

## EXECUTIVE AND DECISION MAKING PROCEDURE RULES

### 1. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

#### 1.1 Who may make executive decisions

The Leader may discharge any functions which are the responsibility of the Executive<sup>1</sup>; or may provide for executive functions to be discharged collectively by all Executive Members meeting as the Executive Board ; or by

- an individual Executive Member<sup>2</sup>;
- a committee of the Executive;
- a Community Committee;
- the Health and Wellbeing Board;
- joint arrangements;
- another local authority; or
- an officer.

#### 1.2 Appointment of Executive Members

The Leader will appoint a Deputy Leader and up to 8 additional Members of the Executive Board<sup>3</sup>. In addition the Leader may appoint Deputy Executive Members and Support Executive Members.

At the annual meeting of the Council, the Leader will present to the Council the names, addresses and wards of the Executive Members, and the names of any Members appointed as Deputy Executive Members and Support Executive Members<sup>4</sup>.

Subject to Article 7, the Leader may appoint Executive Members (and where a vacancy in office arises must appoint a Deputy Leader), Deputy Executive Members or Support Executive Members or remove them from this office at any time<sup>5</sup>. The Leader will report any such appointment or removal to the next ordinary meeting of the Council. The appointment or removal will take effect upon publication of the decision notice.

#### 1.3 Delegation of Executive Functions

At the annual meeting, the Leader will present to the Council a written record of executive delegations made by him/her for inclusion in the Council's scheme of delegation at Part 3 to this Constitution. The document presented by the Leader will contain the following information about executive functions in relation to the coming year:

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<sup>1</sup> Subject to any provisions made under Local Government Act 2000 in relation to the discharge of functions by area committees, another local authority or jointly).

<sup>2</sup> This does not currently take place in Leeds

<sup>3</sup> 'Executive Members'

<sup>4</sup> As detailed in Part 3 Section 3A of the Constitution.

<sup>5</sup> This decision will be recorded in accordance with Rule 4.2 but shall not be subject to Call In in accordance with Rule 5.1.2 of these rules.

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- the extent of authority of the Executive Board;
- the extent of any authority delegated to individual Executive Members, including details of any limitation on their authority;
- the terms of reference and constitution of such executive committees as the Leader appoints and the names of Executive Members appointed to them;
- the nature and extent of any delegation of executive functions to Community Committees, the Health and Wellbeing Board, any other authority or any joint arrangements and the names of those Executive Members appointed to any joint committee for the coming year; and
- the nature and extent of any delegation to officers with details of any limitation on that delegation, and the title of the officer to whom the delegation is made.

The Leader may amend the scheme of delegation relating to executive functions at any time during the year<sup>6</sup>. The decision notice must set out the extent of the amendment to the scheme of delegation, and whether it entails the withdrawal of delegation from any person, body, committee or the Executive Board. The amendments will take effect upon publication of the decision notice unless otherwise stated thereon. The Leader will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.

### 1.4 **Sub-delegation of executive functions**

Subject to any statutory provisions about the discharge of functions by community committees<sup>7</sup>, by another local authority, or the joint exercise of functions:

- if the Leader delegates functions to the Executive Board, then unless he/she directs otherwise, the Executive Board may delegate further to a committee of the executive or to an officer;
- if the Leader delegates functions to an Executive Member, then unless the Leader otherwise directs, that Executive Member may delegate further to an officer.
- if the Leader delegates functions to a committee of the executive, then unless he/she directs otherwise, the committee may delegate further to an officer.

Where executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated them.

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<sup>6</sup> This decision will be recorded in accordance with Rule 4.2 but shall not be subject to Call In in accordance with Rule 5.1.2 of these rules

<sup>7</sup> This shall include provisions about the discharge of functions by area committees.

## **2. PROCEDURE BEFORE TAKING A DECISION**

### **2.1 Executive Meetings – when and where**

The Executive Board will meet at a frequency, location and time agreed by the Leader.

### **2.2 Notice of Public Meetings<sup>8</sup>**

The Head of Governance Services will arrange to give notice of the time and place of a public meeting by publishing the agenda, together with every report, for that meeting on the Council's website at least five clear working days before the meeting.

Where the meeting is convened less than five clear working days before the meeting, notice will be given by publishing the agenda, together with every report, for that meeting on the Council's website at the time the meeting is convened.

Where an item is added to the agenda for a meeting after publication of that agenda, copies of the revised agenda and any report relating to that item, will be published on the Council's website when the item is added to the agenda.

Nothing in this rule requires a copy of an agenda, item or report to be available for inspection by the public until a copy is available to members of the decision making body concerned.

