

ARTICLE 13 - DECISION MAKING

COUNCIL DECISIONS

13.1. Council Decisions are made in relation to Council functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

EXECUTIVE DECISIONS

13.2. Executive Decisions are made in relation to Executive functions, as defined by the Local Government Act 2000 and the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended.

RESPONSIBILITY FOR DECISION MAKING

13.3. A record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions will be maintained by the City Solicitor. This record is set out in Part 3 of this Constitution.

CATEGORIES OF DECISION

- 13.4. **Key Decision:-** a decision relating to an executive function which is likely
- a. to result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000 per annum; or
to have a significant effect on communities living or working in an area (including one ward), and
 - b. which is not a decision which is a direct consequence of implementing a previous Key Decision, or in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed¹²; or

¹ In particular

- Where a scheme or proposal changes following the original decision to the extent that the additional spend or save, or the additional impact of the decision, reaches the threshold for a Key decision it shall be treated as a new Key decision;
- Under the capital programme, a decision to **authorise expenditure** over £250,000 will be a **key** decision, but a decision to **inject a scheme** into the capital programme, or to **award a contract** over the value of £250,000 will not;
- The decision to extend a contract under an option to extend will not be treated as a direct consequence of entering into the contract and will be treated as Key if it reaches either of the thresholds set out;
- Both the decision to enter into a framework agreement and later decisions to draw down under that framework will be treated as Key if they reach either of the thresholds set out.-

² All decisions subject to this exception will be treated as Significant Operational Decisions.

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which is not the result of varying a previous Key decision in line with recommendations made by a Scrutiny Board following a Call In of that decision; and

- c. where this expenditure, saving or income does not result from :-
 - i. a Treasury Management decision in relation to the making, payment or borrowing of a loan; or
 - ii. a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or
 - iii. a decision to approve a care plan which the Council has a duty or power to provide as defined by s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970. Ss17 and 20 Children Act 1989; or
 - iv. the settlement of proceedings to which Leeds City Council is a party; or
 - v. a decision in relation to the receipt of external funding.

13.5. Significant Operational Decision:- A decision in relation to a Council³ or Executive Function which is not a Key decision and which;

- a. Does not fall within the definition of an Administrative decision; or
- b. Would have been a Key decision but for ~~footnote 1 to~~ Article 13.4b or Article 13.4c above; or
- c. Results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000 each year; or
- d. Is, in the opinion of the Director, Chief Officer or Head of Service⁴, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority.

13.6. Administrative Decision:- A decision in relation to a Council or Executive function which is not a Key, or Significant Operational decision and which;

- a. is within an approved budget; and
- b. is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and

³ In accordance with the Openness of Local Government Bodies Regulations 2014, these shall include where appropriate Council decisions taken:-

- a) under a specific express authorisation from Council or one of its committees; or
- b) In accordance with the Officer Delegation Scheme (Council (non-executive) Functions)³, where the effect of the decision is to-
 - a. Grant a permission or licence;
 - b. Affect the rights of an individual;
 - c. Or award a contract or incur expenditure which, in either case, materially affects the financial position of the Council

⁴ Having taken into account the provisions of the Constitution together with other policy, procedure and guidance available

- c. does not raise new issues of policy.

DECISION TAKING

13.7. A decision taker will have regard to the definitions of Key, Significant Operational and Administrative decisions set out above, the provisions of Part 3 of this Constitution in relation to responsibility for functions, and the requirements of the Procedure Rules set out in Part 4 of this Constitution. In particular:-

13.7.1. Making Council Decisions

- Decisions relating to the functions listed in Article 4.2 or detailed in Part 3 of this Constitution as matters reserved to full Council will be made by the full Council and not delegated.
- the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.
- other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.
- Officers will follow the Access to Information Procedure Rules when considering any matter

13.7.2. Making Executive Decisions

- the executive⁵ will follow the Executive and Decision Making Procedure Rules set out in Part 4 of this Constitution when considering any matter.
- Officers will follow the Executive and Decision Making Procedure Rules together with the Access to Information Procedure Rules when considering any matter

13.7.3. Decision Making By Community Committees

- The Executive Board shall determine from time to time the executive functions⁶ that may be exercised by Community Committees. These functions will be exercisable concurrently by the Executive Board and, in accordance with the Officer Delegation Scheme (Executive Functions), by Directors.
- Community Committees will follow the Community Committee Procedure Rules together with the Access to Information Procedure Rules when considering any matter.

PRINCIPLES OF DECISION MAKING

13.8. All decisions of the authority, whether made by Council, Executive Board Councillors collectively⁷ or officers, will be made in accordance with the following principles:-

⁵ The executive may be the Executive Board itself or any other committee or officer acting under authority delegated by the Leader or the Executive Board as set out in Part 3 of this Constitution

⁶ Part 3 Sections 3C and 3D of the Constitution provide details of the extent of the delegation determined by the executive.

⁷ For example in Committees or Sub-Committees

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- Proportionality (i.e. the action must be proportionate to the desired outcome)
- Due consultation and the taking of professional advice from officers
- Respect for human rights
- A presumption in favour of openness
- Clarity of aims and desired outcomes
- An explanation of the options considered and details of the reasons for the decision
- Natural justice
- Positive promotion of equality of opportunity

RECORDING DECISIONS

13.9. All Council decisions will be recorded in accordance with the provisions of the Access to Information Procedure Rules set out in this Constitution.

13.10. All Executive decisions will be recorded in accordance with the provisions of the Executive and Decision Making Procedure Rules set out in this Constitution.

DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

13.11. The Council or an officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purpose of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.