

ARTICLE 13 - DECISION MAKING

COUNCIL DECISIONS

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

EXECUTIVE DECISIONS

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

RESPONSIBILITY FOR DECISION MAKING

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

CATEGORIES OF DECISION

13.4. Key Decision:-

13.4.1. Subject to 13.4.2 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 £500,000¹; or
- b. to have a significant effect on communities living or working in an area the size of one ward or more.

13.4.2. The following shall be exempt from the definition of a key decision²:-

- 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

¹ 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.

² Decisions falling within these exemptions shall be treated as Significant Operational Decisions in accordance with 13.5.1 b.

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- 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 Decision³ 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.

13.5. Significant Operational Decision:-

- 13.5.1. A Significant Operational decision in relation to a Council⁴ or Executive Function is a decision which is not a Key decision and which;
- a. does not fall within the definition of an Administrative decision; or
 - b. would have been a Key decision but for 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 £100,000⁵; or

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.

⁴ In accordance with the Openness of Local Government Bodies Regulations 2014, these shall include where appropriate Council decisions taken:-

- a) under a specific express authorisation from Council or one of its committees; or
- b) In accordance with the Officer Delegation Scheme (Council (non-executive) Functions)⁴, where the effect of the decision is to-
 - a. Grant a permission or licence;
 - b. Affect the rights of an individual;
 - c. Or award a contract or incur expenditure which, in either case, materially affects the financial position of the Council

⁵ 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.

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- d. is, in the opinion of the decision taker⁶, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority.

13.6. Administrative Decision:-

- 13.6.1. A decision in relation to a Council or Executive function which is not a Key, or Significant Operational decision and which;
 - a. is within an approved budget; and
 - b. is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
 - c. does not raise new issues of policy.

DECISION TAKING

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

- 13.7.1. Making Council Decisions
 - Decisions relating to the functions listed in Article 4.2 or detailed in Part 3 of this Constitution as matters reserved to full Council will be made by the full Council and not delegated.
 - the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.
 - other Council committees and sub-committees will follow those parts of the Council Procedures Rules set out in Part 4 of this Constitution as apply to them.
 - Officers will follow the Access to Information Procedure Rules when considering any matter
- 13.7.2. Making Executive Decisions
 - the executive⁷ will follow the Executive and Decision Making Procedure Rules set out in Part 4 of this Constitution when considering any matter.
 - Officers will follow the Executive and Decision Making Procedure Rules together with the Access to Information Procedure Rules when considering any matter

⁶ Having taken into account the provisions of the Constitution together with other policy, procedure and guidance available

⁷ The executive may be the Executive Board itself or any other committee or officer acting under authority delegated by the Leader or the Executive Board as set out in Part 3 of this Constitution

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13.7.3. Decision Making By Community Committees

- The Executive Board shall determine from time to time the executive functions⁸ that may be exercised by Community Committees. These functions will be exercisable concurrently by the Executive Board and, in accordance with the Officer Delegation Scheme (Executive Functions), by Directors.
- Community Committees will follow the Community Committee Procedure Rules together with the Access to Information Procedure Rules when considering any matter.

PRINCIPLES OF DECISION MAKING

13.8. All decisions of the authority, whether made by Council, Executive Board Councillors collectively⁹ 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

RECORDING DECISIONS

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

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

DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS

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

⁸ Part 3 Sections 3C and 3D of the Constitution provide details of the extent of the delegation determined by the executive.

⁹ For example in Committees or Sub-Committees