### **2.3 Notice Of Meetings At Which Exempt Or Confidential Information Is To Be Considered<sup>9</sup>**

2.3.1 Where the whole or part of any report is not available for inspection by the public because it contains confidential<sup>10</sup> or exempt<sup>11</sup> information every copy of that report or part of that report must be marked "not for publication" and must state that it contains confidential information or, by reference to Schedule 12A Local Government Act 1972 the description of exempt information which it contains.

#### **2.3.2 28 Days' Notice**

At least 28 clear calendar days before a meeting at which exempt or confidential information is to be considered, the Head of Governance Services will arrange for a notice to publish on the Council's website a notice of the intention to hold a meeting, or part of a meeting of the Executive Board<sup>12</sup> in private.

The notice will include a statement of the reasons why it is intended that the meeting, or part of the meeting, should be held in private.

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<sup>8</sup> Regulations 6 & 7, Executive Arrangement Regulations 2012

<sup>9</sup> Regulation 5, Executive Arrangement Regulations 2012

<sup>10</sup> As defined at Rule 9.2 Access to Information Procedure Rules.

<sup>11</sup> As defined at Rule 10.4 Access to Information Procedure Rules.

<sup>12</sup> Or a Committee fulfilling executive functions

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### 2.3.3 5 Days Notice

At least five clear working days before a meeting at which exempt or confidential information is to be considered, the Head of Governance Services will publish further notice of the Executive's intention to hold the meeting in private. This will be done by including in an open report to the meeting:-

- A statement of the reasons for the meeting to be held in private;
- Details of any representations received about why the meeting should be open to the public; and
- A statement of response to any such representations

### 2.3.4 Urgent Meetings At Which Exempt Or Confidential Information Is To Be Considered

Where the date a meeting must be held makes compliance with rules 2.3.2 and 2.3.3 impracticable then the meeting may only consider exempt or confidential items in private with the agreement of the chair of the relevant Scrutiny Board<sup>13</sup>. In considering the matter the Scrutiny Board Chair must be satisfied that the meeting is urgent and cannot reasonably be deferred.

As soon as reasonably practicable after obtaining the Scrutiny Chair's agreement the Head of Governance Services will publish on the Council's website notice of the intention to hold the meeting at which exempt or confidential information is to be considered. This will be done by including in an open report to the meeting:-

- The reason why the meeting is urgent and cannot reasonably be deferred
- Confirmation of the agreement of the chair of the relevant Scrutiny Board.

## 2.4 Publicity in connection with Key Decisions<sup>14</sup>

### 2.4.1 List of Forthcoming Key Decisions

The Head of Governance Services will maintain a List of Forthcoming Key Decisions which will be published on the Council's website.

If it is intended to take a Key Decision in the course of the discharge of an Executive function, the decision taker<sup>15</sup> will arrange for details of the matter, as set out below, to be included in the List of Forthcoming Key Decisions, not less than 28 clear calendar days in advance of the date of the proposed decision<sup>16</sup>.

The List of Forthcoming Key Decisions will give the following information in so far as it is available or might reasonably be obtained:

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<sup>13</sup> Or in their absence the Lord Mayor, or in the absence of the Lord Mayor, the vice chair of the authority.

<sup>14</sup> Regulation 9, Executive Arrangement Regulations 2012

<sup>15</sup> If the decision is to be taken by a Committee then the officer whose report will be placed before the committee for consideration in relation to the matter is responsible for ensuring that appropriate details are included within the List of Forthcoming Key Decisions.

<sup>16</sup> A link to the relevant matter will be forwarded to every Member of the authority on publication to the Council's website.

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- the matter in respect of which a decision is to be made;
- where the decision taker is an individual, his/her name and title, if any and where the decision taker is a body, its name and a list of its Members;
- the date on which, or the period within which, the decision will be taken;
- a list of the documents submitted to the decision taker for consideration in relation to the matter;
- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any documents listed are available;
- that other documents relevant to those matters may be submitted to the decision taker; and
- the procedure for requesting details of those documents (if any) as they become available.

Particulars of Key Decisions included in the List of Forthcoming Decisions need not include exempt information and may not include confidential information.

### **2.4.2 Notification of Delegated Decisions By Directors**

Where a Director<sup>17</sup> receives a report which he/she intends to take into account in making any Key Decision, then he/she will not make the decision until the report has been available for public inspection for at least 5 clear working days.

The decision taker will arrange for the publication of a delegated decision notice, stating his/her intention to make the decision, together with a copy of the report upon which the decision is to be based on the Council's website<sup>18</sup>.

