

# Part Five, Section D

## Protocol for Decision-Making

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This part set out provisions with respect to proceedings of the Executive (the Leader, Individual Cabinet members, the Cabinet and Cabinet Committees) and Non-Executive Committees and Sub-Committees.

This protocol is incorporated into the terms and conditions of employment of officers; and breach of this Protocol shall be a breach of the Members' Code of Conduct.

The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee should approach decision making in accordance with the principles set out in Article 12.02:

- (a) proportionality (i.e. the action must be proportionate to the desired outcome);
- (b) due consultation and the taking of professional advice from officers;
- (c) respect for human rights in particular, giving consideration to such issues at an early stage in the process;
- (d) a presumption in favour of openness; and
- (e) clarity of aims and desired outcomes.

The Executive (the Leader, individual Cabinet members, the Cabinet, and Cabinet Committees), and a Non-Executive Committee or Sub-Committee shall not take any decision until the following requirements have been complied with:

- 1.1. All decisions shall be allocated by the Leader to the Cabinet or Cabinet Member or delegated to a Committee or Sub-Committee.
- 1.2. No decision shall be taken except upon a written report in accordance with this Protocol.
- 1.3. A Director shall prepare a written report which shall be the subject of consultation with

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- (a) the Chief Finance Officer and the Monitoring Officer (except to the extent that they agree otherwise in respect of certain clauses of report)
  - (b) other professional Officers of the Council as appropriate
  - (c) service Directors whose service may be affected by the proposal.
- 1.4. Unless the Democratic Services Manager agrees any exceptions, the written report shall set out:
- (a) the body proposing to take the decision
  - (b) the issue to be decided
  - (c) an executive summary of the issue, where the length of the report so requires for clarity
  - (d) any recommended restrictions upon the publication of the report or public attendance at the making of the final decision,
  - (e) the facts upon which any decision must be based
  - (f) comments of the Assistant Director of Corporate Governance on any legal implications or legislative requirements, including any HRA issues
  - (g) any policy of the Authority relating to the issue
  - (h) any relevant national or regional guidance
  - (i) the options available to the decision-making body
  - (j) the reasons for the decision
  - (k) the staffing implications of the issue
  - (l) the Chief Finance Officer’s comments on the financial implications
  - (m) any consultations undertaken, the views of any consultees and a summary of any other representations received
  - (n) any implications for any other areas of the Authority’s activities
  - (o) any equalities implications
  - (p) the comments of any other professional officer or Service Director where appropriate
  - (q) whether or how the proposals will contribute to the delivery of climate change mitigation (reducing carbon and energy impacts) and climate change adaptation (minimising the risks and impacts in a changing climate).
  - (r) if an executive matter, the Cabinet Portfolio which the issue falls within
  - (s) the electoral areas which are particularly affected by the issue under consideration
  - (t) the recommendation in respect of the proposed decision and the reasons supporting the recommendation
  - (u) the place, date and time at which the body proposes to make its decision
  - (v) a list of any background papers

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1.5. At least 5 clear days before the proposed date and time for taking the final decision, the Democratic Services Manager shall send a copy of the report, or arrange for a copy of the report to be sent to all Members of the decision-making body.

1.6. The requirements for consultation and public participation set out above are to be regarded as a minimum, and officers are responsible for determining when further consultation and public participation would be appropriate.

#### 1.7. Urgent Decisions

Where the Director is of the opinion that a relevant decision should be made urgently in order to prevent or reduce the risk of damage to persons or property or to the interests of the Authority, and that the urgency of the matter is such that it is not practicable to complete the decision-making process set out above or to comply with the Access to Information Procedure Rules in Part 4, the decision may be deemed “urgent”:

- (a) In order for an executive decision to be deemed urgent, the “General Exception” or “Special Urgency” procedures set out in the Access to Information Procedure Rules must be followed.
- (b) the Director shall use his/her best endeavours, as far as the urgency of the matter permits, to consult those persons whom he/she would have been required to consult had the full decision-making process been followed; and
- (c) the decision-making body shall have the power to take that relevant decision, notwithstanding that the full procedure has not been followed;
- (d) urgent executive decisions shall be taken in the manner prescribed at Part 4 Section F;
- (e) urgent non-executive decisions may also be taken in the manner prescribed at paragraph 5.01 (b) of Part 3 Section E Section 1;
- (f) These urgency procedures should only be used in cases of genuine urgency and should not be abused, for example, in attempting to put right failures in forward planning.

1.8 Where there is a change in approach to a previous executive or non-executive decision which is not consistent with the previous decisions made, a report should be compiled in accordance with section 1.4 above. This would include decisions taken forward by the Leader of the Council in accordance with Article 7.01 and Part Three Section C of the Council’s Constitution. Where this is a key decision or a decision made by a non-executive Committee, advice should be immediately sought as appropriate

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from the Council's Statutory Officers. In addition, the Monitoring Officer will provide advice on the decision making process to be followed as set out above and in accordance Part 4 Section D of the Council's Constitution.