

## **Article 13 – Decision Making**

### **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**

Decisions of the Council will be made in accordance with these principles:

- a) The actions must be proportionate to the desired outcome
- b) After due consultation and the taking of professional advice from officers
- c) With a respect for human rights
- d) With a presumption in favour of openness
- e) Natural justice
- f) With a clarity of aims and design options
- g) Giving reasons for the decision and the proper recording of those reasons

### **13.03 Types of Decisions**

Decisions reserved to Full Council - decisions relating to the functions listed in Article 4 will be made by the Full Council and not delegated.

Key decisions – a key decision is defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 as being an executive decision which is likely:

- a) To result in the local authority incurring expenditure, which is or the making of savings which are significant having regard to the local authority's budget for the service or function to which the decision relates;

(For Winchester City Council, the financial limit above which a decision is regarded as significant is £250,000), or;

- b) To be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

A decision taker may only make a key decision in accordance with the requirements of the Cabinet Procedure Rules, Access to Information Procedure Rules (Part 4) and the Officer Scheme of Delegation (Part 3) of this Constitution.

### **Non-Key Decisions**

Officers will usually take non-key executive decisions.

A non-key decision is an executive decision that does not meet either criterion of a key decision as laid out above. These decisions are divided into significant operational decisions and administrative decisions.

### **Significant Operational (Non-Key) Decisions**

This is a decision in relation to a Council or executive function which is not a key decision and results in one of the following:

- a) Revenue expenditure or making savings (including the receipt or loss of income) between £100,000 and £250,000 per year;
- b) Capital expenditure (i.e. if they involve entering into new commitments and/or making savings) and/or contract awards of between £100,000 and £250,000
- c) When, in the opinion of the Chief Executive, the Section 151 Officer or Monitoring Officer, a published record of the decision is required to provide openness and transparency.
- d) A significant decision should be recorded in order to comply with Regulation 13 (Recording of executive decisions made by individuals) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (No. 2089).

An Administrative Decision:

- a) Is within an approved budget; and
- b) Is not in conflict with the Budget and Policy Framework or other approved policies approved by Full Council, and
- c) Does not raise new issues of policy

#### **13.04 Decision made by the Full Council**

Subject to Article 13, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.05 Decision making by the Cabinet**

Subject to Article 13, the Cabinet will follow the Cabinet Procedure 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 will follow the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### 13.07 Decision making by other Committees and Sub Committees

Subject to Article 13, other Council Committees and Sub-Committees will follow the Council Procedure 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.

#### 13.09 The Party Whip

The Party Whip is understood to mean any instructions given by or on behalf of a political group to any Member who is a Member of that group as to how that Member shall speak or vote, or the application of threat to apply any sanctions by the Group in respect of that Member should they speak or vote in any particular manner.

There shall be no Party Whip at meetings of:

- a) The Planning Committee
- b) The Overview and Scrutiny Committees
- c) The Audit and Governance Committees, and any of its Sub-Committees
- d) The Licensing and Regulation Committee, and any of its Sub-Committees where hearings are conducted
- e) Any other Committees where the Committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter