

PART 2 – ARTICLE 12 - DECISION MAKING

1. Key Decisions

1.1 A Key Decision means an executive decision which is likely:-

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1.1.1 To result in the Council incurring expenditure which is, or the making of savings, which are significant as defined in 1.2 below, having regard to the Council's budget for the service or function to which the decision relates; or

1.1.2 To be significant in terms of its effect on communities living or working in an area comprising one or more wards in the area of the Council.

1.2 For the purposes of 1.1.1 above, savings or expenditure are significant if they exceed £200,000 per annum (revenue) or £500,000 whole life cost (capital),.

1.3 Savings and expenditure in 1.2 above, does not include:-

1.3.1 The day to day activity of the Council's treasury management functions, which are covered by the Treasury Management Policy Statement approved separately by the Council.

1.3.2 Expenditure which is identified in the approved Revenue Budget or Service Plan for the service concerned;

1.3.3 Implementation of a capital project identified in the approved Capital Programme and in respect of which the detailed business case (or equivalent) has been approved;

1.3.4 Implementation of an explicit policy within the approved Budget and Policy Framework or fulfilment of the policy intention of a key decision previously approved by the Executive;

1.3.5 The invitation of tenders or awarding of contracts where necessary to provide for the continuation of an established policy or service standard.

1.3.6 The procurement of placements for children and of care packages, including residential care, for children and adults with disabilities or other conditions warranting the provision of such placements or packages subject to such decisions being reported to the Executive Member for Corporate Resources and the Executive Member for the relevant service area.

1.4 For the purpose of 1.1.2 above, a decision will be regarded as

“significant” if the outcome of the decision will have an impact, for better or worse, on the amenity of the community or quality of service provided by the Authority to a substantial number of people living or working in the wards affected.

- 1.5 A decision maker may only take a Key Decision in accordance with the requirements of the Access to Information Procedure Rules set out in **Part G2** of the constitution.

2. Forward Plan

- 2.1 Each month the Monitoring Officer will publish a plan (known as “the Forward Plan”). The Forward Plan will be published at least 14 days before the start of the period covered.
- 2.2 The Forward Plan will contain details of all matters likely to be the subject of Key Decisions during the twelve month period commencing on the first day of the month following its publication.
- 2.3 Further details regarding the contents of and arrangements for publishing the Forward Plan are set out in the Access to Information Procedure Rules in **Part G2** of the constitution.

Responsibility for Decision Making

- 1.1 Section 13 of the Local Government Act 2000 (“the 2000 Act”) provides that all the functions of the Council shall be functions of the Executive except in so far as they are reserved to the Council by the 2000 Act, by other or subsequent legislation or by regulations made under the 2000 Act.
- 1.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (“the Regulations”) define those functions:
 - 1.2.1 which must not be discharged by the Executive;
 - 1.2.2 which may be the responsibility of the Executive (known as “local choice functions”); and
 - 1.2.3 which may not be the sole responsibility of the Executive; and
 - 1.2.4 circumstances in which functions which would otherwise be functions of the Executive fall to be discharged other than by the Executive.
- 1.3 The Council therefore only has discretion to define the split of functions between the Council (“council functions”) and the Executive (“executive functions”) in respect of those which fall within categories 1.2.2 and 1.2.3 above.

- 1.4 “Council Functions” shall therefore comprise
- 1.4.1 those functions which are reserved as council functions by the 2000 Act and by other and subsequent legislation;
 - 1.4.2 those functions which are reserved as council functions by Regulation 2 and Schedule 1 of the Regulations and subsequent regulations made under the 2000 Act;
 - 1.4.3 those functions set out in Regulation 3 and Schedule 2 of the Regulations which the Council decides should be discharged by itself (the “local choice functions” as set out in **Part B5** of the constitution);
 - 1.4.4 the plans and strategies the adoption or approval of which shall be a council function (the “Policy Framework”) shall be those plans and strategies set out in Schedule 3 of the Regulations and subsequent regulations made under the 2000 Act, together with such other plans and strategies as the Council shall identify from time to time for this purpose (as set out in **Part B2** of the constitution).
- 1.5 The Council may make arrangements under Section 101 of the Local Government Act 1972 for the discharge of any of its functions by:-
- 1.5.1 A committee;
 - 1.5.2 A sub-committee;
 - 1.5.3 A joint committee;
 - 1.5.4 Another local authority; and
 - 1.5.5 An officer.
- 1.6 The arrangements for the discharge of the Council’s functions are set out in **Part B (The Council)**, **Part E (Regulation & Other Committees)**, **Part H3 (Scheme of Delegation to Officers)** and **Part J (Joint Arrangements)** of this Constitution.
- 1.7 The arrangements for discharge of executive functions are set out in **Part C and Part J** of this constitution.

2. Principles of Decision Making

- 2.1 All decisions of the Council, its committees, the Executive and those taken under delegated powers will be made in accordance with the following principles:-
- 2.1.1 Clarity of aims and desired outcomes;
 - 2.1.2 Proportionality (i.e. the action must be proportionate to the desired outcome);

- 2.1.3 Consideration of all options available;
- 2.1.4 Professional advice is taken from officers;
- 2.1.5 Consideration of the outcome of any consultation;
- 2.1.6 Respect for human rights;
- 2.1.7 A presumption in favour of openness and an expectation that Committee reports will be drafted so that, wherever practicable, any exempt information is extracted and placed in a separate appendix in order that the remainder of the report may be considered in open session;
- 2.1.8 Only relevant matters to be taken into account;
- 2.1.9 Due weight to be given to all material considerations;
- 2.1.10 Lawfulness and financial propriety, and
- 2.1.11 All decisions should be evidence-based.

3. Types of Decision

- 3.1 Decisions reserved to full Council: decisions relating to the functions listed in **Part B1** will be made by the full Council and not delegated.
- 3.2 Decisions made by committees appointed by the Council: power to make such decisions is delegated by the Council in accordance with the terms of reference contained in **Part E (Regulatory and Other Committees)** of this constitution, except where that power derives directly from legislation.
- 3.3 Executive Decisions: most decisions are taken by the Executive or by officers acting under delegated powers on the Executive's behalf. These are either Key Decisions or other decisions.
- 3.4 Key Decisions: A definition of Key Decisions is provided at **Part C2** of this constitution.

4. Decision making by the Full Council

- 4.1 Subject to paragraph 7.1, the council meeting will follow the Council Procedure Rules set out in **Part B4** of this constitution when considering any matter.

5. Decision making by the Executive

- 5.1 Subject to paragraph 7.1, the Executive will follow the Executive Procedures Rules set out in **Part C4** of this constitution when considering any matter.

6. Decision making by other Committees and Sub-Committees established by the Council

6.1 Subject to paragraph 7.1, other council committees and sub-committees will follow the Committee Procedures Rules set out in **Part E3** of this constitution when considering any matter.

7. Decision making by Council bodies acting as Tribunals

7.1 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 as provided in Article 6 of the European Convention on Human Rights.

8. Scrutiny of Decisions

8.1 Overview and scrutiny committees have been appointed by the Council to scrutinise decisions taken by the Executive. The responsibilities and terms of reference of these committees are described in **Part D** of the constitution. The overview and scrutiny committees will follow the Overview and Scrutiny Procedure Rules set out in **Part D2** of the constitution when considering any matter.