



GENERAL PURPOSES COMMITTEE

Meeting to be held in Civic Hall, Leeds, LS1 1UR on
Wednesday, 17th April, 2024 at 11.00 am

MEMBERSHIP

S Arif	-	Gipton and Harehills;
D Blackburn	-	Farnley and Wortley;
Amanda Carter	-	Calverley and Farsley;
D Coupar	-	Temple Newsam;
W Dixon	-	Middleton Park;
E Flint	-	Weetwood;
S Golton	-	Rothwell;
H Hayden	-	Temple Newsam;
W Kidger	-	Morley South;
J Lennox	-	Cross Gates and Whinmoor;
J Lewis (Chair)	-	Kippax and Methley;
J Pryor	-	Headingley and Hyde Park;
R. Stephenson	-	Harewood;
P Wray	-	Hunslet and Riverside;

Please do not attend the meeting in person if you have symptoms of Covid 19 and please follow current public health advice to avoid passing the virus onto other people.

We strive to ensure our public committee meetings are inclusive and accessible for all. If you are intending to observe a public meeting in person, please advise us in advance of any specific access requirements or if you have a Personal Emergency Evacuation Plan (PEEP) that we need to take into account by email (FacilitiesManagement@leeds.gov.uk). Please state the name, date and start time of the committee meeting you will be observing and include your full name and contact details.

Note to observers of the meeting. To remotely observe this meeting, please click on the 'View the Meeting Recording' link which will feature on the meeting's webpage (link below) ahead of the meeting. The webcast will become available at the commencement of the meeting:

[Council and democracy \(leeds.gov.uk\)](https://www.leeds.gov.uk)

A G E N D A

Item No	Ward/Equal Opportunities	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Procedure Rules (in the event of an appeal the press and public will be excluded).</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:-</p>	

Item No	Ward/Equal Opportunities	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration</p> <p>(The special circumstances shall be specified in the minutes)</p>	
4			<p>DECLARATION OF INTERESTS</p> <p>To disclose or draw attention to any interests in accordance with Leeds City Council's 'Councillor Code of Conduct'.</p>	
5			<p>APOLOGIES FOR ABSENCE</p> <p>To receive any apologies for absence from the meeting.</p>	
6			<p>MINUTES OF THE LAST MEETING</p> <p>To receive and approve the minutes of the meeting held on 7th February 2024</p>	5 - 6
7			<p>REVIEW OF THE CONSTITUTION</p> <p>To receive and consider the attached report of the City Solicitor.</p>	7 - 48

Item No	Ward/Equal Opportunities	Item Not Open		Page No
			<p>THIRD PARTY RECORDING</p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <p>a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title.</p> <p>b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete.</p>	

GENERAL PURPOSES COMMITTEE

WEDNESDAY, 7TH FEBRUARY, 2024

PRESENT: Councillor J Lewis in the Chair

Councillors S Arif, D Blackburn,
Amanda Carter, D Coupar, W Dixon,
E Flint, H Hayden, J Lennox,
R. Stephenson and P Wray

22 Appeals against refusal of inspection of documents

There were no appeals against the refusal of inspection of documents.

23 Exempt Information - possible exclusion of the press and public

There were no resolutions to exclude the public.

24 Late items

There were no late items.

25 Declaration of Interests

There were no declarations of interest.

26 Apologies for absence

Apologies for absence were submitted on behalf of Councillors S Golton and J Pryor.

27 Minutes of the last meeting

RESOLVED – That the minutes of the meeting held on the 18 October 2023 be approved as a correct record.

28 Approval of Pay Policy Statement 2024/25

The report of the Chief Officer, Human Resources set out the Council's Annual Pay Policy Statement for 2024/25 (Appendix A). This was required under the Localism Act 2011 and must be annually approved by Full Council before 31 March each year.

The Head of Human Resources was in attendance to present the report.

Further information was sought regarding employer contributions to the pension scheme. This information would be provided to Members following the meeting.

RESOLVED –

- (1) That the contents of the Pay Policy Statement 2024/25 at Appendix A and the content as set out in Appendix B be noted.
- (2) That the Full Council be recommend to:

Draft minutes to be approved at the meeting
to be held on Wednesday, 17th April, 2024

- (a) Approve the Pay Policy Statement for the 2024/25 financial year as attached in Appendix A.
- (b) Resolve that the data in the Pay Policy Statement be updated once national pay negotiations for the 2024/25 financial year are concluded.
- (c) Note that the Chief Officer (HR) has existing delegated authority to make any necessary adjustments to the Council's pay scales arising from nationally agreed pay awards.

29 Review of polling districts, polling places and polling stations

The report of the Director of Housing, Communities and Environment asked the General Purposes Committee to consider representations made during the consultation period of the review of polling districts, polling places and polling stations (the review), and the recommendations made by the Electoral Working Group in relation to those representations.

The Head of Electoral Services was in attendance to present the report.

There had been a total of 66 representations received and these had been detailed in Appendix B of the report. Recommendations of the Electoral Working Group were detailed in Appendix C.

RESOLVED – That the recommendations of the Electoral Working Group as detailed in Appendix C be approved to allow the Electoral Registration Officer to finalise the polling scheme for the elections on 2 May 2024, and republish the electoral register taking into account any changes to polling district boundaries on 1 March 2024. Where the representations had not reached the overall agreement of the Electoral working Group (representations 31, 47, 48 and 49, the existing position of these polling districts to remain unchanged.

30 Date and Time of Next Meeting

Wednesday, 17 April 2024 at 1.30 p.m.

Review of the Constitution

Date: 17 April 2024

Report of: City Solicitor

Report to: General Purposes Committee

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

The purpose of this report is to seek agreement from General Purposes Committee about the detailed amendments falling within the agreed scope of the review of the Constitution. The details relate to amendments to Part 2 Article 13 of the Constitution and Part 4(b) the Executive and Decision Making Rules.

The recommended option for change is considered the most appropriate in responding to the drivers for the review, having considered a wide range of options, having done extensive engagement and benchmarking work. It will strike a reasonable balance between speeding up decision making, reducing bureaucracy and resource required, retaining openness and engagement with the public and being in line with the statutory requirements.

In addition, the report also updates the Committee about changes to the Contract Procedure Rules (Part 4(h)) which are to be approved by the Chief Finance Officer under delegated powers.

Recommendations

Members of General Purposes Committee are asked to:

- (i) Agree in principle the proposals set out in paragraph 3.7;
- (ii) Note the proposal to amend the Contract Procedure Rules at Part 4(h) of the Constitution; and
- (iii) Recommend to Full Council that it
 - (a) Approves the amendments to Part 2 Article 13 (Decision making) attached as Appendix 2; and
 - (b) Approves the amendments to Part 4(b) (Executive and Decision Making Rules) attached as Appendix 3.

What is this report about?

1. The purpose of this report is to seek agreement from General Purposes Committee about the detailed amendments falling within the agreed scope of the review of the Constitution. These details relate to amendments to Article 13 of the Constitution and the Executive and Decision Making Rules. The report also updates the Committee about changes to the Contract

Procedure Rules (Part 4(h)) which are to be approved by the Chief Finance Officer under delegated powers.

