

Part Three - Chapter 5 - Decision making by individual members of the Executive and key decisions by Officers

Introduction

- 5.1 The Executive Leader of the Council, members of the Executive and officers are authorised to undertake certain executive actions under the terms of this Constitution. The responsibilities and processes to be followed by Executive Members and the officers in carrying out those tasks for which they are individually responsible and there has been a delegation of powers to an individual Executive member by Council are set out here.
- 5.2 For this purpose, the appropriate Chief Officer or Head of Service is the Proper Officer for providing advice to Executive Members and the Monitoring Officer is the Proper Officer for the maintenance of the Corporate Register of decisions taken.

Action by Executive Members prior to reaching a decision

- 5.3 In all cases, prior to taking any decision on any matter, the Executive member shall be responsible for: -
- a) ensuring that the decision to be made is within his/her delegated powers;
 - b) obtaining, in writing (which may be transmitted electronically), a summary of the issues from the Chief Officer or Head of Service responsible for the matter under consideration;
 - c) obtaining confirmation that any course of action proposed is within the Council's legal powers and complies with the Council's Policy Framework and budgets;
 - d) determining whether the proposed action has any effect on the responsibilities of other Executive Members;
 - e) ensuring that where the matter affects a specific part of the Council's area, the views of the relevant ward members have been sought in writing and taken into account in reaching a decision; and
 - f) determining whether the decision to be taken is a key decision as defined in the Council's Constitution in which case the provisions of paragraph 5.6 below shall apply.
- 5.4 Where any matter considered by an Executive Member:

~~a) is outside his/her delegated powers, or on an occasion they are unable to carry out their delegated powers, the Executive Leader may appoint another member of the Executive to exercise the delegations of that Executive Member.~~

b) is outside the legal powers of the Council or contrary to the Council's Policy Framework or budgets, the matter shall stand referred to the Executive for consideration. No action that commits the Council shall be taken on that matter until after the issue has been determined by the Executive, except that where a decision, including one which does not comply with the Council's Policy Framework or would not be wholly in accordance with the budget, is required urgently, that matter may be determined in accordance with the provisions of Chapter 7 in this part of the Constitution.

- 5.5 Where a decision would have an effect on the responsibilities of another Executive member or has implications that might affect the corporate strategies of the Council, the Executive member shall consult with any other Executive member and the Executive Leader prior to reaching any decision.
- 5.6 Where an Executive Member receives a report which he/she intends to take into account in making a Key Decision, the following provisions shall also apply:
- a) the decision will not be made until at least five clear days have elapsed since receipt of the report, and
 - b) the person who provided the report to the Executive Member shall give a copy to the chairman of the relevant Scrutiny Panel as soon as reasonably practicable and make a copy publicly available at the same time.

Action by Executive member at point of decision making

- 5.7 In reaching a decision on any matter referred to him/her, the Executive member shall:
- a) take into consideration the views expressed by the Chief Officer or Head of Service responsible for the matter under consideration;
 - b) where appropriate, take account of the views of other Executive Members, the Executive Leader and the ward members;
 - c) endorse the written documentation prepared by the appropriate Chief Officer or Head of Service with his/her decision and, where that decision is contrary to the Officer's recommendation or views submitted by the ward member, the reasons for reaching the different conclusion; and
 - d) endorse all written documentation giving options considered with the reasons why particular options were rejected.

Action by Executive member after decision

- 5.8 On reaching a decision and subject to the provisions for call-in arrangements in Chapter 10 of this part of the Constitution, the Executive members shall:

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- a) give instructions to the appropriate Chief Officer or Head of Service to take the necessary action to implement the decision;
- b) personally, or arrange for the appropriate Chief Officer or Head of Service to, notify the other members of the decision taken;
- c) ensure that the decision is not implemented until such time as the period for, and the conditions of, the provisions for call-in arrangements for decisions taken by the Executive have been complied with; and
- d) supply a copy of all papers (which may be transmitted electronically) considered by him/her with a copy of the decision and reasons to the Monitoring Officer.

5.9 On notification of a decision, the Chief Officer or Head of Service will:

- a) subject to compliance with the provisions in this Constitution for call-in arrangements, ensure implementation of the decision within any specified timescales and, if none are given, within a reasonable period;
- b) ensure that a copy of the decision and appropriate supporting papers are placed on the relevant file;
- c) where instructed by the Executive Member, arrange for a report on the decision taken to be circulated to all members of the Council; and
- d) immediately notify any persons or organisations consulted about the proposals of the decision taken.

5.10 The Monitoring Officer will:

- a) maintain a register or registers, which may be held in electronic form, of decisions taken by Executive members under delegated powers;
- b) maintain copies, which may be held electronically, of all the supporting papers provided to the Executive member;
- c) make the register and supporting papers available for inspection at the Council's main office by any member of the Council during normal office hours; and
- d) make the register and supporting papers, except for those which contain confidential or exempt information as defined by the Local Government Act 1972 (as amended), available for public inspection at the Council's main office during normal office hours, in accordance with the provisions of the Access to Information Procedure Rules set out in this Constitution. No charge shall be made for inspection of such papers. The requirement to make documents available for public inspection will not apply to exempt or confidential information or the advice of a political adviser or political assistant.

Urgent decisions

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5.11 Where, in the opinion of the Chief Officer or Head of Service, a decision within the Policy Framework and budget is required urgently on any matter delegated to an Executive Member, the provisions of: -

- a) paragraphs 5.3(b) and 5.3(c) above, relating to the information and decision being in writing or electronic form; and
- b) paragraphs 5.3(d), 5.6(b) and 5.7(b), relating to consultations with ward members,

shall apply only if there is sufficient time to follow these procedures without prejudicing the decision or the Council; provided that, as soon as practicable after the matter has been determined, a written record of the issues and the action taken shall be made and circulated in accordance with the remaining provisions below.

5.12 Paragraphs 11 to 15 in Chapter 10 of this part of the Constitution, so far as they relate to the date on which the decision may be implemented, shall not apply and the decision may be implemented immediately.

5.13 Where a decision is not within the Policy Framework or budget, the provisions of the Chapter 6 of this part of the Constitution will apply.

Key Decisions made by officers

5.14 The above provisions will apply in all respects only to Key Decisions by officers acting under delegated powers. Where the power delegated is to a Chief Officer, Head of Service or other officer, he/she shall ensure that the written documentation or other matters required by these provisions are prepared or undertaken as though the decision was being taken by an Executive Member.

Variation

5.15 These provisions may be varied by a resolution of Council on a recommendation from the Executive. No such recommendation shall be made until the Executive has consulted the relevant Scrutiny Panel and other relevant Committees of the Council.