any decisions under consideration;
- v) no decision to be made by an individual Cabinet Member will be taken without a written report from officers setting out relevant advice;
- vi) all reports on which decisions have to be made will explain clearly the purpose of the report and the outcome to be achieved, together with details of options which may be considered and the reporting officer's recommendation together with the reasons for that being proffered;
- vii) all decisions made will be proportionate to the outcome intended to be achieved;
- viii) all executive decisions made will set out clearly the decision made giving the reasons why that decision has been made and the other alternatives which have been rejected;

- ix) all decisions will be formally recorded (except decisions made by officers under the General Scheme of Delegation to Officers at Sections 2(c) and 3(d) of Part 3 of this constitution (unless those at 3(d) are key decisions)) and a public record made available in accordance with the Access to Information Rules at Part 4 of this constitution.
- x) every year the Council and the executive will review exempt decisions taken more than three years previously and decide whether the reports and minutes of those decisions need to remain exempt. Any report and minute retaining exempt status after three years will be reviewed again after a further three years.

13.03 **Types of decision**

(a) **Decisions reserved to full Council.**

Decisions relating to the functions listed in Article 4.02 will be made by the full Council unless they are shown as delegable in Article 4.02.

(b) **Key decisions.**

(i) “Key decision” means an executive decision which, is likely:-

(a) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates; or

(b) to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the local authority; and regard must be had to guidance issued by the Secretary of State to determine the meaning of “significant”.

(ii) The Council will direct the Head of Legal and Democratic Services to publish annually in August the thresholds fixed under (i)(a) above. The thresholds so fixed will be included in the Executive Procedure Rules each year automatically after the decision has been made.

(iii) A decision maker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

13.04 **Decision making by the full Council**

Subject to Article 13.08, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.05 **Decision making by the executive**

Subject to Article 13.08, the executive will follow the Executive Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by overview and scrutiny committees

Overview and scrutiny committees will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.08, other Council committees and sub-committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

13.08 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.

**EXTRACT FROM PART 3 OF THE CONSTITUTION:
RESPONSIBILITY FOR FUNCTIONS (insofar as they relate to the
Executive)**

**1. RESPONSIBILITY FOR LOCAL CHOICE
FUNCTIONS**

Function	DECISION MAKING BODY AND MEMBERSHIP	Delegation of Functions
<p>1. <u>Local Act Functions</u></p> <p>Harrogate Stray Act 1985</p> <p>Harrogate Borough Council Act 1986</p>	<p>Executive - 7 elected Members</p> <p>Executive - 7 elected Members</p>	<p>Cabinet Member for Cultural Services subject to restrictions set out in the Executive Procedure Rules.</p>
<p>2. Determination of an appeal against any decision made by or on behalf of the authority.</p> <p>(i) generally</p> <p>(ii) Officer appeals:-</p> <ul style="list-style-type: none"> - against dismissal - grievances - other disciplinary procedures - job evaluation <p>(iii) Housing & Council Tax Benefit appeals</p>	<p>Most appeals against decisions do not lie to a body within the Council</p> <p>Licensing Committee - Appeals panels - 3 Members.</p> <p>Human Resources Committee – Employment Panel - 3 elected Members</p> <p>Human Resources Committee - Job Evaluation Appeals Board - 2 elected Members</p> <p>By law to tribunal independent of the Council</p>	<p>Appeals to these panels are indicated where appropriate in the Scheme of Delegation to Officers. The panels have full delegation.</p> <p>Full delegation.</p> <p>Full delegation.</p>

Function	DECISION MAKING BODY AND MEMBERSHIP	Delegation of Functions
iv) planning and related appeals (v) other appeals	By law to Secretary of State By law to Magistrates' or County Courts	
3. Conducting best value reviews in accordance with the provisions of any order for the time being having effect under Section 5 of the Local Government Act 1999.	Executive - 7 elected Members	To individual Cabinet Members and Officers subject to the Executive Procedure Rules and to Overview and Scrutiny Commissions' active role in review.
4. Functions in relation to contaminated land.	Executive - 7 elected Members	Cabinet Member Public Protection and Rural Affairs - subject to restrictions set out in the Executive Procedure Rules
5. The discharge of functions relating to the control of pollution and the management of air quality	Executive - 7 elected Members	Cabinet Member Public Protection and Rural Affairs - subject to restrictions set out in the Executive Procedure Rules.
6. Service of an abatement notice in respect of statutory nuisance.	Executive - 7 elected Members	Director of Community Services under General Scheme of Delegation to Officers - Executive Functions.
7. Passing of a resolution under section 8 that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply to the authority's area.	Executive - 7 elected Members	Director of Community Services under General Scheme of Delegation to Officers - Executive Functions.

Function	DECISION MAKING BODY AND MEMBERSHIP	Delegation of Functions
8. Inspection of the authority's area to detect statutory nuisances.	Executive - 7 elected Members	Director of Community Services under General Scheme of Delegation to Officers - Executive Functions.
9. Investigation of any complaint as to the existence of a statutory nuisance.	Executive - 7 elected Members	Director of Community Services under General Scheme of Delegation to Officers - Executive Functions.
10. Obtaining information under Section 330 of the Town and Country Planning Act 1990 as to interests in land.	Council function	Head of Planning Services and Head of Legal and Democratic Services under General Scheme of Delegation to Officers - Council Functions.
11. Obtaining particulars of persons interested in land under Section 16 Local Government (Miscellaneous Provisions) Act 1976.	Executive and Council functions depending on responsibility for the function for which the information is needed	<p>Full delegation under the General Schemes of Delegation to Officers - Council Functions and Executive Functions:-</p> <p>Head of Legal and Democratic Services - generally.</p> <p>Director of Community Services - in respect of Health and Housing functions only.</p>

Function	Decision making body and Membership	Delegation of Functions
<p>12. Appointment of any individual:-</p> <p>(a) to any office other than an office in which they are employed by the authority;</p> <p>(b) to any body other than</p> <p style="padding-left: 20px;">(i) the authority;</p> <p style="padding-left: 20px;">(ii) a joint committee of two or more authorities</p> <p>(c) any committee or sub-committee, of such a body; and</p> <p>(d) the revocation of any such appointment</p>	<p>General Purposes Committee - 12 elected Members</p> <p style="text-align: center;">“</p> <p style="text-align: center;">“</p> <p style="text-align: center;">“</p> <p style="text-align: center;">“</p>	<p>Full delegation.</p> <p style="text-align: center;">“</p> <p style="text-align: center;">“</p> <p style="text-align: center;">“</p> <p style="text-align: center;">“</p>

3. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

(a) CABINET RESPONSIBILITIES

PORTFOLIO: LEADER - Councillor Dr M Gardner
6 Wayside Crescent
Harrogate
HG2 8NJ
Member for Pannal Ward

Main Role

To provide political leadership in relation to citizens, stake holders and partners in the overall co-ordination of Council policies, strategies and service delivery.

To lead in the development of local and regional policy and strategic partnerships.

To promote the core values and objectives of the Council.

To develop in accordance with corporate priorities strategies relating to community consultation/citizen participation.

To chair Cabinet

Duties and Responsibilities

1. To represent and act as the representative of the Council and to lead in developing strategic partnerships with agencies, citizens and stakeholders in relation to the delivery of strategic objectives and the provision of services to citizens.
2. To be the Cabinet Member having overall strategic responsibility for decision making in the following areas:-
 - a. Policy initiatives including publication of the Council's Corporate Plan.
 - b. Best Value, Comprehensive Area Assessment and any successor external assessment frameworks.
 - c. Communicating the Council's vision and values and objectives to Councillors, staff and the Unions and to citizens, partners and stakeholders.
 - d. Leeds City Region and co-ordination of related regeneration issues.
 - e. Business Tourism via HIC Board.

- f. Community Leadership – including the Council’s relationship with the Voluntary and Community Sector and the Local Strategic Partnership.
 - g. Policy in respect of the Harrogate International Centre and the Council’s relationship with the Management Board.
 - h. Strategic risk management.
 - i. Civil Contingencies.
 - j. Political Leadership of the Council’s Business Transformation Programme (innovate@harrogate).
3. To take up corporate membership of any appropriate body or organisation whose objectives are considered to be beneficial to the pursuit of the Council’s own initiatives.
 4. To be the Cabinet Member having overall responsibility for strategic risk management and decision-making in respect of Executive functions and operational risk management in respect of functions within this portfolio.
 5. Implementation of an effective performance management framework including co-ordinating and monitoring the effective implementation of corporate policies through:
 - a. Strategic monitoring of the content and production of the annual local performance plan.
 - b. Leading on the setting of corporate objectives and performance indicators.
 - c. Establishing the implementation and monitoring of systems, in liaison with other Cabinet Members, to ensure that management and departmental performance plans are consistent with corporate strategies and policies.
 6. To submit proposals to the Cabinet on the medium term financial strategy capital programme and annual budget allocations.
 7. To monitor the implementation of Best Value corporately including:
 - a. Setting performance targets relating to the objectives.
 - b. Ensuring goals and milestones are met.
 - c. Reviewing relevant areas of service provision.
 - d. Developing new policies and strategies.

- e. Ensuring the achievement of agreed Corporate and Service Improvement Plans
- 8. To provide guidance and advice in relation to community planning.
- 9. To consider and report to the Council in respect of any Notice of Motion duly referred.
- 10. To be responsible for preparing budget estimates and draft capital programme and to set charges for services within the ambit of the portfolio following the parameters of the budget strategy fixed by the Council.

PORTFOLIO: FINANCE AND RESOURCES -

Councillor A Skidmore
3 All Saints Square
Ripon
HG4 1FN
Member for Ripon Spa Ward

Main Role

Co-ordination and planning of corporate resources and performance management.

Co-ordination of the implementation of policies and strategies, especially in relation to cross-cutting issues to achieve a corporate approach.

Duties and Responsibilities

1. To have responsibility for resource planning and management including:
 - a. Employee relations and policies relating to staff employment.
 - b. Equal opportunities policies relating to staff employment.
 - c. The Council's contract processes, including changes to procurement policy and the approved list of contractors.
 - d. The strategic implementation of IT.
 - e. Corporate land use and asset management.
 - f. Monitoring expenditure.
 - g. Implementing audit plans.
2. To have responsibility for monitoring the implementation of Best Value in those decision-making areas listed in 4 below, including:
 - a. Setting performance targets relating to the objectives
 - b. Ensuring goals and milestones are met
 - c. Reviewing relevant areas of service provision
 - d. Developing new policies and strategies if necessary
 - e. Assuming responsibility for the achievement of agreed Service Improvement Plans relating to the areas of responsibility included within this portfolio-
 - f. Strategic Procurement

3. To ensure that systems exist to appraise the performance of senior managers.
4. To be the Cabinet Member having overall responsibility for operational risk management, procurement and decision-making in the following areas:
 - a. Information Technology
 - b. Human Resources
 - c. Finance matters
 - d. Legal issues
 - e. Asset Management
 - f. Central Services
 - g. Central Transport
5. To have overall responsibility, at the political level, for ensuring that financial, staffing and other resources are adequate both in the functions listed at 4 above and generally across the Authority to meet the Council's obligations, aims and objectives.
6. To work together with other Cabinet Members to achieve the Council's aims and objectives.
7. To consider and report to the Council in respect of any Notice of Motion duly referred.
8. To be responsible for preparing budget estimates and draft capital programme and to set charges for services within the ambit of the portfolio following the parameters of the budget strategy fixed by the Council.

