

Report of Head of Governance Services

Report to Executive Board

Date: 16th May 2012

Subject: Executive and Decision Making Procedure Rules

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. A review of the Council's decision making framework has identified a need to bring together the rules governing the Executive decision making process into one document.
2. As the rules relate to the making of Executive decisions it is proposed to combine these with the existing Executive Procedure Rules.
3. The rules in relation to decision making require approval by Full Council and will be submitted to the Annual Meeting of Council on 21st May 2012.
4. Executive Board remains the body with authority to change Sections 1 and 2 of the Executive and Decision Making Procedure Rules.
5. The opportunity has been taken to review and amend these Sections where necessary to accurately reflect both legislation and current practice and procedure.
6. Members from across all political groups; including senior Group Members, Scrutiny Chairs and the Chair of Corporate Governance and Audit Committee, have been consulted on these proposals. Feedback has indicated satisfaction with and support for the proposed combined rules.

Recommendations

7. Executive Board are requested to approve Sections 1 and 2 of the Executive and Decision Making Procedure Rules as amended.

1 Purpose of this report

- 1.1 This report seeks Executive Board's approval of Sections 1 and 2 of the Executive and Decision Making Procedure Rules.

2 Background information

- 2.1 During the 2011/12 Municipal year the Director of Resources undertook a review of practices and procedures within his remit in order to ensure that they are implemented, up to date and fit for purpose; the main objectives being to;

- Simplify the arrangements wherever possible
- Make our governance arrangements more transparent, with a focus on accountability
- Enhance opportunities to ensure Ward Councillors are engaged at an early stage in the decisions which affect their constituencies
- To speed up the implementation of decisions wherever possible, but not at the expense of ensuring appropriate Democratic accountability

- 2.2 As part of the review consultation has taken place with both Members and officers.

3 Main issues

- 3.1 A key concern raised within the review was that the fragmentation of rules in relation to the Council's decision making framework throughout the Constitution has led to a lack of clarity, understanding and transparency.

- 3.2 It is therefore proposed that a combined set of Decision Making Procedure Rules is introduced. These rules bring together all relevant provisions in relation to decision making and provide much needed clarity and transparency for officers, Members and the public. The proposed Procedure Rules are set out in Appendix A to this report.

- 3.3 Members will note that as the rules relate to the making of Executive Decisions they have been combined with the existing Executive Procedure Rules. Whilst the rules in relation to decision making must be approved by Full Council, and will therefore be presented to Full Council at the Annual Meeting on 21st May 2012, those rules which were formerly part of the Executive Procedure Rules require the approval of Executive Board.

- 3.4 Sections 1 and 2 of the rules have been reviewed to ensure that they are accurate, up to date and fit for purpose. The opportunity has been taken to amend the rules slightly to bring in relevant references to more recent innovations in the Executive arrangements, for example the appointment of Deputy Executive Members and Support Executive Members. In addition opportunity has been taken to remove rules which reflect and repeat other content in the Constitution, this will help to ensure that the rules remain up to date should other content change (for example in relation to the Members' Code of Conduct). The

amendments which have been made reflect current legislation, practice and procedure.

- 3.5 Executive Board are requested to approve Sections 1 and 2 of the Executive and Decision Making Procedure Rules as attached at Appendix A to this report.

4 Corporate Considerations

4.1 Consultation and Engagement

- 4.1.1 Members from across all political groups have been consulted on these proposals. This has included senior group members, Scrutiny Chairs, and the Chair of the Corporate Governance and Audit Committee.
- 4.1.2 In addition Officers have been consulted through Corporate Leadership Team and also through a peer review undertaken with officers actively involved in the decision making process.
- 4.1.3 Those consulted, who have chosen to give their feedback, have indicated satisfaction with and support for the proposed combined rules.

4.2 Equality and Diversity / Cohesion and Integration

- 4.2.1 An initial consideration of the equality, diversity, cohesion and integration screening form indicates that there are no issues raised by the review of the decision making framework.

4.3 Council policies and City Priorities

- 4.3.1 The Council's Business Plan 2011 – 2015 sets out the Council's priorities in delivering services to the public over that period. Particularly the priorities and performance measures for Corporate Directorate require that we "Ensure there are good rules and procedures to govern the council's business".

4.4 Resources and value for money

- 4.4.1 The controls in place on decision making enable Members to scrutinise decisions to ensure value for money. The proposed amendments seek to support this requirement for appropriate consultation with Members, whilst freeing decision making in relation to those matters where there is little or no value to be gained by the imposition of time consuming control processes.