Background

- 2.1 At its meeting on 18 October 2023, Members of General Purposes Committee agreed the need to review the Council's constitution. The drivers for the review included:
 - 2.1.1 The need for it to remain fit for purpose so that it reflects our values and how we work with partners as well as supporting and complementing the Council's governance framework; as well as complying with legislative requirements, supporting the democratic oversight of decisions, continue to provide appropriate check and challenge around the use of public money and ensure openness and engagement whilst remaining agile and responsive;
 - 2.1.2 The 2022 LGA Peer Review which identified that further improvements to the document and associated procedures could be achieved by tackling concerns of middle managers about the speed of decision making and perceived bureaucracy;
 - 2.1.3 The need to reduce duplication, maximise efficiencies and minimise bureaucracy with a view to increasing workforce capacity in response to financial challenge, staff survey results around work pressures and the Organisational Plan objectives.
- 2.2 Feedback from stakeholders highlighted the following themes as needing to be subject of the scope of the Constitution review:
 - Decision- making;
 - Contract Procedure Rules;
 - Accessibility.
- 2.3 On 18 October 2023, General Purposes Committee noted its agreement to the above.
- 2.4 Since then, work has progressed on the three themes within scope as well as procedures associated with them, drawing on benchmarking.
- 2.5 Detailed analysis of decisions made in 22/23 has been carried out and this informed 9 options, set out visually in the Table 2 attached as Appendix 1. Statistics and percentages quoted are based on the 22/23 figures. It should also be noted that some decisions are published in more than one place to comply with separate regimes and therefore any reduction in publication pursuant to the options below will not necessarily mean transparency is negatively impacted.
- 2.6 A detailed review of the Contract Procedure Rules has also been completed and the nature of the proposed amendments, to be approved by the Chief Finance Officer under delegated powers, are set out in paragraphs 4.1- 4.8 below.
- 2.7 Work on accessibility of the Constitution has also progressed which will enable the document to be published as one easily readable, searchable document.

Decision Making

- 3.1 Regulations¹ require each local authority to determine the thresholds above which a decision will be a key decision and therefore subject to the controls set out in those regulations. Thresholds must identify decisions which are likely:

¹ The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089

- a) To result in the authority incurring expenditure or making savings which are significant having regard to the authority's budget for the service or function to which the decision relates; or
- b) To be significant in terms of their effects on communities living or working in an area comprising two or more wards.

Current categories of decision

- 3.2 There are currently three categories of decisions in Leeds: Key, Significant Operational and Administrative. The additional local (non-statutory) category of decision (Significant Operational Decisions) has been in place since 2001, this category falls between Key decisions and Administrative decisions. This is one more category of decision than all other councils considered in the benchmarking and what colleagues find most confusing.
- 3.3 Subject to exemptions, the current definition of a Key decision in Leeds is as follows:
A Key decision is 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 £500,000; or
 - b) To have a significant effect on communities living or working in an area the size of one ward or more.
- 3.4 The financial threshold was last reviewed in May 2019 when it was increased from £250,000 to £500,000. The definition of effect on communities was adopted in 2012 as a local definition departing from the statutory definition of two or more wards. All decisions require that certain practice and procedures are followed according to the level of decision.
- 3.5 Benchmarking across Core Cities reveals that decisions over £500,000 is the maximum threshold for Key Decisions, with the exception of Birmingham, which in relation to capital projects, has a threshold of over £1,000,000 (revenue spend is retained at over £500,000). This work also confirms that that all other Core Cities have retained the statutory definition of "two or more wards" in respect of a decision's impact on communities and, as described above, none have a local category of decision which is comparable to the Council's Significant Operational Decision category.
- 3.6 In proposing the recommended option for change below, in addition to the drivers for the review above and the Council's Values and behaviours, the following factors have also been considered:
- **The democratic mandate** – Members delegate many functions to officers to exercise on their behalf. The arrangements which govern the exercise of these functions must enable Members to have oversight and be satisfied that decisions are proportionate, provide value for money and are in the public interest;
 - **The appropriate use of public money** – Thresholds that are set in relation to incurring expenditure or making savings relate to the public money available to the Council in carrying out its functions. Full account should therefore be taken of the relevant cost or savings to the Council, however that cost or saving is to be funded; and
 - **Openness and engagement with the public** – Care is required to ensure decision making processes remain agile and responsive whilst meeting this need for openness so that procedures do not become unwieldy or burdensome and do not inhibit the Council's ability to act in the public interest

Recommended Option for change

- 3.7 Following detailed analysis and consideration of the wide range of options detailed at Table 2 of Appendix 1, the recommended option is:
- No change to Key Decisions (either value or number of wards impacted);
 - Delete Significant Operation Decisions as a category of decisions; and
 - Retain the category of Administrative decisions but introduce a requirement to publish if the financial threshold is £250,000 or above or if the decision maker considers there is another reason for publication.
- 3.8 This recommendation balances continuity with change, responds to the drivers and wider considerations set out above, and importantly strikes reasonable balance between speeding up decision making, reducing bureaucracy and resource required whilst importantly retaining openness and engagement with the public. The detail behind this is set out in paragraphs 3.13 – 3.21 below.

No change to Key Decisions

- 3.9 In 22/23, **178** Key Decisions were made, **34** of which by Executive Board. Key decisions are those which have a threshold **>£500,000** and or where the impact of the decision has a significant effect on communities living or working in an area of one ward or more.
- 3.10 It is worth noting that there is an extensive list of decisions that are exempt from being Key as follows:
- a. any decision where the expenditure, saving or income will result from:-
 - a Treasury Management decision in relation to the making, payment or borrowing of a loan; or
 - a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or
 - a decision to approve a care plan which the Council has a duty or power to provide as defined by s25 of Care Act 2014, s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970; or ss17 and 20 Children Act 1989; or
 - the settlement of proceedings to which Leeds City Council is a party; or
 - an urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time; and
 - b. any decision in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed; and
 - c. any decision which is a direct consequence of implementing a previous Key Decision and was in the contemplation of the decision maker at the time the decision was taken; and
 - d. any decision which is the result of varying a previous Key decision following a Call In of that decision.
- 3.11 All key decisions are required to be published on the list of forthcoming decisions at least 28 days before the date of the decision, a delegated decision report (DDR) is required to be published at least 5 days before the decision is made and all are subject to call in. Key decisions are therefore subject to the highest level of transparency and accountability/scrutiny of all the decisions made by the Council. Inevitably therefore, they involve the longest lead in time and greatest amount of Officer/Member resource.
- 3.12 Making no change to the definition of a Key Decision will ensure the highest level of

transparency and scrutiny is retained in respect of the most significant decisions in terms of spending, saving or impact on communities.

Delete Significant Operational Decision category and introduce a financial threshold of £250,000 to Administrative decisions above which decisions should be published.