PORTFOLIO: HOUSING –

Councillor Robert Windass
12 Harness Lane
Boroughbridge
YO51 9PF
Member for Boroughbridge Ward

Main Role

Co-ordinating the activities of Council.

Duties and Responsibilities

1. To have responsibility for monitoring the implementation of Council objectives relating to housing by:-
 - a. Setting performance targets relating to the objectives.
 - b. Ensuring goals and milestones are met.
 - c. Reviewing relevant areas of service provision.
 - d. Developing new policies and strategies if necessary.
 - e. Assuming responsibility for the achievement of agreed Service Improvement Plans relating to the areas of responsibility included within this portfolio.
2. To be the Cabinet Member having overall responsibility for operational risk management, procurement and decision-making for housing both public and private sector, within the Borough including:
 - (a) To undertake all functions relating to Council Housing Management
 - (b) Homelessness
 - (c) All issues relating to management of the Housing Revenue Account
 - (d) To provide political management in respect of affordable housing.
3. To work together with other Cabinet Members to achieve the Council's aims and objectives.
4. To consider and report to the Council in respect of any Notice of Motion duly referred.
5. To be responsible for authorising the submission of applications for planning permission and other similar applications in relation to housing land of the authority.
6. To be responsible for preparing budget estimates and draft capital programme and to set charges for services within the ambit of the portfolio following the parameters of the budget strategy fixed by the Council.

**PORTFOLIO: PUBLIC PROTECTION AND
RURAL AFFAIRS -**

Councillor L T Ellington
1 Kell Grange
Ripon Road
Pateley Bridge
Harrogate
HG3 5NJ
Member for Nidd Valley

Main Role

Co-ordinating the activities of the Council's objectives relating to Public Protection and Rural Affairs.

Duties and Responsibilities

1. To have responsibility for monitoring the implementation of Council objectives relating to public protection and rural affairs by:-
 - a. Setting performance targets relating to the objectives.
 - b. Ensuring goals and milestones are met.
 - c. Reviewing relevant areas of service provision.
 - d. Developing new policies and strategies if necessary.
 - e. Assuming responsibility for the achievement of agreed Service Improvement Plans relating to the areas of responsibility included within this portfolio.

2. To be the Cabinet Member having overall responsibility for operational risk management, procurement and decision-making in the following areas:-
 - (a) Environmental Protection including Public Health Complaints, Dog Wardens, Air Quality, Contaminated Land, Industrial Pollution Control and Private Water Supplies
 - (b) Community safety including the Crime and Disorder Reduction Partnership
 - (c) Operation of CCTV
 - (d) Cemeteries and Crematoria (including closed church yards)
 - (e) Food Safety including Infectious Disease Control and Public Water
 - (f) Fixing the maximum hire charges for Hackney Carriage and Private Hire Vehicles

- (g) Outdoor and Farmers Markets
 - (h) Any other matters closely related to areas (a) - (g) above not being functions which, by law, are not to be the responsibility of the executive
3. The Cabinet members role in respect of rural affairs is as follows:-
- i) To lead on any executive matter having a major impact on the rural areas (or any part hereof) to a greater extent than on other parts of the District which is either:-
 - a) Outside the portfolio of any other Cabinet Member or
 - b) Is of a cross-cutting nature significantly impacting upon two or more portfolios.
 - ii) To ensure that rural interests and concerns are understood and taken into account at all levels in decision making by or on behalf of the Council or Executive.
 - iii) To manage the Council's relationship with the Nidderdale Area of Outstanding Natural Beauty Joint Advisory Committee and determine Executive matters arising from the existence of the Area of Outstanding Natural Beauty.
4. To work together with other Cabinet Members to achieve the Council's aims and objectives.
5. To consider and report to the Council in respect of any Notice of Motion duly referred.
6. To be responsible for preparing budget estimates and draft capital programme and to set charges for services within the ambit of the portfolio following the parameters of the budget strategy fixed by the Council.
7. See also Local Choice Functions at Section 1.

Note: For the purposes of this Cabinet portfolio "Rural Area" shall mean any of the sixteen single member wards of the Harrogate District outwith the urban areas of Harrogate, Knaresborough and Ripon.

**PORTFOLIO: DEPUTY LEADER AND
CABINET MEMBER FOR
CULTURAL SERVICES**

Councillor A Alton
Deighton Lodge
Kirk Deighton
Wetherby
LS22 4EB
Member for Claro Ward

Main Role

Co-ordinating the activities of the Council which contribute toward Corporate objectives in respect of Cultural Services.

Duties and Responsibilities

1. To have responsibility for monitoring the implementation of Council objectives relating to Cultural Services by:-
 - a. Setting performance targets relating to the objectives
 - b. Ensuring goals and milestones are met
 - c. Reviewing relevant areas of service provision
 - d. Developing new policies and strategies if necessary
 - e. Assuming responsibility for the achievement of agreed Service Improvement Plans relating to the areas of responsibility included within this portfolio.
2. To be the Cabinet Member having overall responsibility for operational risk management, procurement and policy issues in decision-making in the following areas:-
 - a. Sport and Recreation (including all facilities and associated projects)
 - b. Parks and Open Spaces (including woodlands and the Stray)
 - c. Museums and Arts
 - d. Community Centres
 - e. Holiday & leisure Tourism
 - f. Any matters arising under the Harrogate Stray Act 1985 or Harrogate Borough Council Act 1986
3. To be Member champion for equality and diversity (in capacity as Deputy Leader).
4. To work together with other Cabinet Members to achieve the Council's aims and objectives.

5. To consider and report to the Council in respect of any Notice of Motion duly referred.
6. To be responsible for preparing budget estimates and draft capital programme and to set charges for services within the ambit of the portfolio following the parameters of the budget strategy fixed by the Council.
7. See also Local Choice functions at Section 1.

**PORTFOLIO: PLANNING,
TRANSPORT AND
ECONOMIC
DEVELOPMENT**

Councillor Don Mackenzie
4 Firs Drive
Harrogate
HG2 9HB
Member for Harlow Moor

Main Role

To be the political focus and driving force for the preparation and continual updating of the Development Framework (the "Development Plan").

To act as guardian of the Development Plan and ensure that it is consistently applied to development control decisions.

To coordinate the Council's activities towards achieving Council objectives relating to all planning, building control, transport and economic development issues.

Duties and Responsibilities

1. To have responsibility for monitoring the implementation of the Council Objectives relating to Planning and Transport issues by:-
 - a. Setting performance targets relating to the objectives.
 - b. Ensuring goals and milestones are met.
 - c. Reviewing relevant areas of service provision.
 - d. Developing new policies and strategies if necessary.
 - e. Assuming responsibility for the achievement of agreed Service Improvement Plans relating to the areas of responsibility included within this portfolio.

2. To be the Cabinet Member having overall responsibility for operational risk management, procurement and policy issues in decision-making for all aspects of Planning, Transport and Economic Development including:-
 - (a) Preparation and formal modification of development plan policies and proposals for approval by Council prior to publication/submission stage and formal adoption by the Council.
 - (b) Adoption of Conservation Areas
 - (c) Schemes of grant aid
 - (d) Dangerous buildings and building regulations
 - (e) Conservation and management of the countryside
 - (f) Areas of special control for advertisements
 - (g) Simplified planning zone schemes
 - (h) Consultations on draft legislation, circulars and planning policy statements, proposals for SSSI's and other national designations

- and plans of adjacent planning authorities except those forming part of the Development Plan
- (i) Approval of Development Plan Documents for consultation prior to publication/submission draft stage
 - (j) Authority to amend Statutory Plans in the light of the Secretary of State's response
 - (k) Design guidance – issue for consultation and final approval for publication
 - (l) Approval of Local Development Documents which do not form part of the development plan
 - (m) Parking policy and operation
 - (n) Concessionary fares
 - (o) Parish, Christmas and decorative lighting
 - (p) Management of any issues arising from the Land Charges Register or local searches
 - (q) Economic Development
 - (r) *Traffic Congestion
 - (s) *Innovative Public Transport Schemes

***Note: This portfolio will undertake any consultation or lobbying role required in order to meet Council objectives and/or concerns relating to these issues.**

3. The Cabinet Member must refer to the Cabinet:-
 - (a) proposals for the acquisition or disposal of land for planning and parking purposes;
 - (b) policies and proposals which form part of the Development Plan including those prepared by other authorities or bodies.
4. To work together with other Cabinet Members to achieve the Council's aims and objectives.
5. To consider and report to the Council in respect of any Notice of Motion duly referred.
6. To be responsible for preparing budget estimates and draft capital programme and to set charges for services within the ambit of the portfolio following the parameters of the budget strategy fixed by the Council.
7. To be responsible for authorising the submission of applications for planning permission and other similar applications except for those involving the Housing Land of the Authority.
8. See also further delegation under Planning Scheme of Delegation relating to this Cabinet Member.

PORTFOLIO: CABINET MEMBER FOR ENVIRONMENT

Councillor M Harrison
18 Sorrel Grove
Killinghall Moor
Harrogate
HG3 2XE
Member for Killinghall

Main Role

Co-ordinating the activities of the Council which contribute towards the achievement of Council objectives relating to the protection of the Environment.

Duties and Responsibilities

1. To have responsibility for monitoring the implementation of Council objectives relating to the Environment by:-
 - a. Setting performance targets relating to the objectives.
 - b. Ensuring goals and milestones are met.
 - c. Reviewing relevant areas of service provision.
 - d. Developing new policies and strategies if necessary.
 - e. Assuming responsibility for the achievement of agreed Service Improvement Plans relating to the areas of responsibility included within this portfolio.
2. To be the Cabinet Member having overall responsibility for operational risk management, procurement and decision making in the following areas:-
 - a) Environmental Strategy
 - b) Waste Management and Recycling
 - c) Street Cleansing Services and litter save that the designation of litter control areas under Section 90 of the Environmental Protection Act 1990 shall be determined by Cabinet
 - d) Energy Efficiency Matters in the following areas:-
 - (i) Promotion and encouragement of good practice and innovation across the District
 - (ii) The Monitoring of Borough Council policy, practice and performance subject to the responsibility for implementation remaining with the Cabinet Member responsible for the particular property or properties under consideration. Any conflict arising from these respective interests to be determined by Cabinet

3. To work together with other Cabinet Members to achieve the Council's aims and objectives.
4. To consider and report to the Council in respect of any Notice of Motion duly referred.
5. To be responsible for preparing budget estimates and draft capital programme and to set changes for services within the ambit of the portfolio following the parameters of the budget strategy set by Council.

(b) RESPONSIBILITY FOR EXECUTIVE FUNCTIONS - APPEALS AGAINST EXECUTIVE DECISIONS

Where a right of appeal against an executive decision is vested in the Council either finally or as part of an appeals mechanism, then the appeal lies to an Appeals and Licensing Panel of the Licensing Committee.

The Panel will be composed of three elected Members none of whom will be a Cabinet Member.

