

Part 3: Responsibility for Functions, Key Decisions and Executive Work Plan

3A Principles of Decision Making

- 3A.1 All decisions will be made in line with the Budget and Policy Framework and in accordance with the following principles:
- consideration of all relevant information
 - compliance with finance, contract, and all other procedure rules
 - ensure proper advice is taken and considered before decisions are reached
 - where appropriate, consult with stakeholders and consider their responses before decisions are reached
 - impartiality and an absence of bias or pre-determination
 - any interests are properly declared
 - decisions are properly recorded and published
 - decisions are proportionate to the desired outcome
 - respect for human rights
 - equality impact assessments are undertaken and considered
 - climate change impacts are fully assessed and understood before decisions are made
 - approach decision making on a transparent and open basis and decisions will be taken in a public forum wherever possible
 - consideration of alternative options
 - reasons are given for decisions
 - consideration is given to all financial implications
- 3A.2 The Council has arranged for some of its functions to be carried out by officers employed by Publica Group (Support) Limited, which is a company operated by the Council in partnership with Forest of Dean District Council, Cheltenham Borough Council and Cotswold District Council. Where it is necessary for delegated functions to be carried out by the Council, these will be delegated to officers who have a joint contract of employment with the Council. A “joint contract” is a contract of employment for Officers employed to undertake functions by both Publica and West Oxfordshire District Council.

The Council has also arranged for some of its functions to be carried out by the South West Audit Partnership and Counter Fraud Unit employed by Cotswold District Council. In cases where any of those functions need to be carried out by the Council a similar process in relation to the use of a joint employment contract will be utilised.

3A.3 Introduction

The Council consists of several distinct elements which are allocated certain functions by law. The most important elements are:

- Council (all councillors)
- Committees (undertaking specific functions delegated by Council / specified in law)
- The Executive (Leader and Cabinet)

These are the primary decision-making bodies within the Council, and they exercise different powers and functions. To assist the efficient working of the Council these bodies have delegated some of their functions to other parts of the Council including Sub-Committees and Officers.

3A.4 This part of the Constitution describes the way in which the Council's powers and functions are distributed amongst the various parts of the Council and who may lawfully exercise those powers within any limits or in accordance with any conditions.

3A.5 The law provides a framework under which functions:

- must not be the responsibility of the Executive – Non-Executive or Council Functions (see part 3B)
- may or may not be the responsibility of the Executive – Local Choice Functions
- must be the responsibility of the Executive – Executive functions (see part 3D)

3A.6 Functions which are not the responsibility of the Executive (called 'non-Executive Functions') are the responsibility of Council, Committees (and Sub-Committees) or Officers (exercising non-Executive Functions). Delegation of non-Executive Functions is set out in:

- [Part 3B 'Council Functions'](#),
- [Part 3C 'Committee Functions'](#) and
- [Part 4 'Officer Non-Executive Functions'](#).

3A.7 Functions which are the responsibility of the Executive (called "Executive Functions") may be delegated by the Leader of the Council to a Committee of the Executive, an individual Executive Member or an Officer. Executive Functions may also be delegated to another local authority or exercised jointly through a joint committee or Officer of another authority. The delegation of Executive Functions is set out in Part 3D 'Executive Functions' below.

3A.8 Any reference in this Part 3 of the Constitution to any Function, and any delegation of power includes all action associated with that Function or power and all related enforcement actions.

Key Decisions and Executive Work Programme

3A.9 Key Decisions

A Key Decision is an Executive decision that is likely to:

1. result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the budget for the service or function to which the decision relates; or
2. be significant in terms of its effects on communities living or working in an area comprising two or more wards in the area of the authority.

3A.10 The Council has decided that something is financially significant for these purposes if it is an Executive decision which requires a budget expenditure of £150,000 or more or generates savings of £150,000 or more.

