

EXECUTIVE DECISION MAKING CRITERIA

1. Introduction

All decisions must be taken in accordance with the law, rules of procedure, financial regulations, relevant codes of practice and the principles of decision making set out in Article 13.02 of the Council's Constitution. This guidance should be read in conjunction with Part 3 (Responsibilities for Functions) of the Constitution.

There are two types of Executive decisions, namely a 'key' decision or a 'non-key' decision. The definitions for these and who will take them are set out in this document.

Decisions are taken in a number of ways including: by the Executive collectively (key or non-key), by an individual Cabinet Member (key or non-key) or by an authorised officer (non-key decisions only).

There are three principles which also necessitate an 'Executive Decision' being taken by either the Executive or a 'Cabinet Member'. These are:

- If the decision to be taken is contrary to, or seeks to amend a decision previously taken as an Executive or Cabinet Member decision (either key or non key decision)
- If the decision relates to the approval of the commencement of procurement exercises and the award of contracts which are reserved to the Executive, in accordance with Contracts Procedure Rules.
- If the decision is reserved for Executive decision as per the Council's Financial Scheme of Delegation.

Executive decisions taken by the Leader of the Council, Deputy Leader of the Council, Cabinet Secretary and Cabinet Members must always be formally recorded by the Director of Governance and Regulatory Services (or representative) and will be subject to call-in.

Officer Executive decisions can only be taken by the relevant Chief Officer, or in the name of the Chief Officer or a person authorised in writing by the Chief Officer. They cannot be taken by a group of officers or a group of officers and elected members.

These principles and criteria in this document are part of the Council's Constitution and failure to follow these will be a breach of the constitution and would most likely result in disciplinary action being taken.

2. Conflicts of interest

There may be occasions where an Executive Member has a significant conflict of interest – this is one where the member concerned has either:

- a prejudicial interest or
- a disclosable pecuniary interest.

In these instances, the Cabinet Member will not be involved in a decision relating to the matter. Such decisions will be referred to the Leader of the Council, unless he also has a conflict of interest.

Further guidance on interests is set out in the Code of Conduct for Members (Part 5 of the Council's Constitution).

3. Key decisions

Key decisions are to be taken by the Executive collectively. If the decision cannot be left until the next scheduled Executive meeting, it may be taken by the relevant Executive Member and in these circumstances the Director of Governance and Regulatory services (or representative) will agree for the decision to be taken at this level, after consultation with the Leader of the Council and the relevant Executive Member.

Notice of a key decision must be given at least 28 calendar days in advance by its inclusion in the Forward Plan.

The definition of a key decision can be found within the Council's Constitution and is as follows:

An Executive decision will be a key decision if it comes within any of the following categories:

- a) It involves expenditure or savings (including receipt of or loss of income) of £250,000 or over in relation to the budget for the service or function to which it relates, but excludes any decision:
 - taken as a consequence of the Council's Treasury Management Strategy for the current financial year;
 - taken as a direct consequence of an earlier key decision
 - identified within the Council's agreed budget for the current financial year where there is a clear intention of the decision to be taken.
- b) It is likely to have a significant positive or negative impact on the people living or working in an area comprising two or more wards.
- c) It makes recommendations on the Council's Policy and Budget Frameworks.
- d) If the decision is to approve a 'plan or strategy', reserved for Executive approval only, as set out in the constitution.

4. Non-key decisions

Non-key decisions are split into four categories: those to be taken by the Executive collectively, those to be taken by the appropriate Executive Member individually and operational decisions to be taken by officers (significant or administrative).

Category 1: Executive Non-Key Decisions (ie those taken by the Executive collectively)

The following examples of non-key decisions would normally be taken by the Executive

collectively unless circumstances dictate that a decision is required before the next scheduled meeting. In these circumstances, the Leader of the Council or a Cabinet Member would take the decision.

- a) Decisions likely to have a significant effect on communities living or working within one ward.
- b) Decisions with significant impact on service and/or resource implications:
 - across the Council/ Borough as a whole, or
 - across a number of services.
- c) Decisions with significant performance or policy issues affecting:
 - the Council/ Borough as a whole, or
 - crossing a number of services.
- d) Proposals to or responses to recommendations or matters raised by a scrutiny committee or the Audit Committee.
- e) Capital commitments with prudential borrowing (Financial Scheme of Delegation).

Category 2: Cabinet Member Non-Key Decisions

These are decisions taken by the Executive Member individually (but may also be taken by the Executive collectively if necessary) and are:

- a) Decisions relating to significant asset management matters affecting the functions within the Executive Member's portfolio only. This would be where the sale, purchase, refurbishment, annual repair and maintenance or new build is between £200,000 to £249,999 or is likely to have a significant positive or negative impact on the people living or working in an area comprising one ward.
- b) Decisions with significant changes to service delivery or have significant service or resource implications for an individual Council function.
- c) Performance or policy issues affecting an individual Council function (unless these are so significant that they should be considered by the Executive collectively).
- d) Where the Chief Officer/Executive Member is of the opinion that the issue is likely to be controversial and/or sensitive.
- e) The payment of grants to outside bodies and voluntary organisations and the approval of ward funding requests from elected members, in accordance with the approved scheme.

- f) Where a dispensation from the Contracts Procedure Rules is required (Financial Scheme of Delegation).
- g) Setting service fees and charges (excluding those which are statutorily prescribed) and new income generation initiatives (Financial Scheme of Delegation).
- h) The write off of any individual debt in line with the threshold set in the financial scheme of delegation (Financial Scheme of Delegation).
- i) Extra contractual payments to contractors over 20% of contract value up to £250,000 (Financial Scheme of Delegation).
- j) Any statutory/legislative decisions which are not the responsibility of the Council or a Council committee
- k) Any proposed decisions that have been referred to the Executive by Council.

Category 3: Officer Delegated Decisions (significant operational decisions)

The following sets out the types of non-key decisions that can be taken by officers i.e. those that are significant operational decisions for the service, or involve the appointment of elected members to other bodies. Although they do not require a decision from an Executive Member, the relevant Cabinet Member (or the Leader of the Council) must be consulted before the decision is made.

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, Executive 'officer' decisions must be published on the Council's website using the appropriate template. These would be exempt for call-in. The regulations do not define which officer decisions this applies, to although the presumption is generally such decisions which an ordinary member of the public would expect to be aware of. The approach taken by other authorities includes property matters between certain thresholds, specific one off delegations from the Executive and formal appointments and responses on behalf of the Council. On that basis the criteria below is put forward for these types of decisions. These decisions do not include administrative decisions (i.e. taken as a result of day-to-day operation of the service). The corporate template must be used to record and publish these decisions.

These types of decision would include:

- a) One-off decisions delegated to an officer following a previous Executive or Cabinet Member decision.

- b) Decisions relating to significant asset management matters. This would be where the sale, purchase, refurbishment, annual repair and maintenance or new build is between £100,000 and £199,999 and there is no other form of approval already in existence.
- c) The appointment of elected members to outside bodies and school and academy governing bodies (as appropriate).

Category 4: Officer decisions - administrative

In line with the principles of good governance Chief Officers should also keep records of other operational decisions taken by them. Although these are not published, a record of the decision will provide an appropriate audit trail and provides clear evidence of a decision taken should their need to be evidence needed in the future (inspection, investigation etc). The corporate template can be used for recording these types of decisions.