

## **PROTOCOL FOR THE ROLES OF MEMBERS AND OFFICERS IN DECISION MAKING**

### **1 INTRODUCTION**

- 1.1 The Council has adopted executive arrangements described in the Council's Constitution.
- 1.2 The effect of these executive arrangements is that Members set policy priorities and strategies to reflect local interests and needs and are also responsible for allocating funding between individual priority areas. Directors and their staff implement these strategies and policies by delivering services and major initiatives. It is officers therefore, who have responsibility for managing the Council's day to day operations, within a policy and budgetary framework laid down by Members.

### **2 RESPONSIBILITY FOR FUNCTIONS**

- 2.1 Under the executive arrangements, full Council and the Executive have specific functions and these can be delegated to Committees or officers<sup>1</sup>. It is important that local people know who takes decisions and who to hold to account.
- 2.2 Part 3 of the Constitution provides details of standing arrangements for the responsibility for functions as follows:

#### Committees

- 2.3 The authority has made arrangements to discharge both Council and executive functions through committees. Terms of Reference as set out in Part 3, Section 2 and 3 of the Constitution establish the areas of decision making which fall to committees either in relation to Council functions or executive functions.
- 2.4 Members of Committees must act in accordance with the relevant procedure rules when carrying out the functions of each committee.

#### Officers

- 2.5 The functions delegated to officers by Council and the Executive respectively are set out in the Officer Delegation Scheme at Part 3 of the Constitution.
- 2.6 Council functions are set out in Section 2 of Part 3 of the Constitution. Functions are delegated on the following basis:-
  - a Director may consider that they should not exercise the delegated authority and that it should be referred to the appropriate Council Committee for consideration;

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<sup>1</sup> Legislation allows the Leader to arrange for an executive function to be discharged by an individual Executive Member: however, to date the Leader has not done so

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- the delegating body may determine to reserve decisions about particular matters to itself.

2.7 Executive functions are set out in Part 3 Section 3E of the Constitution. Functions are delegated on the following basis:-

- a Director may consider that a delegated authority should not be exercised and that it should be referred to the Executive for consideration;
- the appropriate Executive Member may request that a Director refrains from exercising a delegated authority in respect of a particular matter and refer it instead to the Executive Board for a decision; and
- the Executive may determine to reserve decisions about particular matters to themselves.

2.8 In addition to the standing arrangements set out in the Constitution delegating bodies (Council, Executive and their Committees) may arrange for any of their functions to be discharged by an identified officer in relation to a particular matter<sup>2</sup>.

2.9 The fact that a function has been delegated to an officer through the Officer Delegation Scheme does not preclude the Council or the Executive from exercising the function directly. Similarly, where a committee has resolved to delegate a function to an officer, it shall remain open to the committee to discharge the function itself.

### Overview and Scrutiny

2.10 Terms of Reference are also in place for Scrutiny Boards. Whilst Scrutiny Boards themselves do not have decision making powers, they can make recommendations to the Council and the Executive. These bodies can also refer matters to Scrutiny Boards.

## **3 DECISION MAKING FRAMEWORK**

3.1 Members and officers will have regard to the Council's decision making framework which is comprised of the documents, systems and processes which guide and control the way in which decisions are taken by Members and officers in relation to both council and executive functions.

3.2 Decisions will be taken in accordance with the Principles of Decision Making as set out in Article 13 of the Constitution.

3.3 Members and officers will observe the provisions of their respective Code of Conduct, and in particular will ensure that they register and declare interests and the receipt of gifts and hospitality in accordance with arrangements.

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<sup>2</sup>For a specified period not exceeding six months. (Local Government Act 2000 (Constitutions) (England) Direction 2000

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- 3.4 In addition, Members and officers will ensure that there is no actual or perceived conflict of interest arising in relation to any decision in which they are involved.

## **4 MEMBER OVERSIGHT OF DECISION MAKING**

### Executive Member Decision Making

- 4.1 Legislation allows the Leader to arrange for an executive function to be discharged by an individual Executive Member: however, to date the Leader has not done so. Unless and until the Leader has determined that such authority should be given to individual Executive Members, the position remains that individual Executive Members<sup>3</sup> cannot take executive decisions.
- 4.2 For the avoidance of doubt, whilst Executive Members are responsible for setting targets and securing that officer performance in relation to the pursuance of policies and strategies within their portfolio is appropriately monitored, any executive decisions on these or other matters can only be taken by the Executive Board or an officer.