(c) PLANNING SCHEME OF DELEGATION

The scheme of delegation for the discharge of planning powers and duties has been prepared in accordance with Council Policy that decisions should be taken at the lowest appropriate level of delegation. This is in order to ensure that decisions are taken with all due speed and efficiency. Parts of this Scheme of Delegation relate to the Executive as follows:-

- Part G - Delegation to Officers
- Part H - Delegation to Head of Planning Services in consultation with Planning Cabinet Member
- Part I - Matters which may be referred by the Cabinet Member for consultation

PART G

DELEGATION TO OFFICERS

In accordance with Sections 14 and 15 of the Local Government Act 2000, the matter listed in **Part G** is delegated by the Cabinet to the Officer specified.

LISTED MATTERS

Powers of Entry	Head of Planning Services or Solicitor to the Council to exercise the powers of the Council under Sections 214B, 214C and 214D and 324 and 325 of the Town and Country Planning Act 1990 Sections 88, 88A and 88B of the Planning (Listed Buildings and conservation Areas) Act 1990 through officers specifically authorised to investigate the particular matter.
Objections to HGV Operators' Licences	To authorise the Solicitor to the Council following consultation with the Chairman of District Development Sub-Committee, Chairman of the Planning Committee and the local Member to submit objections or

representations to the Traffic Commissioner on applications for Goods Vehicle Operators Licences.

Grants -

Authorisation of grant on grant and project schemes as follows:-

Town Schemes, Historic Buildings, Environmental, Enhancement, Countryside

Forward Planning principal Officer £1,000 max
Chief Planner (Forward Planning) £3,000 max
Head of Planning Services No limit

Building Control

Head of Planning Services is authorised to undertake the following:

Service of notices of work in contravention of Building Regulations.

To grant or refuse applications for relaxation/dispensation of the Building Regulations.

To pass or reject full plans deposited under the Building Regulations.

To accept or reject initial notices submitted by approved inspectors/developers.

To serve notice under Section 81 of the Building Act 1984 (Power to serve notice about demolition)

To issue Completion Certificates in accordance with Regulation 15 of the Building Regulations 1991.

To inspect regulated stands in accordance with Section 35 of the Fire safety and Safety of Places of Sport Act 1987.

Clean Air Act 1993, Section 16 – Power to reject plans where chimney etc will be a nuisance etc.

To serve notice under section 78 of the Building Act 1984 (Dangerous Building – Emergency Measures).

To issue street/postal numbers in respect of new houses/buildings in accordance with Section 64 of the Towns Improvement Clauses Act 1847

(houses to be numbered and streets named).

To issue Regulation Certificates in accordance with Regulation 13A of the Building Regulations 1991.

To act as the Council's "Appointing Officer" to make such appointments as are required under Section 10(8) of the Party Wall etc Act 1996.

PART H

DELEGATION TO HEAD OF PLANNING SERVICES IN CONSULTATION WITH THE CABINET MEMBER

In accordance with Section 15 of the Local Government Act 2000 as amended the matter listed in Part H is delegated to the Head of Planning Services for determination in consultation with the Cabinet Member for Planning.

LISTED MATTERS

Building Conservation

Requests to the Department for Culture, Media and Sport to "spot list" buildings which appear to be of listable quality. (Addresses of buildings spot listed by the Head of Planning Services under this delegated authority will be notified immediately to the relevant Ward Councillor and Parish Council).

Environmental Impact Assessment

The determination whether Environmental Impact Assessment (EIA) is required on each and every Schedule 2 application for planning permission.

The determination of developers formal applications for a "Screening Opinion" as to whether a particular Schedule 2 development will require Environmental Impact Assessment (EIA).

The determination of developers formal applications for a "Scoping Opinion" on the content of an Environmental Statement (EIA).

PART I

The Cabinet Member for Planning is entitled to consult the relevant Committees on the following matters and any other matter the Cabinet Member so decides.

LISTED MATTERS

Planning Committee	Mineral extraction and waste disposal (tipping).
District Development Sub-Committee	Non statutory plans, policies and guidance promoted by this and other authorities and by Government.
District Development Committee	Statutory local plans not forming part of the development plan of the District.

(d) **RESPONSIBILITY FOR EXECUTIVE FUNCTIONS GENERAL SCHEME OF DELEGATION TO OFFICERS – EXECUTIVE FUNCTIONS**

Pursuant to its powers contained in Sections 14 and 15 of the Local Government Act 2000, the Executive hereby arranges for certain of its functions to be discharged by Officers of the Council in the manner, to the extent and subject to the conditions and reservations set out below. This Scheme became operative on 11 October 2001. The Scheme is without prejudice to any separate arrangements for functions of Council.

Further General Limitations

1. The Executive reserves to itself the right at any time (but without prejudice to any action already taken under these arrangements) to amend or revoke these arrangements.
2. The functions to be discharged by Officers are those set out in Schedule 2. The Officers by whom those functions are to be discharged are those specified in the Schedule. Those Officers may arrange in writing for functions to be discharged by their subordinate staff.
3. An Officer shall not incur, nor commit the authority to, any expenditure for which there is no estimate provision capital, revenue or agency.
4. So far as any function is itself exercisable under an agreement under Section 19 of the Local Government 2000 with another authority (an “agency” agreement) it shall be discharged strictly in accordance with the terms of such agency agreement.
5. Any matter which, in the judgement of the Officer exercising powers under this Scheme, is likely to give rise to unusual difficulty or the circumstances of which are likely to give rise to controversy or other extraordinary consideration, shall be dealt with in consultation with the relevant Cabinet Member; and, if the Cabinet Member so directs, shall be referred to Cabinet for determination or consideration.
6. During the period between the local election and the Annual Meeting, subject to their remaining in office, consultations should be with the relevant Cabinet member or such other Member of the Executive as provided for.

**SCHEDULE 2
RESPONSIBILITY FOR EXECUTIVE FUNCTIONS –
SCHEME OF DELEGATION TO OFFICERS**

THE CHIEF EXECUTIVE

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
1. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control or which are necessary for the proper performance of the terms of appointment.			
2. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts.			
3. To appoint private consultants in all professional/technical disciplines as required to supplement in-house staff resources to ensure the timely implementation of approved capital works programmes and other major work.			
4. To determine the validity of claims arising from damaged personal property and to approve such claims where appropriate		Director of Resources who will seek the approval of the Secretary of State in appropriate cases	
5. To have discretion to approve or disapprove applications for car loans to staff, the amount to be loaned and the period of repayment.			To be reported annually to the appropriate Cabinet Member.
6. Authority to extend sickness payments to those cases described in the policy of 19.07.00			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
7. To co-ordinate twinning arrangements with Luchon.			
8. To issue to any Director any direction which is considered appropriate in any case where there are reasonable grounds for believing that such Director is so conducting the Council's affairs that there is an actual or prospective breach of Council Policy or that the activities are such that they were likely to embarrass the Council or damage its essential interests.		Leader of the Council and the Chair of the relevant Scrutiny Committee.	
<u>RESIDUAL POWER</u>			
9. In the absence of both a Director and the Deputy in absence, to exercise any power delegated to that Director.		Such Officers of that Department as are deemed appropriate and subject to such other requirements for consultation as would apply to the appropriate Director in such a case.	
<u>DELEGATION IN ABSENCE</u>			
10. In the absence or unavailability of the Chief Executive, the powers be exercisable by the Deputy Chief Executive or otherwise by such Officer as the Council may appoint for the purpose in consultation with whichever other Director is appropriate.			

**EXECUTIVE FUNCTIONS DELEGATED BY THE EXECUTIVE TO THE
DIRECTOR OF RESOURCES**

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
1. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control or which are necessary for the proper performance of the terms of appointment.			
2. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts.			
3. To appoint private consultants in all professional/technical disciplines as required to supplement in-house staff resources to ensure the timely implementation of approved capital works programmes and other major work.			
4. To determine the validity of claims arising from damaged personal property and to approve such claims where appropriate		Director of Resources who will seek the approval of the Secretary of State in appropriate cases	
5. To authorise the refusal of applications for financial assistance in those instances where the Council has an established policy not to award grants or where there is no specific provision within the approved budget for the organisation.			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
6. To demand, collect and authorise proceedings for the recovery of the Council Tax or any such successor local tax, national non-domestic rate and the miscellaneous income of the Authority.			
7. To impose penalties on behalf of the Authority as appropriate under the provisions of Schedule 3, paragraph 1 of the Local Government Finance Act 1988.			
8. To determine appeals arising under Sections 23 and 24 of the Local Government Finance Act 1988.			
9. To represent the Council before proceedings in the Valuation and Community Charge Tribunals (and its successor body).			
10. To swear affidavits in connection with bankruptcies/liquidations and to represent the Council at creditors meetings where appropriate.			
11. To determine applications for mandatory and discretionary rate relief under the provisions of Sections 43 and 47 of the Local Government Finance Act 1988.	Any appeal against the decision shall be referred to the Licensing Committee.		
12. To determine applications for hardship under the provisions of Section 49 of the Local Government Finance Act 1988.	Any appeal against the decision shall be referred to the Licensing Committee.		

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
13. In the case of financial assistance to outside organisations to grant approval to commence works "without prejudice" where deemed necessary.			
14. To calculate under Sections 33 and 34 of the Local Government Finance Act 1992 the amount of the Council Tax base for the whole and parts of the Council's area.			
15. To determine applications for locally defined discounts on Council Tax in accordance with Section 13A of the Local Government Finance Act 1992.	1. Individual or Classes of cases up to £100,000 2. Applications above £100,000 to be submitted to Cabinet	Cabinet Member Finance & Resources	Leader to consider appeals under (1) opposite
16. To implement recommendations of properly constituted negotiating bodies recognised by the Council and agreements reached by chief officers who have delegated authority to agree local conditions, which relate to salary and wage levels.			
17. To negotiate with lenders and borrowers and determine amounts, rates of interest and repayment and other terms of long and short term loans.			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
18. To be responsible for providing an adequate and effective internal audit of the Council's accounting records and control systems under Regulation 6 of the 2003 Accounts and Audit Regulations.			
19. To be able to access any documents of the Council held by an officer or member, in so far as they relate to the internal audit of the Council, and to receive any information or explanation from any officer or member considered necessary for this purpose in accordance with Regulation 6 of the 2003 Accounts and Audit Regulations.			
20. To fix the locally determined interest rate for Housing Act Advances under the provisions of the Housing Act 1980.			
21. To implement changes in the Standard National Rate for local authority mortgages as notified under the Housing Act 1985.			
22. To make planning and other applications as relevant for small scale development.			
23. The power to "Opt to tax" Council owned property		Director responsible for the Service provided from relevant land or building(s).	
24. To serve any statutory notice of a minor or routine nature which is not already specifically delegated to other Directors.		The relevant Director	
25. To institute, defend and authorise legal proceedings and to settle such proceedings in the best interests of the Council.	Debt recovery and other matters of a minor or routine nature do not require consultation.	The relevant Cabinet Member.	To be reported at discretion of Solicitor to the Council

