

## **PART 2**

### Articles of the Constitution

#### **Article 13 - Decision Making**

##### **13.1 RESPONSIBILITY FOR DECISION MAKING**

The Functions allocated to Council, Committees, Cabinet, Cabinet Members, Officers, Joint Arrangements and other local authorities are set out in Part 3 of this Constitution.

##### **13.2 PRINCIPLES OF DECISION MAKING**

All decisions of the Authority made by the bodies or persons in Rule 13.1 shall be made in accordance with the following principles:

- (a) the decision must be lawful and in accordance with all applicable statutory and regulatory requirements and this Constitution;
- (b) the decision shall be proportionate to the desired outcome;
- (c) the decision shall comply with the Budget and Policy Framework Rules;
- (d) the decision should be taken following due consultation and on the taking of professional advice from Officers;
- (e) there shall be respect for human rights;
- (f) there shall be a presumption in favour of openness;
- (g) there shall be clarity of aims and desired outcomes;
- (h) due consideration shall be given to all objections; and
- (i) the options considered and the reasons for the decision shall be clearly set out.

##### **13.3 SPECIFIC TYPES OF DECISION**

###### **(a) Decisions reserved to Council**

Decisions relating to the functions listed in Table 1 of Part 3B of the Constitution shall be taken by Council unless lawfully delegated to a Committee or an Officer.

###### **(b) Key Decisions (*Executive Functions only*)**

A Key Decision means any decision in exercise of an Executive Function which is likely:-

- (i) to result in the Authority incurring **expenditure** which is, or the making of **savings** which are, **significant** having regard to the Authority's budget for the service or function to which the decision relates; or
- (ii) to be significant in terms of its effects on communities living or working in an area comprising **two or more wards** in the Authority's area

The Authority has agreed the following local definition of Key Decision–

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

Additionally (in accordance with Section 38 of the Local Government Act 2000) in determining the meaning of "**significant**" for these purposes regard shall be had to any guidance issued by the Secretary of State.

**(c) Significant Decisions (*non-Executive Functions only*)**

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

**(d) Urgent Decisions**

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.

#### **13.4 DECISION MAKING BY COUNCIL**

Subject to Article 13.8, Council meetings will follow the Council Procedure Rules set out in [Part 4A](#) of this Constitution when considering any matter.

#### **13.5 DECISION MAKING BY CABINET**

Subject to Article 13.8, Cabinet will follow the Cabinet Procedure Rules set out in [Part 4B](#) of this Constitution when considering any matter.

#### **13.6 DECISION MAKING BY OVERVIEW AND SCRUTINY COMMITTEE**

Overview and Scrutiny Committee will follow the Overview and Scrutiny Rules set out in [Part 4D](#) of this Constitution when considering any matter.

#### **13.7 DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL**

Subject to Article 13.8, all Committees and Sub-Committees established by Council will follow those parts of the Procedure Rules set out in [Part 4C](#) of this Constitution as apply to them when considering any matter.

#### **13.8 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

Council, Cabinet, a Cabinet Member, a Committee or an Officer acting as a tribunal or in a quasi-judicial manner or as a Regulatory Committee or determining and/or 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 hearing contained in Article 6 of the European Convention on Human Rights.

#### **13.9 DECISION MAKING BY OFFICERS**

When making decisions within the powers delegated to them under Part 3 of the Constitution, Officers will ensure that the financial implications or expenditure resulting from the exercise of that delegation does not exceed the limit of their authorised level of expenditure.