

## **SECTION 2: THE CABINET AND EXECUTIVE FUNCTIONS**

### **1. The Leader and Deputy Leader of the Council**

#### **1.1 Appointment and Term of Office**

- 1.1.1 The Leader is elected by the Council and holds office for a four-year period starting on the day of their election as Leader at an Annual Meeting of the Council, unless their term of office as a Councillor is shorter, in which case the term of office as Leader will be the same as their term of office as a Councillor.
- 1.1.2 The Leader's period of office will cease at an earlier date if they
- i. resign from the office; or
  - ii. are no longer a Councillor; or
  - iii. are removed from office by resolution of the Council.
- 1.1.3 If there is a vacancy in the position of Leader, the Council will elect a Leader at the first meeting following such vacancy.

#### **1.2 Functions of the Leader**

- 1.2.1 The Leader is responsible for those functions which are not the responsibility of any other part of the Council, whether by law or under this Constitution.
- 1.2.2 The Leader shall be responsible for producing and maintaining the Scheme of Cabinet Delegation set out in this Section of the Constitution detailing who will discharge functions.
- 1.2.3 Only the Leader will exercise the following functions and those functions reserved to them in the Cabinet Scheme of Delegation: -
- i. appointment of the Deputy Leader;
  - ii. appointment of the Cabinet; and the
  - iii. allocation of portfolio responsibilities
- 1.2.4 The Leader will chair any meetings of the Cabinet.

#### **1.3 The Deputy Leader**

- 1.3.1 The Deputy Leader will be a Councillor appointed to the position by the Leader.
- 1.3.2 The Deputy Leader will hold office until the end of the term of office of the Leader, or until: -
- i. they are removed from office by decision of the Leader;
  - ii. they resign from the office; or
  - iii. they are no longer a councillor
- 1.3.3 If for any reason the Leader is unable to act, or the office of the Leader is vacant, the Deputy Leader must act and exercise all functions reserved to the Leader in their absence.

1.3.4 If for any reason the Leader and Deputy Leader are unable to act, or their offices are vacant, the remaining Cabinet Members may act collectively or appoint an interim Leader.

## **2. The Cabinet**

2.1 The Cabinet will discharge all Cabinet functions (Executive functions). These are the functions which are not the responsibility of the Council, a Committee or any other part of the Council.

2.2 The Cabinet also discharges those 'local choice' functions set out in Schedule 2 of the Local Authorities (Functions and Responsibilities (England) Regulations 2000 (as amended).

2.3 The Cabinet comprises the Leader and Deputy Leader along with no more than nine other Councillors appointed to the Cabinet by the Leader.

2.4 The term of office of a Cabinet Member will be the same as for the Leader unless the Cabinet Member: -  
i. resigns from office; or  
ii. is no longer a Councillor; or  
iii. is removed from office, either individually or collectively, by decision of the Leader.

2.5 The portfolios of areas of responsibility of Cabinet Members (if any) for which they are delegated authority in accordance with the Cabinet Scheme of Delegation are allocated by the Leader.

2.6 The Cabinet is responsible for the preparation of the Council's Forward Plan and those functions reserved to it as set out in paragraph 5.4 below.

2.7 The Cabinet can establish executive committees, chaired by the relevant Portfolio Holder, to which the Cabinet can appoint non-voting advisory members; subject to the adoption by Cabinet of an executive committee protocol which all executive committees must adhere to.

2.8 The proceedings of the Cabinet, including those of any of its Sub-Committees, shall be in accordance with the Cabinet Procedure Rules set out in Part D Section 2 of this Constitution.

## **3. Cabinet Member Portfolio Holders and their Portfolios**

3.1 The Cabinet comprises eight portfolio holders including the Leader and Deputy Leader. The Leader of the Council's largest opposition group is a Cabinet Member with voting rights but without portfolio.

3.2 The eight portfolios are: -  
i. Strategy, Performance & Finance (held by the Leader)

- ii. Heritage, Culture and the Arts (held by the Deputy Leader)
- iii. Climate Change
- iv. Biodiversity and Environmental Services
- v. Sustainable Economic Development
- vi. Housing
- vii. Health, Wellbeing and Leisure
- viii. Community Safety and Community Development

3.3 The functions which fall within the portfolios and for which the Leader has delegated responsibility and decision-making to the portfolio holders in accordance with the Cabinet Scheme of Delegation (below at paragraph 5) are set out below.