- 3.13 In 22/23, **802** Significant Operational Decisions (SOD's) were made. SOD's are a category of decision making that is non statutory and which have been introduced as a "local" procedure to Leeds and not used elsewhere. SOD's are those decisions which:
- are not a Key or an Administrative decision; or
 - fall within an exemption of a key decision (see paragraph 3.10 above) or
 - have a financial threshold of > £100,000: or
 - are, in the opinion of the decision taker, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority.
- 3.14 All SOD's are required to be published and require either a DDR (if over £100,000) or a delegated decision notice (DDN). They are not subject to call-in. SOD's are therefore subject to less scrutiny than Key decisions, and whilst the speed and resource associated with each individual decision is less than that for Key decisions, the overall resource associated with the annual total is considered significant particularly given there is no statutory requirement to have such a category and the benchmarking showed that Leeds is the only council who has this additional category.
- 3.15 By deleting the category of Significant Operational Decisions, anything that is not Key will be deemed to be an Administrative decision. This will introduce much needed clarity and greater simplicity in terms of definitions and understanding as to which category a decision falls into. It will also reduce the required resource associated with SOD's, enabling colleagues to deal with resource reductions and workload pressures.
- 3.16 Deleting SOD's will, without making other changes, impact on transparency of decision making as fewer decisions will be published under decision making regime. This partially reduces transparency of decisions relating to financial thresholds of between >£100,000 and £500,000 including those which, but for an exemption, would have been Key or are considered significant by the decision maker. Therefore, to retain transparency of the most significant non Key decisions the introduction to require publication of Administrative decisions is being recommended in order to mitigate the impacts of deleting SODs. This will relate to decisions with a financial threshold of £250,000 or more, or if the decision maker considers there is another reason for publication. It is important to note two other factors that mean that there should not be too detrimental an impact on transparency: many decisions are also published through other routes, for example procurement activity; and the impact in real terms of inflation means the threshold will capture decisions that previously would have been of a lower value.
- 3.17 Currently an Administrative decision is one that is not Key or a SOD and is within an approved budget, is not in conflict with the Budget and Policy framework (or other approved policies) and does not raise new issues of policy. As Administrative decisions are not currently published, recording of such decisions is determined on a Directorate basis (i.e. a DDN is optional) and is not fully consistent across the Council. This means there are no recorded statistics relating to how many Administrative decisions are made, however they are made quickly, are agile and responsive without lead in times and mostly relate to financial thresholds of less than £100,000.

3.18 Introducing a threshold to publish all Administrative decisions (i.e. non Key) with a value of £250,000 or more or where the decision maker considers there is another reason for publication will mitigate the impact of deleting SOD's by retaining a level of transparency in respect of decisions that would previously have been published as a SOD. The overall impact is that almost 60% of previous SOD decisions will still be published as values exceed £250,000 or were published for another reason, as illustrated in the table below. This means transparency for the most significant decisions that are not Key is retained whilst realising a saving in staffing resource currently associated with SOD's of around 40% . Other publication requirements explained in paragraph 3.20 below are also important context when considering the potential impact on transparency.

3.19

EXISTING CATEGORIES		RECOMMENDED CATEGORIES	
Decision Category	Published on LCC website under decision making rules	Decision Category	Published on LCC website under decision making rules
Key - >£500k	Y	Key - >£500k	Y
Key – Impact 1 ward	Y	Key – Impact 1 ward	Y
SOD – significant impact	Y	Administrative – another reason for publication	Y
SOD £250k - £500k	Y	Administrative - >£250k	Y
SOD - £100k - £250	Y	Administrative Decision <£250k	N
Administrative Decision	N		

3.20 As mentioned above, this option will not impact on the need to publish decisions as required by other regimes – for example under the Contract Procedure Rules information relating to contracts over £10,000 must be published on the publicly visible contracts register via YORtender, the Council's electronic tendering platform regardless of the decision making category it falls into. In 22/23 37% of SODs were also published on YORtender. Similarly, all non-contract expenditure over £500 is published to Data Mill North, as required by Data Transparency legislation.

3.21 This option is preferred to the alternative of retaining but amending the threshold definition of a SOD as it better responds to stakeholder feedback by removing the perceived complex SOD definition. It further enables the non statutory category of SOD's to be deleted and brings us into line with other councils. Decision makers need only consider whether a decision is Key or not. Where a decision is not Key, it will need to be published if it has a financial value of £250,000 or more, or if there is another reason for publication.

Conclusion of decision making recommended option for change

3.22 Maintaining the current Key decision definition and thresholds will retain the existing level of Member oversight, transparency and scrutiny of the most significant decisions made by the Council. The length of time to make these decisions will also not change. This is in line with the regulations and benchmarking.

3.23 Deleting Significant Operational Decisions as a category of decision whilst at the same time introducing a financial threshold requirement to publish Administrative decisions will retain transparency in respect of the most significant non Key decisions made by the Council, whilst enabling decisions which are not Key to be made in a more timely way, requiring less staffing resource and involving less duplication. This also introduces simpler definitions of decision categories and continues to meet statutory requirements, supports good governance, and is

in line with benchmarking.

- 3.24 Collectively, the recommended options for change best respond to the drivers for the review and stakeholder feedback, and are in line with the regulations and benchmarking.

Associated procedures

- 3.25 Amendments to the Decision-making rules will provide a significant opportunity to further streamline associated procedures, in particular to Delegated Decision Reports (DDRs) and Delegated Decision Notices (DDNs) mentioned above. The purpose of these documents is to clearly evidence why and how a decision has been made and by whom. The documentation needs to be proportionate with the decision being made and it is proposed that a full report (DDR) will be required in respect of all Key decisions and for all Administrative Decisions that require publication. All other Administrative Decisions will require the decision maker to maintain an appropriate and proportionate written record. Amending these procedures will introduce further Council wide efficiencies and consistency, whilst maintaining good governance of decision making. Whilst these procedures do not form part of the Constitution the work is closely linked to the review and is in response to stakeholder feedback and is therefore provided for Members information.

Contracts Procedure Rules

- 4.1 Section 135 of the Local Government Act 1972 requires local authorities to make standing orders for contracts and procurement activity, including securing competition and regulating tenders. The Council satisfies these statutory requirements by way of the Contract Procedure Rules (the CPRs). The CPRs form Part 4(h) of the Constitution.
- 4.2 CPRs are reviewed and updated each year (consulting with Corporate Governance and Audit Committee, service-based commissioners, Exec Member and Internal Audit) to reflect changes in legislation and Council policy and to ensure that they are up to date and fit for purpose.
- 4.3 Feedback from the annual Survey of Internal Control in response to questions asked in relation the Council's procurement framework suggests that CPRs are effectively communicated, with 91% of respondents considering CPRs to either be "well embedded" or "fairly embedded". Further, CPRs are supported by guidance documents available on Insite and the Council's Procurement and Commercial Services (PACS) team is available to support higher value procurements and ad hoc queries from officers.
- 4.4 It is also considered that CPRs are routinely complied with:
- there has been no formal legal procurement challenges for over 10 years;
 - external spend that is compliant with the CPRs has been in excess of the typical sector benchmark of 90% for several years, and in 2022/23 was at 96.03%; and
 - over a similar time period, the number of times CPRs have been waived has reduced from c200 per year to just 23 in 2022/23.
- 4.5 However, feedback from services across the Council regularly notes the complexity of the CPRs and the annual update of CPRs has resulted in an unnecessarily repetitive document that can be difficult for officers to use without relevant training/experience. In addition, while greater flexibility has been built into CPRs in recent years in response to feedback from services, there remains a perception that CPRs are inflexible and there are instances of CPRs being perceived to be a "blocker" by services.