### **2.5 General Exception<sup>19</sup>**

If a matter which is likely to be a Key Decision has not been included in the List of Forthcoming Key Decisions for 28 clear calendar days before the decision is planned to be taken and the decision must be taken by such a date that it is impracticable to defer the decision until the decision has been included in the List of Forthcoming Decisions for 28 clear calendar days, the decision may still be taken if:

- A copy of the agenda for the meeting or the delegated decision notice has been forwarded to the chair of the relevant Scrutiny Board<sup>20</sup>;
- A copy of that agenda or delegated decision notice has been published on the Council's website; and
- at least 5 clear working days have elapsed since compliance with these requirements.

Any report in relation to a decision taken in accordance with this rule and any delegated decision notice published in accordance with this rule will state why it is

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<sup>17</sup> Or other officer taking a decision in accordance with the Director's sub-delegation scheme

<sup>18</sup> A link to the relevant matter will be forwarded to every Member of the authority on publication to the Council's website.

<sup>19</sup> Regulation 10, Executive Arrangement Regulations 2012

<sup>20</sup> This will be deemed to happen when all Members are forwarded a link to the decision on publication of the DDN and report.

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impracticable to include the decision in the List of Forthcoming Key Decisions for a period of 28 clear calendar days prior to taking the decision.

### **2.6 Special Urgency<sup>21</sup>**

#### **2.6.1 Use of Special Urgency**

If by virtue of the date by which a decision must be taken Rule 2.4 (Publicity in connection with Key Decisions) and Rule 2.5 (General Exception) cannot be followed, then the decision can only be taken if the relevant Director obtains the agreement of the chair of a relevant Scrutiny Board<sup>22</sup> that the decision is urgent and that taking the decision cannot be reasonably deferred.

As soon as reasonably practicable after obtaining the relevant agreement the following information will be published on the Council's website<sup>23</sup>:-

- the agenda for the meeting at which the decision is to be taken or the delegated decision notice;
- the report in relation to the urgent item; and
- the record of the Scrutiny Chair's agreement that the matter is urgent.

Any report in relation to a decision taken in accordance with this rule and any delegated decision notice published in accordance with this rule will state why the decision is urgent and cannot reasonably be deferred.

Details of any decision taken in accordance with this rule will be included in the Leader's report to Corporate Governance and Audit Committee made in accordance with Rule 2.6.2 below.

#### **2.6.2 Annual Reports On Special Urgency Decisions<sup>24</sup>**

The Corporate Governance and Audit Committee will receive on behalf of the Council, annual reports from the Leader on the executive decisions taken in the circumstances set out in Rule 4.2 (special urgency) in the preceding year.

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<sup>21</sup> Regulation 11, Executive Arrangement Regulations 2012

<sup>22</sup> If there is no chair of a relevant Scrutiny Board, or if the chair of the relevant Scrutiny Board is unable to act, then the agreement of the Lord Mayor or in the absence of the Lord Mayor the vice chair of the Council will suffice.

<sup>23</sup> The Head of Governance Services will make the necessary arrangements to publish a committee agenda and the Director will arrange for publication of a delegated decision notice.

<sup>24</sup> Regulation 19, Executive Arrangement Regulations 2012

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The report will include details of

- the number of decisions so taken,
- each decision made, and
- a summary of the matters in respect of which each decision was made.

### **3. TAKING EXECUTIVE DECISIONS**

#### **3.1 Decisions Taken At Executive Meetings**

Save for those decisions delegated to a Community Committee, which are to be taken in accordance with the Community Committee Procedure Rules, where executive decisions are delegated to a committee of the Executive, the rules applying to executive decisions taken by them shall be the same as those applying to those taken by the Executive Board.

##### **3.1.1 Exclusion of the Public from Meetings of the Executive Board**<sup>25</sup>

All meetings of the Executive Board will be in public<sup>26</sup>. However the public<sup>27</sup> must be excluded from the part or parts of a meeting whenever:-

- Confidential information is likely to be disclosed during an item of business;
- The meeting passes a resolution, identifying the relevant part of the meeting to which it applies, that the public should be excluded because exempt information, described with reference to Rule 10.4 of the Access to Information Procedure Rules, is likely to be disclosed during an item of business; or
- A lawful power is used to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at the meeting.

The public may only be excluded from that part or parts of the meeting to which the circumstances set out above relate, and where, if required, notice has been given in accordance with Rule 2.3 above.

##### **3.1.2 Statutory Officers Attendance at Meetings**

The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees.

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<sup>25</sup> Regulation 3, Executive Arrangement Regulations 2012

<sup>26</sup> The Recording Protocol: Third Party Recording of Committees, Boards and Panels, set out in the Access to Information Procedure Rules applies.