4.5 Legal Implications, Access to Information and Call In

- 4.5.1 The proposed Executive and Decision Making Procedure Rules are divided into two parts for the purpose of approval. Sections 1 and 2 fall to be approved by Executive Board and the remainder fall to be approved by Full Council. It is therefore necessary to report to the General Purposes Committee seeking their recommendation of the proposed amendments to Full Council. General Purposes Committee will receive a report in this regard on 9th May 2012.

4.6 Risk Management

- 4.6.1 No risks have been identified arising from the proposed amendments to the Executive and Decision Making Procedure Rules.

5 Conclusions

- 5.1 Fragmentation of rules in relation to the Council's decision making framework throughout the Constitution has led to a lack of clarity, understanding and transparency. The Head of Governance Services has therefore prepared new Executive and Decision Making Procedure Rules which bring together all of the relevant provisions.
- 5.2 Consultation with Members and officers has shown a high level of support for these proposed rules. Some of the Executive and Decision Making Procedure Rules fall to be approved by full council, but Sections 1 and 2 require the approval of Executive Board.

6 Recommendations

- 6.1 Executive Board are requested to approve Sections 1 and 2 of the Executive and Decision Making Procedure Rules.

7 Background documents¹

- 7.1 Report to General Purposes Committee 9th May 2012

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.

EXECUTIVE AND DECISION MAKING PROCEDURE RULES

1. HOW DOES THE EXECUTIVE OPERATE?

1.1 Who may make executive decisions

The Leader may discharge any functions which are the responsibility of the Executive²; or

He/she may provide for executive functions to be discharged by:

- the Executive Board as a whole;
- an individual Executive Member;
- a committee of the Executive;
- an officer;
- an Area Committee;
- joint arrangements; or
- another local authority.

1.2 Appointments and delegation by the Leader

At the annual meeting of the Council, the Leader will present to the Council the names, addresses and wards of the Deputy Leader and the Members appointed to the Executive Board³ by the Leader, and the names of the Members appointed as Deputy Executive Members and Support Executive Members⁴.

The Leader may remove the Deputy Leader, an Executive Member or a Deputy Executive Member or Support Executive Member from office. To do so, the Leader must give written notice to the Chief Executive in accordance with Article 7. The Chief Executive will report this to the next ordinary meeting of the Council.

Subject to Article 7.2, the Leader may appoint Executive Members, Deputy Executive Members or Support Executive Members at any time. The Leader must report any such appointment to the Chief Executive as and when it is made. The Chief Executive will report any such appointment to the next ordinary meeting of the Council.

Where a vacancy occurs in the office of Deputy Leader, and the Leader appoints a Deputy Leader in accordance with Article 7.5, the Leader must report any such appointment to the Chief Executive as and when it is made. The Chief Executive will report any such appointment to the next ordinary meeting of the Council.

At the annual meeting, the Leader will also present to the Council a written record of 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:

² 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).

³ 'Executive Members'

⁴ As detailed in Part 3 Section 3A of the Constitution.

- 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 Area Committees, 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.

1.3 Sub-delegation of executive functions

Subject to any statutory provisions about the discharge of functions to area committees, 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.

1.4 The Council's scheme of delegation and executive functions

- (a) Subject to (b) below the Council's scheme of delegation will be subject to adoption by the Council and may only be amended by the Council. It will contain the details required in Article 7 (the Executive) and set out in Part 3 of this Constitution.
- (b) The Leader may amend the scheme of delegation relating to executive functions at any time during the year. To do so, the Leader must give written notice to the Monitoring Officer and to the person, body or committee concerned. The 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 Monitoring Officer will present a report to the next ordinary meeting of the Council setting out the changes made by the Leader.
- (c) Where the Leader seeks to withdraw delegation from a committee, notice will be deemed to be served on that committee when he/she has served it on its chair.

1.5 Executive Meetings – when and where

The Executive Board will meet at least 10 times per year at times to be agreed by the Leader. The Executive Board and its committees shall meet at the Council's main offices or another location to be agreed by the Leader.

1.6 Public or private meetings of the executive

The Access to Information Rules in Part 4 of this Constitution set out the requirements covering public and private meetings. Other than the legal requirements, relating to confidential and exempt information, all meetings of the Executive will be in public.

1.7 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.

1.9 How decisions are to be taken by the Executive

Executive decisions which are the responsibility of the Executive Board will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.⁵

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.

