

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