<sup>27</sup> Members of the Council and officers attending the meeting in the course of their employment shall not be considered to be members of the Public.

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### 3.1.3 Quorum

The quorum for a meeting of the Executive Board shall be four. The quorum for a meeting of a committee of the Executive shall be three.

### 3.1.4 How decisions are to be taken by the Executive Board

Executive decisions which are the responsibility of the Executive Board will be taken at a meeting convened in accordance with Rules 2.1 to 2.3 set out above.

### 3.1.5 Who presides

The Leader and in his/her absence, the Deputy Leader will preside at any meeting of the Executive Board or its committees at which he/she is present. In the absence of both, the Leader may appoint another person to do so. If no such appointment is made, those present at the meeting shall decide by majority who should preside.

### 3.1.6 Membership

The Executive Board shall comprise those Members listed at Part 3, Section 3A of the Constitution.

In the absence of an Executive Board Member, the Executive Board may invite any Member it considers appropriate to attend its meetings and to speak on behalf of the absent Member. However that Member will not be considered a co-opted member of the Executive Board and will not be able to vote on business being transacted.

### 3.1.7 What business?

At each meeting of the Executive Board the following business will be conducted:

- consideration of the minutes of the last meeting;
- declarations of interest, if any;
- matters referred to the Executive Board (whether by a Scrutiny Board or by the Council) for reconsideration by the Executive Board in accordance with the provisions contained in these or other relevant Procedure Rules set out in Part 4 of this Constitution;
- consideration of reports from Scrutiny Boards; and
- matters set out in the agenda for the meeting (which shall indicate which are Key Decisions and which are not).

### 3.1.8 Who can put items on the Executive agenda?

The Leader will decide upon the schedule for the meetings of the Executive. He/she may put on the agenda of any Executive meeting any matter which he/ she wishes, whether or not authority has been delegated to the Executive Board, a committee of it or any officer in respect of that matter.

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The Head of Governance Services will make sure that an item is placed on the agenda of the next available meeting of the Executive Board where a relevant Scrutiny Board or the full Council have resolved that an item be considered by the Executive.

In exceptional circumstances the Council's statutory officers may require that a matter be considered by the Executive Board<sup>28</sup>.

### **3.2 Compliance With The Budget And Policy Framework**

The Budget and Policy Framework Procedure Rules contained within part 4 of this constitution set out the procedure to be followed to adopt or amend the Budget and Policy Framework.

Subject to paragraphs 3.2.1 to 3.2.3 below, all decisions in relation to Executive Functions must be taken in line with the Budget and Policy Framework<sup>29</sup>.

#### **3.2.1 Taking Advice**

If it is intended to make an Executive Decision, which might be considered to fall outside the Budget or Policy Framework the decision taker shall take advice from the Monitoring Officer and/or the Chief Finance Officer as to whether the decision they want to make would be contrary to the budget and policy framework.

Where a Scrutiny Board is of the opinion that an Executive Decision is, or if made would be, contrary to the budget and policy framework, then it shall seek advice from the Monitoring Officer and/or Chief Finance Officer.

In the event that the Monitoring Officer or the Chief Finance Officer concludes that the decision would not be a departure from the budget and policy framework they shall prepare a report to the relevant Scrutiny Board, with a copy to the Executive Board.

#### **3.2.2 Referral to Council**

If a decision has yet to be made, or has been made but not yet implemented, and the Monitoring Officer and/or the Chief Finance Officer are of the view that the proposed decision would be contrary to the budget and policy framework, and the decision taker still intends to make or to implement the decision;

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<sup>28</sup> The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of an Executive Board meeting and may require the Head of Governance Services to call such a meeting in pursuance of their statutory duties. In other circumstances where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive Board needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive Board meeting. If there is no meeting of the Executive Board soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

<sup>29</sup> Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 4

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- the Monitoring Officer and/or the Chief Finance Officer shall report to the Executive Board, with a copy to the relevant Scrutiny Board and to every Member of the Council;
- the Executive Board shall meet to consider the report of the Monitoring Officer and/or the Chief Finance Officer and shall prepare a report to Council; and
- the decision taker shall refer the decision to the Council for decision or ratification as appropriate,

In such cases, no further action will be taken in respect of the decision or its implementation until the Council has met and considered the matter.

The Council shall meet within 28 days of the referral by the decision taker. At the meeting it will receive the Executive Board's report of the decision or proposals and the advice of the Monitoring Officer and/or the Chief Finance Officer.

If Council decides that the decision is not contrary to the budget and policy framework it shall endorse the decision as falling within the existing Budget and Policy Framework.