2. **HOW ARE EXECUTIVE MEETINGS CONDUCTED**

2.1 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.

2.2 Who may attend

As stated above, with the exception of parts of the agenda where the public may be removed due to the likely disclosure of confidential or exempt information, meetings of the Executive will be in public.

⁵ Particular care must be taken to ensure that Key decisions are taken in accordance with the relevant provisions of those rules, particularly where they are not contained within the Forward Plan.

2.3 Substitutes

A non-executive Member⁶ cannot substitute for an Executive Member at a meeting of the Executive Board or any of its committees. The Executive Board may invite any Member it considers appropriate to attend its meetings and to speak on behalf of an absent member of the Executive Board. However that Member will not be able to take decisions and will not be a co-opted member of the Executive Board.

2.4 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, and which shall indicate which are Key Decisions and which are not.

2.5 Consultation

All reports to the Executive Board from any Member of the Executive, or an officer, on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Boards and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.6 Who can put items on the Executive agenda

- (a) 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. The Chief Executive will comply with the Leader's requests in this respect.
- (b) The Chief Executive 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.

⁶ For the avoidance of doubt the term 'non executive Member' includes Deputy Executive Members and Support Executive Members, who shall not be eligible to substitute for an Executive Member at a meeting of the Executive Board or any of its Committees.

- (c) 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 Chief Executive 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.

3. **HOW ARE EXECUTIVE DECISIONS TAKEN?**

3.1 Controls Which Apply To Each Category Of Decision

Article 13 of the Constitution sets out the definitions of Key, Significant Operational and Administrative decisions. The following controls (set out in Rules 4.2 to 4.9) apply to Key decisions. In addition Significant Operational Decisions are subject to the requirement to record, as set out in Rule 4.8 below.

4.2 Procedure Before Taking Key Decisions

Subject to Rule 4.5 (general exception) and Rule 4.6 (special urgency), a Key Decision may not be taken unless the matter is included in the Forward Plan published for the period in which it is intended to take the decision; and

- In accordance with Rule 4.4 below, a notice has been published in connection with the matter in question and at least 5 clear days have elapsed since the publication of the notice; or
- where the decision is to be taken at a meeting of the Executive or its committees, notice of the meeting has been given to the public in accordance with Rule 3 Access to Information Procedure Rules (notice of meetings)

All Key Decisions which are to be taken by the Executive Board or by a Committee acting on its behalf must be taken in public.

4.3 The Forward Plan

4.3.1 Publication Of Details In Relation To Forward Plan

The Head of Governance Services⁷ will publish once a year a notice in at least one newspaper circulating in the area, stating:

⁷ The Head of Governance Services is the Proper Officer for Access to Information under a sub delegation from the Monitoring Officer.

- that Key Decisions are to be taken on behalf of the Council;
- that a forward plan containing particulars of the matters on which decisions are to be taken will be prepared on a monthly basis;
- that the plan will contain details of the Key Decisions likely to be made for the four month period following its publication;
- that each plan will be available for inspection at reasonable hours free of charge at the Council's offices;
- that each plan will contain a list of the documents submitted to the decision takers for consideration in relation to the Key Decisions on the plan;
- the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed in the forward plan are available;
- that other documents relevant to those matters may be submitted to decision takers;
- the procedure for requesting details of documents (if any) as they become available; and
- the dates on each month in the following year on which each forward plan will be published and available to the public at the Council's offices.

4.3.2 Period Of Forward Plan

Forward Plans will be prepared by the Head of Governance Services on behalf of the Leader to cover a period of four months, beginning with the first working day of any month. They will be prepared on a monthly basis and subsequent plans will cover a period beginning with the first working day of the second month covered in the preceding plan.

Each Forward Plan will contain outstanding matters from the previous Forward Plan, and each shall be taken to supersede each earlier plan.

The Forward Plan must be published at least 14 days before the start of the period covered and made available to the relevant Scrutiny Boards.

4.3.3 Contents of Forward Plan

If it is intended to take a Key Decision in the course of the discharge of an Executive function, the decision taker⁸ will give details of the matter, as set out below, to the Head of Governance Services by the deadline for inclusion in the Forward Plan for the period during which it is intended that the Key Decision will be taken.

The Forward Plan will give the following information in so far as it is available or might reasonably be obtained:

- the matter in respect of which a decision is to be made;

⁸ 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 Forward Plan.

