

ARTICLE 11 – DECISION MAKING

11.1 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.

11.2 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.
- (d) A presumption in favour of openness.
- (e) Clarity of aims and desired outcomes.
- (f) Where appropriate, what options were considered and the reasons for the decision.

Good decision making goes beyond observing the often rehearsed legal requirements to have regard to all relevant considerations and ignore all irrelevant factors as set out in the case of *Associated Picture Palaces v Wednesbury Corporation 1948*. It must include the realistic evaluation of alternatives and due consultation through effective access for the public to decision making and decision makers.

11.3 TYPES OF DECISION

- (a) Decisions reserved to full Council are in Article 4.2 and will not be delegated. The broad framework for Council and Cabinet decision making is that the Council is responsible for:
 - setting the policy and budget framework
 - decisions in discharge of the Cabinet Executive function where these are contrary to the policy or budget framework

The Cabinet is responsible for implementing the policy and budget framework and within that framework taking in-year decisions on resources and priorities.

(b) A “key decision” is one which –

- (i) is, in value, worth more than £50,000 of the annual revenue budget for the service or function or of the capital allocation to the scheme concerned, or
 - (ii) has a significant impact because it either:
 - affects individuals or organisations outside the District;
 - affects individuals or organisations in more than one Ward; or
 - will have a long term (more than 5 year) or permanent effect on the Council or the District.
 - (iii) Involves significant changes to the policy and budget framework (involves the adoption or amendment of a policy or strategy or to the budgets which the Executive has the power to adopt).
 - (iv) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.
- (c) In considering whether a decision is likely to be significant the strategic nature of the decision will be considered 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 authority to a significant number of people living or working in the locality affected. In broad terms, a key decision for the purposes of this test should be regarded as something which would have been referred to a Committee or Sub-Committee of the Council for decision rather than being delegated to Officers.
- (d) Significant changes to the policy and budget framework are key decisions.
- (e) Powers delegated to Officers, whether in consultation with a Cabinet Executive Member or not, do not constitute a key decision unless the Officer in consultation with a Cabinet Executive Member is of the view that the exercise of any proposed delegation should be treated as a key decision or the Constitution specifies it is a key decision.
- (f) All key decisions are subject to the Council Rules of Procedure as set out in Part 4, Section 2 of the Constitution.

11.4 DECISION MAKING BY THE FULL COUNCIL

Subject to Article 4, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

11.5 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.