

## ARTICLE 13 - DECISION MAKING

### 13.0 CATEGORIES OF DECISION MAKING

#### 13.1 Council Decisions

Council Decisions are made in relation to Council functions, as defined by the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended. Council Decisions are not further categorised.

##### 13.1.1 Decision Making By The Full Council

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.

Subject to Article 13.5, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

##### 13.1.2 Decision Making By Other Committees And Sub-Committees established by the Council

Subject to Article 13.5, 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.

##### 13.1.3 Decision Making By Officers

Officers will act in accordance with the Officer Delegation Scheme set out in Part 3 of this Constitution when considering any matter

#### 13.2 Executive Decisions

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

## Article 13 - Decision Making

13.2.1 Decisions made in relation to Executive Functions are categorised as follows:-

**Key Decision:-** a decision relating to an executive function which is likely

- to result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £250,000 pa<sup>1</sup>, or
- to have a significant effect on communities living or working in an area (including one ward).

and

- which is not a decision which is a direct consequence of implementing a previous Key Decision<sup>2</sup>, or in relation to which a further report will be submitted for approval of the proposal before the Council is committed to proceed<sup>3</sup>, or
- which is not the result of varying a previous Key decision in line with recommendations made by a Scrutiny Board following a Call In of that decision.

**Significant Operational Decisions:-** those decisions which are not Key decisions and which;

a.) Do not fall within the definition of Administrative decisions; or

b.) Would have been a Key decision but for a specific provision in the definition of a Key Decision to remove them from this category; or

c.) result in the authority incurring expenditure or making savings (including the receipt or loss of income) over £100,000 each year; or

d.) are, in the opinion of the Director, Chief Officer or Head of Service, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the authority, for example:-

- a decision to approve or change an officer sub delegation scheme, or
- a decision which requires the virement of funding within approved virement powers of officers.

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<sup>1</sup> Except where this expenditure, saving or income will result from:-

- a) a Treasury Management decision in relation to the making, payment or borrowing of a loan; or
- b) a decision to purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process; or
- c) a decision to approve a care plan which the Council has a duty or power to provide as defined by s46 of National Health Service and Community Care Act 1990 and s2 of the Chronically Sick and Disabled Persons Act 1970. Ss17 and 20 Children Act 1989 or s2 Local Government Act 2000
- d) the settlement of proceedings to which Leeds City Council is a party.

<sup>2</sup> 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.

<sup>3</sup> Under the capital programme, a decision to **authorise expenditure** over £250,000 will be a **key** decision, but a decision to **inject a scheme** into the capital programme, or to **award a contract** over the value of £250,000 will not.

## **Administrative Decisions**

A decision is an Administrative Decision if it is not a Key, or Significant Operational decision and:

- (a) it is within an approved budget; and
- (b) it is not in conflict with the Budget and Policy Framework or other approved policies approved by the Council; and
- (c) it does not raise new issues of policy.

13.2.2 A decision taker will have regard to the definitions of Key, Significant Operational and Administrative decisions set out above and the requirements of the Executive and Decision Making Procedure Rules set out in Part 4 of this Constitution.

### 13.2.3 Decision Making By The Executive<sup>4</sup>

Subject to Article 13.5 the executive will follow the Executive and Decision Making Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### 13.2.3 Decision Making By Area Committees

The Executive Board shall determine from time to time the executive functions<sup>5</sup> that may be exercised by Area Committees. These functions will be exercisable concurrently by the Executive Board and, in accordance with the Officer Delegation Scheme (Executive Functions), by Directors.

Area Committees will follow their respective Procedure Rules set out in Part 4 of this Constitution when considering any matter.

### 13.2.4 Decision Making By Officers

Officers will following the Executive and Decision Making Procedure Rules and act in accordance with the Officer Delegation Scheme set out in Part 3 of this Constitution when considering any matter

## **13.3 RESPONSIBILITY FOR DECISION MAKING**

13.3.1 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 Director of Resources. This record is set out in Part 3 of this Constitution.

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<sup>4</sup> 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

<sup>5</sup> Part 3 Sections 3C and 3D of the Constitution provide details of the extent of the delegation determined by the executive.

## 13.4 PRINCIPLES OF DECISION MAKING

All decisions of the authority, whether made by Council, Executive Board Councillors collectively<sup>6</sup> 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

## 13.5 RECORDING DECISIONS

### Council Decisions

- 13.5.1 All decisions taken by committees of the Council will be recorded in minutes. Officers with delegated authority to take Council decisions will record decisions they take; such records will be available for inspection by the public in accordance with the provisions of the Constitution.
- 13.5.2 In appropriate circumstances, the officer should provide the Head of Governance Services with a completed Delegated Decision Notification, for inclusion in the Council's record of decisions made.

### Executive Decisions

- 13.5.3 All decisions taken by Executive Board, and all decisions categorised as Key or Significant Operational and taken by an officer will be recorded and be available for inspection by the public in accordance with the provisions of the Constitution. The record will include;
- a. a statement of the reasons for each decision,
  - b. details of any alternative options considered and rejected and
  - c. a record of any conflict of interest declared by any Member or Officer together with a note of any dispensation granted in respect of that interest by the Standards Committee.

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<sup>6</sup> For example in Committees or Sub-Committees  
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**13.5 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

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.