

# Part C – Responsibility of Functions, Scheme of Delegation, Key Decisions and Forward Plan

## Part C1: Principles of Decision Making

### 1.1 Principles of decision making

All decisions will be made in line with the [Budget and Policy Framework](#) (Part D) and in accordance with the following principles:

- Consideration of all relevant considerations and ignoring those which are irrelevant
- compliance with finance, contract, and all other procedure rules
- due consultation and proper advice taken and alternative options considered before decisions are reached
- impartiality and an absence of bias or pre-determination
- any interests are properly declared
- decisions are properly recorded and published
- decisions are proportionate to the desired outcome
- respect for human rights, equality, and climate change impacts
- approach decision making on a transparent and open basis and decisions will be taken in a public forum wherever possible
- clarity of aims and desired outcomes
- due consideration of all available options
- reasons are given for decisions

The Council has arranged for some of its functions to be carried out by officers employed by Publica Group (Support) Limited, which is a company operated by the Council in partnership with Forest of Dean District Council, Cheltenham Borough Council and West Oxfordshire District Council. Where it is necessary for functions carried out by Publica to be delegated, these will be to officers who have a joint contract of employment with the Council. A “joint contract” is a contract of employment for Officers employed to undertake functions by both Publica and Cotswold District Council. More information is contained [Part A of this Constitution](#).

### 1.2 Introduction

1.2.1 The Council consists of several distinct elements which are allocated certain functions by statute. The most important elements are:

- Council (all councillors)
- Committees (undertaking specific functions delegated by Council / specified in statute)
- The Executive (Leader and Cabinet)

- I.2.2 These are the primary decision-making bodies within the Council, and they exercise different powers and functions. To assist the efficient working of the Council these bodies have delegated some of their functions to other parts of the Council including Sub-Committees and Officers.
- I.2.3 This part of the Constitution describes the way in which the Council's powers and functions are distributed amongst the various parts of the Council and who may lawfully exercise those powers within any limits or in accordance with any conditions.
- I.2.4 The law provides a framework under which functions:
- must not be the responsibility of the Executive – Non-Executive or Council Functions
  - may or may not be the responsibility of the Executive – Local Choice Functions
  - must be the responsibility of the Executive – Executive or Cabinet functions
- I.2.5 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions) Delegation of non-Executive Functions is set out in [Part C2 'Council Functions'](#), [Part C3 'Committee Functions'](#) and [Part C4 'Officer Non-Executive Functions'](#).
- I.2.6 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Member of the Executive (Cabinet Member) or an Officer (exercising Executive Functions). Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or Officer of another authority. The delegation of Executive Functions is set out in [Part C5 'Executive Functions'](#) below.
- I.2.7 Any reference in this Part C of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.

### **I.3 Key Decisions and Forward Plan**

#### **Key Decisions**

- I.3.1 A Key Decision is an Executive decision that is likely to:
1. result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
  2. be significant in terms of its effects on communities living or working in an area comprising two or more electoral wards in the area of the authority.

- I.3.2 The Council has decided that something is financially significant for these purposes if it is an Executive decision which requires a budget expenditure of £150,000 or more or generates savings of £150,000 or more.
- I.3.3 Key Decisions shall only be taken by Cabinet, unless such a decision has been specifically delegated by the Leader to a Cabinet Member or an Officer or unless the Leader, Chief Executive (or, in their absence or where they are unable to act, the Deputy Chief Executive) is making an urgent decision (as set out in Paragraph 37 of the Council Procedure Rules).
- I.3.4 The Chief Executive will decide whether a decision will have a significant impact on two or more wards.
- I.3.5 A decision-taker may only make a Key Decision in accordance with the requirements of the Access to Information rules.
- I.3.6 It is for the Chief Executive to decide which decisions are Key, subject to guidance from the Monitoring Officer who may require that a decision be treated as a Key Decision.
- I.3.7 In considering whether a decision is likely to be ‘significant’, the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the council to a significant number of people living or working in the locality affected. The following should be considered:
- the effect on businesses and communities
  - the expectation of the public and councillors as to whether the decision should be taken by the Cabinet
  - the anticipated interest of the public and of councillors
  - the effect on other council services and functions

### **Forward Plan**

- I.3.8 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 say that the Council must publish a notice containing information about any key executive decision which will be taken. This must be published 28 clear days before the date of the decision and must contain information about any executive decision which will be taken by the Cabinet or an individual member of Cabinet in private session. The Forward Plan enables elected members, members of the public and the Scrutiny committees to consider which items they wish to examine and consider in good time before they are determined.
- I.3.9 The plan includes details of:
- items to be debated by the Cabinet which relate to policy or budget formulation
  - items which will be subject to a recommendation to Council
  - other matters to be considered by the Cabinet (when known)
  - the names and responsibilities of current members of the Cabinet

- I.3.10 The Forward Plan is updated and published as a minimum monthly and covers all decisions proposed to be made by the Council, Cabinet, individual Cabinet members and Key Decisions made by officers within the following four months. Not all decisions will be known four months in advance and so advance notice of decisions will be included as soon as they become known
- I.3.11 There is also a requirement to publish details at least 28 clear days in advance of any meeting if there is an intention to consider in private a Key Decision or any other executive decision - even if not a Key Decision. Both these requirements are achieved through the Forward Plan
- I.3.12 Sometimes, it is impracticable to include the intention to make a Key Decision on the Forward Plan but there is still time to give advance public notice. Such a decision may still be made in accordance with the general exception procedure if three conditions are fulfilled:
- The Monitoring Officer must inform (by written notice) the Chair of the Overview & Scrutiny Committee.
  - A copy of such notice must be placed on the website and made available for public inspection.
  - Five clear working days must have elapsed, not counting the day upon which the copy notice was given.
- I.3.13 As soon as practicable, the Monitoring Officer will make available a notice setting out the reasons why it was impracticable for notice of the intended decision to appear on the Forward Plan and to publish that notice on the website.
- I.3.14 Sometimes even reduced public notice cannot be given and decisions need to be made urgently outside the usual process, e.g., reducing the pre-decision notification time. Urgency in these cases is defined as cases where the Council will be significantly disadvantaged by a delay. Where these provisions are used, clear explanations must be made in the written reports.
- I.3.15 In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear working days' notice of a Key Decision has to be given, or if an item has not appeared on the Forward Plan and a decision needs to be taken before the next edition of the Forward Plan is published, then the agreement of the Chair of the Overview & Scrutiny Committee (or, in their absence, the Vice-Chair of Overview and Scrutiny, or in their absence the Chair of the Council) that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Forward Plan and why it missed the last edition of the Forward Plan.
- I.3.16 In either case, the Chair of Overview & Scrutiny Committee must report on such consultations/agreements at the next meeting of Overview & Scrutiny committee.

- 1.3.17 Call-in is intended to be used in exceptional circumstances for decisions believed to be contrary to the authority's decision making principles. Call-In may be abridged or disapplied by a decision of the Cabinet or Cabinet member, if to do so is necessary to safeguard the interests of the Council or of the public. In any such case, professional advice will be taken from the relevant officer, and the reasons for the disapplication will be discussed with the Chair (or in their absence the Vice-Chair) of the Overview & Scrutiny Committee and the reasons for disapplying. Call-In will be stated at the top of the report and further explained – with the views of the Chair of Overview & Scrutiny committee – in the body of the report.
- 1.3.18 In such cases, whilst the actual decision cannot be Called-In, the Overview & Scrutiny committee may ask to consider the circumstances and provide recommendations if they so wish.
- 1.3.19 Following the taking of an urgent decision, the Leader will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why it was treated as urgent.