If Council decides that the decision is contrary to the budget and policy framework it may either:

- approve or ratify the decision outside the budget and policy framework;
- amend the Council's budget and policy framework as necessary to encompass the decision and approve or ratify the decision with immediate effect; or
- require the Executive to reconsider the matter in accordance with the advice of either the Monitoring Officer/Chief Finance Officer.

### 3.2.3 Urgent Decisions Outside The Budget Or Policy Framework<sup>30</sup>

Any decision which is contrary to the policy framework<sup>31</sup>, or not wholly in accordance with the budget<sup>32</sup> approved by full Council, may only be taken by the Council, unless:

- the decision is urgent and it is not practical to convene a quorate meeting of the full Council;
- the decision taker has briefed the chair of a relevant Scrutiny Board<sup>33</sup> about why it is not practical to convene a quorate meeting of full Council, and

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<sup>30</sup> Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 5(2)

<sup>31</sup> Or amendments which may be made to the policy framework in accordance with the provisions for in year changes to policy framework set out in the Budget and Policy procedure Rules.

<sup>32</sup> Or virements made in accordance with the Budget and Policy Procedure Rules.

<sup>33</sup> or in the absence of the chair of the relevant Scrutiny Board the consent of the Lord Mayor, and in the

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- the chair agrees that the decision is urgent.

The reasons why it is not practical to convene a quorate meeting of full Council and the consent of the chair of the relevant Scrutiny Board<sup>34</sup> to the decision being taken as a matter of urgency must be noted on the record of the decision, together with the reasons for the Chair's consent.

The decision taker will provide a full report to the next available Council meeting after the decision is taken explaining:

- the decision,
- the reasons for it; and
- why the decision was treated as a matter of urgency.

### 3.3 Decision Making by Community Committees

- 3.3.1 Where a Community Committee or a relevant Director is of the opinion that a proposal, decision or omission in relation to an executive function would result in:
- minimum service standards specified by the Executive Board not being achieved; or
  - an adverse impact on service delivery or the achievement of targets; or
  - delivery of any service in that area or the area of another Community Committee being adversely affected

the Chair of that Community Committee or that Director shall report that opinion<sup>35</sup> to the appropriate Executive Member, who may direct that the relevant delegated authority should not be exercised and the matter should be referred to the Executive Board for consideration.

- 3.3.2 Where the Monitoring Officer or Chief Finance Officer is of the opinion that a proposal, decision or omission of a Community Committee is or if made would be
- a) outside its terms of reference; or
  - b) outside any relevant strategy or plan approved by the Executive Board; or
  - c) outside the Budget and Policy Framework; or
  - d) not in accordance with any relevant procedure rules

the Monitoring Officer or Chief Finance Officer shall refer the matter to the Executive Board and/or Council as appropriate for consideration at the next available meeting.

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absence of both, the Deputy Lord Mayor

<sup>34</sup> Or Lord Mayor or Deputy Lord Mayor as appropriate

<sup>35</sup> where that opinion is in relation to a decision taken by a Community Committee, the report to the Executive Member must be made within 5 working days of the relevant decision notice being published

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- 3.3.3 Where a matter has been referred to the Executive Board or the Council under 3.3.1 or 3.3.2 above, the implementation of the proposal or decision shall be suspended until the matter is considered by the Executive Board and/or the Council.
- 3.3.4 Where a matter has been referred to the Executive Board under 3.3.1, or paragraphs (a) or (b) of 3.3.2, above, the Executive Board may:
- decide the matter itself; or
  - endorse any decision already made; or
  - refer the matter back to the Community Committee for determination; and/or
  - make any other decision it considers appropriate.
- 3.3.5 Where a matter has been referred to the Executive Board under 3.3.2 (c) or (d) then the Executive Board may;
- refer the matter to the Council for consideration<sup>36</sup>; or
  - decide the matter within the Budget and Policy Framework / in accordance with the procedure rules; or
  - refer the matter back to the Community Committee for determination within the budget and policy framework / in accordance with the procedure rules.
- 3.3.6 Before deciding any matter in accordance with Rule 3.3.4 or 3.3.5, the Executive Board will consider a report from a Statutory Officer or Director detailing as appropriate:-
- whether minimum service standards for a relevant Community Committee Function are being achieved;
  - how any delegated budget for the executive function is being utilised;
  - whether a proposal decision or omission by a Community Committee or a Director would result in
    - minimum service standards specified by the Executive Board not being achieved; or
    - an adverse impact on service delivery or the achievement of targets; or
    - delivery of any service in that area or the area of another Community Committee being adversely affected;
  - whether a proposal, decision or omission by a Community Committee
    - is outside its terms of reference; or
    - is outside any relevant strategy or plan approved by the Executive Board; or
    - is outside the Budget and Policy Framework; or
    - is not in accordance with any relevant procedure rules.