- 4.6 Consequently, there remains an inefficient over-reliance on PACS officers to support lower value procurements and in order to focus more energy and resources on delivering strategic value from procurement one of the actions identified as part of the procurement element of the Core Business Transformation programme (the **P2P Action Plan**) is to “Review and simplify CPRs and procurement documentation to aid self -service for low value procurements”.
- 4.7 In response to the detailed scope of the review of CPR’s, officers are therefore in the process of mapping out, simplifying and making more user-friendly the low value tender processes which we would typically expect to be undertaken by services without the need for support from PACS.
- 4.8 These updated and simplified processes will then be reflected in a broader review of CPRs, which will also:
- ensure compliance with the new Procurement Act (including monitoring and reporting duties);
 - provide a clearer, simpler picture of roles and responsibilities;
 - remove unnecessary repetition;
 - remove jargon;
 - be drafted to reflect the sequential path to awarding a contract;
 - provide for contract management requirements that are proportionate to each particular contract; and
 - review the thresholds which determine the relevant procurement approach to ensure proportionality and balance between flexibility of contracting and appropriate governance controls.

Next Steps

- 5.1 Subject to the recommendations set out in this report being agreed, Full Council will be recommended to approve the amendments set out at Appendices 2 and 3 to the Constitution at its AGM in May. In addition, the amended Contract Procedure Rules will be approved by the Chief Finance Officer and a review of the whole Constitution, to update language and references will also be completed and the Monitoring Officer will retain oversight of all amendments to ensure consistency throughout the document and removal of duplication.
- 5.2 At the same time, leading to and following adoption, colleagues will be familiarised with the changes with a view to embedding any new/changed procedures including the need to amend any sub delegation schemes.
- 5.3 Relevant training will be provided to officers and Members as appropriate.
- 5.4 Monitoring and Review will be required to determine whether the new/amended procedures are being implemented and whether they are having the intended consequences, particularly in relation to improving efficiencies and retaining good governance.

What impact will this proposal have?

6. The amendments to the Constitution directly relate to the drivers for the review as well as feedback from stakeholders, being in line with the regulations and learning from benchmarking. It will introduce greater efficiency by reducing bureaucracy, speeding up decision making and procurement processes and reducing staffing resource required so that colleagues can manage to deliver services from the reduced resources available and reduce workload pressures. Crucially, the recommendation doesn’t impact greatly on transparency of the most significant non-Key Decisions.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

7. The review of the Constitution ensures that the governance of the Council remains robust and up to date.

What consultation and engagement has taken place?

- 8.1 Consultation with stakeholders helped inform the broad scope of the review reported to GPC in October.
- 8.2 The Leader and Deputy Leader have been consulted on the decision-making options set out in Appendix 1 and are in support of the recommended option for change outlined at paragraph 3.7.
- 8.3 The Chair of Corporate Governance and Audit Committee and the Chair of Strategy and Resources Scrutiny Board have been consulted. The proposals have also been shared with each of the opposition group leaders.
- 8.4 The Council's Corporate Leadership Team have considered and are supportive of the proposals.
- 8.5 The proposals will be shared with officers of the People and Culture Best Council Team.

What are the resource implications?

- 9 As outlined above, this proposal is one practical thing that aims to reduce workload pressures and enable colleagues to manage within the reduced envelope available and deliver the extensive savings already committed to. There are no specific savings from this proposal or additional costs, but it is important within the context of the Financial Challenge.

What are the key risks and how are they being managed?

- 10.1 By reducing the number of categories of decisions from three to two and by introducing new publication thresholds for Administrative decisions the proposals set out in this report simplify the council's governance arrangements in respect of decision making, and therefore reduce the risk of inconsistency and confusion.
- 10.2 In addition the changes will provide an opportunity to promote the Councils' governance framework, with awareness raising and training, and continuing to ensure an organisational culture with good compliance and in line with the values and behaviours.
- 10.3 Whilst the changes result in fewer decisions being published, that is not considered a significant risk given that many will still be published through other regimes and Member oversight remains on Key decisions.

What are the legal implications?

11. The proposals set out within this report seek to ensure that the Council continues to meet statutory requirements in relation to decision making and procurement.

Options, timescales and measuring success

What other options were considered?

- 12.1 A combination of the decision making options set out in Appendix 1 were considered but discounted in favour of the recommended option for change as they did not strike the most appropriate balance between reducing bureaucracy whilst retaining transparency of decision making.

How will success be measured?

13. Success will be measured by the adoption of an up to date, accessible Constitution in May 2024, which removes existing duplication and complexity. Ongoing Internal Control Survey and Annual Governance Statements will cover the effect of implementation.

What is the timetable and who will be responsible for implementation?

- 14.1 Full Council will be recommended to agree the amended Constitution at its meeting on 23 May 2024.

- 14.2 The Monitoring Officer will be responsible for implementation.

