

Article 12 – Decision Making

12.1 Responsibility for Decision Making

12.1.1 The Council will maintain, review and update as necessary:

- 1) the table set out in Section B of Part 3 of this Constitution which describes the Council's functions that are the responsibility of full Council ("Council Functions");
- 2) the tables set out in Section E of Part 3 of this Constitution which describe the composition, terms of reference and delegated powers of the Standing Committees and Sub-Committees of the Council;
- 3) the Scheme of Delegations to Officers set out in Section B of Part 7 of this Constitution in so far as it relates to the delegation of Council Functions to Officers; and
- 4) the tables set out in Section A of Part 3 of this Constitution that describe the job roles of :-
 - (i) the Chairman and Vice-Chairman of the Council;
 - (ii) the Chairmen of the Overview Committees; and
 - (iii) the Chairmen of the regulatory and other Committees

12.1.2 The Cabinet will maintain, review and update as necessary:-

- 1) the part of Section A of Part 3 of this Constitution that describes the role of the Cabinet Leader and Cabinet Members;
- 2) the table set out in Section C of Part 3 of this Constitution which describes the functions of the Council that are solely or partly the responsibility of the Cabinet ("Cabinet Functions");
- 3) the table set out in Section C of Part 3 of this Constitution which describes the allocation by the Cabinet Leader to the Cabinet Members of lead responsibility for Cabinet Functions ("the portfolios") and who may take decisions in respect of them;
- 4) the table set out in Section C of Part 3 of this Constitution that contains the name, address and ward of every Cabinet Member; and
- 5) the Scheme of Delegations to Officers set out in Section B of Part 7 of this Constitution in so far as it relates to the delegation of Cabinet Functions to Officers.

12.2 Principles of Decision Making

12.2.1 All decisions of the Council and its constituent parts must be made in accordance with the following principles:-

- 1) legality, meaning that:

- the decision is within the powers of the Council and the decision maker;
 - the decision is made taking into account only required or relevant considerations;
 - there is no ulterior motive or improper purpose for the decision;
 - the decision has been made in an unbiased way following the application of established procedures or codes of practice pertaining to that class of decision;
 - in making the decision the rules of natural justice have been adhered to;
 - the decision does not fetter the Council's discretion; and
 - the decision does not unlawfully infringe the human rights of any person or body.
- 2) proportionality, meaning that the any act or omission proposed by a decision will be proportionate to the desired outcome;
- 3) non-discrimination, meaning that in making decisions the Council will have regard to and comply with its statutory duties under the Equalities Acts;
- 4) due consultation with stakeholders and the taking of appropriate professional advice from the Officers;
- 5) openness, meaning in accordance with the Council's Access to Information Rules set out on Part 4 of this Constitution;
- 6) clarity of aims and desired outcomes;
- 7) in accordance with the key aims and objectives of the Council, meaning that where more than one decision is available to achieve a desired outcome, the Council will make the decision which is most likely to advance the Council's key aims and objectives; and
- 8) prudence, meaning that subject only to paragraph 7) above, where more than one decision is available to achieve a desired outcome, the Council will make the decision which places the least burden on the taxpayer.

12.3 Types of Decision Including Key Decisions

12.3.1 Decisions relating to the Council Functions referred to in Article 4.2 will be made by full Council and not delegated.

12.3.2 In this Constitution and subject to paragraph 12.3.3 and 12.3.4 below, reference to a "Key" Decision is a reference to any decision taken in relation to a function that is the responsibility of the Cabinet and which is likely to:

- 1) result in expenditure or the making of savings which are significant, having regard to the budget for the function or service to which the decision relates; or
- 2) be significant in its effect on persons living or working in an area comprising two or more wards in the District.

12.3.3 Notwithstanding the provisions of paragraph 2) above a decision will only be deemed to be a Key Decision if it:

- 1) relates to the development and approval of the Budget; or
- 2) relates to the development approval and review of the Policy Framework, or
- 3) is otherwise outside the Budget and Policy Framework; or
- 4) is likely to result in expenditure or the making of savings exceeding the Key Decision Threshold from time to time determined by the Council in accordance with paragraph (4) below.

12.3.4 The Council will take into account:

- 1) the Council's Medium Term Financial Strategy;
- 2) the Policy Framework including, in particular, the commitments contained in the Joint Sustainable Community Strategy and Joint Business Plan;
- 3) the range of statutory and discretionary services delivered by the Council;
- 4) the nature of the decisions delegated to Officers by the Scheme of Delegations to Officers set out in Section B of Part 7 of this Constitution; and
- 5) the population of the District;

in determining a financial threshold (called "the Key Decision Threshold").

12.3.5 The Key Decision Threshold for the time being determined in accordance with paragraph (4) above is recorded in Rule 18 of the Access to Information Rules set out at Section D of Part 4 of this Constitution.

12.3.6 Key Decisions will only be taken in accordance with the requirements of the Cabinet Procedure Rules set out in Section B of Part 4 of this Constitution, (but subject to the scrutiny requirements of the Overview and Scrutiny Procedure Rules, Access to Information Rules and Budget and Policy Framework Procedure Rules set out in Sections C, D and E of Part 4 of this Constitution).

12.4 Decision Making by the Full Council

12.4.1 Subject to Article 12.8, when determining any matter, the Council will comply with the requirements of the Council Procedures Rules set out in Section A of Part 4 of this Constitution.

12.5 Decision Making by the Cabinet

12.5.1 Subject to Article 12.8, when determining any matter, the Cabinet will comply with the Cabinet Procedures Rules set out in Section B of Part 4 of this Constitution.

12.6 Decision Making by Overview Committees

12.6.1 In the determination of any matter an Overview Committee will comply with the Overview and Scrutiny Procedures Rules set out in Section C of Part 4 of this Constitution.

12.7 Decision Making by the Regulatory and Other Committees and Sub-Committees of the Council

12.7.1 Subject to Article 12.8, the regulatory and other Committees and Sub-Committees established by the Council, when determining any matter, will comply with the Council Procedures Rules set out in Section A of Part 4 of this Constitution (to the extent provided by Rule 21.2 of those rules).

12.8 Decision Making by Council Bodies dealing with Hearings or Appeals

12.8.1 When the Council or one of its Regulatory Committees including the Audit and Standards Committee, or an officer acting under delegated powers, is acting in a quasi judicial capacity or determining the civil rights and obligations of any person, any procedures adopted will accord with the requirements of natural justice and the right to a fair trial contained in Article 6 of the European Convention on Human Rights.