ARTICLE 11

DECISION MAKING

1. Responsibility for decision making

1.1 The Council issues and keeps up to date a record of what part of the Council or individual(s) has responsibility for particular decisions or types of decisions relating to particular areas or functions. This record is called the Scheme of Delegation and is set out in Part C of this Constitution.

2. Principles of decision-making

2.1 All decisions of the Council are made in accordance with the following principles:

2.1.1 proportionality (i.e. the action must be proportionate to the desired outcome);

2.1.2 due consultation and the taking of professional advice from employees;

2.1.3 respect for human rights;

2.1.4 a presumption in favour of openness;

2.1.5 clarity of aims and desired outcomes;

2.1.6 the options considered and the reasons for a particular choice will be explained when appropriate.

2.2 Decisions will also be consistent with the Council’s overall policy framework, relevant law, Contract Rules, Financial Rules, other relevant Rules, and any other requirements set out in this Constitution.

2.3 When reaching decisions regard must be given to any relevant advice provided by the Monitoring Officer or the Chief Financial Officer. Reasons will be given for any ‘Cabinet decisions’.

3. How ‘Cabinet decisions’ are made

3.1 Introduction

3.1.1 A ‘Cabinet decision’ is a decision relating to any function that is the responsibility of the Council’s Cabinet. These decisions are taken either by the Cabinet itself, or by the Assembly (on the Cabinet’s recommendation), or by Council employees (under delegated authority) or under joint arrangements with other authorities. Other arrangements apply for non-Cabinet decisions and these are described elsewhere in the Constitution (for example, the arrangements for Regulatory and Other Boards are set out in Article 6).
3.1.2 There are three types of ‘Cabinet decision’ and a separate process for each one:

(i) Key Decisions

(ii) Key Decisions within the Budget and Policy Framework

(iii) Non-Key Decisions

3.2 **Key Decisions**

3.2.1 A “Key Decision” is that which is likely to:

(a) involve significant expenditure or savings and/or

(b) have a significant effect on the community.

3.2.2 In relation to (a), councils have to set thresholds above which they regard decisions regarding expenditure or savings as “significant” and, therefore, Key. This Council’s threshold is £200,000.

3.2.3 In relation to (b), a decision is, by law, a Key Decision if it is likely to have a significant impact on two or more wards.

3.2.4 This Council has a two-stage process for determining whether or not a particular decision is a Key Decision: the officer proposing the decision makes an initial assessment and the Chief Executive makes a final judgement.

3.2.5 **Process**

3.2.5.1 Once a month, the Council must publish a Forward Plan (available on the Council’s website: www.barking-dagenham.gov.uk) listing available details of Key Decisions to be taken during the forthcoming four months. The purpose of the Forward Plan is to give the community an opportunity to comment on these decisions before they are taken (further details about the Forward Plan are included in Article 13 – Access to Information).

3.2.5.2 A Key Decision can only be taken if it has been included in the Forward Plan, except in cases of genuine urgency.

3.2.5.3 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.

3.2.5.4 Within three working days after a Key Decision is taken, a written statement has to be made by or on behalf of the body or person who took the decision. This statement has to include:

(i) a record of the decision,
(ii) a record of the reasons for the decision,

(iii) details of any alternative options considered and rejected at the time the decision was made,

(iv) a record of any conflict of interest in relation to the matter declared by any member of the decision-making body or, in the case of decisions taken by employees under delegated authority, by any Member consulted about the decision.

(v) in respect of any declared conflict of interest, a note of any dispensation granted by the Council’s Standards Committee.

3.2.5.5 Within the period referred to above, this written statement has to be made available for inspection by members of the public at the Council offices, together with any public report considered by the body or person who took the decision. In the case of Member meetings, this written statement will be included in the minutes.

3.2.5.6 Decisions taken by the Cabinet, including Key Decisions, are subject to “Call-In”. This process is set out in detail in Article 5A of the Constitution. In essence, it gives non-Cabinet Members the opportunity to Call-In Cabinet decisions before implementation.

3.3 Key Decisions within the Budget and Policy Framework

3.3.1 The Budget and Policy Framework comprises the most important financial and policy decisions made by the Authority. The budgetary framework includes the Budget and the Council Tax. The policy framework consists of a number of specified plans and strategies, such as the Community Strategy and the Council Plan. The Framework is detailed at Appendix A.