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<sup>36</sup> The Council's options are as set out in Budget and Policy Framework Rules

#### **4. PROCEDURE AFTER TAKING A DECISION**

##### **4.1 Recording Of Executive Decisions Taken At Meetings<sup>37</sup>**

As soon as reasonably practicable, and in any event within 2 working days, after any meeting of the Executive or within 10 working days of any of its committees, the Head of Governance Services or, where no officer was present, the person presiding at the meeting, will produce a minute of every decision taken at that meeting and publish it on the Council's website together with the report in relation to the decision made. The minute will include;

- A record of the decision including the date it was made,
- a statement of the reasons for each decision,
- details of any alternative options considered and rejected at that meeting and
- a record of any interest declared by any Member together with a note of any dispensation granted in respect of that interest .

##### **4.2 Recording Of Executive Decisions Taken by the Leader<sup>38</sup>**

As soon as reasonably practicable after a decision has been taken in relation to executive arrangements<sup>39</sup> by the Leader, the Head of Governance Services will prepare a record of the decision and publish it on the Council's website together with the report in relation to the decision made. The record will include;

- A record of the decision including the date it was made,
- a statement of the reasons for it,
- details of any alternative options considered and rejected by the Member at the time of making the decision, and
- a record of any interest declared by any Executive Member consulted by the Member who made the decision together with a note of any dispensation granted in respect of that interest .

##### **4.3 Recording Of Executive Decisions Taken by Officers<sup>40</sup>**

###### **4.3.1 Key decisions and Significant Operational decisions**

As soon as reasonably practicable after a Key or Significant Operational Decision has been taken by an officer he/she will prepare a record of the decision and arrange for its publication on the Council's website together with the report in relation to the decision made<sup>41</sup>. The record will include;

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<sup>37</sup> Regulation 12, Executive Arrangement Regulations 2012

<sup>38</sup> Regulation 13, Executive Arrangement Regulations 2012

<sup>39</sup> The Leader may take decisions in relation to the Executive Portfolios and executive delegations to officers as set out in Part 3 Section 3 of the Constitution.

<sup>40</sup> Regulation 13, Executive Arrangement Regulations 2012

<sup>41</sup> Key decisions will be published in accordance with Rules 2.4 to 2.6 above, and will therefore, subject to the provisions in respect of urgency, be published no less than 5 clear working days in advance of the decision being taken. The Council's web site will in these circumstances contain details of the dates upon which the decision will be taken and the Call In period will expire.

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- A record of the decision including the date it was made,
- a statement of the reasons for it,
- details of any alternative options considered and rejected by the officer at the time of making the decision, and
- a record of any interest declared by any Executive Member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest .

### 4.3.2 Administrative decisions

There is no formal requirement to record Administrative Decisions for the purpose of Council or Public Access, however officers are responsible for retaining a record of administrative decisions, and the reasons for them, which is sufficient for audit and evidential purposes, and for ensuring that all those who need to know are informed promptly of the decision.

## **5. IMPLEMENTATION OF EXECUTIVE DECISIONS**

### **5.1 Implementation of Decisions Which are Subject to Call-In<sup>42</sup>**

5.1.1 Decisions which are subject to the Call In procedure set out in rules 5.1.2 to 5.1.5 below should not be implemented until the Call In procedure is exhausted in relation to those decisions<sup>43</sup>.

### **5.1.2 Decisions Eligible for Call In**

Subject to the exceptions set out below, the following may be called in to be reviewed and scrutinised by the relevant Scrutiny Board<sup>44</sup>:

- all decisions of the Executive Board;
- Executive decisions taken by the Health and Wellbeing Board<sup>45</sup>; and
- Key Decisions taken by Officers.

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<sup>42</sup> The Local Government Act 2000 requires that Overview and Scrutiny Committees *be given the power to recommend that a decision made but not implemented, be reconsidered*. The Act gives local authorities considerable discretion over the detailed operation of such a “Call In” mechanism.

<sup>43</sup> The Call In procedure will be exhausted when:-

- the Call In period expires if the decision is not called in (Steps should not be taken to implement any decision subject to Call In until after 12 noon on the sixth working day after publication, to ensure that the Scrutiny Officer has had opportunity to advise them of any request for call in received before the expiry of the call in period);
- at the end of the call in meeting if the decision is released for implementation; or
- when the decision has been confirmed or amended in accordance with these rules if the decision is subject to a recommendation that it be reconsidered.