Appendices

Appendix 1 - Review of Constitution – Scope – Decision Making Options for Change

Appendix 2 – Amended Article 13 – Decision Making

Appendix 3 – Amended Executive Arrangements and Decision Making Procedure Rules

Background papers

None

Review of Constitution – Scope – Decision Making Options for Change

1. TABLE 1 - Current Position

	KEY DECISIONS (13.4) (Executive decisions only)	SIGNIFICANT OPERATIONAL DECISIONS (13.5) Council & Executive decisions	ADMINISTRATIVE DECISIONS (13.6) Council and Executive decisions
DEFINITION	(a) Threshold >£500,000 (incurring expenditure or making savings including the receipt or loss of income) (b) Impact (to have a significant effect on communities living or working in an area the size of one ward or more)	Not key and (a) is not an Administrative decision; or (b) would have been a Key decision but for the exemptions set out at 13.4.2 above; or (c) results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000; or (d) is, in the opinion of the decision taker, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority	Not key OR SOD and (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 (c) does not raise new issues of policy.
EXEMPTION	13.4.2 - any decision where the expenditure, saving or income will result from:- (a) • a Treasury Management decision in relation to the making, payment or borrowing of a loan; or • a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or • a decision to approve a care plan which the Council has a duty or power to provide as defined by s25 of Care Act 2014, s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970; or ss17 and 20 Children Act 1989; or • the settlement of proceedings to which Leeds City Council is a party; or • an urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time; and b. any decision in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed; and c. any decision which is a direct consequence of implementing a previous Key Decision and was in the contemplation of the decision maker at the time the decision was taken; and d. any decision which is the result of varying a previous Key decision following a Call In of that decision.	n/a	n/a
Associated procedures	<ul style="list-style-type: none"> Requirement to publish on list of forthcoming decisions at least 28 days prior to key decision being made Requirement for consideration at EB including report / or need to draft DDR md to publish Requirement to publish decision 5 clear days before decision Open to Call -in 	<ul style="list-style-type: none"> Requirement to draft DDR (if over £100k*) or otherwise a DDN Requirement to publish decision *Care Plan decisions excepted 	<ul style="list-style-type: none"> Recording of decision is in accordance with directorate arrangements (thus DDN is optional)
22/23 decisions	178 – 19% of which taken by EB (144 by officers; 34 EB) >£1m – 128 (72% of all key decisions) £750k <£1m – 14 (8%) £500k - < £750k – 14 (8%) Significant impact – 23 (12%)	<ul style="list-style-type: none"> 802 37% relate to contracts/procurement (most of which are published on Yor tender in any event) 25% relate to Care Plans of a value over £100k (or because exempt from Key decision) 	unknown
Strengths	Greater transparency and scrutiny of decisions with significant impact/financial over £500k	<ul style="list-style-type: none"> Provides transparency and accountability of decisions which are between £100k and £500k, including those which, but for an 	

		exemption would have been key or are considered significant by the decision maker	
Weaknesses	<ul style="list-style-type: none"> Threshold not increased since 2019 or keeping pace with inflation (based on CPI £500k in May 2019 = £613k in 2023) Significant lead in time before a decision can be made, Delays to progress given required lead in time Significant officer resource associated with key decisions 	<ul style="list-style-type: none"> Adds non statutory bureaucracy to decision making considerations No statutory requirement for this category of decision No statutory requirement to publish decisions that are not Key Requirement to draft and publish DDN Not easy for user to determine what is a SOD Greater officer resource associated with a SOD than an Admin decision 	

2. TABLE 2 - Options for amendments to Part 2 Article 13 – Decision Making

Several options are set out below which include

- increasing the threshold of a Key Decision,
- Deleting the SOD category of decisions,
- Amending the threshold of a SOD, or
- a combination of the above.

The table below sets out the implications of each option together with advantages and disadvantages.

KEY DECISIONS (13.4)								
OPTION	Definition – (a)Threshold	Definition – (b) Impact	Exemptions	Impact based on number of 22/23 decisions	Strengths	Weaknesses	Comment	
1.	NO CHANGE	over £500,000	Significant impact on 2 or more wards	See above	178	See above table	See above table	
2	INCREASE THRESHOLD	Over £750,000	No change	No change	157 (20% reduction on option 1)	<ul style="list-style-type: none"> Threshold better reflects impacts of inflation Speeds up decision making for decisions between £500 - £750k Reduction in resource associated with Key Decisions as 20% of decisions would become SODs 	<ul style="list-style-type: none"> Reduction in transparency and scrutiny by 20% than current position 	<ul style="list-style-type: none"> This would still capture 80% of decisions based on 22/23 stats If SODs are removed/amended more decisions would become admin
3	INCREASE THRESHOLD	Over £1,000,000	No change	No change	136 (28% reduction on option 1)	<ul style="list-style-type: none"> Greater impact than option 2 above 28% of existing Key Decisions become SODS 	<ul style="list-style-type: none"> reduction in transparency and scrutiny of 28% than current 1 (and 8% than option 2) 	<ul style="list-style-type: none"> This would still capture 72% of decisions If SODs are removed/amended more decisions would become admin

OPTION	Definition – (a)Threshold	Definition – (b) Impact	Exemptions	Impact based on number of 22/23 decisions	Strengths	Weaknesses	Comment	
SIGNIFICANT OPERATIONAL DECISIONS (13.5)								
4	NO CHANGE	Over £100,000	See above table	n/a	802	See above table	See above table	
5.	CHANGE DEFINITION OF SOD	Over £100,000	Delete subsection (a) and (b) – to remove all Key decision exemptions from the definition of a SOD	n/a	680	<ul style="list-style-type: none"> • This would reduce number of SODs by 15% (122 decisions) • This removes the perceived complex element from the SOD definition which would become: <ul style="list-style-type: none"> “SODs are: <ul style="list-style-type: none"> (i) not Key or (ii) results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000; or (iii) is, in the opinion of the decision taker, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority” 	<ul style="list-style-type: none"> • Retains a non statutory category of decisions • Some reduction in transparency BUT • Information published in relation to exempt decisions is often minimal due to confidentiality requirements (e.g. Care Plans) or has been subject to previous transparency (e.g. direct consequence of previous/forthcoming Key decisions) 	There are alternative transparency routes for these decisions – e.g. Yor Tender/Data Mill North
6.	INCREASE DEFINITION THRESHOLD	Over £250k			296(based on financial thresholds)	<ul style="list-style-type: none"> • Reduces non statutory bureaucracy to decision making considerations by 34% • Reduces non statutory publication of decisions • Some reduction in resource associated with SODs as 271 decisions would not require publication • 271 SOD decisions would become Admin decisions 	<ul style="list-style-type: none"> • Retains a non statutory category of decisions • Reduces transparency and accountability of decisions which are between £100 and £250k 	<ul style="list-style-type: none"> • The value of increased threshold could be linked /proportionate to any increase in Key Decision threshold • There are alternative transparency routes for these decisions – e.g. Yor Tender/Data Mill North

OPTION		Definition – (a)Threshold	Definition – (b) Impact	Exemptions	Impact based on number of 22/23 decisions	Strengths	Weaknesses	Comment
7	SUBJECT TO AGREEMENT TO OPTION 2 OR 3 ONLY INCREASE DEFINITION THRESHOLD	Over £500k	No change	n/a	122	<ul style="list-style-type: none"> Retains transparency and accountability of decisions that were previously Key Decisions Some reduction in non statutory bureaucracy to decision making considerations Some reduction in non statutory publication of decisions Significant reduction in resource associated with SODs as 86% of decisions would not require publication 693 SOD decisions would become Admin decisions 	<ul style="list-style-type: none"> Retains non statutory category of decisions Reduces transparency and accountability of decisions below £500k 	
						•	•	
						•	•	
						•	•	
8.	DELETE SOD CATEGORY	n/a	n/a	n/a	0	<ul style="list-style-type: none"> Retains statutory compliance Removes non statutory bureaucracy to decision making considerations Reverts to statutory category of decisions Ceases publication of decisions not required to be published by statute Removes requirement to draft and publish DDN /DDR Removes need to consider whether a decision is a SOD Significant reduction in resource associated with SODs as 802 decisions would not require publication* 	<ul style="list-style-type: none"> Removes transparency and accountability of decisions which are between £100 and £500k, including those which, but for an exemption would have been key or are considered significant by the decision maker 	No other Core City has this category of decision *This could however be mitigated by Option 9