- 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;
- the identity of the principal groups or organisations whom the decision taker proposes to consult before taking the decision;
- the means by which any such consultation is proposed to be undertaken⁹;
- the steps any person might take who wishes to make representations to the Executive or decision taker about the matter in respect of which the decision is to be made, and the date by which those steps must be taken; and
- a list of the documents submitted to the decision taker for consideration in relation to the matter.

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

4.4 Notification Of Delegated Decisions By Directors

4.4.1 Public access to reports intended to be taken into account

Where a Director 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 days.

The Director will advise the Head of Governance Services of his/her intention to make the decision and provide a copy of the relevant report.

The Head of Governance Services will arrange for the publication of the notice and accompanying report on the Council's internet site.

The Head of Governance Services will also arrange for a copy of the report to be forwarded to the chair of every relevant Scrutiny Board¹⁰ as soon as reasonably practicable.

4.5 General Exception

If a matter which is likely to be a Key Decision has not been included in the Forward Plan and the decision must be taken by such a date that it is impracticable to defer the decision until the start of the first month to which the next Forward Plan, in which the details of the decision could be published, relates, the decision may still be taken if:

- The Head of Governance Services has informed the chair of the relevant Scrutiny Board, by notice in writing, of the matter about which the decision is to be made;
- the Head of Governance Services has made copies of that notice available to the public; and

⁹ Officers are responsible for determining when further consultation and public participation would be appropriate.

¹⁰ Together with a copy to all Members

- at least 5 clear working days have elapsed since the Head of Governance Services complied with these requirements.

4.6 Special Urgency

If by virtue of the date by which a decision must be taken Rule 4.5 (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 Board¹¹ that the decision is urgent and that taking the decision cannot be reasonably deferred.

Any decision taken in accordance with this paragraph (Special Urgency) is to be taken by the Executive Board.

4.7 Scrutiny Of The Making Of Key Decisions

4.7.1 Decisions Which Appear to Have Been Wrongly Treated

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 the Executive to submit a report to the Council within such reasonable time as the Scrutiny Board specifies.

The requirement may be raised by

- resolution passed at a meeting of the relevant Scrutiny Board, or
- the City Solicitor, to whom the power to require a report is delegated.

The Executive will prepare a report for submission to the next available meeting of the Council following the end of the period specified by the Scrutiny Board. However, if the next meeting of the Council is within 9 days of receipt of the resolution of the Scrutiny Board, then the report may be submitted to the meeting after that.

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.

¹¹ 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 of the Council will suffice.

4.7.2 Quarterly Reports On Special Urgency Decisions

In any event, the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in Rule 4.6 (special urgency) in the preceding three months.

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.

4.8 Recording Of Decisions

After any meeting of the Executive or any of its committees, the Head of Governance Services or, where no officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as reasonably practicable and make it available for inspection by the public. The record will include;

- a statement of the reasons for each decision,
- details of any alternative options considered and rejected at that meeting and
- a record of any conflict of interest declared by any Member together with a note of any dispensation granted in respect of that interest by the Standards Committee.

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. The record will include;

- 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 conflict of 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 by the Standards Committee.

The provisions of Access to Information Procedure Rules 6 and 7 (inspection of documents after meetings) will apply to the making of Executive Decisions by the Executive Board or any of its committees and to the making of Key Decisions by any officer. This does not require the disclosure of exempt or confidential information, any draft report or document, or advice from a political or mayor's assistant.

4.9 Call-In¹²

4.9.1 Decisions Subject to Call In

Subject to the exceptions set out below, the following may be called in to be reviewed and scrutinised by the relevant Scrutiny Board¹³:

- all decisions of the Executive Board; and
- Key Decisions taken by Officers.

The power to call in decisions does not extend to¹⁴:

- decisions made by Area Committees;
- decisions made under regulatory arrangements;
- decisions made by Joint Committees; or
- decisions not taken by the authority.

4.9.2 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); or
- where the decision has been the subject of a previous Call In.¹⁵

Records of decisions taken will indicate where a decision has been declared exempt from Calling In.

Where a decision has been declared exempt on the grounds that any delay would seriously prejudice the Council's or the public's interests, records of the decision will indicate:

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

Where a decision has been declared exempt on the grounds that it has previously been the subject of a Call In records of the decision will indicate:

- the date on which the original decision was taken; and
- the outcome of the Calling In.

¹² 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.

¹³ 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.

¹⁴ A decision which is a direct consequence of implementing a previous key decision cannot be called in – see definition of key decisions, Article 13.