<sup>44</sup> Where a decision falls within the terms of reference of more than one Scrutiny Board, the Scrutiny Officer will determine the relevant Scrutiny Board, after consultation with Scrutiny Chairs.

<sup>45</sup> That is functions delegated to the Health and Wellbeing Board by the Leader

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The power to call in decisions does not extend to;

- Decisions which have been the subject of a previous Call In;
- Decisions made in accordance with the Budget and Policy Framework Procedure Rules;
- Decisions made by the Leader in relation to the executive arrangements
- Decisions made by Community Committees;
- Decisions made under regulatory arrangements;
- Decisions made by Joint Committees; or
- Decisions not taken by the authority.

### 5.1.3 Exemption from Call In

The decision taker may declare a decision as being exempt from Call In if the decision taker considers that the decision is urgent (i.e. that any delay would seriously prejudice the Council's or the public's interests).

Records of decisions taken will indicate where a decision has been declared exempt from Call In and will indicate:-

- what the implications would be if the decision were to be delayed by the operation of the Call In mechanism; and
- why the decision could not have been taken earlier so as to have been eligible for Call In.

There will be no appeal mechanism against a decision to exempt a decision from Call In.

### 5.1.4 Operation of Call In

#### 5.1.4.1 Initiation of Call In

To initiate a Call In, a request must be submitted to the Scrutiny Officer<sup>46</sup> by 5 p.m. of the fifth working day after a decision has been published.

The request must be made on the approved pro forma and contain the original signatures of those calling in the decision<sup>47</sup>.

If a Member withdraws their signature from the Call In request prior to the expiry of the Call In period, the decision may still be called in provided sufficient Members add their signatures to the call in request.

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<sup>46</sup> This Officer is the Head of Scrutiny and Member Development.

<sup>47</sup> An Elected Member who is not a member of a political group may be a signatory but co-opted members may not sign a Call In request.

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The decision may be called in by either;

- two non executive elected Members (who are not from the same political group); or
- five non executive elected Members

one of whom shall be the nominated signatory.

### 5.1.4.2 Grounds for Calling in a decision

All requests must detail on the pro forma why in the opinion of the signatories the decision was not taken in accordance with the principles set out in Article 13 - Decision Making, Paragraph 13.8 - Principles of Decision Making, or where relevant issues do not appear to have been taken into consideration.

Prior to submitting a Call In, the nominated signatory must contact the relevant officer or Executive Member to discuss their concerns and their reasons for wanting to call in the decision. The nominated signatory must also ascertain the financial consequences to the authority of having the decision Called In. The outcome of this contact must be detailed on the Call In request proforma.

### 5.1.4.3 Convening a Meeting

Upon receipt of the request, the Scrutiny Officer will, in consultation with the Chair of the relevant Scrutiny Board, convene a special meeting of the relevant Scrutiny Board, to take place within seven clear working days of the Call In request being received<sup>48</sup>.

### 5.1.4.4 Adjourning a Call In Meeting

In exceptional circumstances, the Scrutiny Board may resolve to adjourn the meeting to consider information regarded as essential for the Board to come to a conclusion. The maximum time allowed for an adjournment is 5 working days.

### 5.1.4.5 Outcome of a Call In Meeting

At the meeting the Scrutiny Board will consider the notification and review the background papers. The Scrutiny Board will invite signatories to the notification<sup>49</sup> to explain the reasons for the Call In<sup>50</sup>. The relevant member of the Executive Board, Health and Wellbeing Board or officer (as appropriate) shall be required to attend the Meeting and shall be given the opportunity to respond to the reasons given for the Call-In. The Scrutiny Board shall make such further enquiries as it considers necessary and appropriate. The Scrutiny Board may also extend the invitation to

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<sup>48</sup> Where an ordinary meeting of the relevant Scrutiny Board is scheduled within 10 working days of the Call In request being received the Scrutiny Officer may exercise discretion as to whether the Call In request can be dealt with at that meeting, or whether it is necessary to convene an additional meeting.

<sup>49</sup> or their nominees

<sup>50</sup> The signatories should specify which of the principles of decision making (set out in Article 13.4 of the constitution) has not been followed. The signatories may also provide further written evidence provided this supports the stated reasons for calling in the decision.

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other relevant witnesses, as considered appropriate, in order to specifically assist the Board in its deliberations over the called in decision.

The Scrutiny Board shall then either;

- release the decision for implementation; or
- recommend to the decision-maker that the decision should be reconsidered.

