

A GUIDE TO RECORDING AND PUBLICATION OF OFFICER DECISIONS

1. Background

- 1.1 This document sets out the procedural framework to decision making and establishes a system to document decisions taken by officers under delegated authority.
- 1.2 It has been updated to reflect new regulations introduced on 6 August under the Local Audit and Accountability Act 2014.

2. Types of Officer Decisions

- 2.1 An “executive decision” is one made in connection with the discharge of a function which is the responsibility of the executive, i.e. the Leader and Cabinet and which has been delegated to officers
- 2.2 A “non executive decision” is one made in connection with the discharge of non-executive functions and which has been delegated to officers.
- 2.3 The significance of decisions taken under delegated powers will vary, and officers authorised to make delegated decisions will need to exercise judgement in determining whether decisions are significant enough to require formal recording in accordance with paragraph 2.6 below. Operational and Administrative Decisions although not required to be formally reported, must be recorded within the service area so as to provide an audit trail as referred to in paragraph 5.
- 2.4 Key Decision, Significant Decision and Urgent Decision are defined in Article 13.

A Key Decision is a decision made in exercise of an executive function which:-

- *requires a budget expenditure or budget saving of £100,000 or more;*
- *relates to the acquisition or disposal of land or an interest in land with a value in excess of £250,000; or*
- *is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough*

A Significant Decision means any decision in exercise of a non-Executive Function which:-

- *requires a budget expenditure or budget saving of £100,000 or more; or*
- *is likely to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Borough*

An Urgent Decision means a decision made in circumstances where:-

- (a) *a decision is required by statute or otherwise within a specified timescale; or*
- (b) *any delay likely to be caused by not making the decision would seriously prejudice the Authority’s or the public’s interests; or*
- (c) *any delay likely to be caused by not making the decision would be likely to expose the Authority, its members or its constituents to a significant level of risk, loss, damage or disadvantage*

- 2.5 Officers do not, except where (1) they are specifically authorised by the Leader or Council/Committee, or (2) the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers, have authority to make Key Decisions or Significant Decisions.
- 2.6 The following types of officer decision shall be formally recorded subject to the limitations set out:

Type of Officer Decision	Limitation
Executive or Non-Executive Decision for financial expenditure or financial saving of £10,000 or more.	The expenditure or saving has already been approved by Council/Committee/Cabinet/Cabinet Member and their decision has been published (in so far as possible without releasing Confidential or Exempt Information); or The expenditure or saving is already recorded and published under separate statutory requirements; or The decision is purely operational or administrative in nature.
Non-Executive Decision : (1) for the granting of a permission or licence or changing an individual's legal rights, (2) made under an express delegation from Council or Committee.	The date, details of and reasons for the decision are already required to be produced under a statutory requirement; or The decision is purely operational or administrative in nature.
Key Decision	
Significant Decision	

- 2.7 Officers should consider whether there may be consequential or longer term financial implications or risks arising from any decision they are to take. Therefore, in addition to the types of decision specified in paragraph 2.6, they should record decisions where the consequences or risks (financial or otherwise) for the Authority are likely to be significant.

3. The Process

- 3.1 Before taking any decision, the authorised officer must take into account the principles of decision making set out in Article 13.2 of the Constitution.
- 3.2 Details of all proposed Key Decisions need to be published at least 28 days before the decision is made (unless the urgency procedure is applicable). At CBC we do this via the Council's Forward Plan which sets out matters to be considered by the Authority over the following four months and is continually updated. The Forward Plan also includes non-Key Decisions for completeness together with those non-executive decisions due to be taken by Council.

- 3.3 Where an officer is able to make an urgent Key Decision (see 2.5 above) they must comply with the legal requirements set out in Part 4 of the Constitution (Access to Information Procedure Rules).

4. Call-in

- 4.1 Key Decisions made by officers are subject to call-in by Overview and Scrutiny and cannot be implemented until either the call-in period has expired or the Scrutiny Committee has made a decision regarding the call-in. The call-in procedure is set out in the Overview and Scrutiny Procedure Rules within the Constitution.
- 4.2 Although the formal call in process only applies to officer Key Decisions, Overview & Scrutiny can call an officer to account over any decision made.

5. Recording and Publishing the Decision

- 5.1 Relevant officer decisions for publication are recorded in the same manner as Cabinet / Cabinet Member Decisions. The officer must provide the Democratic Services Officer with a completed Officer/Cabinet Member Decision report form (available on the Council's intranet site) within two clear working days of the date of taking the decision. Any such forms must be copied to the relevant Director. The decision form will be accompanied by any relevant background papers, and, where appropriate (for example, in respect of a controversial or complex matter) a full report (based on the Cabinet report template)
- 5.2 Democratic Services will maintain a record of all decisions referred to in paragraphs 5.1, including any report upon which each decision was made and background papers. Subject to any requirement for confidentiality, they will ensure that this decision is available for public inspection via the modern.gov system on the website or at the Municipal offices or by post if requested on receipt of payment for copying and postage. A written record must be available for public inspection for at least 6 years and the background papers for at least 4 years.
- 5.3 It is essential that the contents of the Decision Form are clear in conveying the decision taken, i.e., it will not be sufficient to state that the recommendations in a report were agreed. The form and accompanying report must set out:
- a record of the decision (including the date it was made);
 - the reasons for the decision;
 - details of any alternative options considered and rejected;
 - a record of any conflict of interest declared by any Cabinet Member consulted; and
 - in relation to any such declaration, a note of any dispensation granted by the Chief Executive

6. Consultation with Members

- 6.1 Decisions by Officers following delegation from Cabinet**
Officers to whom decision-making powers have been delegated following a Cabinet decision, subject to consultation with Cabinet Members, will ensure that such consultation takes place.
- 6.2 Other Decisions delegated to officers**
- a. Officers acting within the remit of their delegated powers within the Constitution will ensure that they identify, at an early stage, issues upon which Members should be consulted; and
 - b. Officers will ensure that appropriate consultation takes place.