

## **ARTICLE 14 - DECISION-MAKING**

### **Introduction**

#### **Responsibility for Decision-Making**

1. 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 or in relation to the responsibilities of Committees, subcommittees and panels of the Council, within the Articles of the Constitution.
2. Sections 9D and 9DA of the Local Government Act 2000 provides that all functions of the Council shall be functions of the Executive (Cabinet) except in so far as they are reserved to the Council by regulations made under the Act (or by subsequent or other legislation) or are otherwise delegated as shown in Part 3 of this Constitution in accordance with the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended).

#### **Principles of Decision-Making**

3. All decisions of the Council (whether they are the responsibility of the Cabinet or not) 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) that relevant human and equality rights have been considered, given due regard and respected in the formulation of options and in the making of any relevant decision;
  - (d) there is a presumption in favour of openness; and
  - (e) there is a clarity of aims and desired outcomes.
4. In addition the decision-maker(s) will be required to demonstrate:
  - (f) that all relevant matters were fully taken into account in reaching decisions and are for example consistent with the agreed policy framework of the Council;
  - (g) that all relevant requirements of the Council's rules and Financial Regulations were complied with;
  - (h) that the member(s) concerned considered whether he or she had any pecuniary or non-pecuniary interest in the particular item and if necessary made a declaration of interest and acted on any conflict of interest;
  - (i) that the Scheme of Delegation had been complied with;
  - (j) that the decision was properly recorded and published within the appropriate timescale, together with declarations of interest and background papers; and

- (k) that the decision itself was made in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **Forward Plan**

- 5. In accordance with the 2000 Act, the Council will prepare a Forward Plan, which will list all Key Decisions which the Cabinet anticipate that they will take during the next 4 months, those which they propose to take in private session, together with any particularly significant Key Decisions which they anticipate that they will take within the next 4 to 12 months. The Council may also include in the Forward Plan reference to significant decisions which are to be taken by the Council or any of its Committees or Sub Committees. This Plan will be updated on a monthly rolling programme to coincide with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **Key Decisions**

- 6. A “Key Decision” means an executive decision which:
  - (a) involves expenditure or savings of £250,000 or above which are currently within budget and policy;
  - (b) involves expenditure or savings of £100,000 or above which are NOT currently within budget and policy;
  - (c) is likely to be significant in terms of its effect on communities living or working in an area comprising two or more wards;
  - (d) raises new issues of policy;
  - (e) increases financial commitments (i.e. revenue and/or capital) in future years over and above existing budgetary approval;
  - (f) comprises and includes the publication of draft or final schemes which may require, either directly or in relation to objections to, the approval of a Government Minister.
  - (g) involves the promotion of local legislation;
- 7. Borrowing or lending decisions by the Chief Financial Officer under delegated authority and estates management matters that relate to income made by the relevant Service Director and/or the Chief Estates Officer shall not be key decisions.

### **Responsibility for making a Key Decisions**

- 8. The following additional requirements in relation to key decisions have been applied by the Council:
  - (i) a decision-taker may only make a Key Decision in accordance with Article 7 (The Executive) and Article 17 (Access to information)
  - (ii) Key decisions may not be made by Officers unless specifically delegated;

(iii) Key decisions involving expenditure within the budget and policy framework below £1,000,000 may be taken by a Portfolio Holder;

(iv) Key decisions involving expenditure within the budget and policy framework of £1,000,000 or greater will be taken by the Cabinet.

### **Non-key decisions**

9. Other non-key decisions shall be taken by the relevant Cabinet Committee, Portfolio holder, committee, subcommittee or panel or an officer in accordance with the responsibilities for functions and articles in this constitution. Non key decisions made by the Cabinet or Portfolio Holders shall also be included in the Forward Plan wherever possible.

### **Decision making by Portfolio Holders**

10. Individual portfolio holders may take decisions on:
- (i) key decisions within the category in 6 (iii) above (£1,000,000 or below), or/and
  - (ii) other decisions not being the responsibility of a relevant committee, subcommittee or panel or an officer to determine; or/and
  - (iii) decisions which are not reserved to the Cabinet; or/and
  - (iv) decisions which are not contrary to the budget and policy framework and therefore a matter for the full Council to determine.

Portfolio Holders may only make decisions on matters affecting their own wards only if recommended as one of a range of options recommended by a Service Director within a Portfolio Holders Decision report.

Where an interest has been declared by the Portfolio Holder that prevents that individual from taking a decision, that decision may be taken by another member of the cabinet (on advice) or be referred to the cabinet for decision.

### **Decision making by the Cabinet**

11. The Executive (Cabinet) 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 and the local choice functions set out in Part 3 of this constitution. The operation of the Executive is set out in Article 7.

### **Decisions reserved to the Council**

- (a) Decisions reserved to the full Council relating to the functions listed in Article 4 will be made by the full Council and not delegated.
- (b) Decisions on supplementary expenditure will be made by Council on the recommendation of the Cabinet.

### **Decision making by Officers**

12. Officers may take decisions on those matters set out within the schedules of Council and Executive delegation in Part 3 of this Constitution and those of general management set out within Article 13 (officers) and those required by other statutory provisions.
13. The Council has appointed a number of committees, subcommittees and panels to carry out certain prescribed functions that cannot be undertaken by the Cabinet. Their responsibilities are set out in the Articles of this constitution.

### **Changes to the responsibility for decision making**

14. The Council, Leader or Cabinet may, from time to time, vary the responsibilities for decision making in accordance with their statutory powers.

### **Decision-Making by Council Bodies acting as Tribunals**

15. 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. For the purposes of this, the licensing and enforcement functions of any body shall be subject to this Article. Likewise the provisions of Article 6 of the European Convention relating to natural justice and a fair trial will be applied to the proceedings of the Standards Committee of the Authority.