¹⁵ This includes a decision which has been modified by the decision making body following a recommendation by a Scrutiny Board after call in of the earlier decision

There will be no appeal mechanism against a decision to exempt a decision from Calling In. However, where it considers appropriate, a Scrutiny Board may submit reports and recommendations arising from the exemption from Calling In of individual decisions.

In addition, Scrutiny Board (Resources and Council Services) may request periodic audits of the exemption arrangements.

4.9.3 Operation of Call In

When a decision is made which is subject to Call-In, the Head of Governance Services will arrange to:

- publish notice of the decision;
- make the notice available on the Council database; and
- send each elected Member of the relevant Scrutiny Board¹⁶ an electronic copy of the record of the decision

within two days of the decision being made.

The notice will

- state the date on which it is published;
- specify that the decision will come into force, and may then be implemented, on the expiry of five working days after the publication of the decision, unless the decision is called in¹⁷

4.9.3.1 Initiation of Call In

To initiate a Call In, a request must be submitted to the Scrutiny Officer¹⁸ 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 decision¹⁹.

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.

¹⁶ Together with a copy to all Members

¹⁷ 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 (See Rule 4.9.3.2 below).

¹⁸ This Officer is the Head of Scrutiny and Member Development.

¹⁹ 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.

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.

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 13.4 - Principles of Decision Making, or where relevant issues do not appear to have been taken into consideration.

4.9.3.2 Convening a Meeting

Upon receipt of a request for a Call In, the Scrutiny Officer will ensure that procedures in accordance with Rule 4.9.3.1 above have been followed. If the criteria are met the Scrutiny Officer will immediately notify the decision taker and, for officer decisions, arrange for the Corporate Information System to indicate that the decision is the subject of a Call In.

The Scrutiny Officer will, by noon on the sixth day following publication of the decision, deliver to the decision taker, written confirmation which will be receipted by an authorised contact within the Department. Any decisions which have not been the subject of a Call In may then be implemented.

Also 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.

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.

4.9.3.3 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.

4.9.3.4 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 notification²⁰ to explain the reasons for the Call-In²¹. The relevant member of the Executive Board, Area Committee Chair 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

²⁰ or their nominees

²¹ 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.

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 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 consideration, the Scrutiny Officer will prepare a report²² within three working days of the Scrutiny Board meeting. Where the decision was taken by the Executive Board or an Area Committee the report will be submitted to the next meeting of the Executive Board. Where the decision was taken by an officer the report will be submitted to the relevant Director.

4.9.4 Reconsideration of Decisions

4.9.4.1 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 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 relevant Scrutiny Board

4.9.4.2 Variation of Decisions

If it is intended to vary the decision in line with the recommendations of the Scrutiny Board then the decision is no longer defined as a Key decision, regardless of the financial or impact thresholds. It will not therefore be necessary to include the proposed variation of decision in the Forward Plan or to give notice of the proposed decision.

If the original decision was taken by the Executive Board the Executive Board may vary the decision²³.

²² 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.

²³ The decision will be marked exempt from Call In in accordance with rule 4.9.2 above

Where the Director agrees with the views of Scrutiny a new delegated decision form will be submitted for recording in accordance with Rule 4.8 above.

4.9.4.3 Record of Revised decision

In all instances a revised record of the decision, indicating the outcome of decision taker's further deliberations, will be published on the Corporate Information System.

4.9.5 Annual Reports To Council

Scrutiny Boards are required to submit an Annual Report to Council. These reports will include details of the operation of the Call In arrangements.

5. 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 5.1 to 5.2 below, all decisions in relation to Executive Functions must be taken in line with the Budget and Policy Framework²⁴.

5.1 Decisions Which May Be Outside The Budget Or Policy Framework

5.1.1 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.

5.1.2 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;

²⁴ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 4

- 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.

5.2 Urgent Decisions Outside The Budget Or Policy Framework²⁵

Any decision which is contrary to the policy framework²⁶, or not wholly in accordance with the budget²⁷ 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 Board²⁸ about why it is not practical to convene a quorate meeting of full Council, and
- the chair agrees that the decision is urgent.

²⁵ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 5(2)

²⁶ 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.

²⁷ Or virements made in accordance with the Budget and Policy Procedure Rules.

²⁸ or in the absence of the chair of the relevant Scrutiny Board the consent of the Lord Mayor, and in the absence of both, the Deputy Lord Mayor

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 Board²⁹ 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.

²⁹ Or Lord Mayor or Deputy Lord Mayor as appropriate