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
<p>26. Power to require information as to interests in land (Section 16 of the Local Government (Miscellaneous Provisions) Act 1976).</p>			
<p>27. Where Planning approval to the development of land formerly owned by the Council or any of its predecessor authorities and in respect of which the Council has the benefit of a pre-emption right or a covenant which prevents the land from being used for the purposes for which such approval has been given:-</p> <p>(i) to secure the release of the Covenant for the best obtainable price; or</p> <p>(ii) to take all such steps as may be necessary to enforce it.</p>			
<p>28. That in the event that any notice or any document is required to be signed or certificated urgently and the Officer who is duly authorised in that behalf is unavailable, the Director be empowered to sign any such notice or document on behalf of the Council and certify any document needing certification.</p>			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
<p>29. (a) To apply to the Court for any necessary Order pursuant to Section 77 of the Building Act 1984 where a building is dangerous but immediate action is not required.</p> <p>(b) To take such steps as may be necessary to remove the danger where a building is dangerous and immediate action is necessary.</p>	<p>The service of notice on the owners and occupiers wherever reasonably practicable.</p>	<p>Director of Development Services</p> <p>Director of Development Services</p>	
<p>30. In accordance with the agreed criteria to authorise the free letting of Committee Rooms and the Council Chamber to appropriate Professional and other Local Government Organisations together with appropriate hospitality</p>	<p>To be agreed with relevant Cabinet Member.</p>		
<p>31. To make planning and other applications as relevant for small scale development.</p>	<p>For outline planning permission for housing development sites, up to 0.1 hectares, which have been identified and agreed by the Director of Community Services</p>	<p>Cabinet Member/Ward Member</p>	
<p>32. Authority to administer and make determinations under the provisions of the Housing Benefit and Council Tax Benefit schemes, embodied in Acts, Statutes and Regulations and as amended in future.</p>			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
<p>33. Authority to administer and make determinations in respect of Discretionary Housing Payments as embodied in Acts, Statutes and Regulations (Discretionary Financial Assistance Regulations 2001 – SI 2001/1167) and as amended in future.</p>	<p>An appeal against the decision shall be referred to the Cabinet Member (Finance and Resources)</p>		
<p><u>DELEGATION IN ABSENCE</u></p> <p>34. The powers delegated to the Director of Resources are, in the event of absence or unavailability, exercisable by the deputy in absence or deputy for the purposes of Section 151 (Finance) responsibilities.</p>			

**EXECUTIVE FUNCTIONS DELEGATED TO THE
DIRECTOR OF DEVELOPMENT SERVICES**

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
1. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control within the Department or which are necessary for the proper performance of the terms of appointment.			
2. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts.			
3. To appoint private Consultants in all professional/technical disciplines, as required, to supplement in-house staff resources to ensure the timely implementation of approved Capital Works Programmes and other major work.			
4. To determine the validity of claims arising from damage to personal property and to approve such claims where appropriate.		Director of Resources who will seek the approval of the Secretary of State in appropriate cases.	
5. To approve proposals for the introduction of temporary road closures under the Town Police Clauses Act 1847 where either no objection(s) have been received or there are no outstanding objections.	Any outstanding objections to be considered by the relevant Cabinet Member.	The Ward member(s)	

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
6. To agree street names and numbering/renumbering of properties.		The Ward Member(s)	
7. To give notice and undertake works to deal with dangerous excavations pursuant to section 25 Local Government (Miscellaneous Provisions) Act 1976			
8. Building (Local Authority Charges) Regulations 1998 To vary the scale of charges within the Local Government Association Model Scheme.	Variation by up to plus or minus 10% only	Director of Resources and the relevant Cabinet Member	
9. To agree local terms and conditions for contracted services managed by the Department.			
10. The authority to set and vary charges (in consultation with the Director of Resources) for contracted services managed by the Department.			
11. To implement the Council's agreed economic strategy.			Periodic report to the appropriate Cabinet Member
12. To approve terms for and to do all things necessary to conclude the sale, lease or disposal of Council owned land and property where the consideration or rental does not exceed £25,000.		The relevant Cabinet Member.	The details of the transactions to be reported to Cabinet Member

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
13. To approve terms for the assignment of leases or parts (save where there is an absolute bar), and to approve licences to assign and for changes of use of Council owned properties.			
14. To accept surrenders of or to acquire land or property the consideration for which does not exceed £20,000.			
15. To take enforcement action under the Clean Neighbourhood and Environment Act 2005.			
16. To adjust the price for facilities and activities and within the control of the Department of Development Services; provided that there is no anticipated reduction in overall income.		Cabinet Member and Director of Resources	
17. In the case of financial assistance to voluntary sports organisations, to grant approval to commence works "without prejudice" where deemed necessary.			
18. The determination of grants, awards and prizes within agreed budgets including Centenary grants, arts grants, Starbeck Community Fund, Rural Fund, Sports Grants.			To be reported annually to relevant Cabinet Member
<u>DELEGATION IN ABSENCE</u>			
19. The powers delegated to the Director of Development Services are, in the event of absence or unavailability, exercisable by the Deputy in absence.			

**EXECUTIVE FUNCTIONS DELEGATED TO THE
DIRECTOR OF HARROGATE INTERNATIONAL CENTRE**

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
1. To do all such things as are necessary to give effect to those matters which are described in the Terms of Reference of Harrogate International Centre Management Board.		Harrogate International Centre Management Board.	To Cabinet Half-yearly or at such other times as the Board or Council deem appropriate.
<u>GENERAL</u> 2. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control within Harrogate International Centre or which are necessary for the proper performance of appointment.			
3. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts and in particular:- (i) exempt provisions of SORC 1.4; (ii) Method of Tendering, Open or Selective single tendering and serial tendering (SORC's 5 and 6); (iii) to accept tenders other than the lowest (SORC 9.2).	Up to £500,000 In excess of £500,000 Up to £500,000 In excess of £500,000	(i) HIC Board HIC Board HIC Board	Cabinet Cabinet

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
4. To appoint private consultants in all professional/technical disciplines as required to supplement in-house staff resources to ensure the timely implementation of approved capital works programmes and other major work.			
5. To determine the validity of claims arising from damage to personal property and to approve such claims where appropriate.		Director of Resources who will seek Secretary of State's approval in appropriate cases.	
6. To set and vary charges in respect of all services under Director's control			Annually to HIC Board
7. To promote the resort and entertainment activities of the Council through the media.			
8. Policy aspects of holiday tourism.		(ultimately Cabinet Member and Cabinet as appropriate)	
9. To make planning and other applications as relevant for small scale development.			
<u>DELEGATION IN ABSENCE</u>			
10. The powers delegated to the Director of Harrogate International Centre are, in the event of absence or unavailability, exercisable by the deputy.			

**EXECUTIVE FUNCTIONS DELEGATED TO THE
DIRECTOR OF COMMUNITY SERVICES**

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
<p><u>ALL FUNCTIONS</u></p>			
<p>1. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control within the Department or which are necessary for the proper performance of appointment.</p>			
<p>2. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts.</p>			
<p>3. To appoint private consultants in all professional/technical disciplines as required to supplement in-house staff resources to ensure the timely implementation of approved capital works programmes and other major work.</p>			
<p>4. To determine the validity of claims arising from damage to personal property and to approve such claims where appropriate.</p>		<p>Director of Resources who will seek the approval of the Secretary of State in appropriate cases.</p>	
<p>5. To allocate tenancies in accordance with the Scheme of Allocations, including the signing of relevant tenancy agreements.</p>			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
6. To deal with housing allocation cases not strictly within the scheme of allocation including those which are of a difficult or controversial nature.		To be agreed in conjunction with relevant Cabinet Member.	
7. To deal with the exclusion of applications from the housing register. 8(A) Housing Act 1996 Part VII - To determine homelessness applications. (B) To determine homelessness reviews in accordance with agreed policy.	Any appeal against such determination will be referred to the Homelessness Appeal Panel Any appeal against the determination may be referred to the Homelessness Appeal Panel		
9. To award special case priority for re-housing to applicants from the housing register and to disabled applicants from the housing register for suitable accommodation regardless of any age restriction on that property.		Cabinet Member and Local Ward Member	
10. To administer the Housing and Building Control Act 1984 - Secure Tenancies (Right to Repair) Regulations 1985 and to determine action on individual claims.			
11. To approve applications by tenants for alteration or addition to Council properties	Subject to such conditions as the Council may legally stipulate		
12. To nominate Housing Register applicants to Housing Association stock vacancies.			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
13. To give final authority for eviction proceedings.		Cabinet Member	Ward Member
14. To collect and to authorise recovery of housing rents and other miscellaneous charges.			
15. Local Government Act 1972 - Section 223 To authorise individual officers (other than Solicitors) to attend Court in actions relating to areas of responsibility in connection with possession on grounds of rent arrears.			
16. To do all things that are necessary in relation to the reactive repair, maintenance and improvement of Council dwellings, to ensure continuity of service to housing tenants and in particular:- (a) where a contractor defaults in a given area, a substitute contractor shall, as an emergency arrangement (not lasting more than 6 months), undertake work of a high priority. For these purposes the substitute shall be appointed from those already contracted to the Council for the same type of work. The emergency substitute shall undertake the work at the prevailing percentage addition to the schedule of rates for the most recent contract area that it has previously been awarded;			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
<p>(b) in the event of a contractor defaulting, the Director of Community Services may appoint the contractor offering the next lowest tender percentage for the area, providing it has the capacity to undertake the work at that time; and (c) where an appointment under (b) is proposed Standing Order 9.1 with Respect to Contracts be waived.</p>			
<p>17. To approve applications for the various home repair, improvement, conversion and adaptation that are available under existing legislation in accordance with any further qualifying criteria that have been adopted.</p>	<p>Grants which do not meet the approved criteria and minor variations to the policy in respect of grants for energy efficiency works involving the inclusion of fit dwellings together with home repair assistance applications not involving other elements of disrepair to be agreed with relevant Portfolio Holder.</p>	<p>Relevant Cabinet Member</p>	
<p>18. To determine requests by lenders for Improvement Grant Waivers</p>	<p>In accordance with the Policy Statement set out in Housing Services Committee Minute No 71(84/85)</p>	<p>Relevant Cabinet Member</p>	
<p>19. To make planning and other applications as relevant for small scale development.</p>			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
20. Power to require information as to interests in land (Section 16 of the Local Government (Miscellaneous Provisions) Act 1976).			
21 To adjust the price for facilities and activities and within the Control of the Department of Community Services; provided that there is no anticipated reduction in overall income.		Cabinet Member and Director of Resources	
22 To enforce provisions of the Dogs (Fouling of Land) Act 1996, including the issue of fixed penalty notices in connection with land for which the Director is responsible			
23 To determine applications for all entertainment events taking place in Cambridge Street and in the Market Place, Harrogate and the Market Squares at Knaresborough and Ripon (except for Street Collections and "Miles of Pennies")		Relevant Cabinet Member and the Director of Development Services	
24 The determination of grants, for Parish Council Play Equipment within agreed budgets.			To be reported annually to relevant Cabinet Member
25 Management and operational matters relating to all facilities, projects and activities within the control of the Department of Community Services including the Stray.			
26 To make planning and other applications as relevant for small scale development.			