OPTION	Definition – (a)Threshold	Definition – (b) Impact	Exemptions	Impact based on number of 22/23 decisions	Strengths	Weaknesses	Comment	
ADMINISTRATIVE DECISIONS (13.6)								
9	INTRODUCE PUBLICATION THRESHOLD	All non key decisions over £250k** or where decision maker considers there is another impact is reason to be published	n/a	n/a	296 (financial threshold) 232 (other reason) 528	<ul style="list-style-type: none"> Introduces transparency and accountability to decision over £250k** despite removal of SOD category. 296 financial threshold decisions would still be published . N.B – 232 decisions would also likely be published due to “other reason to publish” published wer enot financial threshol 	<ul style="list-style-type: none"> NO statutory requirement to publish admin decisions Will increase resource associated with Admin decision HOWEVER this will be more than off-set by the 64% reduction in resource previously associated with SODs 	<p>Option suggested to mitigate disadvantages of Option 8</p> <p>** if Key Decision threshold is increased this threshold could similarly be increased</p>

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ARTICLE 13 - DECISION MAKING

OVERARCHING PRINCIPLES OF GOOD GOVERNANCE AND DECISION MAKING

13.1. All decisions of the authority, whether made by Council, Executive Board, Councillors collectively¹ or officers, will be made in accordance with the following principles:-

- 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

13.2. This article and all other documents and guidance within the decision-making framework will be read and construed to give effect to these principles.

COUNCIL DECISIONS

13.3. 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

13.4. 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

13.5. 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.

¹ For example, in Committees or Sub-Committees. Save for the Leader, there are no arrangements in place for individual members of the authority to take decisions.

CATEGORIES OF DECISION

13.6. Key Decision:-

13.6.1. Subject to 13.6.2 below a **Key decision** is 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 £500,000²; or
- b. to have a significant effect on communities living or working in an area the size of one ward or more.

13.6.2. The following shall be exempt from the definition of a key decision:-

- a. any decision where the expenditure, saving or income will result from:-
 - a Treasury Management decision in relation to the making, payment or borrowing of a loan; or
 - a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or
 - a decision to approve a care plan which the Council has a duty or power to provide as defined by s25 of Care Act 2014, s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970; or ss17 and 20 Children Act 1989; or
 - the settlement of proceedings to which Leeds City Council is a party; or
 - an urgent decision necessary out of office hours taken in accordance with the Council's Emergency Management Plan by the Officer acting at Gold or Silver level at the relevant time; or
- b. any decision where the expenditure, saving or income, or the impact on the community, is linked to an existing or planned key decision, i.e.:-
 - any decision in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed; and
 - any decision which is a direct consequence of implementing a previous Key Decision³ and was in the contemplation of the decision maker at the time the decision was taken; and
 - any decision which is the result of varying a previous Key decision following a Call In of that decision.

² Assessed over the full commitment of the decision (e.g. total potential contract value including extensions or full cost of capital project) Where the decision commits the Council to an ongoing commitment (e.g. the staffing costs related to creation of a permanent post) the value should be assessed on an annual basis.

³ 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.

Article 13 - Decision Making

13.7. Administrative Decision:-

- 13.7.1. An **Administrative decision** is a decision in relation to a Council or Executive function which is not a Key decision.
- 13.7.2. A **Publishable Administrative decision** is an Administrative decision which:
- a. Is an Executive Decision which
 - i. results in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000⁴; or
 - ii. the decision maker⁵, considers that there is another reason for publication; or
 - b. Is a Council decision where the effect of the decision is to⁶-
 - i. Grant a permission or licence;
 - ii. Affect the rights of an individual; or
 - iii. Award a contract or incur expenditure which, in either case, materially affects the financial position of the Council.

DECISION TAKING

- 13.8.** A decision taker will have regard to the definitions of Key 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.
- 13.9.** Decisions will be recorded in accordance with the relevant Procedure Rules for each decision.
- 13.10.** Where no published record is required the decision maker will ensure that there is a proportionate written record maintained.

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.

⁴ Assessed over the full commitment of the decision (e.g., total potential contract value or full cost of capital project) unless the decision commits the Council to an ongoing commitment in which case the value should be assessed on an annual basis.

⁵ Having considered the provisions of the Constitution together with other policy, procedure and guidance available

⁶ The Openness of Local Government Bodies Regulations 2014 Regulation 7

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EXECUTIVE AND DECISION MAKING PROCEDURE RULES PART A – THE EXECUTIVE

1. RESPONSIBILITY FOR EXECUTIVE FUNCTIONS

1.1 Who may make executive decisions

The Leader may discharge any functions which are the responsibility of the Executive¹; or may provide for executive functions to be discharged collectively by all Executive Members meeting as the Executive Board; or by

- an individual Executive Member²;
- 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 eight additional Members of the Executive Board³. 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, addresses⁴ and wards of the Executive Members, and the names of any Members appointed as Deputy Executive Members and Support Executive Members⁵.

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 time⁶. 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 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).

² This does not currently take place in Leeds

³ 'Executive Members'

⁴ Save where withheld from publication under Section 32 of the Localism Act

⁵ As detailed in Part 3 Section 3A of the Constitution.

⁶ This decision will be recorded in accordance with Rule 7.2.

1.3 **Delegation of Executive Functions**

1.3.1 Scheme of Delegation

At the annual meeting, the Leader will present to the Council a written record of executive delegations made by them 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:

- 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 authority⁷;
- 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 year⁸. 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.

1.3.2 **Decision Making By Community Committees**

- The Executive Board shall determine from time to time the executive functions⁹ 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. These functions will be exercised in accordance with Rule 3 below.

⁷ There are currently no arrangements for decision making by individual Members.

⁸ This decision will be recorded in accordance with Rule 7.2

⁹ Part 3 Sections 3C and 3D of the Constitution provide details of the extent of the delegation determined by the executive.

1.4 **Sub-delegation of executive functions**

Subject to any statutory provisions about the discharge of functions by community committees¹⁰, by another local authority, or the joint exercise of functions:

- if the Leader delegates functions to the Executive Board, then unless they direct 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 they direct 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.

2. EXECUTIVE MEETINGS

2.1 **Executive Meeting Rules**

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. References to the Leader shall be understood as references to the Chair of the relevant executive committee.

2.2 **Executive Meetings – when and where**

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

2.3 **Notice of Public Meetings¹¹**

The Head of Democratic 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.

¹⁰ This shall include provisions about the discharge of functions by area committees.

¹¹ Regulations 6 & 7, Executive Arrangement Regulations 2012

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.

2.4 **Exclusion of the Public from Meetings of the Executive Board**¹²

All meetings of the Executive Board will be in public¹³. However the public¹⁴ 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.

2.5 **Notice Of Meetings At Which Exempt Or Confidential Information Is To Be Considered**¹⁵

2.5.1 Where the whole or part of any report is not available for inspection by the public because it contains confidential¹⁶ or exempt¹⁷ 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.

2.5.2 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 Democratic Services will arrange for a

¹² Regulation 3, Executive Arrangement Regulations 2012

¹³ The Recording Protocol: Third Party Recording of Committees, Boards and Panels, set out in the Access to Information Procedure Rules applies.