If the Scrutiny Board resolves that a decision is to be referred back for reconsideration, the Scrutiny Officer will prepare a report<sup>51</sup> within three working days of the Scrutiny Board meeting. Where the decision was taken by the Executive Board the report will be submitted to the next meeting of the Executive Board. Where the decision was taken by the Health and Wellbeing Board the report will be submitted to the next meeting of the Health and Wellbeing Board. Where the decision was taken by an officer the report will be submitted to the relevant Director.

### 5.1.5 Reconsideration of Decisions

#### 5.1.5.1 Confirmation of Decisions

If the Decision Taker wishes to confirm the original decision, that decision shall be submitted to the next Executive Board meeting.

If the original decision was taken by the Health and Wellbeing Board or an officer, and the relevant Director is of the view that the original decision should be confirmed, but that urgency prevents them from submitting the decision to Executive Board;

- The Director shall obtain the approval of the relevant Executive Board Member before implementation;
- Details of the Executive Member approval, together with reasons of urgency will be included in the new delegated decision form; and
- The Director and relevant Executive Board Member will also be required to attend and give their reasoning to the next available meeting of the relevant Scrutiny Board

#### 5.1.5.2 Variation of Decisions

If it is intended to vary the decision in line with the recommendations of the Scrutiny Board then the amended decision is not defined as a Key decision, regardless of the financial or impact thresholds<sup>52</sup>. It will not therefore be necessary to include the proposed variation of decision in the List of Forthcoming Key Decisions or to give notice of the proposed decision.

If it is intended to vary the decision in any way that is not in line with the recommendations of the Scrutiny Board then the amended decision may be a Key

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<sup>51</sup> the provisions relating to a minority report do not apply to any decision of the Committee in relation to a matter which has been called in.

<sup>52</sup> Article 13.4(b)

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decision if it meets the thresholds set out in Article 13, and if so is subject to rule 2.7 above.

If the original decision was taken by the Executive Board the Executive Board may vary the decision.

If the original decision was taken by the Health and Wellbeing Board or by or on behalf of a Director, the Health and Wellbeing Board, or the relevant Director may vary the decision.

Where the Director agrees with the views of Scrutiny a new delegated decision form will be submitted for recording in accordance with Rule 5.1 above.

### 5.1.5.3 Record of Revised decision

In all instances a revised record of the decision, indicating the outcome of decision taker's further deliberations, must be published in accordance with Rule 4.1 or 4.3 above.

## 5.2 **Implementation of Decisions Which are Not Subject to Call In**

Decisions which are not subject to Call In under Rule 5.1.2 above or are exempted from Call In under Rule 5.1.3 above should be implemented as follows:-

### 5.2.1 Key Decisions

Key Decisions should be recorded in accordance with Rules 4.1 to 4.3 above as appropriate but may be implemented as soon as they have been taken.

### 5.2.2 Significant Operational Decisions

Significant Operational Decisions should be recorded in accordance with Rules 4.1 to 4.3 above but may be implemented as soon as they have been taken.

### 5.2.3 Administrative Decisions

Administrative decisions may be implemented as soon as they have been taken.

## **6. SCRUTINY OF THE MAKING OF KEY DECISIONS**

### **6.1 Decisions Which Appear to Have Been Wrongly Treated<sup>53</sup>**

Where an executive decision has been made and

- was not treated as a Key Decision, and
- a relevant Scrutiny Board thinks that it should have been treated as a Key Decision

that Scrutiny Board may require, by resolution passed at a meeting of that Scrutiny Board, the Decision Taker to submit a report to the Council within such reasonable time as the Scrutiny Board specifies.

The relevant Director will prepare a report for submission to the next available meeting of the Council<sup>54</sup> following the end of the period specified by the Scrutiny Board.

The report to Council will set out particulars of;

- The decision,
- The reasons for the decision,
- The individual or body making the decision, and
- if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

## **7. PUBLIC ACCESS TO DOCUMENTS**

### **7.1 Access to agendas, minutes, reports and background papers.**

Rules 5 to 7 and 15.2 of the Access to Information Procedure Rules apply to documents and records of meetings and decisions published in accordance with these rules.

### **7.2 Confidential and Exempt Information**

Rules 8, 9 and 10 of the Access to Information Procedure Rules apply to information contained within documents and records relating to executive decision making

### **7.3 Freedom of Information**

FOI requests will be dealt with in accordance with Rule 11 and Rule 15.1 of the Access to Information Procedure Rules.

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<sup>53</sup> Regulation 18, Executive Arrangement Regulations 2012

<sup>54</sup> Allowing 5 clear working days to prepare the report prior to dispatch of the summons.

**8. MEMBERS ACCESS TO INFORMATION**

Rules 12-15 of the Access to Information Procedure Rules apply to information held by the Executive.