

**Report of City Solicitor**

**Report to Full Council**

**Date: 16<sup>th</sup> January 2019**

**Subject: Recommendations from General Purposes Committee – Short Notice Decisions**

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Is the decision eligible for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

**Summary of main issues**

1. Following a request from the Scrutiny Board (Children and Families), Corporate Governance and Audit Committee reviewed the Council's processes and procedures for officers taking key executive decisions at short notice.
2. At its meeting on 12<sup>th</sup> December 2018 General Purposes Committee considered the recommendations of Corporate Governance and Audit Committee and now makes recommendations that the Constitution be amended in relation to the procedure that officers must follow when taking a Key Decision.

**Recommendations**

3. Full Council is requested to consider the proposals set out and approve amendments to the Executive and Decision Making Procedure Rules as set out at Appendix 2 to this report.

## **1. Purpose of this report**

- 1.1 This report sets out the recommendations of General Purposes Committee for amendments to the Constitution to regularise the process for the late publication of reports supporting an officer Key decision.

## **2. Background information**

- 2.1 At its meeting of 26<sup>th</sup> September the Scrutiny Board (Children and Families) considered the use of the Special Urgency provision (provided for in the Constitution) when taking a decision to extend a Framework Agreement. The Scrutiny Board noted that there is a gap in the Council's constitutional arrangements for officers taking key executive decisions where it is necessary to give short notice of the report on which the relevant decision will be based.
- 2.2 The Scrutiny Board recommended that Corporate Governance and Audit Committee considered the identified gap in the Council's Constitutional arrangements and made any recommendations that were felt necessary.
- 2.3 Corporate Governance and Audit Committee noted the following:-  
The Decision Making Process for Key Decisions
- 2.4 Regulations require that certain prior publicity be given for Key Decisions. In addition the Leeds City Council Constitution includes a step requiring that the report upon which a Key Decision will be taken must be published for a period of five days prior to the decision being taken. These publicity requirements are summarised in the table at Appendix 1.
- 2.5 Legislation provides for decisions to be made at short notice where they have not been included in the List of Forthcoming Key Decisions for the required 28 day period, and for the late addition of agenda items or reports within the committee process. However, there is no similar provision to permit an officer to take a decision in relation to a report which has not been published in line with the local requirement of 5 clear working days where that decision has been included on the List of Forthcoming Key Decisions for the required period.  
Responsibility for Taking Key Decisions
- 2.6 The Officer Delegation Scheme (Executive Functions) set out in the constitution provides that officers are authorised to discharge all functions within their remit "save where the Leader or relevant portfolio holder has directed or the Director considers that the matter should be referred to Executive Board for consideration."

## **3. Main issues**

### Review of Decision Making Framework

- 3.1 Through the constitutional arrangements in place at Leeds City Council (which are summarised at Appendix 1) the authority complies fully with all statutory provisions.
- 3.2 Members will note that, in addition to compliance with statutory requirements, the Council has adopted, as part of its Constitution, an additional requirement that reports to be considered by a decision taker be placed in the public domain 5 clear working days ahead of that decision being taken.

- 3.3 A Committee is subject to statutory provisions which permit either a meeting to be called at short notice, or if an agenda has already been published, a late item to be admitted to the Agenda by the Chair of the meeting. However, no such arrangements exist for Officer Decisions, which have been published to the List of Forthcoming Key Decisions for 28 days but where it is not practicable for the report setting out the detailed reasoning for the decision to be published five clear days in advance of the decision being taken.
- 3.4 General Purposes Committee recommend amendments to the Executive and Decision Making Procedure Rules to give effect to the following process to enable short notice officer decision making whilst ensuring appropriate political and governance oversight:-
- Where a decision maker has ensured the appropriate 28 day notification of a decision, but is not in a position to publish a report 5 clear days in advance of the decision needing to be taken, then that decision may only proceed with the agreement of the relevant Executive Member that the decision is urgent and cannot reasonably be delayed until the full five days' notice have been given. Responsibility for the substantive decision will remain with the decision making officer unless, in accordance with the officer delegation scheme the Executive Member requests or the relevant Director decides that the matter should be referred to Executive Board.
  - If the relevant Executive Member is not available the decision maker may ask the Leader to provide this agreement and if the Leader is also unavailable may seek the agreement of the Deputy Leader;
  - That the circumstances as to why it has not been possible to comply with the requirement for 5 days' notice be set out in the decision report;
  - That the relevant Scrutiny Chair be advised of the circumstances;
- 3.5 These amendments are set out at Appendix 2 and General Purposes Committee recommend these proposals to Full Council for approval.
- 3.6 In addition to these measures Members should note that the Corporate Governance and Audit Committee have also undertaken to monitor the instances of these provisions being used by way of the annual assurance report to the committee on decision making. This will include an analysis of the reasons for each decision made without the 5 day notice required by the constitution.