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
27 To register burials and cremations in accordance with the relevant statutes.			
28 Authority to sign Grant of Exclusive Right of Burial S214 and S216, LGA 1972.			
29 Authority to sign Grant of Exclusive right to erect a plaque in the Garden of Remembrance, Local Authorities Cemeteries Order 1974.			
<p>30 All the powers and duties conferred on the executive by the following statutes where the relevant section in those statutes relates to a power or duty in connection with public health, health and safety, licensing, environmental protection, food safety, water supply and quality, infectious diseases, waste management and health promotion (including the power to issue and serve notices and the power to appoint authorised Officers, including the Council's servants and agents, to enter land and premises to carry out those powers and duties), excluding those powers and duties specifically delegated to other Directors, be delegated to Director of Community Services. Reference to a statute includes that statute as subsequently amended, all statutory instruments made under the statute and re-enactment of the relevant provisions in the subsequent statute.</p> <p>Appeals: appeals against refusal, revocation, the imposition of a condition or variation of a condition on licences etc is to be determined by a panel of the Licensing Committee where the appeal lies within the Council.</p>			
List of Relevant Statute			Any Restrictions
Animal Health Act 1981 Animal Welfare Act 2006 Anti-Social Behaviour Act 2003 Building Act 1984 Clean Air Act 1993 Clean Neighbourhoods and Environment Act 2004 Control of Pollution Act 1974 Crime and Disorder Act, 1998 Criminal Justice and Public Order Act 1994 Dogs (Fouling of Land) Act 1996 Environment Act 1995 Environment and Safety Information Act 1988 Environmental Protection Act 1990 European Communities Act 1972 Food and Environmental Protection Act 1985 Food Safety Act 1990 Food Standards Act 1999 Gambling Act 2005 Guard Dogs Act 1975 Health Act, 2006			

House to House Collections Act 1939 Local Government (Miscellaneous Provisions) Act 1976 Mobile Homes Act 1975 and 1983 Noise and Statutory Nuisance Act 1993 Police, Factories etc. (Miscellaneous Provisions) Act 1916 (Street Collections) Pollution Prevention and Control Act 1999 Prevention of Damage by Pests Act 1949 Public Health (Control of Disease) Act 1984 Public Health Act 1936 Rag Flock and other Filling Materials Act 1951 Refuse Disposal (Amenity) Act 1978 Sports Act 1987 Sunday Entertainments Act 1932 Sunday Observance Act 1780 Sunday Theatre Act 1994 Sunday Trading Act 1994 Video Recordings Act 1984 Water Act 1989 Water Industry Act 1991	
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General condition applying to all the following functions:-

To sign and issue all Notices required to be given and perform such other acts as may be necessary in the exercise of the Executive functions under the following statutory provisions:-

FUNCTION	REPORT
31 <u>Housing Finance Act 1972</u> Sects 27 - 30 Determination of applications for Qualification Certificates.	At Officer's discretion.
32 <u>Housing Act 1985</u> <u>Part II - Provision of Housing Accommodation</u> Sect 54 Entry for the purposes of survey, examination and measurement. Sect 83 Notices of Intention to Seek Possession.	“ “

<u>Part IX - Slum Clearance</u> Sect 319 Entry for the purposes of survey, examination and measurement.	“
<u>Part X - Overcrowding</u> Sect 326 Certificate relating to space standards. Sect 330 Licence permitting persons in excess of permitted number to sleep in dwelling. Sect 332(3) Statement in writing to landlord or occupier of permitted number. Sect 335 To abate overcrowding. Sect 336 Power to require production of rent book. Sect 337 Entry for purposes of survey, examination and measurement. & 340	” “ “ “

Sect 338 & 339	To abate overcrowding.	“
Sect 342	Certificate of suitability of alternative accommodation.	“
<u>Part XI - Houses in Multiple Occupation</u>		
Sect 350	Registration and control schemes.	
Sect 352,353	Requiring execution of works of other	“
398	descriptions.	“
Sect 354-357	Directions to prevent or reduce overcrowding.	“
Sect 358-364	To prevent overcrowding.	“
Sect 365-368	Requiring means of escape from fire.	“
Sect 372,373	Requiring execution of works to make good neglect.	“
Sect 375	Carrying out works in default.	
Sect 395	Entry for the purposes of survey, examination and measurement.	“
FUNCTION		REPORT
<u>Part XII - Common Lodging Houses</u>		
Sect 404	Certificate of Registration of premises.	At Officer's discretion
Sect 411	Power to appoint authorised Officers for the purposes of exercising powers of entry.	“
<u>Part XV - Grants for Works of Improvement, Repair and Conversion</u>		
Part XV	(Save for Sections 494 and 496 below) Determination of estimated expense and amount of grant except in case of mixed hereditaments, temporary dwellings and conversion of non dwellings.	“
Sect 494 & 496	Payment of Mandatory Grants respecting houses in multiple occupation.	
Sect 509	Increases on the grounds of financial hardship in the appropriate % of grant.	“
<u>Part XVI - Assistance for Owners of Defective Housing</u>		
Sect 536	Determination of eligibility for assistance.	“
Sect 537	Determination of form of assistance.	“
Sect 540	Notice of determination.	“
Sect 541	Payment of Grant.	“
Sect 542	Conditions of payment of reinstatement grant.	“
Sect 543	Amount of reinstatement grant.	“
Sect 544	Changes in work of expenditure.	“
Sect 545	Payment of grant by instalments.	“
<u>Part XVII - Compulsory Purchase and Land Compensation</u>		
Sect 600	Entry for the purposes of survey, examination and measurement.	“
<u>Part XVIII - Miscellaneous and General Provisions</u>		

	Sect 606 To report on particular houses or areas. Make official representation about unfit housing.			“
	Sect 615 Requisition for information as to ownership.			“
	Sect 617 Service of Notices.			“
33	<u>Local Government and Housing Act 1989</u> Accept grant funding from the DoE towards the running costs of the Harrogate Stay Put Scheme.			Report progress update on the Stay Put Scheme as part of the Annual Report on Private Sector Housing Activity.
34	<u>Regulatory Reform Act 2001</u> To exercise powers available under the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002			
35	To issue, serve and enforce litter control notices under section 88 and 93 of the Environmental Protection Act 1990		Cabinet Member	
36	To enforce provisions of the Dogs (Fouling of Land) Act 1996, including the issue of fixed penalty notices in connection with land for which the Director is responsible.			
37	To implement measures authorised under Part 6 of the Housing Act 2004 relating to Anti-Social Behaviour and Introductory Tenancies		Leader Cabinet Member for Housing	
38	To implement the remainder of the functions and powers contained in the Housing Act 2004 which in summary are related to:- <ul style="list-style-type: none"> • The Housing, Health and Safety Rating Systems – Part 1 • The licensing of houses in multiple occupation – Part 2 • The selective licensing of 			

<p>other residential accommodation – Part 3</p> <ul style="list-style-type: none"> • The additional control provisions in relation to residential accommodation – Part 4 • House Information Packs Part 5 • The other powers in relation to housing contained in Part 6 (excluding anti-social behaviour and introductory tenancies) • Supplementary powers in Part 7 which include the requirement to keep a register, enforcement, powers of entry and authorisations 			
<p><u>DELEGATION IN ABSENCE</u></p> <p>39 The powers delegated to the Director of Community Services are, in the event of absence of unavailability exercised by the Deputy in absence</p>			

**EXECUTIVE FUNCTIONS DELEGATED TO THE
ASSISTANT CHIEF EXECUTIVE**

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
1. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control or which are necessary for the proper performance of the terms of appointment.			
2. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts.			
3. To appoint private consultants in all professional/technical disciplines as required to supplement in-house staff resources to ensure the timely implementation of approved capital works programmes and other major work.			
4. To determine the validity of claims arising from damaged personal property and to approve such claims where appropriate		Director of Resources who will seek the approval of the Secretary of State in appropriate cases	
<u>DELEGATION IN ABSENCE</u>			
5. The powers delegated to the Assistant Chief Executive are in the event of absence or unavailability, exercisable by the Officer duty authorised to Act			

**EXECUTIVE FUNCTIONS DELEGATED TO THE
DIRECTOR OF INFORMATION & COMMUNICATIONS TECHNOLOGY SERVICES**

FUNCTION	CONDITIONS OR RESERVATIONS	CONSULTEE	REPORT
<p><u>ALL FUNCTIONS</u></p> <p>1. To do all such things as are necessary in relation to all routine matters of day to day administration, management and control within the Department or which are necessary for the proper performance of appointment.</p>			
<p>2. To do all things necessary to give effect to Financial Regulations and Standing Orders relating to Contracts.</p>			
<p>3. To appoint private consultants in all professional/technical disciplines as required to supplement in-house staff resources to ensure the timely implementation of approved capital works programmes and other major work.</p>			

4. **JOINT ARRANGEMENTS**

Neither the Council nor the Cabinet have joint Committees as described in Article 11 with delegated powers.

The following Advisory Committees and Advisory Groups with formal constitutional arrangements have been established. These bodies do not exercise any functions of the Council or the executive, but act as advisory bodies to the Council or the executive.

(i) Nidderdale Area Of Outstanding Natural Beauty - Joint Advisory Committee

- Membership - 12 Councillors of whom up to 6 from Harrogate Borough Council
- 15 representatives of other bodies in the AONB

Local authorities to give priority to elected members with wards in the AONB.

Chair or Vice-Chair to be a Councillor.

Terms of Reference

- (a) To promote awareness and understanding of the Area of Outstanding Natural Beauty for the purposes for which it was designated.
- (b) To advise the local authorities and other bodies on countryside conservation, informal recreation and environmental management issues affecting the AONB.
- (c) To advise on the preparation and implementation of a Management Plan for the AONB.
- (d) To consider and offer advice on development plan policies, proposals and reviews insofar as they relate to the AONB.
- (e) To act as a forum for the discussion of major issues affecting the character of the AONB and, where appropriate, make recommendations.
- (f) To act as a forum where the local authorities can discuss and co-ordinate their activities in the area.
- (g) To agree and monitor an annual programme of work, within resources made available by the constituent bodies and others.

(ii) Action for the Environment

Membership

Members include:

- 2 Councillors: (Cabinet Member for Environment and Cabinet Member for Finance and Resources)
- Environmental Strategy Manager (and other officers as required to address or respond to specific issues)
- Representatives of public, private, voluntary and community organisations covering the environmental interests of the Harrogate District; and individuals with an interest in environmental issues.

The Chair and Vice-Chair are elected annually by Action for the Environment Group members.

Purpose

The Action for the Environment Group brings together key organisations from the public, private and voluntary sectors in order to champion environmental causes throughout the Harrogate District, and to improve the district's environmental wellbeing through a coordinated approach.

Aims

- To help identify key environmental issues and priorities for local environmental policy.
- To help inform the process of Harrogate Borough Council's policy development as regards environmental issues and provide an avenue for views to be fed back to the relevant Council Cabinet Member or Council meeting.
- To be an influential body on the Harrogate District Strategic Partnership and to contribute to the development and implementation of the Harrogate District Sustainable Community Strategy.
- To develop, promote, implement and monitor initiatives and actions, which engage a wide range of organisations and individuals in collaborative work and contribute to the environmental wellbeing of the Harrogate District.

Functions

Group members who attend meetings as representatives of their own organisations should report back to their own organisation and inform the Group of their organisation's news when relevant.

The Group is a member organisation of the Harrogate District Strategic Partnership, and nominates on member to sit on the Partnership's Executive Committee.

The Group will identify two environmental themes each year, to form the basis of two six month campaigns.

The Group will respond to major planning applications in order to suggest environmental improvements where this is deemed appropriate.

5. RESPONSIBILITY FOR PROPER OFFICER FUNCTIONS AND STATUTORY OFFICER DUTIES

1. Proper Officer and Statutory Officer appointments must be distinguished from powers “delegated” to Officers.
Delegated powers -
 - (1) can be confirmed at the Council’s discretion;
 - (2) can be withdrawn or amended;
 - (3) can be made subject to the observance of conditions and/or compliance with Council policy.

