Recording Officer Decisions

DECISION MAKING AND DELEGATION

1. Background

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

2. Types of Decisions

2.1 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. To assist in this process, decisions relating to Council functions are defined as Key, Major or Administrative. All decisions other than Administrative need formally recording in accordance with paragraph 5. Administrative Decisions although not required to be formally reported, should be recorded so as to provide an audit trail as referred to in paragraph 5.

2.2 Officers should be aware that officer decisions can be challenged externally through the courts. A Record of Delegated decision form to record Council functions is referred to in paragraph 5.2.

2.3 “key decision” means a decision which is likely—

- to result in the council incurring expenditure which is, or the making of savings which are, significant having regard to the council’s annual budget for the service or function to which the decision relates; or
- to be significant in terms of the effects on communities living or working in an area comprising two or more electoral areas in the local government district of the council;

2.4 Major Decisions: a Major Decision shall bear the same definition as a Key Decision, save that the only criteria for a Major Decision is that the expenditure shall be between £7,500 - £30,000.

3. The Process

3.1 Before taking any decision, the authorised officer must take into account the principles of decision making set out in the scheme of delegation.

3.2 All proposed Key Decisions must be published on the Council intranet site at least 5 working days before the proposed decision date.

3.3 If an officer is unable to give five clear days notice of a Key Decision the decision must be published on the council intranet site as soon as possible.

4. Call-in

4.1 Key decisions made by officers are subject to call-in by the Council where Council is operating an executive system and cannot be implemented until either the call-in period has expired. The call-in procedure is set out in the Standing Orders.

5. Recording the Decision

5.1 Officer Key Decisions are recorded by completing a Record of Delegated Decisions (Appendix 1) form in duplicate. One copy should be provided to the lead finance officer and
one copy to the lead improvement officer who will arrange for a copy to be published on the Council intranet site.

5.2 Upon making a Major Decision, the officer must provide the Lead Finance Officer with a completed Record of Delegated Decision Form within two clear working days of the date of taking the decision. Any such forms must also be copied to the relevant Director. Major decisions do not need to be recorded on the Council Intranet site.

5.3 The Lead Finance Officer will maintain a record of all decisions, including any report upon which each decision was made.

5.5 It is essential that the contents of the Record of Delegated 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 Member consulted (if applicable).

5.6 The Record of Delegated Decision Form includes a section for the recording of interests by officers. It is important that where officers involved in making decisions have a declarable interest this is declared on the form to preserve the integrity of the process.

6. Authorisation of Officers to exercise Delegated Powers

6.1 The Scheme of Delegation includes the power for officers to authorise other officers to exercise delegations that have been delegated to them under the Scheme. This must be to another officer or officers of suitable experience and seniority. Each Director may prepare a Departmental Scheme of sub-delegation and revise it as appropriate during the year. It shall set out how decisions will be made in his/her area. This should establish which officers will be given authority to make decisions under the Senior Officer’s delegated powers, and subject to which terms and conditions. The Scheme of Authorisation will be lodged with the Lead Finance Officer.

6.2 Whilst Directors may authorise other officers to take delegated decisions, the decision is still their responsibility, and they will be accountable for the decision to authorise and the exercise of that authorisation.

7. Referral

7.1 Whilst this Scheme is designed to encourage officers to take responsibility for decisions, an officer may decide that a particular issue is such that it should be referred to the appropriate committee or the Chief Executive. Such a referral must take place where required by the Scheme of Delegation.

7.2 The Council may also direct an officer’s delegated authority should not be exercised and that the matter should be referred to the appropriate committee.

8. Giving Reasons
8.1 A matter of increasing significance in local authority decision-making is when reasons have to be given. Generally, giving reasons is an accepted ‘best practice’ principle of good administration. Case law suggests that the practice may be important in ensuring that controversial decisions are rooted in relevant considerations and with proper regard to available legal powers. The reasons for a decision must be included in the record of delegated decision form.

9. Accountability

9.1 Officers are accountable to the Council for any decision they make, and may be required to report to, and answer questions from the appropriate committee in respect of any Decision. The Council may also call in Key Decisions before they are implemented and may recommend a course of action when the matter is to be reconsidered by the officer.

10. Consultation with Members

10.1 General Provisions
a. Decisions made by officers under delegated powers fall into two principal categories, namely:
   ▪ decisions delegated to officers following a decision of council (which may or may not be Key Decisions); and
   ▪ decisions delegated to officers under the scheme of delegation (which do not require a decision of council) and which may or may not be Key Decisions.

b. Officers to whom decisions have been delegated have a duty to ensure that effective consultation takes place with members and other officers in accordance with scheme of delegation.

c. Every effort will be made to ensure that Members have a realistic time scale to respond to consultation and, where appropriate and reasonably practicable, this time scale will be sufficient to enable Members to consult with their constituents. Members will be informed of any time restrictions which may apply relating to the process of consultation, particularly where urgent action is needed in the Council’s and/or the public interest.

10.2 Officers acting within the remit of their delegated powers will ensure that they identify, at an early stage, issues upon which Members should be consulted and will ensure that appropriate consultation takes place.