3.3.2 Decisions within the Framework are classed as Key Decisions and they have to meet the same requirements, as specified in paragraphs 3.2.5.1 to 3.2.5.6 above.

3.3.3 Process: introduction and summary of key provisions

3.3.3.1 The Cabinet is responsible for drawing up (and implementing) decisions within the Framework. It has to adopt an inclusive approach to this, consulting other Members, relevant stakeholders and the community as appropriate. The process for making decisions within the Framework (detailed in Appendix B) includes provision for this.

3.3.3.2 The process provides that, in preparing the Local Development Frameworks, the Cabinet consults the Development Control Board.

3.3.3.3 The Assembly is responsible for taking decisions within the Framework. The process provides that the Assembly may approve the Cabinet’s proposals, amend them or ask the Cabinet to reconsider them. The process includes a mechanism for resolving any conflicts.
between the Assembly and the Cabinet in relation to decisions within the Framework.

3.4 Non-Key Decisions

3.4.1 Non-Key Decisions (i.e. ‘Cabinet decisions’ that are not Key Decisions or Key Decisions within the Budget and Policy Framework) will be dealt with as required elsewhere in the Constitution and by existing legislation. The specific requirements for Key Decisions and Key Decisions within the Budget and Policy Framework do not apply to Non-Key Decisions.

3.4.2 Where they are taken at Member meetings, Non-Key Decisions will be recorded in the minutes of the relevant meeting and published in the normal way. Employees are not required to publish formal records of the Non-Key Decisions they make; however, the Council does require them to keep records for audit purposes.

3.5 Implementing Decisions

3.5.1 Subject to there being no Call-In, all decisions of the Cabinet shall stand and can be acted upon once the agreed time period for Call-In has elapsed.

3.5.2 Decisions of the Assembly can be acted upon immediately subject to any restriction placed at the time.

3.5.3 Subject to the Assembly agreeing otherwise, any motion to rescind or amend any decision of the Assembly or the Cabinet cannot be proposed unless at least six months have elapsed and at least one third of the Council give notice and seek reconsideration of an issue at the next available meeting of the Assembly.

3.5.4 When any such motion or amendment has been dealt with by the Assembly, a similar motion may not be proposed within a further period of six months.

(Contact Officer: Group Manager, Democratic Services: Tel: 020 8227 2135)
APPENDIX A

THE BUDGET AND POLICY FRAMEWORK

1. The Budgetary Framework

1.1 The Budgetary Framework comprises any decisions relating to:

1.1.1 the budget requirement (as defined in the Local Government Finance Act 1992),

1.1.2 all the components of the budget, such as:

(i) the budgetary allocations to different services and projects,

(ii) proposed taxation levels;

(iii) contingency funds (reserves and balances),

1.1.3 any plan or strategy for the control of the local authority's borrowing or capital expenditure.

2. The Policy Framework

2.1 The Policy Framework consists of the following plans and strategies:

(i) Community Strategy
(ii) Crime and Disorder Reduction Strategy
(iii) Local Development Frameworks
(iv) Youth Justice Plan
(v) Local Implementation Plan (Transport)
(vi) Statement of Licensing Policy
(vii) Food Safety Business Plan
(viii) Housing Strategy
(ix) Lifelong Learning Development Plan
(x) The Council Plan
(xi) Health and Safety Service Plan
(xii) Trading Standards Service Plan
(xiii) Council's Community Priorities
(xiv) Climate Change Strategy

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THE BUDGET AND POLICY FRAMEWORK PROCESS

1. The Forward Plan

1.1 The items within the Framework will be included in the Forward Plan. As far as possible, this will show when the items will be considered by the Cabinet and the Assembly.

2. Process for approval of proposals on items within the Framework

2.1 Consultation

2.1.1 Consultation, with local stakeholders and the community as appropriate, shall be carried out on all proposals on items within the Budget and Policy Framework. Details of the consultation process shall be publicised widely (e.g. in the Forward Plan, on the Council’s web-page and in the press) and be available for inspection at the Council’s offices. The consultation process shall also comply with any statutory or other requirements that are specific to the item in question. As a guide, the consultation process will be carried out approximately one month before the Cabinet considers the proposals. The relevant Chief Officer will be responsible for carrying out the consultation process on the Cabinet’s behalf.

