

## Article 13 – Decision Making

### 13.1 Responsibility for decision making

The Council will issue and keep up to date a record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions. This record is set out in Part 3 of this Constitution.

### 13.2 Principles of decision making

All decisions of the Council will be made in accordance with the following principles:

- (a) due regard to all relevant considerations and disregard to all irrelevant factors;
- (b) proportionality (i.e. the action must be proportionate to the desired outcome);
- (c) lawfulness and financial propriety and prudence;
- (d) due consultation and the taking of professional advice from officers;
- (e) respect for human rights;
- (f) a presumption in favour of openness;
- (g) clarity of aims and desired outcomes; and
- (h) an explanation of options considered and reasons for decisions.

### 13.3 Types of decision

- (a) Decisions reserved to full Council. Decisions relating to the functions listed in Article 4.1 will be made by the full Council and not delegated.
- (b) Key decisions, which means any executive decision:
  - (i) relating to the approval of or variation to the Council's budget and policy framework (which is reserved in the Constitution for determination by the Council following recommendation from the Executive) subject to the application of virement limits and authorised in year changes; or

which is likely 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

which 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 area of the Authority.

- (ii) The Council's definition of significant for the purposes of a key decision involving expenditure or savings is an executive decision incurring expenditure or making savings with a gross full year effect of £200,000 or more with the exception of:-
- decisions which are a direct consequence of implementing a previous key decision and where it was in the contemplation of Members when they made the original key decision;
  - bids made by the Council for funding where a further report will be submitted for approval of the scheme in the event of the bid being successful;
  - expenditure which is inevitable for the day to day provision of services provided that such expenditure was in the contemplation of Members when the Revenue Budget was approved;
  - property disposals below a £2 million valuation.
- (iii) A decision taker may only make a key decision in accordance with the requirements of the Executive Procedure Rules set out in Part 4 of this Constitution.

#### **13.4 Decision making by the full Council**

Subject to Article 13.8, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.5 Decision making by the Cabinet**

Subject to Article 13.8, the Cabinet will follow the Executive Procedures Rules set out in Part 4 of this Constitution when considering any matter.

#### **13.6 Decision making by Scrutiny Panels**

Scrutiny Panels will follow the Overview and Scrutiny Procedures Rules set out in Part 4 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, other Council committees and sub-committees will follow those parts of the Committee Procedure Rules set out in Part 4 of this Constitution as apply to them.

**13.8 Decision making by Council bodies acting as tribunals**

The Council, a councillor or an officer acting as a tribunal or in a quasi judicial manner or determining/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 trial contained in Article 6 of the European Convention on Human Rights (see page 2-40).

**13.9 Decision making by Officers**

Officers will follow the Officer Delegation Scheme set out in Part 3 of this Constitution when considering any matter.

# European Convention on Human Rights

## ARTICLE 6

### RIGHT TO A FAIR TRIAL

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.
2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:
  - (a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;
  - (b) to have adequate time and facilities for the preparation of his defence;
  - (c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;
  - (d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;
  - (e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.