

# Decision Making

## 1. Responsibility for Decision Making

The Council's Constitution explains which parts of the Council, and which individuals, have responsibility for particular types of decision(s) relating to particular areas. These are set out in the relevant Articles, procedure rules and the scheme of delegation. The Council will maintain a record of executive decisions taken by officers.<sup>1</sup>

## 2. Principles of Decision Making

All decisions of the Council or taken by or on behalf of the Council, will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights, diversity and equality, and the natural and built environment;
- (d) a presumption in favour of openness;
- (e) clarity of aims and desired outcomes; and
- (f) a record of decisions which explains what options were considered and giving the reasons for the decision as set out in the Access to Information Procedure Rules in this Constitution.

## 3. Types of Decision

### (a) Decisions Reserved to Full Council

Decisions relating to the functions described in this Constitution as falling to the full Council only will be made by the full Council and not delegated.

### (b) Key Decisions

A decision taker may only take a key decision in accordance with the requirements of the Cabinet Procedure Rules and Access to Information Rules in this Constitution. Regulations<sup>2</sup> define "key decision" as "an executive decision which is likely:-

- 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

<sup>1</sup> In accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) (England) Regulations 2012

<sup>2</sup> Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000

- to be significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions in the County.”

The Proper Officer in determining the meaning of significant will take into account of any guidance from the Secretary of State.<sup>3</sup>

A decision constitutes a key decision only if an outcome as determined by the Proper Officer will result directly from that decision (including a decision to adopt or alter policy), and not (for example) where the substantive decision which will produce that outcome has been or is required to be made by the full Council in accordance with the Budget and Policy Framework Procedure Rules; or where further consideration will be required following public or other consultation or any other process or procedure before the substantive decision is made.

It is the responsibility of the relevant Director, in consultation with the Cabinet Member(s) for the service area in question, to assess whether a decision expected to be made amounts to a key decision; and where a key decision is identified as a result of such assessment the Director shall immediately notify the Proper Officer to enable the decision to be entered in the Forward Plan, in accordance with the Access to Information Rules.

(c) **Executive and Non-Executive Decisions**

An executive decision other than a key decision can be taken by the Cabinet, a Committee of the Cabinet, an Individual Member of the Cabinet or an officer. Non-executive decisions are those decisions which relate to non-executive functions and are those which are set out in this Constitution and can be taken by a Council Committee or Sub-Committee or an officer.

#### **4. Decision Making by the Full Council**

Subject to (8) below, the Council meeting will follow the Council Procedure and Access to Information Procedure Rules set out in this Constitution when considering any matter.

#### **5. Decision Making by the Cabinet**

Subject to (8) below, the Cabinet will follow the Cabinet Procedure and Access to Information Procedure Rules set out in this Constitution when taking any decision at a public meeting.

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<sup>3</sup> In assisting the Proper Officer in determining the meaning of significant it has been defined as being 25% of the annual revenue budget for the relevant service block (i.e. that part of the Council's total revenue budget allocated to the Cabinet Member for the service area concerned) or £500,000, whichever is the lower figure, and £1m in the case of capital expenditure; or 25% of the people living or working in the area affected; or 25% of the capacity, frequency or hours of operation of a service or facility.

## **6. Decision Making by Scrutiny Committees**

Scrutiny Committees will follow the Scrutiny and Access to Information Procedure Rules set out in this Constitution when considering any matter.

## **7. Decision Making by Council Committees and Sub-Committees**

Subject to **(8)** below, Council Committees and Sub-Committees will follow those parts of the Council Procedures Rules set out in this Constitution as apply to them and the Access to Information Procedure Rules.

## **8. Decision Making by Council Bodies Acting as Tribunals**

The Council, a Committee or Sub-Committee of 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 hearing contained in Article 6 of the European Convention on Human Rights.

## **9. Decision Making by Officers**

Officers taking decisions within their delegated authority will do so in accordance with this Constitution's Scheme of Delegation and the appropriate Access to Information, Contract and Financial Procedure Rules. The decisions by officers on executive matters will be recorded by the Council.<sup>4</sup>

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<sup>4</sup> In accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information) (England) Regulations 2012