

## Section 7 - Officer Functions

3.7.1 The intention of the Council is that decision taking should be delegated in the interests of speed where that is consistent with the democratic process in terms of accountability and openness.

3.7.2 The various levels of decision making are:-

- Council
- Committee
- Delegations to officers.
- Leader - Cabinet (either collectively or by individual Cabinet member)

3.7.3 A purpose of this Constitution is to encourage delegation of decision making to individual officers. This constitution delegates decisions to the Chief Executive. Where such decisions have been delegated it remains open to the officer making the delegation to call back for their own decision, issues of significance or sensitivity and for the decision maker to refer matters upwards for determination.

3.7.4 The Chief Executive and nominated Chief Officers have the ability to take six types of decision. The Monitoring Officer has issued Guidance [Take in Link] in relation to recording and publishing Officer Decisions.

### 3.7.5 Operational Decisions

An operational decision involves the day to day management of the Council. They are usually incidental to a function being exercised by the Council. Such decisions are taken by the Chief Executive, in accordance with the Scheme of Delegation and any financial or contracting requirements specified in the Finance or Contracts Procedure Rules or associated Monitoring officer Guidance and will be classed as operational so long as:

- within an approved budget
- not in conflict with the Council's policies, strategies or relevant service plans
- Does not amend existing or raise new policy issues

Such operational decisions will not be recorded and published unless the Monitoring Officer advises otherwise or they relate to:

- Expenditure over £100,000
- The letting of contracts with a value (over the lifetime of the contract) of £100k or more
- The disposal or purchase of land or assets with a value of £100k or more
- The granting or revoking of a permission or license
- A change to an individual's legal rights
- A change to a service (e.g. opening hours, location or service level)

### **3.7.6 Cabinet Decisions**

The cabinet has delegated non- key decisions to the Chief Executive and nominated Chief Officers. These will be decisions concerning a function being exercised by the Council which is below the key decision threshold.

### **3.7.7 Council Decisions**

The Council has decided that some of its decisions can be taken by the Chief Executive. Where the effect of the decision is to grant a permission or licence; changes the legal rights of an individual; or awards a contract (above £100k) or incurs expenditure (£100k) which in either case materially affects the Council's financial position there is a requirement to publish the decision.

### **3.7.8 Local Choice Decisions**

The Council has delegated certain further functions to the Chief Executive. As a result these become Cabinet or Council decisions and will follow the procedures for those type of decisions.

### **3.7.9 All necessary decisions in cases of Emergency.**

For the purposes of this scheme, 'emergency' shall mean any situation in which the Chief Executive believes that there is a risk of damage to property, a threat to the health or wellbeing of an individual, or that the interests of the Council may be compromised. 'All necessary decisions' includes decisions to take such action as is necessary within the law to protect life, health, safety, the economic, social or environmental wellbeing of the county, its communities and individuals living, working or visiting, and to preserve property belonging to the Council or others;

### **3.7.10 Implementing Decisions**

There is implied authority for the Chief Executive to take all necessary actions to implement Council, Committee and Cabinet decisions that commit resources, within agreed budgets in the case of financial resources, as necessary. There will also be express authority within certain decisions, delegating further decisions to a named officer, usually a Director, to take certain actions within the parameters of the recommendation from Council, Committee or Cabinet decisions.

- 3.7.11 All of these six types of decisions can be taken by the Chief Executive without consultation with elected members, however where Cabinet decisions are being taken by officers, cabinet members are normally briefed by a Director before taking the decision.
- 3.7.12 The Chief Executive is unable to make all of these decisions on behalf of the Council and therefore they have a sub delegation scheme which provides for these decisions to be taken by a senior officer.
- 3.7.13 Any officer of the Council who has been authorised by the Chief Executive to carry out any of the Chief Executive's functions of the Council may delegate those functions to other officers. In the case of Cabinet decisions, it is not appropriate for those delegations to be given to any officer below the level of assistant director in the organisation structure.

- 3.7.14 The Chief Executive will maintain the Officer Scheme of Delegation detailing all relevant delegations, including the delegation of any proper officer functions as required in a number of statutes and statutory provisions relating to the functions of the Council which require that one of the Council's officers is the "proper officer" for the purposes of that statutory provision.
- 3.7.15 The Council designates the Chief Executive as its proper officer for all such purposes other than the s151 Officer, Monitoring Officer and Scrutiny Officer and unless otherwise stated where the Chief Executive has delegated the responsibility for fulfilling any proper officer function to another officer.
- 3.7.16 The Officer scheme of delegation will be regularly reviewed and updated to ensure that it contains all relevant delegations.
- 3.7.17 The Officer Scheme of delegation will be published on the Council's website.