2.2 Consideration by the Cabinet

2.2.1 At the conclusion of the consultation period, a report setting out the proposals will be submitted to the Cabinet. This report will reflect any representations made during the consultation process. If the Public Accounts and Audit Select Committee comments on the item in question, this will also be reflected in the report. The Cabinet will consider the report and agree its initial proposals, which, in the normal way, will be published in the minutes and subject to the Call-In process.

2.3 Consideration by the Assembly

2.3.1 The Cabinet’s report to the Assembly shall set out its final proposals and, if applicable, explain how it has taken into account any comments from the Public Accounts and Audit Select Committee.

2.3.2 The Assembly has the power to either:

(i) approve the proposals,

(ii) amend the proposals, or

(iii) ask the Cabinet to reconsider the proposals.

2.3.3 In approving the proposals, the Assembly shall specify, as appropriate, the extent of virement within the budget and/or the degree of in-year changes to
the policy framework that may be undertaken by the Cabinet. Any other changes shall be reserved to the Assembly for decision.

2.4 Conflict Resolution Process

2.4.1 Proposals within the Policy Framework

2.4.1.1 If the Assembly has any objections to any proposal within the Policy Framework, it must inform the Leader of the Council and give him instructions requiring the Cabinet to reconsider the proposal in the light of the objections. The Assembly must specify a period of at least five working days, beginning on the day after they are issued, within which the Cabinet may:

(i) submit a revised proposal, together with its reasons for making any amendments, to the Assembly; or

(ii) inform the Assembly that it disagrees with the objections and provide reasons for this.

2.4.1.2 The Assembly must take into account any such submissions and then make its final decision on the basis of a simple majority.

2.4.2 Proposals within the Budgetary Framework

2.4.2.1 Where, before 8 February in any financial year, the Cabinet submits to the Assembly for its consideration in relation to the following financial year:

(i) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

(ii) estimates of other amounts to be used for the purposes of such a calculation;

(iii) estimates of such a calculation; or

(iv) amounts required to be stated in a precept under Chapter IV of Part I of the Local Government Finance Act 1992

and the Assembly has any objections to them, the Assembly must take the action set out below:

2.4.2.2 Before the Assembly makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph (a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Leader of any objections it has to the Cabinet's estimates or amounts and must give them instructions requiring the Cabinet to reconsider, in the light of those objections, those estimates and amounts
2.4.2.3 Where the Assembly gives such instructions, it must specify a period of at least five working days, beginning on the day after they are issued, within which the Cabinet may:

(i) submit a revision of the estimates or amounts, together with its reasons for making any amendments, to the Assembly; or

(ii) inform the Assembly that it disagrees with the objections and provides reasons for this.

2.4.2.4 The Assembly must take into account any such submissions and then make its final decision on the basis of a simple majority.

2.4.2.5 This procedure does not apply in relation to:

(i) calculations or substitute calculations which an authority is required to make in accordance with section 52I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

(ii) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

2.4.2.6 Any disputes as to whether an item, or proposed item, is defined as presently within the budget and policy framework will be determined by the Monitoring Officer (policy framework) and Chief Financial Officer (budget framework) respectively.

2.5 Urgent decisions not in accordance with the budget or policy framework

2.5.1 The Cabinet or employees or joint arrangements discharging Cabinet functions may take a decision which is contrary to the policy framework or contrary to, or not wholly in accordance with, the budget approved by the Assembly if the decision is a matter of urgency. However, the decision may only be taken:

(i) if it is not practical to convene a quorate meeting of the Assembly; and

(ii) if the Leader of the Council and the Lead Member of the Public Accounts and Audit Select Committee (or, in their absence, their respective deputies) agree that the decision is a matter of urgency.

2.5.2 The reason why it is not practical to convene a quorate meeting of the Assembly and the consent of the relevant Members to the decision being taken as a matter of urgency must be noted on the record of decision.

2.5.3 Following the decision, a report will be made to the next available Assembly explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

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