3A.11 Key Decisions shall only be taken by Executive, unless such a decision has been specifically delegated by the Leader to an Executive Member or an Officer or unless the Leader, Chief Executive (or, in their absence or where they are unable to act, the Director of Governance or Director of Finance) is making an urgent decision (as set out in the Council Procedure Rules).

3A.12 The Chief Executive will decide whether a decision will have a significant impact on two or more wards.

3A.13 A decision-taker may only make a Key Decision in accordance with the requirements of the [Access to Information rules](#).

3A.14 It is for the Chief Executive to decide which decisions are Key, subject to guidance from the Monitoring Officer who may require that a decision be treated as a Key Decision.

3A.15 In considering whether a decision is likely to be 'significant', the decision-maker should consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of a community or quality of service provided by the council to a significant number of people living or working in the locality affected. The following should be considered:

- the effect on businesses and communities
- the expectation of the public and councillors as to whether the decision should be taken by the Executive
- the anticipated interest of the public and of councillors
- the effect on other council services and functions

3A.16 Executive Work Plan

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 say that the Council must publish a notice containing information about any key executive decision which will be taken. This

must be published 28 calendar days before the date of the decision and must contain information about any executive decision which will be taken by the Executive or an individual member of Executive in private session. The Executive Work Plan enables elected members, members of the public and the Scrutiny committees to consider which items they wish to examine and consider in good time before they are determined.

3A.17 The plan includes details of:

- items to be debated by the Executive which relate to policy or budget formulation
- items which will be subject to a recommendation to Council
- other matters to be considered by the Executive (when known)
- the names and responsibilities of current members of the Executive

3A.18 The Executive Work Plan is updated and published as a minimum monthly and covers all decisions proposed to be made by the Council, Executive, individual Executive members and Key Decisions made by officers within the following four months. In order to promote transparency of decision making it will also include details of any decisions that may be made within the next 12 months. Not all decisions will be known four months in advance and so advance notice of decisions will be included as soon as they become known

3A.19 There is also a requirement to publish details at least 28 calendar days in advance of any meeting if there is an intention to consider in private a Key Decision or any other executive decision - even if not a Key Decision. Both these requirements are achieved through the Executive Work Plan

3A.20 There may be occasions where it has not been possible to give notice of a Key Decision. When this occurs the following process must be followed:

- At least five clear working days before the decision is to be made the Monitoring Officer must inform (by written notice) the Overview & Scrutiny Committee
- A copy of the notice must be placed on the website and made available for public inspection.
- The Monitoring Officer will prepare and publish a notice on the website setting out the reasons why the item did not appear on the Executive Work Plan.

3A.21 In accordance with Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, if less than five clear working days' notice of a Key Decision has to be given, or if an item has not appeared on the Executive Work Plan and a decision needs to be taken before the next edition of the Executive Work Plan is published, then the agreement of the Chair of the Overview & Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred must be obtained in writing before the decision can be made. Their views must be included in the report alongside the explanation as to why the matter is urgent, why it cannot await the next edition of the Executive Work Plan and why it missed the last edition of the Executive Work Plan.

3A.22 In either case, the Chair of the Overview & Scrutiny Committee must report on such consultations/agreements at the next meeting of the Overview & Scrutiny committee.

Call-in

3A.23 Call-in is the process which enables scrutiny to call-in a Key Decision to revisit it and delay its implementation. The process is intended to be used in exceptional circumstances for decisions which are believed to be contrary to the Council's decision making principles. More information regarding call-in can be found in Part 5 of the Constitution; Overview and Scrutiny Procedure Rules.

3A.24 As call-in delays the implementation of a decision there may be occasions, for example where it is necessary to protect the interest of the Council or public, where it is necessary to state in advance that call-in will not apply. In such circumstances the following process will apply:

- the Monitoring Officer will discuss the reasons for not applying the call-in rules with the Chair of the Overview and Scrutiny Committee;
- the decision making report will include details of the fact that the decision will not be subject to the rules of call-in and the views of the Chair of the Overview and Scrutiny Committee.