2. Under certain statutes and guidance, the Council is required to appoint a proper officer or statutory officer to undertake a specific function. In such cases, the effect of the statutory provision is as follows:-
 - (i) the function can only be dealt with through that Officer;
 - (ii) the function can only be discharged by that Officer in the way prescribed by the statutory provision concerned;
 - (iii) the Council cannot direct the way in which the function is discharged.

3. In the absence of the Proper Officers their powers are exercisable by their Deputy or Deputies in absence or by such Officer(s) as the Proper Officer in writing shall appoint. Deputies other than the usual deputy in absence are indicated in the schedules below.

EXTRACT OF STANDING ORDERS RELATING TO LEADER (Standing Orders 1 and 6)

COUNCIL PROCEDURE RULES (STANDING ORDERS)

1. MEETINGS OF THE COUNCIL

(1) IN A YEAR WHEN THERE IS AN ORDINARY ELECTION OF COUNCILLORS, THE ANNUAL MEETING WILL TAKE PLACE WITHIN 21 DAYS OF THE RETIREMENT OF THE OUTGOING COUNCILLORS. In any other year, the annual meeting will take place in May at such time and place as the Council may fix.

LGA 1972
Sch 12
para 41

(2) THE ANNUAL MEETING WILL:

(i) ELECT THE MAYOR THE COUNCIL;

(ii) ELECT THE DEPUTY MAYOR;

(iii) APPROVE THE MINUTES OF THE LAST MEETING OF THE COUNCIL;

(iv) receive any announcements from the Mayor;

(v) ELECT THE LEADER;

(vi) NOTE THE NUMBER AND NAMES OF THE MEMBERS TO BE APPOINTED TO THE CABINET;

(vii) appoint at least one overview and scrutiny committee, a Standards Committee and such other committees as the Council considers appropriate to deal with matters which are neither reserved to the Council nor are executive functions (as set out in Part 3, Table 1 of this Constitution);

(viii) consider any business set out in the notice convening the meeting.

(ix) decide the allocation of seats on Committees and Sub-Committees to political groups in accordance with the political balance rules; and receive nominations of councillors to serve on each committee and outside body; and

(x) appoint to those committees and outside bodies except where appointment to those bodies has been delegated by the Council or is exercisable only by the executive.

LGA 1972
Sch 12

(3) MEETINGS FOR THE TRANSACTION OF GENERAL BUSINESS OF THE COUNCIL SHALL BE HELD IN EACH

para 2

YEAR AT 5.30 PM AT THE COUNCIL OFFICES, CRESCENT GARDENS, HARROGATE, ON DATES FIXED BY THE COUNCIL OR SUCH OTHER TIME AND PLACE AS MAY BE FIXED BY THE COUNCIL. REFERENCES IN THESE STANDING ORDERS TO THE PRINCIPAL OFFICE MEANS THE OFFICE AT CRESCENT GARDENS

(4) THE PROPER OFFICER WILL GIVE NOTICE TO THE PUBLIC OF THE TIME AND PLACE OF ANY MEETING in accordance with the access to information rules. AT LEAST FIVE CLEAR DAYS BEFORE A MEETING, THE PROPER OFFICER WILL SEND A SUMMONS SIGNED BY HIM OR HER BY POST TO EVERY MEMBER OF THE COUNCIL OR LEAVE IT AT THEIR USUAL PLACE OF RESIDENCE. THE SUMMONS WILL GIVE THE DATE, TIME AND PLACE OF EACH MEETING AND SPECIFY THE BUSINESS TO BE TRANSACTED, AND WILL BE ACCOMPANIED BY SUCH REPORTS AS ARE AVAILABLE.

6. REMOVAL OF LEADER

(1) A motion to remove the Leader of the Council from that position must be by Notice of Motion under Standing Order 10.

(2) In a debate to remove the Leader the standard rules of debate will not apply and the Leader of the Council shall be entitled to speak last. The mover of the motion shall be entitled to a second or closing speech immediately before the Leader of the Council.

(3) The vote required to remove the Leader is a simple majority of those Members present and voting at the meeting. The Leader is entitled to vote on the motion.

Cabinet
Members
removable by
Leader only

(4) No other Cabinet Member may be removed by the Council even by a motion of no confidence or other request for their removal duly passed by the Council. A Cabinet Member may be removed only by the Leader of the Council.

Access to Information Procedure Rules

1. SCOPE

These rules apply to all meetings of the Council, and its committees and public meetings of the Cabinet (together called meetings).

2. ADDITIONAL RIGHTS TO INFORMATION

These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

3. RIGHTS TO ATTEND MEETINGS

Members of the public may attend all public meetings subject only to the exceptions in these rules.

4. NOTICE OF MEETING

The council will give at least five clear days notice of any public meeting by posting details of the meeting at the Council Offices, Crescent Gardens, Harrogate

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection at the designated office at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to councillors) will be open to inspection from the time the item was added to the agenda.

If by reason of special circumstances the chair of a meeting agrees to take an item of business which is not on the agenda, then the chair will announce that fact at the beginning of the meeting and will explain what the item is and the special circumstances which require that it be dealt with as a matter of urgency.

6. SUPPLY OF COPIES

The Council will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars necessary to indicate the nature of the items in the agenda; and
- (c) if the Head of Legal and Democratic Services thinks fit, copies of any other documents supplied to councillors in connection with such an item, to any person on payment of a charge for postage and any other costs.

7. ACCESS TO MINUTES ETC AFTER THE MEETING

The Council will make available copies of the following for six years after a meeting:

- (a) the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the executive, both individual Cabinet Members and Cabinet as a whole. Any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information will not be available;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and
- (d) reports relating to items when the meeting was open to the public.

8. BACKGROUND PAPERS

8.1 List of background papers

The Head of Legal and Democratic Services will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report. This does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9. SUMMARY OF PUBLIC'S RIGHTS

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at Council's main offices Crescent Gardens, Harrogate and available whenever a public meeting takes place. The summary of public rights will be constituted by a copy of these rules being separately available from the rest of this Constitution.

10. EXCLUSION OF ACCESS BY THE PUBLIC TO MEETINGS

10.1 Confidential information – requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Exempt information – discretion to exclude public

The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

10.3 Meaning of confidential information

Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

10.4 Meaning of exempt information

Exempt information means information falling within the following 7 categories (subject to any condition specified under the Qualifications also set out below):

1. Information relating to any individual.
2. Information which is likely to reveal the identity of an individual.
3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
4. Information relating to any consultations or negotiations or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.
5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
6. Information which reveals that the authority proposes:-
 - (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or
 - (b) to make an order or direction under any enactment.

7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of a crime.

In respect of Standards Committee or Sub-Committee of a Standards Committee the following descriptions of exempt information are added:-

- 7A. Information which is subject to any obligations of confidentiality.
- 7B. Information which relates in any way to matters concerning national security.
- 7C. The deliberations of a Standards Committee or of a Sub-Committee of a Standards Committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of Section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.

Qualifications

1. Information falling within paragraphs 1 – 7 above is not exempt if it is required to be registered under
 - (a) the Companies Act 1985;
 - (b) the Friendly Societies Act 1974;
 - (c) the Friendly Societies Act 1992;
 - (d) the Industrial and Provident Societies Acts 1965 to 1978;
 - (e) the Building Societies Act 1986; or
 - (f) the Charities Act 1993.
2. Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992[9].

3. Information which:-

(a) falls within any of paragraphs 1 to 7 above; and

(b) is not prevented from being exempt by virtue of the above qualifications

is exempt information if and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

NOTE: A detailed interpretation of these rules can be found in Part 3 of the Local Government (Access to Information) (Variation) Order 2006 – Statutory Instrument 2006 No. 88.

11. EXCLUSION OF ACCESS BY THE PUBLIC TO REPORTS

If the Head of Legal and Democratic Services thinks fit, the Council may exclude access by the public to reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” together with details of the category of information likely to be disclosed.

12. APPLICATION OF RULES TO THE EXECUTIVE

Rules 13 – 23 apply to the executive and its committees. If the Cabinet or its committees meet to take a key decision then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. A key decision is defined in Article 13.03 of the Constitution.

If the Cabinet or its committees meet to discuss a key decision to be taken collectively, with an officer other than a political assistant present, within 28 days of the date according to the forward plan by which it is to be decided, then it must also comply with Rules 1 – 11 unless Rule 15 (general exception) or Rule 16 (special urgency) apply. This requirement does not include meetings, whose sole purpose is for officers to brief members.

The term “executive decision” refers to a decision relating to an executive function. An executive decision may be taken by a Cabinet Member individually, the Cabinet as a whole, or an officer exercising powers granted to him/her by Cabinet (delegated powers) or exercising statutory powers in relation to an executive function. Some of the rules apply to different types of executive decisions. The meaning of the word “executive” used in these rules or elsewhere in the Council’s Constitution is set out in Article 7 and includes one or more of these possible decision makers.

13. PROCEDURE BEFORE TAKING KEY DECISIONS

Subject to Rule 15 (general exception) and Rule 16 (special urgency), a key decision may not be taken unless:

(a) a notice (called here a forward plan) has been published in connection with the matter in question;

(b) at least 5 clear days have elapsed since the publication of the forward plan; and

(c) where the decision is to be taken at a meeting of the Cabinet or its committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings) above.

14. THE FORWARD PLAN

14.1 Period of forward plan

Forward plans will be prepared by the Leader to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working day of the second month covered in the preceding plan.

14.2 Contents of forward plan

The forward plan will contain matters which the Leader has reason to believe will be subject of a key decision to be taken by the Cabinet, a committee of the Cabinet, individual members of the Cabinet, officers, area committees or under joint arrangements in the course of the discharge of an executive function during the period covered by the plan. It will describe the following particulars in so far as the information is available or might reasonably be obtained:

- (a) the matter in respect of which a decision is to be made;
- (b) where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and details of membership;
- (c) the date on which, or the period within which, the decision will be taken;
- (d) the identity of the principal groups whom the decision taker proposes to consult before taking the decision;
- (e) the means by which any such consultation is proposed to be undertaken;
- (f) the steps any person might take who wishes to make representations to the executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- (g) a list of the documents submitted to the decision taker for consideration in relation to the matter.

The forward plan must be published at least 14 days before the start of the period covered. The Head of Legal and Democratic Services will publish once a year a notice in at least one newspaper circulating in the area, stating:

- (a) that key decisions are to be taken on behalf of the Council;
- (b) that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;

- (c) that the plan will contain details of the key decisions to be made for the four month period following its publication;
- (d) that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- (e) that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the key decisions in the plan;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan is available;
- (g) that other documents may be submitted to decision takers;
- (h) the procedure for requesting details of documents (if any) as they become available; and
- (i) the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

Exempt information need not be included in a forward plan and confidential information cannot be included.

15. GENERAL EXCEPTION TO REQUIREMENT TO GIVE NOTICE IN THE FORWARD PLAN

If a matter which is likely to be a key decision has not been included in the forward plan, then subject to Rule 16 (special urgency), the decision may still be taken if:

- (a) the decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates;
- (b) the Head of Legal and Democratic Services has informed the chair of a relevant overview and scrutiny committee, or if there is no such person, each member of that committee by notice, in writing, of the matter about which the decision is to be made;
- (c) the Head of Legal and Democratic Services has made copies of that notice available to the public at the principal office of the Council; and
- (d) at least 5 clear days have elapsed since the Head of Legal and Democratic Services complied with (a) and (b).

