

ARTICLE 13 - DECISION MAKING

Chapter 7 DETR Guidance

13.01 Responsibility for decision making

The Council will issue and keep up to date 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. This record is set out in Part 3 of this Constitution.

13.02 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights and in particular Articles;
 - Right to a fair hearing
 - Right to respect for private and family life, the home and correspondence (Article 8)
 - Freedom of thought, conscience and religion (Article 9)
 - Freedom of expression (Article 10)
 - Freedom of assembly and association (Article 11)
 - No discrimination on grounds of age, sex, race colour, religion, property, birth status, association with a national minority etc (Article 14)
 - Right to property (Article 1 of Protocol of Number 1)
 - Right to free elections (Article 3 of Protocol of Number 1)
 - Equality Bill
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes;

13.03 Types of decision

- (a) Decisions reserved to Council. Decisions relating to the functions listed in Article 4.02 will be made by the Council and not delegated.
- (b) Key decisions.
A Cabinet decision which is likely to:-
A key decision means a decision made in the exercise of an executive function by any person (including officers) or body which meets one or more of the following conditions:

(1) The decision is likely to result in the Council incurring expenditure or the making of savings in excess of £150,000. Excluded from this are all loans to banks or other financial institutions made in accordance with the Treasury Management Strategy.

Officers' delegated powers to make The Cabinet decisions are subject to the key decision/call-in regime where it is likely that the Council would incur expenditure or make savings above the threshold of £150,000.

In relation to letting contracts the key decision is the proposal to let a contract for a particular type of work. The subsequent decision to award

the contract to a specific contractor will not be a key decision provided the value of the contract does not vary above the estimated amount by more than 10% for contracts with a value of up to £500,000 or 5% for contracts of over £500,000;

(2) The decision is likely to be significant in terms of its effects on communities living or working in any two or more Wards.

In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse on the amenity of the community or quality of service provided by the Council to a significant number of people living or working in the locality affected.

(c) Cabinet decisions

- (i) A Cabinet decision is any decision taken by Cabinet or by a Portfolio Holder or officer to whom the function is delegated (including key decisions)
- (ii) A Cabinet decision taker may only take a Cabinet decision in accordance with the requirements of the Cabinet procedure rules set out in Part 4 of this resolution
- (iii) A Cabinet decision must be recorded by way of a written statement including:-
 - (a) a record of the decision
 - (b) a record of the reasons for the decision
 - (c) details of any alternative options considered and rejected by the decision taker at the time the decision was made (including the recommendations of any Overview & Scrutiny Committee)
 - (d) a record of any conflict of interest in relation to the decision which is declared by an individual decision maker or by a member of the decision making body
 - (e) in respect of any declared conflict of interest a note of any dispensation granted by the Standards Committee

13.04 Decision making by the Council

Subject to Article 13.08, the Council meeting will follow the Procedure rules (unless suspended) set out in Part 4 of this Constitution when considering any matter.

13.05 Decision making by the Cabinet

Subject to Article 13.08, Cabinet will follow the Cabinet Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.06 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny committees, as defined in Article 6, will follow the Overview and Scrutiny Procedures Rules set out in Part 4 of this Constitution when considering any matter.

13.07 Decision making by other committees and sub-committees established by the Council

Subject to Article 13.08, 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.

13.08 Decision making by Council bodies acting as tribunals

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/considering (other than for the purposes 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