## **4. Corporate considerations**

### **4.1 Consultation and engagement**

- 4.1.1 In addition to formal consideration by the Scrutiny Board (Children and Families), Corporate Governance and Audit Committee and General Purposes Committee, the Executive Member, the Chair of the Scrutiny Board (Children and Families), the Chief Executive, and the City Solicitor have been consulted and are content with the proposals set out in this report.

### **4.2 Equality and diversity / cohesion and integration**

- 4.2.1 There are no implications for this report.

### **4.3 Council policies and best council plan**

4.3.1 The considerations set out in this report seek to ensure that the Council is fulfilling its value of being open, honest and trusted.

### **4.4 Resources and value for money**

4.4.1 There are no implications for this report.

### **4.5 Legal implications, access to information, and call-in**

4.5.1 The Council's existing arrangements comply with all statutory requirements in relation to the governance of decision making by committee or by individual officers. The recommendations set out in this report do not alter these arrangements.

4.5.2 This report proposes an amendment to local arrangements requiring the publication of a report supporting an officer Key decision to enable a short notification period. This would reflect the statutory position for committee decisions.

### **4.6 Risk management**

4.6.1 There are no implications for this report.

## **5. Conclusions**

5.1 The existing processes for executive decision making comply with statutory requirements, and provide for a number of local procedures. However there is a gap in relation to decisions to be taken where, although included in the List of Forthcoming Key Decisions, the relevant report has not been published sufficiently far in advance of the decision.

5.2 Amendments to the Executive and Decision Making Procedure Rules as set out in Appendix 2 attached stipulate Executive Member (or in their absence the Deputy Leader or Leader) approval must be sought prior to such decisions being taken under delegated powers, whilst also enabling appropriate non- Executive oversight by Scrutiny Boards and the Corporate Governance and Audit Committee.

## **6. Recommendations**

6.1 Full Council is requested to consider the proposals set out and approve amendments to the Executive and Decision Making Procedure Rules as set out at Appendix 2 to this report.

## **7. Background documents<sup>1</sup>**

7.1 None

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<sup>1</sup> The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

## Appendix 1

### Summary of Key Decision Notification Steps

Step	Committee Decisions	Officer Decisions
<p>28 Clear Calendar Days' notice of intention to take decision</p> <p>(Statutory requirement)</p>	<p>All Key decisions added to List of Forthcoming Key Decisions at least 28 days before Executive Board meeting.</p> <ul style="list-style-type: none"> <li>• If 28 days not practicable, then decision taken under General Exception with five working days' notice and Scrutiny Chair advised.</li> <li>• If urgent, then taken under Special Urgency with approval of relevant Scrutiny Chair.</li> </ul>	<p>All Key decisions added to List of Forthcoming Key Decisions at least 28 days before decision taken.</p> <ul style="list-style-type: none"> <li>• If 28 days not practicable, then decision taken under General Exception with five working days' notice and Scrutiny Chair advised.</li> <li>• If urgent, then taken under Special Urgency with approval of relevant Scrutiny Chair.</li> </ul>
<p>5 clear working days' notice of report upon which decision will be based</p> <p>(Statutory requirement for committee meetings, local requirement for officer decisions)</p>	<p>Meeting agenda published five clear working days before meeting.</p> <ul style="list-style-type: none"> <li>• Meetings convened at less than five days' notice published when convened</li> <li>• Items added after agenda published are published as soon as added to agenda.</li> </ul> <p>(Late agendas and reports published only with agreement of Chair)</p>	<p>Report and delegated decision notice published (and link circulated) five clear working days before key decision taken.</p> <ul style="list-style-type: none"> <li>• <i>NO CURRENT PROVISION FOR LATE PUBLICATION OF REPORT</i></li> </ul>
<p>Recording of Decision</p> <p>(Statutory requirement)</p>	<p>Minutes Published (Local target)</p> <ul style="list-style-type: none"> <li>• 10 days from date of meeting,</li> <li>• 2 days from date of Executive Board meeting.</li> </ul>	<p>Status of published report and delegated decision notification amended to show decision has been taken.</p>
<p>Decision open to Call In</p> <p>(Local arrangements)</p>	<p>All Executive Board decisions open to call in unless Executive Board exempts on the grounds of urgency.</p>	<p>All Key decisions open to call in unless decision maker exempts on the grounds of urgency.</p>