Where such a decision is taken collectively, it must be taken in public subject to the provisions of these rules concerning confidentiality.

16. SPECIAL URGENCY IN CASE OF KEY DECISIONS

If by virtue of the date by which a decision must be taken Rule 15 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant overview and scrutiny committee that the taking of the decision cannot be reasonably deferred. If there is no chair of a relevant overview and scrutiny committee, or if the chair of the relevant overview and scrutiny committee is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

17. REPORTS TO COUNCIL CONCERNING KEY DECISIONS

17.1 When an overview and scrutiny committee can require a report

If an overview and scrutiny committee thinks that a key decision has been taken which was not:

- (a) included in the forward plan; or
- (b) the subject of the general exception procedure; or
- (c) the subject of an agreement with a relevant overview and scrutiny committee chair, or the Mayor or Deputy Mayor under Rule 16;

the committee may require the executive to submit a report to the Council within such reasonable time as the committee specifies. The power to require a report rests with the committee, but is also delegated to the Head of Legal and Democratic Services, who shall require such a report on behalf of the committee when so requested by the chair or any 5 members. Alternatively the requirement may be raised by resolution passed at a meeting of the relevant overview and scrutiny committee.

17.2 Leader's report to Council

The Leader will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out particulars of the decision, the individual or body making the decision, and if the Leader is of the opinion that it was not a key decision the reasons for that opinion.

17.3 Quarterly reports on special urgency decisions

In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

18. RECORD OF DECISIONS OF CABINET

After any meeting of the Cabinet or any of its committees, whether held in public or private, the Head of Legal and Democratic Services will produce a record of every decision taken at that meeting as soon as practicable. The record will include a statement of the reasons for each decision and any alternative options considered and rejected at that meeting.

19. CABINET MEETINGS RELATING TO MATTERS WHICH ARE NOT KEY DECISIONS

All Cabinet meetings will normally be public with press and public excluded only where confidential or exempt information would otherwise be disclosed.

20. PRIVATE MEETINGS OF THE CABINET

The Cabinet has retained the right to call a private meeting if it sees fit but this will be exceptional and attendance and notice both to the public and to councillors will be at the discretion of the Leader. Where the Cabinet meets formally but in private session an officer will be present to record the meeting. If no officer is present to record the meeting then the meeting is not a formal Cabinet meeting and will not be recorded.

21. EXECUTIVE DECISIONS BY INDIVIDUALS

21.1 Reports intended to be taken into account

Where an executive decision maker receives a report which he/she intends to take into account in making any key decision, then he/she will not make the decision until at least 5 clear days after receipt of that report. Individual Cabinet Members will not make any decision until at least five clear days after receipt of any report whether or not it relates to a key decision.

21.2 Publication of reports relating to key decisions

When a report relating to a key decision is given to an individual decision maker, it will also be made publicly available at the same time and forwarded to all Councillors.

21.3 Record of individual decision

As soon as reasonably practicable after an executive decision has been taken by an individual member of the cabinet or a key decision has been taken by an officer, he/she will prepare, or instruct the Head of Legal and Democratic Services to prepare, a record of the decision, a statement of the reasons for it and any alternative options considered and rejected. The provisions of Rules 7 and 8, concerning access to minutes and papers after a meeting, will also apply to the making of decisions by individual Cabinet members. This does not require the disclosure of exempt or confidential information or of advice from a political assistant.

22. OVERVIEW AND SCRUTINY COMMITTEES ACCESS TO DOCUMENTS

22.1 Rights to copies

Subject to Rule 22.2 below, an overview and scrutiny committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Cabinet or its committees and which contains material relating to

- (a) any business transacted at a public or private meeting of the Cabinet or its committees; or
- (b) any decision taken by an individual member of the executive.

22.2 Limit on rights

An overview and scrutiny committee will not be entitled to:

- (a) any document that is in draft form;
- (b) any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or intend to scrutinise; or
- (c) the advice of a political adviser.

23. ADDITIONAL RIGHTS OF ACCESS FOR MEMBERS

23.1 Material relating to previous business

All members will be entitled to inspect any document which is in the possession or under the control of the Cabinet or its committees and contains material relating to any business previously transacted unless

- (a) it contains information falling within paragraphs 1, 2, 4, 5, 7A, 7B or 7C of the categories of exempt information and the councillor in question has no bona fide "need to know"; or
- (b) it contains the advice of a political adviser.

23.2 Material relating to key decisions

All members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession or under the control of the executive which relates to any key decision unless it contains the advice of a political adviser.

23.3 Nature of rights

These rights of a member are additional to any other right he/she may have.

Executive Procedure Rules

1.1 WHO MAY MAKE EXECUTIVE DECISIONS

The Leader may provide for executive functions to be discharged by:

- i) the Cabinet as a whole;
- ii) a committee of the Cabinet;
- iii) an individual member of the Cabinet;
- iv) an officer;
- v) an area committee;
- vi) joint arrangements; or
- vii) another local authority.

1.2 DELEGATION BY THE LEADER

At the annual meeting of the Council, if there is to be a change from the previous municipal year, the Leader will present to the Council a written record of delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

- i) the names, addresses and wards of the people appointed to the Cabinet by the Leader;
- ii) the extent of any authority delegated to Cabinet Members individually, including details of the limitation on their authority;
- iii) the terms of reference and constitution of such Cabinet committees as the Leader appoints and the names of Cabinet Members appointed to them;.
- iv) the nature and extent of any delegation of executive functions to area committees, any other authority or any joint arrangements and the names of those Cabinet Members appointed to any joint committee for the coming year; and
- vi) the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

1.3 SUB-DELEGATION OF EXECUTIVE FUNCTIONS

- (a) Where the Cabinet, a Cabinet Committee or a Cabinet Member is responsible for an executive function, they may delegate further to an area committee, joint arrangements or an officer.
- (b) Unless the Leader directs otherwise, a committee of the Cabinet to whom functions have been delegated by the Leader may delegate further to an officer.
- (c) Where executive functions have been delegated, that does not prevent the discharge of the delegated functions by the person or body who made the delegation.

1.4 THE COUNCIL'S SCHEME OF DELEGATION OF EXECUTIVE FUNCTIONS

- (a) Subject to (b) below the Council's scheme of delegation of executive functions will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Head of Legal and Democratic Services and to the person, body or committee concerned. 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, body, committee or the Cabinet as a whole. The Head of Legal and Democratic Services will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee or area committee, notice will be deemed to be served on that committee when it is served on the chair.

1.5 DEALING WITH CONFLICTS OF INTEREST AND OTHER BARS TO ACTION – DEPUTIES AND SUBSTITUTES

- (a) Where the Leader has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.
- (b) If every member of the Cabinet has a conflict of interest this should be dealt with as set out in Article 9 of this Constitution, ie by dispensation sought from Standards Committee.
- (c) If the exercise of an executive function has been delegated to a committee of the Cabinet, 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 in Part 5 of this Constitution.
- (d) The procedures for deputisation or substitution due to a conflict of interest or other reason are:-

(1) Where in the Procedure Rules, Executive Procedure Rules, Financial Rules, Contracts Rules or any other part of the constitution, the Leader of the Council is required to take any action or make any decision and the Leader is unable to do so by reason of:-

- a. absence from the District for any reason;
- b. ill health;
- c. the requirement to make a declaration of interest by reason of the Members' Code of Conduct at Part 5 of this constitution;
- d. personal or other reasons which preclude the Member concerned from being able to undertake Council business

then the Deputy Leader of the Council shall take any such actions or make any decisions required in the place of the Leader of the Council whether for one item of business (a substitution) or for a period of time (a deputisation).

(2) Where the Deputy Leader of the Council or any other Cabinet Member is required by the said Rules or any other part of this Constitution, to take any action or make any decision and is unable to do so by reason of:-

- a. absence from the District for any reason;
- b. ill health;
- c. the requirement to make a declaration of interest by reason of the Members' Code of Conduct at Part 5 of this constitution;
- d. personal or other reasons which preclude the Member concerned from being able to undertake Council business

then that Cabinet Member shall notify the Leader of the Council who shall immediately appoint another Cabinet Member to carry out the duties of the affected one until their disability from acting has ceased, whether that should be for one item of business (a substitution) or for a period of time (a deputisation).

(3) Where a Member, other than the Leader of the Council, is to act as a substitute or where a deputy is to be appointed under this rule, then the Leader of the Council shall notify the Head of Legal and Democratic Services of that substitution or deputisation. The Head of Legal and Democratic Services shall make and keep a record of each such notification and advise the relevant Chief Officer of the substitution or deputisation. In the event of a deputy being appointed for a Cabinet Member, the Proper Officer will inform the Council in writing of the name of the deputy and the period of the deputisation.

(4) In the event of both the Office of Leader and Deputy Leader being vacant or they are unable to act the arrangements set out at paragraph 7.06(f) of Article 7 – The Executive, apply.

(5) The provisions of this Executive Rule shall also apply to substitute arrangements for Cabinet Member appointments to the outside bodies but only those listed under Section 1(a) of the list of Council Representatives on Outside Bodies relating to Executive Member appointments and substitutions.

(6) In relation to conflicts of interest these rules apply only in circumstances where the bar on action is absolute under the Council's Code of Conduct for Members in Part

5 of this constitution

1.6 CABINET MEETINGS

The Cabinet will meet at least 12 times per year at times to be agreed by the Leader. The Cabinet will meet at the Council's principal office or another location to be agreed by the Leader.

1.7 QUORUM

The quorum for a meeting of the Cabinet, or its committees shall be not less than three members.

1.8 HOW DECISIONS ARE TO BE TAKEN BY THE EXECUTIVE

(a) 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 Part 4 of the Constitution.

(b) Where executive decisions are delegated to a committee of the Cabinet, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Cabinet as a whole.

(c) Decisions of the executive will be made in accordance with the Cabinet Protocol set out in Rule 3 below.

2. FORM AND CONTENT OF THE MEETING

2.1 Chair

The Executive Leader will preside at any meeting of the Cabinet or its committees at which he/she is present, and in the Leader's absence, the Deputy Executive Leader will do so.

2.2 Access

Except as detailed below all Cabinet meetings will be public meetings unless the press and the public are excluded under the Access to Information Rules in Part 4 of the Constitution.

In exceptional circumstances where the nature of the business to be discussed dictates privacy the Cabinet may be called to meet in private session in accordance with Access to Information Procedure Rules in Part 4 of the Constitution. When the Cabinet meets in private session no key decision, as defined by law, may be taken and no key decision may be considered if it is to be taken within 28 days unless the meeting is a briefing for Cabinet Members upon the matter in accordance with Rule 12 of the Access to Information Procedure Rules. Private meetings are at the discretion of the Leader and attendance by non-executive members and access to reports and Minutes will be restricted at the absolute discretion of the Leader. The press and the public have no right of access to private meetings of Cabinet.

