

Article 13 – Decision Making

13.01 Responsibility for Decision Making

The Council will issue and keep up to date a record of which 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 the following 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 (the principles and procedures that govern the adjudication of disputes between persons or organisations, chief among which are that the adjudication should be unbiased and given in good faith.);
- f) With clarity of aims and desired outcomes;
- g) In consideration of any alternative options; and
- h) 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 this Constitution will be made by 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; or

(For Winchester City Council, the financial limit above which a decision is regarded as significant is £250,000 and above. For the avoidance of doubt, it is any capital item or scheme/contract of £250,000 and above or anything with an *annual* revenue expenditure of £250,000 and above)

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

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

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 making by Full Council

A meeting of Full Council will follow the **Council Meeting Procedure Rules** set out in this Constitution when considering any matter.

13.05 Decision making by the Cabinet

Cabinet will follow the **Cabinet Procedure Rules** set out in 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 this Constitution when considering any matter.

13.07 Decision making by other Committees and Sub Committees

Other Council Committees and Sub-Committees will follow the **Council Meeting Procedure Rules** set out in this Constitution as they 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, **examples are the Licensing and Planning Committees.**

13.09 The Party Whip

The Party Whip means any instructions given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on **any committee**, 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.

In particular, there shall be no Party Whip applied at meetings of:

- a) The Planning Committee;
- b) The Overview and Scrutiny Committees and any of its Sub-committees/**working groups or panels;**

- c) The Audit and Governance Committees, and any of its Sub-Committees;
- d) The Licensing and Regulation Committee, and any of its Sub-Committees;
- e) Any other Committee, **Sub-Committee, working group or panel** where the committee meets to determine applications, hearings, appointments or acts in any quasi-judicial matter.