#### **Portfolio for Strategy, Performance & Finance**

- Development and implementation of the Council's Community Plan
- Representing the interests of the Council and the wider community on strategic partnerships such as the Economic Prosperity Committee, East Midlands Councils and East Midlands Combined Authority (once established)
- Budget strategy, budget setting and financial management
- Local taxation and housing benefits
- Assets/facilities management, including the Council's commercial property, compliance, acquisitions and disposals of Land, car parks and the Council's lorry park
- Commercialisation
- Internal and external communications and media relations
- Customer experience and insight
- Information and Communications Technology (ICT) including digitalisation
- Information Governance and Data Protection
- Building and maintaining positive relationships with and between elected Councillors and Officers

#### **Portfolio for Heritage, Culture and the Arts**

- Championing and promoting the arts, culture, and heritage
- Oversight of major projects relating to heritage and culture including membership of delivery boards where relevant
- Equality and diversity
- Maximising access to Newark and Sherwood's cultural and heritage facilities, with a particular focus on young people and specific communities
- Marketing and promotion of Newark and Sherwood as a visitor destination including Sherwood Forest
- Oversight of the Palace Theatre, National Civil War Centre & Newark Castle
- Arts development
- Developing opportunities to maximise the visitor offer linked to Sherwood Forest

### **Portfolio for Climate Change**

- Oversight of delivery of the Climate Change action plan
- Energy generation, energy management and tackling fuel poverty
- Waste collection and recycling
- Fleet management and maintenance
- Air Quality

### **Portfolio for Biodiversity and Environmental Services**

- Biodiversity and conservation
- Oversight of the Council's Tree Strategy, tree maintenance and tree planting programme
- Maintenance and enhancement of parks and open spaces, including oversight of the Council's Open Spaces Strategy
- Public engagement in relation to the natural environment
- Street cleansing
- Removal of graffiti and fly-tipping
- Land contamination

### **Portfolio for Sustainable Economic Development**

- Planning Policy, Development Management and building control
- Oversight of the Council's Local Development Framework and associated plans
- Business liaison and support
- Upskilling the local community and developing links with schools, further and higher education
- Inward investment and the creation of new employment opportunities
- Regeneration and development of town centres
- Oversight of the Town's Fund, Levelling Up, Shared and Rural Prosperity funding programmes
- Transportation and major infra-structure improvements
- Built heritage

### **Portfolio for Housing**

- Oversight of the Council's landlord functions, including housing repairs and investment, building safety, tenancy and estate management, planned maintenance and collecting rents and leasehold management
- Housing Strategy and oversight of the HRA Business Plan
- Rent and Service charge setting
- Council housebuilding
- Tenant engagement
- Provision of housing with care e.g., Gladstone House and The Broadleaves
- Housing Allocations and the Housing Register

- Homelessness and rough sleeping
- Oversight of Housing Revenue Account led regeneration schemes including Yorke Drive
- Protection of tenants in private housing sector e.g., HMO licensing
- Disabled Facilities Grants
- Empty properties
- Re-settlement

### **Portfolio for Health, Wellbeing and Leisure**

- Tackling health inequalities and delivering health improvement through campaigns, programmes and targeted actions
- Lead member for Active4Today and Notts Health and Well-Being Board
- Sports provision and sports development, including playing pitch and facilities strategies
- Promoting and championing cycling and walking, and the development of plans to improve cycling and walking infrastructure
- Development and implementation of plans for future leisure centre provision

### **Portfolio for Community Safety and Community Development**

- Tackling crime and anti-social behaviour
- CCTV
- Environmental Health
- Enviro-crime prevention and enforcement
- Emergency planning, business continuity and risk management
- Health and Safety
- Safeguarding
- Cemeteries and Crematoria – see joint arrangements Part C Section 3
  - Liaison with the voluntary sector, parish and town councils and oversight of grant aid
  - Community events
  - Community Centres
  - Community Development and Community Engagement

3.4 The Leader of the Council's largest opposition group is a Cabinet Member with voting rights but without portfolio. Their role is to provide leadership in the constructive challenge of the Council's policies and strategies and in the co-ordination of alternative policies, strategies and service delivery. They are the main political spokesperson for the Council's opposition.