### Executive Portfolios

- 4.3 The Leader may make arrangements for an Executive Member to have a Portfolio of responsibilities and will set out the extent of each Portfolio in their Executive Arrangements<sup>4</sup>.
- 4.4 The role of an Executive Portfolio Holder is to promote and co-ordinate the Council's activities which contribute towards achieving the council's strategic objectives<sup>5</sup> within their respective portfolio.
- 4.5 The Portfolio Holder may exercise their duties and responsibilities with a view to appropriate recommendations being brought to the Executive, or alternatively, by offering their views or advice to an officer, who may take the decision under their delegated authority.
- 4.6 Where an officer considers it appropriate to do so, they should consult the appropriate Executive Member before exercising their delegated authority under the Officer Delegation Scheme. In completing a Delegated Decision Notification, the officer will record the fact that the Executive Member has been consulted.
- 4.7 An appropriate Executive Member may direct an officer on a particular matter that their delegated authority under the Officer Delegation Scheme should not be exercised, and that it should be referred to the Executive Board for consideration.
- 4.8 An Executive Member may be required to attend a hearing of a Scrutiny Board on matters within their portfolio<sup>6</sup>.

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<sup>3</sup> Other than the Leader

<sup>4</sup> Part 3 Section 3B(a) Executive Member Portfolios and Section 3B(b) Executive Members' overview of roles and responsibilities

<sup>5</sup> As set out in the Best City Ambition and supporting strategy and policy documents.

<sup>6</sup> Scrutiny Board Procedure Rules

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### Deputy and Support Executive Members

- 4.9 Deputy Executive Members and Support Executive Members may be appointed to assist Executive Members in relation to their functions. However Executive Members remain accountable for all matters within their portfolio.
- 4.10 At the request of the Executive Member the Deputy or Support Executive Member may
- Deputise for the Executive Member at meetings<sup>7</sup>
  - Act as spokesperson or representative for the Executive Member where required
  - Gather information to provide the Executive Member with timely and accurate information
  - Provide regular reports and updates to the Executive Member and advise on policy decisions
  - Lead on identified projects, or specified portfolio area within parameters agreed by the Executive member.

### Executive Member Interests

- 4.11 An Executive Member, Deputy Executive Member or Support Executive Member will not act on a matter in exercise of their executive function where they have an interest under Members' Code of Conduct in that matter.

### Support for Executive Members

- 4.12 Executive, Deputy and Support Executive Members are provided with dedicated administrative and clerical support to assist them in carrying out their responsibilities. Additional support required from other staff either generally or on particular matters will be agreed beforehand with the appropriate Director(s) and in the case of any dispute, will be determined by the Chief Executive.

### Access to Information

- 4.13 The Access to Information Procedure Rules set out the extent and procedure for Members right to seek information, explanation and advice which they may reasonably need in order to assist them in properly discharging their duties as a Member of the Council.

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<sup>7</sup> In accordance with the Executive and Decision Making Procedure Rules, although a Deputy or Support Executive member may be invited to attend Executive Board and speak on behalf of an absent Executive member, they will not be considered a co-opted member of the Executive Board and will not be able to vote on business being transacted.

## **5 OFFICERS**

- 5.1 Directors have delegated authority to discharge the authority's functions within the area remitted to them in the Officer Delegation Scheme and have responsibility to manage their directorates in accordance with Council policies, procedures and initiatives.
- 5.2 A Director may make arrangements to sub-delegate their authority to another officer of suitable seniority and experience and any such arrangements are recorded in their sub delegation scheme. However, the Director remains responsible for any decisions made under such arrangements.

### Executive Decision Making

- 5.3 When discharging a function delegated to them, an officer must consider:
- whether the decision conforms to the Council's Budget and Policy Framework and other approved policies;
  - whether they have observed approved practices and procedures including those in relation to community consultation;
  - whether the decision complies with the principles of decision making<sup>8</sup>; and
  - whether any officer or Member involved with the decision has made a relevant declaration of interest or receipt of gifts and hospitality.
- 5.4 Officers will not take a decision where they have an interest in that matter.
- 5.5 Officers must observe the requirements of Article 13 and the Executive and Decision Making Procedure Rules when taking decisions in the discharge of functions on behalf of the executive (Executive Decisions).
- 5.6 Before taking an Executive Decision, officers should ensure that appropriate consultation has taken place with the relevant Executive Portfolio Holder. The fact that such consultation has taken place is recorded on the Delegated Decision Notification. Following any consultation with an Executive Member or any other consultees, the officer is required to make their own decision and is responsible for that decision.

### Scrutiny

- 5.7 An officer may be required to respond in writing to a query from or attend a hearing of a Scrutiny Board on decisions they have taken or issues within their area of responsibility.

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<sup>8</sup> Set out in Article 13