¹⁴ 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.

¹⁵ Regulation 5, Executive Arrangement Regulations 2012

¹⁶ As defined at Rule 9.2 Access to Information Procedure Rules.

¹⁷ As defined at Rule 10.4 Access to Information Procedure Rules.

notice to be published on the Council’s website of the intention to hold a meeting, or part of a meeting of the Executive Board¹⁸ 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.

2.5.3 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 Democratic 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

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

Where the date a meeting must be held makes compliance with rules 2.5.2 and 2.5.3 impracticable then the meeting may only consider exempt or confidential items in private with the agreement of the chair of the relevant Scrutiny Board¹⁹. 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 Democratic 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.

2.6 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.

2.7 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.

¹⁸ Or a Committee fulfilling executive functions

¹⁹ Or in their absence the Lord Mayor, or in the absence of the Lord Mayor, the vice chair of the authority.

2.8 **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.

2.9 **Who presides**

The Leader and in their absence, the Deputy Leader will preside at any meeting of the Executive Board or its committees at which they are 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.

2.10 **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.

2.11 **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).

2.11.1 **Who can put items on the Executive agenda?**

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

The Head of Democratic 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 Board²⁰.

2.12 **Recording Of Executive Decisions Taken At Meetings**²¹

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 Democratic 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.

3. **DECISION MAKING BY COMMUNITY COMMITTEES**

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 opinion²² 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.

3.2 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

²⁰ 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 Democratic 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.

²¹ Regulation 12, Executive Arrangement Regulations 2012

²² 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

- 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.

- 3.3 Where a matter has been referred to the Executive Board or the Council under 3. 1 or 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.
- 3.4 Where a matter has been referred to the Executive Board under 3.1, or paragraphs (a) or (b) of 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.
- 3.5 Where a matter has been referred to the Executive Board under 3. 2 (c) or (d) then the Executive Board may;
- refer the matter to the Council for consideration²³; 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.
- 3.6 Before deciding any matter in accordance with Rule 3. 4 or 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

²³ The Council's options are as set out in Budget and Policy Framework Rules

- 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.

EXECUTIVE AND DECISION MAKING PROCEDURE RULES PART B – DECISION MAKING

4. OVERARCHING PRINCIPLES OF GOOD GOVERNANCE AND DECISION MAKING

4.1 These rules should be read and understood in conjunction with our values which shape our behaviours and underpin the way in which we work to achieve our ambitions.

4.2 All decisions of the authority, whether made by Council, Executive Board Councillors collectively²⁴ or officers, will be made in accordance with the following principles:-

- 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

4.3 All decisions will be taken in accordance with the arrangements for responsibility for functions set out in Part 3; the Financial Regulations, Contracts Procedure Rules and such other relevant rules set out in Part 4; and the Protocol on the Role of Members and Officers in Decision Making set out in Part 5 of this constitution.

4.4 In taking decisions officers will ensure that they:

- take appropriate advice in relation to legal, financial and workforce considerations;
- make appropriate arrangements for assessing the impact of the decision in relation to equalities; and
- undertake appropriate consultation and engagement
- Liaise with:
 - Chief Digital and Information Officer in relation to all matters relating to the Council's use of digital technology;
 - Chief Asset Management and Regeneration Officer in relation to all matters relating to the Council's land and building
 - Relevant internal service provider in relation to any procurement.

²⁴ For example in Committees or Sub-Committees

5. ADVANCE PUBLICITY IN CONNECTION WITH KEY DECISIONS

5.1 List of Forthcoming Key Decisions²⁵

A List of Forthcoming Key Decisions will be published on the Council's website.

If it is intended to take a Key Decision to discharge an Executive function, the decision taker²⁶ 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 decision²⁷.

The List of Forthcoming Key Decisions 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;
- where the decision taker is an individual, their 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.

5.2 General Exception²⁸

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 Board²⁹; and

²⁵ Regulation 9, Executive Arrangement Regulations 2012

²⁶ If the decision is to be taken by Executive Board or an Executive 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.

²⁷ A link to the relevant matter will be forwarded to every Member of the authority on publication to the Council's website.

²⁸ Regulation 10, Executive Arrangement Regulations 2012

²⁹ This will be deemed to happen when all Members are forwarded a link to the decision on publication of the DDN and report.

- 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 delegated decision notice published in accordance with this rule will state why it is 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.

5.3 **Special Urgency**³⁰

5.3.1 Use of Special Urgency

If by virtue of the date by which a Key decision must be taken Rule 5.1 (List of Forthcoming Key Decisions) and Rule 5.2 (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 Board³¹ 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 website³²:-

- 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 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 5.3.2 below.

5.3.2 Annual Reports On Special Urgency Decisions³³

The Corporate Governance and Audit Committee will receive on behalf of the Council reports giving details of the executive decisions taken in the circumstances set out in Rule 5.3.1 (special urgency) in the preceding period.

The report will be submitted no less than annually and will include details of

- the number of decisions so taken,

³⁰ Regulation 11, Executive Arrangement Regulations 2012

³¹ 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.

³² The Head of Democratic Services will make the necessary arrangements to publish a committee agenda and the Director will arrange for publication of a delegated decision notice.

³³ Regulation 19, Executive Arrangement Regulations 2012

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

5.4 **Publication of Report**³⁴

5.4.1 Where a Director³⁵ receives a report which they intend to take into account in making any Key Decision, then they will not make the decision until the report has been available for public inspection for at least 5 clear working days.

5.4.2 The decision taker will arrange for the publication of a delegated decision notice, stating their intention to make the decision, together with a copy of the report upon which the decision is to be based on the Council's website³⁶.

5.4.3 If, for any reason, the Director has complied with Rule 5.1 (List of Forthcoming Key Decisions) but is not able to comply with 5.4.1 (Publication of report) above they shall seek the agreement of the relevant Executive Member³⁷ to proceed with taking the Key Decision without complying with the requirement to publish the report and delegated decision notice 5 clear working days in advance of the decision being taken.

Any delegated decision notice published in accordance with this rule will state why it is not possible to give 5 clear working days' notice of the report prior to taking the decision and confirm that the Executive Member consents to the decision being taken.

The Director will advise the relevant Scrutiny Chair of the circumstances and details of the decision as soon as practicable after the decision is taken.

5.4.4 The Corporate Governance and Audit Committee will receive reports giving details of any Key decisions taken in accordance with Rule 5.4.2.

The report will be submitted no less than annually and 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.

³⁴ There is no statutory requirement to publish a report, but this local arrangement is adopted to aid transparency and accountability.

³⁵ Or other officer taking a decision in accordance with the Director's sub-delegation scheme

³⁶ A link to the relevant matter will be forwarded to every Member of the authority on publication to the Council's website.

³⁷ The Executive member with portfolio oversight of the relevant function, or in their absence the Leader of Council or in the absence of both the Executive Member and the Leader, the Deputy Leader of Council

6. TAKING EXECUTIVE DECISIONS

6.1 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 6.1.1 to 6.1.3 below, all decisions in relation to Executive Functions must be taken in line with the Budget and Policy Framework³⁸.