## **4. Responsibility for Functions**

### **4.1 Functions of the Cabinet (Executive Functions)**

4.1.1 The Cabinet exercises those functions which are not Non-Executive functions or otherwise reserved to the Council.

- 4.1.2 The Council has determined that the Cabinet shall exercise those 'local choice' functions set out in Schedule 2 of the Local Authorities (Functions & Responsibilities (England) Regulations 2000 (as amended).
- 4.1.3 Functions of the Cabinet may be discharged by the Cabinet as a whole, a Cabinet Committee, an individual Cabinet Member, and individual Officer or a joint committee in accordance with the Cabinet Scheme of Delegation or the Officer Scheme of Delegation, respectively.

## **5. The Cabinet Scheme of Delegation**

### **5.1 Introduction**

- 5.1.1 The Leader is responsible overall for the discharge of Cabinet functions and may discharge any such function themselves regardless of whether the given function has been delegated.
- 5.1.2 The Leader has the power to delegate the discharge of Cabinet functions to: -
- i. The Cabinet as a whole
  - ii. A Committee of the Cabinet
  - iii. An individual Cabinet Member
  - iv. An individual Officer
  - v. A Joint Committee

### **5.2 Functions Delegated to Cabinet Members (Portfolio Holders)**

- 5.2.1 The Leader delegates to those Cabinet Members with portfolio the Cabinet functions which fall within their respective portfolio as set out at Part C Section 5 of this Constitution.
- 5.2.2 Cabinet Members with portfolio may take any decision in relation to their delegated functions including Key Decisions.
- 5.2.3 In the discharge of their delegated functions and decision-making in respect thereof Cabinet Members shall comply with: -
- i. Any reservations, limits or restrictions set by the Leader including particularly and without limitation those set out below which are reserved to the Leader or the Cabinet;
  - ii. The law;
  - iii. This constitution, including particularly and without limitation: -
    - a. The approved Budget and Policy Framework
    - b. The decision-making principles and Protocol for Individual Cabinet Member / Officer Decision-Making;
    - c. The Contract Procedure Rules
    - d. The Financial Procedure Rules
    - e. The advice of the Head of Paid Service, Monitoring Officer or the Chief Finance Officer

f. The Members’ Code of Conduct

- 5.2.4 Where an individual Cabinet Member is exercising their delegated powers, the Leader or the Cabinet as a whole may exercise that power where the Leader determines it appropriate to do so.
- 5.2.5 Where an individual Cabinet Member is making a decision under their delegated powers, they may refer that decision to the Leader or the Cabinet as a whole where they consider it appropriate to do so.
- 5.2.6 The portfolios and functions in respect of which the Cabinet Members with portfolio have been delegated authority are set out above.

**5.3 Delegation to Executive Shareholder Committee**

**Membership, Chairman and Quorum**

Number of Members	As per the Cabinet
Substitute Members Permitted	No
Appointments	No non-voting advisory Members to be appointed, but representatives of Arkwood/Active4Today to be invited to present reports as appropriate.
Committee Governance	To operate in accordance with the Cabinet Procedure Rules as set out in Part D of the Constitution (these will enable the Committee to invite representatives of the two companies to address the committee and/or contribute to its discussion.
Restrictions on Chairman/Vice Chairman	To be chaired by the Leader
Quorum	As per Cabinet Procedure Rules paragraph 2 set out in Part D of the Constitution
Number of Ordinary Meetings per Council Year	Meet approximately once a quarter or as required.

**Remit and Delegation (Terms of Reference)**

Executive Shareholder Committee is responsible for strategic oversight of the Council’s Development Companies (Active4Today Ltd and Arkwood Developments Ltd) including:

their performance, management of the relationship between the Council and the two companies, compliance with the Governance Agreements, “health check” of the two companies by the Council as sole shareholder, and specifically to: -

1. Recommend to Council the respective Articles of Association for consideration and approval.

2. Recommend to Council the respective Governance Agreements between the Council and the two companies for consideration and approval.
3. Agree the constitution for the two Boards of Directors and to approve the appointment of directors to the Boards, and to have the power to remove directors of the Board and approve best practice policies in relation to such appointments.
4. Receive, review and approve the companies' annual reports and business plans.
5. Review the performance of the two companies.
6. Determine, on behalf of the Council, in relation to Arkwood Developments, how it should exercise the functions flowing from its ownership of shares, including decisions on payment of dividends from the company's profit after taxation.