2.3 Agenda

At each meeting of the Cabinet the following business will be conducted:

- i) consideration of the minutes of the last meeting;
- ii) declarations of interest, if any;
- iii) matters referred to the Cabinet (whether by an overview and scrutiny committee or by the Council) for reconsideration in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution;
- iv) consideration of memoranda of report from the Overview and Scrutiny Commission or Scrutiny Panel; and
- v) matters set out in the agenda for the meeting, which shall indicate which are key decisions and which are not, in accordance with the Access to Information Procedure Rules set out in Part 4 of this Constitution.

2.4 Putting Items on the Cabinet Agenda

- (a) Subject to the ensuing paragraphs the Leader will decide upon the agenda for the meetings of the Cabinet. He/she may put on the agenda of any Cabinet meeting any matter whether or not authority has been delegated to the executive. The Head of Legal and Democratic Services will comply with the Leader's requests in this respect.
- (b) The Head of Legal and Democratic Services will make sure that an item is placed on the agenda of the next available meeting of the Cabinet where a relevant overview and scrutiny committee or the full Council have resolved that an item be considered by the Cabinet. The Head of Legal and Democratic Services will notify the Chair of the Overview and Scrutiny Commission of the date of the meeting which will consider the reference from the Council or the committee and the Chair will be entitled to attend the meeting and speak to the item.
- (c) Any member of the Council may ask the Leader to put an item on the agenda of the Cabinet meeting for consideration, and if the Leader agrees the item will be considered at the next available meeting. The notice of the meeting will give the name of the Councillor who asked for the item to be considered. The Councillor will be invited to attend the meeting, whether or not it is a public meeting.
- (d) 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 Head of Legal and Democratic Services to call such a meeting in pursuance of their statutory duties.
- (e) In other circumstances, where any two of the head of paid service, chief

financial officer and monitoring officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter which requires a decision, they may jointly include an item on the agenda of a Cabinet meeting. If there is no meeting of the 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.

2.5 Consultation

- (a) All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and the Overview and Scrutiny Commission or Panels and the outcome of that consultation. Reports about other matters 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.
- (b) The executive may consult any committee of the Council upon any matter within the functions of the executive before exercising their decision making powers. This right is exercisable regardless of whether the Overview and Scrutiny Commission or Scrutiny Panel has asked to be consulted or has investigated a particular matter.

3.0 EXECUTIVE POWERS

3.1 Extent of Executive Powers

- a) Subject to (g) below no executive decision whether by the Cabinet Member individually or by the Cabinet may be taken unless it falls within the policy framework and budget set by Council.
- b) The executive does not have decision making powers in relation to any matter which by law or by resolution of the Council has been retained by the Council or falls wholly within the decision making powers of the Council or of any Committee of the Council or within the General Scheme of Delegation to Officers of functions of the Council.
- c) Cabinet Members shall act within the Protocol for the Operation of Cabinet forming part of this Rule.
- d) Subject to other instructions from the Leader of the Council, Cabinet Members are fully empowered to take decisions relating to issues with a financial value below £100,000, individually provided the decision falls wholly or mainly within the parameters of their portfolio. A Cabinet Member must liaise with any Cabinet Member whose portfolio is also partially affected by such a decision.
- e) The Cabinet has granted delegated powers to the Officers in the circumstances set out in the Scheme of Delegation to Officers in relation to Executive Functions in part 3 of this Constitution. In addition, detailed rules on the delegation of power to an Officer, in particular circumstances, to make a

decision are set out at paragraph 7.02 of Article 7 and in the Executive Procedure Rules in Part 4 of this Constitution.

- f) The executive shall consider whether to consult the relevant overview and scrutiny committee
 - i) before recommending a change in the Council policy framework;
 - ii) to identify whether existing policies are effective in achieving the objectives set for them by the Council;
 - iii) on any aspect of policy development within the remit of the committee;
 - iv) on any other issue within the remit of the committee on which the executive needs guidance, advice or support whether on policy formulation or otherwise.

- g) Virement and Supplementary Estimates
 - (i) Cabinet Members have authority to approve proposals from Corporate Management Team to vire monies exceeding £25,000 between departments or between business units within a department.

 - (ii) The Cabinet may approve the use of virement from income or expenditure for the purpose of paying performance bonuses or other emoluments to staff at Harrogate International Centre.

 - (iii) Where proposed expenditure outside budget is of such magnitude that the appropriate Director is able to demonstrate to the satisfaction of the Director of Resources that savings cannot be made in any other budget within the Department and Corporate Management Team cannot identify savings in one or more other Departmental budgets then Cabinet may approve a supplementary estimate of up to £20,000.

3.2 PROTOCOL FOR THE OPERATION OF CABINET

(a) Justification

Generally individual Cabinet Members have full executive powers to act. To attempt to define categories of activity in which the Member cannot act, or cannot act individually in certain circumstances, is fraught with dangers. This cabinet protocol has been devised to delimit the extent of Cabinet Member powers.

Cabinet Members with full powers are more “accountable”, but decisions must be governed both by a requirement for officers to report first and by rules on the need for cabinet confirmation in a variety of cases.

An executive decision, made by a Cabinet member within the terms of this protocol constitutes a final decision authorising officers to act once it has been validated.

(b) Shared Responsibility

Cabinet will make collective decisions when meeting in full Cabinet. Cabinet Members

will share responsibility for individual decisions of all other members of Cabinet. To secure shared responsibility all members of Cabinet will receive all agenda and reports for each others' decision making meetings.

True collective responsibility will apply only where Cabinet has made a decision in private (not exempt) session. This requires that any Cabinet Member who wishes to express reservations or distance themselves in any way from a decision made by Cabinet in private session is expected to tender their resignation to the Leader of the Council immediately.

(c) Collective Decisions

The following issues require a collective decision:

- (i) those reserved by the Cabinet for collective decisions at the beginning of each municipal year;
- (ii) those where the Leader (or Deputy Leader in absence) instructs the individual Cabinet Member to bring them to Cabinet whether on the Leader's or Deputy Leader's own initiative or whether following representations from another Cabinet Member;
- (iii) those which clearly (and significantly) affect two or more portfolios;
- (iv) those above the levels of expenditure agreed by Council in the executive arrangements for individual decisions. Cabinet will decide whether to make the decision or to refer the matter back to the relevant Cabinet Member for decision following discussion in Cabinet;

(d) Cabinet Support

The Cabinet Member should usually take individual decisions but there may be occasions when the Member may feel the need to put an item on the Cabinet agenda in order to take a view from colleagues. The agenda report should identify such issues namely:-

- (i) those instigated by the individual Member, where that Member seeks a cabinet view; and
- (ii) where there is a disagreement between the Cabinet Member and the relevant Chief Officer

(e) Making and Recording of Executive Decisions

- (i) No Cabinet Member shall exercise powers delegated to them to make a decision on a matter unless they have first considered a written report containing:-
 - a. technical advice from the relevant Chief Officer.

b. legal advice from the Solicitor to the Council or an assurance from the Solicitor that no legal issue is involved.

c. financial advice from the Director of Resources or an assurance from the Director that no financial issue is involved.

d. advice from the Head of Paid Service if any member of staff is or may be affected by the decision to be made.

(ii) Decisions should generally be made in the presence of senior officers except in specific circumstances, such as clear urgency, when they must then be recorded by the individual member; and

(a) telephone conversations constitute being “in the presence”;

(b) “senior officers” are Chief Officers, Executive Officers, and others duly authorised by Chief Officers.

(iii) Protocols should be established within each department to ensure the relevant Cabinet Member knows which officers are authorised to make recommendations. Both Cabinet Members and relevant officers should be aware of who is authorised to make recommendations.

(f) (i) It shall be the responsibility of every Cabinet Member, or Officer making executive decisions specifically delegated to them, to ensure the accuracy of the record of the decision taken in accordance with the Protocol on Recording of Decisions set up by the Council for that purpose.

(ii) No decision which a Cabinet Member takes shall be validated unless it is formally recorded and notified to the Head of Legal and Democratic Services and complies with legal requirements under the Access to Information Rules and the Protocol on Recording of Decisions. Recording executive decisions is a statutory duty.

(iii) Decisions of Cabinet Members acting under delegated powers must be notified to the Head of Legal and Democratic Services as soon as possible and in any event within 24 hours of the decision being made and shall be recorded and, if lawful, validated as soon as possible, and in any event within one working day, and published.

(iv) The publication of decisions will accord with the Access to Information Rules at Part 4 of this constitution.

(g) The Final Decision

Apart from those licensing and other decisions where there is a right of appeal indicated in Part 3 of this Constitution and that appeal is to an appeals panel of the Licensing Committee, any final decision on an executive matter will belong to the executive even if the Cabinet refers the issue to the Council for consideration. Whilst the Council can express a view, the final decision must

be made by the executive, provided that the decision is an executive matter and complies with these Rules and all other relevant rules of the Constitution.

3.3 FINANCIAL THRESHOLDS FOR KEY DECISIONS

- (a) The Council has fixed the following thresholds for deciding whether an executive decision is a key decision and therefore needs to be shown in the Forward Plan:-
- (i) Revenue expenditure of £100,000
 - (ii) Savings of £50,000
 - (iii) Capital expenditure of £250,000
 - (iv) Decisions made by the Chief Executive, in exercise of emergency powers only, £300,000
- (b) In calculating whether expenditure is at the threshold level:-
- (i) a decision which commits expenditure for more than one financial year will be aggregated to ascertain the expenditure level;
 - (ii) where expenditure by the Council is pooled with expenditure of other agencies the aggregate figure is not to be used unless the funds from partner agencies will first be paid over to the Council and may therefore properly count as expenditure of the executive;
 - (iii) staffing matters are not executive decisions i.e appointments, redundancies and new posts and any associated costs and savings are accordingly not key decisions;
 - (iv) where a series of decisions is being taken on a major capital project ancillary decisions do not need to be considered key decisions unless the decision to progress the project cannot be made until an ancillary decision has been made and acted upon. This does not include applications for planning permission but does include, for example, expenditure related to applications for grant funding to support projects which would not otherwise progress.
- (c) Savings are deliberate cuts in a budget not underspends against a budget. Savings which will accumulate over time will not be aggregated to ascertain the level of saving. The saving in the first financial year alone is to be used.
- (d) Income is not a saving and is to be disregarded for this purpose, but may involve making a key decision under 3.4 below.

3.4 OTHER THRESHOLDS FOR KEY DECISIONS

The Council has decided that in deciding whether an executive decision may be a key decision regard will be had to the effect on communities living or working in one ward of the District. If the effect might or will be significant on communities living or working in one ward, then it is to be treated as a key decision.

3.5 REPORTS OF STATUTORY OFFICERS

(a) Where the Monitoring Officer or Chief Finance Officer intervene in an executive action under their statutory powers then all action to which the report relates must be suspended until the report has been considered by the Cabinet.

(b) If the Overview and Scrutiny Commission decides, having seen the report of the Monitoring Officer or Chief Finance Officer that they wish to hold a short inquiry prior to the consideration of the report by the Cabinet, the Cabinet shall delay consideration of the report until they receive the memorandum of report of the Overview and Scrutiny Commission which shall be no more than 28 days from the date of issue of the report by the Monitoring Officer or Chief Finance Officer.

(c) After considering the report of the Monitoring Officer or Chief Finance Officer the Cabinet must report in writing to the Council and the Monitoring Officer or Chief Finance Officer explaining what action, if any, is to be taken in consequence of the report and the reasons for that action or for no action.