

3. Protocol for Recording and Publishing Officer Decisions

1. Background

1.1 This protocol sets out the procedural framework to decision making and establishes a system to document decisions taken by officers under delegated authority.

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 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 a function that is the responsibility of Full Council and its committees 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 judgment in determining whether decisions are significant enough to require formal recording and publishing in accordance with paragraph 2.7 below.

2.4 Although administrative and operational decisions are not required to be formally reported, they must be recorded within the service area so as to provide an audit trail as referred to in paragraph 5.

2.5 Key Decisions, Material Decisions, Significant Decisions and Urgent Decisions are defined below:

Key Decisions are executive decisions that are likely to result in spending or savings that are 'significant':

- in relation to the budget for the service or function in question or
- in terms of the effect on communities living or working in two or more electoral divisions

Material Decisions are executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:

- That are contentious, controversial or politically sensitive; or
- Where there is likely to be a strong public interest; or
- Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or
- Raise new issues of policy

Significant Decisions are non-executive decisions (other than purely operational or administrative in nature) taken by officers under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/interest; where the effect of the decision:

- is to grant a permission or licence
- affects the legal rights of an individual
- is to award a contract or incur expenditure which 'materially' affects the authority's financial position

Urgent Decisions are decisions made in circumstances where:

- a decision is required by statute or otherwise within a specified timescale; or

- any delay likely to be caused by not making the decision would seriously prejudice the council's or the public's interests; or
- any delay likely to be caused by not making the decision would be likely to expose the council, its councillors or the public to a significant level of risk, loss, damage or disadvantage

2.6 Officers do not have authority to make Key Decisions except where:

- they are specifically authorised by the Leader, Cabinet, Full Council or Committee; or
- the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers.

2.7 The following types of officer decision must be formally recorded and published subject to the exceptions set out:

Type of Officer Decision	Exception	Publication
<p>Key Decisions</p> <p>Executive decisions that are likely to result in spending or savings that are 'significant':</p> <ul style="list-style-type: none"> • in relation to the budget for the service or function in question or • in terms of the effect on communities living or working in two or more electoral divisions 	<p>Officers are only to take Key Decisions where:</p> <ul style="list-style-type: none"> (i) specifically authorised by the Leader or Cabinet; or (ii) where the Chief Executive or (in their absence) the Deputy Chief Executive is acting under urgency powers. 	<p>As soon as reasonably practicable after an officer has made a Key, Material or Significant decision, they must produce a written statement, available for inspection at County Hall and published on the council's website, that includes details of:</p>
<p>Material Decisions</p> <p>Executive decisions under powers delegated by a specific resolution of the Cabinet/Cabinet member or under the Scheme of Delegation:</p> <ul style="list-style-type: none"> • That are contentious, controversial or politically sensitive; or • Where there is likely to be a strong public interest; or • Where there is significant variance in expenditure outside the agreed scope or budget for a project or issue; or • That raise new issues of policy. 	<p>Does not apply:</p> <ul style="list-style-type: none"> (i) To routine operational, organisational or administrative decisions; (ii) Where the expenditure or saving has already been approved by Cabinet or Cabinet Member and the decision has been published; (iii) Confidential or Exempt Information; or (iv) Where the expenditure or saving is already recorded and published under separate statutory requirements. 	<ul style="list-style-type: none"> • the decision and the date it was made; • the reasons for it; • any alternative options considered and rejected; • any conflicts of interests declared by any Cabinet member consulted by the officer and any dispensations granted by the Chief Executive in respect of any declared conflict;
<p>Significant Decisions</p> <p>Non-Executive decisions under powers delegated by a specific resolution of Full Council, a committee or under the Scheme of Delegation and having wide public impact/ interest; where the effect of the decision:</p> <ul style="list-style-type: none"> • is to grant a permission or licence • affects the legal rights of an individual 	<p>Does not apply:</p> <ul style="list-style-type: none"> (i) To routine operational, organisational or administrative decisions; (ii) Confidential or Exempt information; (iii) Where the date, details of and reasons for the decision are already required to be produced under a statutory requirement; (iv) If only the rights of an individual or business are affected, unless 	<ul style="list-style-type: none"> • the report considered by the decision-maker; • any background documents disclosing facts or matters on which the decision was based and which were relied on to a material extent in making the decision.

<ul style="list-style-type: none"> • is to award a contract or incur expenditure which ‘materially’ affects the authority’s financial position 	<p>there is a wider public impact/ interest in the action.</p>	<p>The decision record must be kept for inspection for 6 years and the background papers for 4 years.</p>
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3. **The process**

- 3.1 Before taking any decision, the authorised officer must consider the principles of decision making set out in Part 3 Section 1 of the Constitution.
- 3.2 Details of all proposed Key Decisions must be published at least 28 clear days before the decision is made (unless the general exceptions procedure or special urgency procedure is applicable) via the Forward Plan, which sets out matters to be considered over the following four months and is continually updated. The Forward Plan also includes non-executive decisions due to be taken by Full Council.
- 3.3 Where an officer makes an urgent Key Decision (see 2.6 above) they must comply with the legal requirements set out in the Access to Information rules (see Part 5 Section 2).

4. **Call-In**

- 4.1 Key Decisions made by officers are subject to call-in by Scrutiny Committees 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, Scrutiny Committees can call an officer to account over any decision made.

5. **Recording and publishing the decision**

- 5.1 The officer decisions for publication (listed in 2.7 above) are recorded in the same manner as Cabinet/Cabinet Member decisions. The officer must provide Democratic Services with a completed Officer Decision Record (available on the Council’s intranet site) within two clear days of the date of taking the decision. Any such forms must be copied to the relevant Director. The Decision Record 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 exemption from publication, they will ensure that this decision is available for public inspection via the website or at County Hall or by post if requested and on receipt of payment for copying and postage.
- 5.3 A written record must be available for public inspection for at least 6 years and the background papers for at least 4 years.

6. **Consultation with councillors**

- 6.1 Decisions by officers following delegation from Cabinet

Officers to whom specific decision-making powers have been delegated following a Cabinet decision subject to consultation with Cabinet members, will ensure that such consultation takes place prior to making the decision.

6.2 Other decisions delegated to officers

Staff acting within the remit of their general delegated powers within the Constitution will ensure that they identify issues upon which councillors should be consulted and will ensure that appropriate consultation takes place.

7. Officer decision record

7.1 The form below should be used to record an officer decision and published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Openness of Local Government Bodies Regulations 2014.

Officer name and title:	
Directorate/Service:	
Subject of decision:	
Type of decision (tick as appropriate):	1. Key Decision 2. Material Decision 3. Significant Decision
Divisions affected:	
Subject to Call-In (yes/no):	
Source of delegated power (specific authorisation or scheme of delegation):	
Decision taken (specify details, including any grant of permission/licence; whether affecting the rights of an individual; or awarding a contract/incurred expenditure materially affecting the council's financial position):	
Reasons for the decision (including reference to relevant council policy):	
Alternative options considered and rejected:	
Persons/organisations consulted and their comments:	
Any conflicts of interests declared by any member consulted and any dispensations granted by the Chief Executive in respect of any declared conflict:	
Background reports/information considered and attached (legal, personnel, financial implications, etc):	

Consideration of the Public Sector Equality Duty and relevant Equality, Environmental and/or Community Impact Assessments:	
Risk analysis:	
Any information exempt from publication:	
Date:	