6.1.1 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.

6.1.2 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;

- 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.

³⁸ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Schedule 4

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.

6.1.3 Urgent Decisions Outside The Budget Or Policy Framework³⁹

Any decision which is contrary to the policy framework⁴⁰, or not wholly in accordance with the budget⁴¹ 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 Board⁴² about why it is not practical to convene a quorate meeting of full Council, and
- 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 Board⁴³ 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.

³⁹ Local Authorities (Functions and Responsibilities) (England) Regulations 2000, Regulation 5(2)

⁴⁰ 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.

⁴¹ Or virements made in accordance with the Budget and Policy Procedure Rules.

⁴² 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

⁴³ Or Lord Mayor or Deputy Lord Mayor as appropriate

7. PROCEDURE AFTER TAKING A DECISION

7.1 Recording of Executive Decisions Taken At Meetings

Decisions of the Executive and its Committees will be recorded in accordance with Rule 2.12 above.

7.2 Recording Of Executive Decisions Taken by Officers⁴⁴ or the Leader

7.2.1 Key decisions

As soon as reasonably practicable after a Key decision has been taken by an individual Member or an officer, they will prepare a record of the decision and arrange for its publication on the Council's website⁴⁵.

A Key decision will be recorded by Delegated Decision Notice supported by a report setting out the reasons for the decision and any relevant appendices. 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 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.

7.2.2 Administrative decisions

Subject to Rule 7.2.3 below, there is no requirement to publish administrative Decisions, however officers are responsible for retaining a proportionate written 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.

7.2.3 Publishable Administrative decisions

As soon as reasonably practicable after a Publishable Administrative decision has been taken by an officer or the Leader, they will prepare a record of the decision and arrange for its publication on the Council's website.

A Publishable Administrative decision will be recorded by Delegated Decision Notice supported by a report setting out the reasons for the decision and any relevant appendices. The record will include:

⁴⁴ Regulation 13, Executive Arrangement Regulations 2012

⁴⁵ In practice this will only apply to key decisions taken under special urgency or short notice provisions above, as all other Key decisions will be published in accordance with Rule 5.4 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.

- 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.

8. **IMPLEMENTATION OF EXECUTIVE DECISIONS**

8.1 **Implementation of Decisions Which are Subject to Call-In⁴⁶**

Decisions which are eligible for, and not exempted from Call-In in accordance with rules 8.1.1 and 8.1.2 below should not be implemented until the Call-In procedure is exhausted in relation to those decisions⁴⁷.

8.1.1 **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 Board⁴⁸:

- all decisions of the Executive Board;
- Executive decisions taken by the Health and Wellbeing Board⁴⁹; and
- Key Decisions taken by Officers.

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;

⁴⁶ 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.

⁴⁷ 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.

⁴⁸ 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.

⁴⁹ That is functions delegated to the Health and Wellbeing Board by the Leader

- Decisions made by Joint Committees; or
- Decisions not taken by the authority.

8.1.2 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).

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.

8.2 Operation of Call-In

8.2.1 Initiation of Call-In

To initiate a Call-In, a Member request must be submitted to the Scrutiny Officer⁵⁰ 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 signatures⁵¹ of those calling in the decision⁵².

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.

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.

⁵⁰ This Officer is the Head of Democratic Services.

⁵¹ An electronic signature will only be considered a valid 'original signature' for the purpose of initiating a call in where it can be demonstrated that it has been included on an approved proforma at the direct request of the individual seeking to call-in a decision. Signatures included as a result of a request from a third party on behalf of an elected member will not be valid.

⁵² 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.

8.2.2 Grounds for and consequences of 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 Rule 4.2 above (Principles of Decision Making), or where relevant issues do not appear to have been taken into consideration.

Prior to submitting a Call-In request, 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.

8.2.3 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 received⁵³.

8.2.4 Procedure for a Call-In Meeting

At the meeting the Scrutiny Board:

- Will invite signatories to the notification⁵⁴ to explain the reasons for the Call-In⁵⁵.
- Shall give the relevant member of the Executive Board, Health and Wellbeing Board or officer (as appropriate) opportunity to respond to the reasons given for the Call-In.
- May make such further enquiries as it considers necessary and appropriate.
- 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.
- May, in exceptional circumstances, 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.

⁵³ 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.

⁵⁴ or their nominees

⁵⁵ The signatories should specify which of the principles of decision making (set out in Rule 4.2 above) 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.

8.2.5 Outcome of a Call-In Meeting

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 report⁵⁶ within three working days of the Scrutiny Board meeting. This report will be submitted to the decision maker⁵⁷.

8.2.6 Reconsideration of Decisions

a) Confirmation of Decisions

- i. Subject to paragraph ii. Below, if the Decision Taker wishes to confirm the original decision, that decision shall be submitted to the next Executive Board meeting.
- ii. If urgency prevents the decision taker from submitting the decision to Executive Board for confirmation;
 - 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

b) Variation of Decisions

If it is intended to vary the decision following recommendations made by the Scrutiny Board then the amended decision is not defined as a Key decision, regardless of the financial or impact thresholds⁵⁸. 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 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.

⁵⁶ 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.

⁵⁷ Where the decision was taken by Executive Board or the Health and Wellbeing Board the report will be submitted to the next meeting of that Board.

⁵⁸ Article 13.6.2(b)

8.2.7 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 2.12 or 7.2.3 above.

8.3 **Implementation of Decisions Which are Not Subject to Call-In**

Decisions which are not available for Call-In in accordance with rules 8.1.1 to 8.1.2⁵⁹ Call-In above should be implemented as follows:-

8.3.1 Key Decisions (ineligible or exempt from call in)

Key Decisions should be recorded in accordance with Rules 2.12 or 7.2.1 above as appropriate but may be implemented as soon as they have been taken.

8.3.2 Administrative Decisions

All administrative decisions may be implemented as soon as they have been taken⁶⁰.

9. **SCRUTINY OF DECISIONS WHICH APPEAR TO HAVE BEEN WRONGLY TREATED⁶¹**

9.1 Where the relevant Scrutiny Board is of the opinion that

- an executive decision has been made and was not treated as a Key Decision, and
- 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.

9.2 The relevant Director will prepare a report for submission to the next available meeting of the Council⁶² 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

⁵⁹ i.e., they are either not eligible for call in, or if eligible have been exempted from call in by the decision maker.

⁶⁰ It is therefore possible that a publishable administrative decision is implemented before it is reasonably practicable to publish.

⁶¹ Regulation 18, Executive Arrangement Regulations 2012

⁶² Allowing 5 clear working days to prepare the report prior to dispatch of the summons.

- if the Leader is of the opinion that it was not a key decision, the reasons for that opinion.

10. PUBLIC ACCESS TO DOCUMENTS

10.1 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.

10.2 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

10.3 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.

11. MEMBERS ACCESS TO INFORMATION

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