

# Chapter 11 – Decision Making

## 11.1 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.

## 11.2 Principles of decision making

All decisions of the council will be made:

- (a) after due consideration of the interests of residents and other stakeholders;
- (b) proportionately, that is, the action must be proportionate to the desired outcome;
- (c) after due consultation and the taking of professional advice;
- (d) with respect for human rights and having regard to the council's public sector equality duty;
- (e) with a presumption in favour of openness;
- (f) with clarity of aims and desired outcomes;
- (g) such that they would be considered reasonable and rational based on sound judgment, that is, all relevant considerations must be fully taken into account in reaching the decision and irrelevant considerations disregarded;
- (h) in the case of 'quasi-judicial' decisions, for example a decision as to whether or not to grant a licence, with a fair hearing conducted in accordance with the rules of natural justice afforded to the person who is the subject of the decision;
- (i) in accordance with the Policy Framework;
- (j) in compliance with council's schemes of delegation, financial rules and instructions relating to contracts; and
- (k) with an accompanying explanation of what options were considered and the reasons for the decision in accordance with the Local Authorities (Executive

Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

### **11.3 Types of decision**

**11.3.1 Decisions reserved to Council:** Decisions relating to the budget and Policy Framework functions listed in Part 2, Chapter 4.2 and those to be made by the Council listed in Part 2, Chapter 4.3 will be made by Council and not delegated.

**11.3.2 Executive decisions:** Executive decisions relate to executive functions determined by law and the provisions of this Constitution. Any decision taken within the council is an executive decision unless it relates to:

- (a) any matter listed in Part 2, Chapters 4.2 and 4.3 of this Constitution as these are matters reserved for Council to decide; or
- (b) a local choice function which has not been designated to the Executive in the table in Part 3A of this Constitution; or
- (c) is a non-executive function which the Council has delegated to a committee of the Council to determine, as covered in sections 2 to 7 in Part 3B of this Constitution, or by an officer. These decisions are further defined in paragraph 11.3.5 below.

**11.3.3 Executive decisions may be taken by:**

- (a) the Executive meeting together; or
- (b) individual Executive Members in line with their portfolios and delegations listed in Part 3E of this Constitution;
- (c) a committee of the Executive in line with any authority delegated to the committee as listed Part 3B, sections 8, 9 and 10; or
- (d) by an Executive Member or officer if authority to make that decision has been specifically delegated by the Executive or the Leader of the Council.

11.3.4 A decision taker may only make an executive decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

11.3.5 **Other decisions.** Decisions which are not executive decisions nor reserved to Council shall be taken by:

- (a) Council;
- (b) a committee to which Council has delegated power to act on its behalf; or
- (c) specific officers to whom powers have been delegated. In reaching such decisions, officers to whom powers have been delegated may consult the chairman of the relevant committee where to do so is expedient, and shall do so where an earlier decision so requires.

11.3.6 **Key decisions.** A key decision is an executive decision which is likely to:

- (a) result in new expenditure, income or savings of more than £100,000 in relation to the council's revenue or capital budget, this being deemed significant having regard to the council's overall budget; or
- (b) be significant in terms of its effects on communities living or working in an area consisting of two or more wards.

11.3.7 Provisions for taking key decisions in cases of urgency where they have not been included in the decisions plan are set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

11.3.8 **Non-Key Decisions.** A non-key decision is an executive decision that does not meet either criterion of a key decision as laid out above.

#### **11.4 Referral of decision making to higher authority**

An individual or body to whom power to make a decision has been delegated may decline to make that decision and

refer it for decision by the relevant committee, Executive Member, the Leader or by Council as appropriate

## **11.5 Decision making**

Subject to paragraph 11.6 below, making and recording decisions will be subject to the following provisions in this Constitution:

- (a) the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter;
- (b) the Executive will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter;
- (c) the scrutiny committee will follow the Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter and recording decisions;
- (d) other Council and Executive committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them; and
- (e) officers making key or non-key executive decisions under delegated authority will follow those parts of the Executive Procedures Rules set out in Part 4 of this Constitution as are applicable
- (f) officers making other decisions shall consult as required under the delegated authority and shall record the decision on an Openness in Local Government form.

## **11.6 Quasi-judicial decision making by Council bodies**

The Council, a Member or an officer acting 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 Chapter 6 of the European Convention on Human Rights.

## **11.7 Party Whip**

11.7.1 The Party Whip is understood to mean any instructions given by or on behalf of a political group to any Member who is a member of that group as to how that Member shall speak or vote, or the application or threat to apply any sanctions by the group in respect of that Member should they speak or vote in any particular manner.

11.7.2 There shall be no Party Whip at meetings of:

- (a) the Development Management Committee;
- (b) the District Planning Executive Panel;
- (c) the Overview and Scrutiny Committee;
- (d) the Audit and Governance Committee and any sub-committee;
- (e) the Licensing Committee, and any sub-committee, when it is determining licences and conducting hearings; and
- (f) any other committees where the committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.