

## **Part 2 – The Articles**

### **Chapter 16 – Decision Making**

#### **1. Responsibility for decision making**

- 1.1 Section 13 of the Local Government Act 2000 provides that all the 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). The reservation of functions to the Council is made under The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 1.2 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 ('the Regulations') define those functions:
  - a) which must not be discharged by the Cabinet;
  - b) which may be the responsibility of the Cabinet;
  - c) which may not be the sole responsibility of the Cabinet; and
  - d) circumstances in which functions which would otherwise be functions of the Cabinet fall to be discharged other than by the Cabinet.
- 1.3 The Council therefore only has discretion to define the split of functions between the Council ("Council functions") and the Cabinet ("Executive functions") in respect of those which fall within categories (b) and (c) above.
- 1.4 The Council may make arrangements under section 101 of the Local Government Act 1972 for the discharge of any of its functions by:
  - (i) a Committee;
  - (ii) a Sub-Committee;
  - (iii) a Joint Committee;
  - (iv) another local authority;
  - (v) an Officer.

#### **2. Principles of decision-making**

- 2.1 All decisions of the Council are made in accordance with the following principles:
  - a) Proportionality (ie. the action must be proportionate to the desired outcome);
  - b) Due consultation and the taking and paying due regard to professional advice from officers, in particular any advice given by the Monitoring Officer and/or Chief Financial Officer;
  - c) Respect for human rights;

- d) A presumption in favour of openness;
- e) Clarity of aims and desired outcomes (i.e. link between corporate strategy and implementation);
- f) Consistent with the Council's Budget and Policy Framework, Contract, Financial and other Rules, legislative requirements and any other requirements set out in this Constitution.

### **3. Types of Decision**

#### **Decisions reserved to the Assembly**

- 3.1 Decisions relating to the functions listed in Part 2, Chapter 4 will be made by the Assembly and not delegated.

#### **Key Decisions**

- 3.2 A "Key Decision" means an executive decision which is likely to:
- (a) involve expenditure or savings of £200,000 or above - this includes proposals phased over more than one year and match/grant aided funding; and/or
  - (b) have a significant impact on the local community in one or more wards.
- 3.3 The Council must publish a Forward Plan at least 28 days before the start of the period covered of Key Decisions to be taken. A key purpose of the Forward Plan is to give the community an opportunity to comment on a proposal before a decision is taken. Further details about the Forward Plan are included in Part 2, Chapter 17.
- 3.4 A Key Decision can only be taken if it has been included in the Forward Plan, except in cases of genuine urgency where the General Exception or Special Urgency provisions have been applied.
- 3.5 Any comments received during consultation on a Key Decision have to be considered by the body or person taking the decision. Similarly, any comments received have to be reflected in any report about the decision submitted to the body or person taking the decision.
- 3.5 Within two working days of a Key Decision being taken a written statement, in the form of a Decision Notice, shall be published containing details of the decision made.
- 3.7 Key decisions are subject to "Call-In", the process for which is detailed in Part 2, Chapter 8 of the Constitution.

#### **Non-key executive decisions**

- 3.8 Other non-key executive decisions shall be taken by the relevant committee (the Cabinet or Health and Wellbeing Board) or officer in accordance with the responsibilities for functions as set out in this Constitution. Where non-key executive decisions are to be taken by the Cabinet or Health and Wellbeing Board, these shall also be included in the Forward Plan wherever possible.

### **Recording (publishing) of executive decisions by officers in accordance with The Openness of Local Government Bodies Regulations 2014**

- 3.9 The Council shall publish details of all executive decisions taken by officers above the threshold of £200,000, in accordance with The Openness of Local Government Bodies Regulations 2014.

#### **Other decisions**

- 3.10 The Assembly has appointed a number of Committees to carry out certain prescribed functions that cannot be undertaken by the Cabinet. These Committees and their responsibilities are described in Chapter 2 of the Constitution.

#### **Scrutiny of decisions**

- 3.11 The Assembly has appointed Select Committees to scrutinise key decisions taken by the Cabinet.

#### **Implementing Decisions**

- 3.12 Subject to there being no Call-In, all key decisions shall stand and can be acted upon once the agreed time period for Call-In has elapsed.
- 3.13 All other decisions can be acted upon immediately, subject to any restriction placed at the time or any statutory requirements.

### **4. Urgent Action**

- 4.1 In exceptional circumstances and where delay will be prejudicial to the interests of the Council, the Chief Executive or his/her nominated deputy is authorised to take urgent action which is not otherwise delegated to him/her, subject to ensuring:
- (i) that the actions are set out in a detailed report which has been cleared by the Chief Financial Officer and the Monitoring Officer;
  - (ii) compliance with the Constitution and, in particular, relevant rules where appropriate; and
  - (iii) that the action taken and the full details are subsequently reported to the next available meeting of the relevant committee.
- 4.2 Prior to the Chief Executive taking the action, the relevant Chief Officer / Director will be required to liaise with Democratic Services to ensure that all aspects of the urgent action procedures are met. In relation to matters under the remit of the Cabinet, this should include the relevant Chief Officer / Director contacting in advance the Chair of the Cabinet and the Chair of the relevant Scrutiny Committee to advise them of the reasons for taking the urgent action. Where, for any reason, it is not possible to contact the said Members, the Deputy Chair of the Cabinet and the Deputy Chair of the relevant Scrutiny Committee will be contacted. For matters under the remit of other committees, the relevant Chief Officer / Director should contact in

advance the Chair of the committee to advise him/her of the reasons for taking the urgent action.

- 4.3 Once the urgent action has been taken, written confirmation will be sent by the Chief Executive to the Chair and, in the case of Cabinet matters, also to the Chair of the relevant Scrutiny Committee advising of the action and providing a copy of the report.
- 4.4 The Call-In procedure will not apply to any Cabinet decision taken under these Urgent Action provisions.