#### **5.4 Functions Reserved to the Leader**

The following functions are reserved to the Leader: -

- i. To lead on implementing the Council's policy and budget decisions
- ii. To provide leadership of the Council by setting the strategic direction and key priorities and overseeing the development of the financial strategies.
- iii. To represent the Council in the community and in negotiations with regional and national public service organisations
- iv. To be the lead spokesperson for the Council and deal with external relations with partners and other stakeholders.
- v. To take overall responsibility for the performance framework, including the monitoring of targets.
- vi. To lead and co-ordinate the Council's work on key cross-cutting policy areas such as equalities, sustainability and communications.
- vii. The appointment of a Deputy Leader
- viii. To appoint up to 9 Councillors to be Cabinet Members
- ix. To allocate to Cabinet Members areas of responsibility (portfolios)
- x. To provide leadership to the Cabinet and to chair Cabinet meetings
- xi. To ensure the efficient despatch of business consistent with the Council's policies and strategies.
- xii. To notify the Monitoring Officer of the allocation of responsibility so that the information can be published in the Constitution. The record of delegation of executive functions to Cabinet Members may be amended by the Leader at any time during the year, but written notice must be provided to the Monitoring Officer and the Cabinet Member, body or Committee concerned. The record of delegation must be reported to the Annual Meeting of Full Council and material amendments must be reported to the Full Council.
- xiii. To take responsibility for Cabinet or portfolio functions in the absence of a Cabinet or individual Cabinet Member.
- xiv. To reserve to themselves or the Cabinet as a whole the determination of an executive decision or the taking of a particular course of action pertaining to a Cabinet function.



- xv. To reserve to individual Cabinet Members or the Cabinet as a whole the determination of consultation responses and the launch of consultation exercises on behalf of the Council, except for day-to-day technical and operational consultations which amount to Administrative Decisions made by Officers.

## **5.5 Functions Reserved to the Cabinet**

Decisions in respect of the following shall be taken by the Cabinet as a whole:

- i. Any decisions which in the opinion of the Leader should be determined by Cabinet;
- ii. Proposing the Budget and Policy Framework and Capital Programme to the Council;
- iii. Approving the Risk Management Strategies and Policies and reviewing the effectiveness of Risk Management Arrangements;
- iv. Approval to the carry forward of underspends as required by the Council's Financial Regulations;
- v. Approval of in year budget reallocations above the limit stipulated by the Council's Financial Regulations;
- vi. Reallocation of capital budgets which do not exceed the overall capital programme;
- vii. Authorising the write-off of bad or doubtful debts above the amount specified as delegated to the Section 151 Officer in the Scheme of Delegation to Officers;
- viii. Approval of Fees and Charges as part of the Budget process and any in-year changes unless statutorily prescribed.

## **5.6 Conflicts of Interest**

- 5.6.1 Where the Leader has a conflict of interest, they must ensure that they do not influence the decision to be taken and that the decision is taken by a Cabinet Member who does not have such a conflict of interest.
- 5.6.2 If every Cabinet Member has a conflict of interest, consideration must be given to delegating the decision to the Chief Executive, appropriate Director or Senior Officer, or to seeking a dispensation to taking the decision - dispensations are not available for single member decision making.
- 5.6.3 Where a decision is being taken regarding a service which is commissioned by a Cabinet Member from an external service provider, Cabinet Members must be mindful of potential conflicts of interest arising if they also sit on the Board or are otherwise involved in the governance of the external provider. In such circumstances Cabinet Members should seek advice from the Monitoring Officer before agreeing to sit on such a Board or governance structure.
- 5.6.4 If the performance of an executive function has been delegated to an individual Cabinet Member or Officer and a conflict of interest arises, in the first instance

the executive function will be performed by the person or body by whom the delegation was made.