

## **ARTICLE 7 - DECISION MAKING**

### **1 Responsibility for Decision-Making**

- 1.1 The Council, with support from Democratic Services, will issue and keep an up to date record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions which are not the responsibility of the Executive. The Leader, with support from Democratic Services, will do the same with respect to Executive functions. These records are collectively set out in Appendix 1 of this Constitution and includes the Scheme of Delegation and may change from time to time.

### **2 Principles of Decision Making**

- 2.1 All decisions made by or on behalf of the Council will be made in accordance with the following principles:
- a) respect for human rights and equality of opportunity;
  - b) presumption of openness, transparency and public accountability;
  - c) clarity of aims and desired outcomes;
  - d) decisions will be proportionate to the intended objective (i.e. the action must be proportionate to the desired outcome);
  - e) having regard to the relevant facts, legislation and relevant considerations and disregarding irrelevant considerations;
  - f) due consultation and taking professional advice from Officers;
  - g) explaining options considered and giving reasons;
  - h) lawfulness and financial propriety;
  - i) taking due account of Council policy and procedures;
  - j) consideration of relevant implications;
  - k) reasons being given for the decision, as appropriate.

### **3 Key Decisions**

- 3.1 A key decision means a decision made in connection with the discharge of a function which is the responsibility of the Executive and which is likely to:
- have a financial impact of £500k or above;  
and / or
  - has a significant impact on two or more electoral wards in York
- 3.2 For the purposes of 3.1 above, any issue which, in the opinion of the Leader of the Council, is likely to have a significant effect or impact any group(s) of people shall be regarded as significant in terms of impact on communities. In deciding whether an issue has a significant effect or impact on any group(s) of people the Leader shall have regard to:
- a) whether the decision may incur a significant social, economic or environmental risk or benefit
  - b) the likely extent of the impact of the decision both within and outside the City
  - c) whether the decision is likely to be a matter of political or other controversy
  - d) the extent to which the decision is likely to result in or attract substantial public interest.
- 3.3 Expenditure in excess of the above levels will not constitute a key decision if such expenditure is made:
- as part of the implementation of a decision which itself was a key decision, e.g. the award of a contract;  
and / or
  - where the expenditure is routine expenditure as described in the Contract Procedure Rules.
- 3.4 A decision maker may only make a key decision in accordance with the requirements of the Financial Procedure Rules, the Executive Procedure Rules and the Access to Information Procedure Rules set out in Appendices of this Constitution.

3.5 The decision of the Leader of the Council as to whether a decision is a Key Decision may be challenged by Call In.

3.6 The Chief Operating Officer will maintain a list of anticipated Executive decisions that may be Key Decisions.

## **4 The Forward Plan**

### **4.1 Purpose of the Forward Plan**

- a) The Forward Plan gives advance notice of “key decisions” which are to be made by Executive. If the Leader or Chief Operating Officer intends to make a key decision (which is only permitted in a case of urgency) that decision must also be recorded in the Forward Plan before the decision is taken.
- b) The Council also aims to include all “non-key decisions” to be made by Executive or by individual Executive Members in the Forward Plan.
- c) Unless urgency rules (as detailed at Appendix 21 of this Constitution) apply a “key decision” cannot be taken unless the proposed decision has been included on a published Forward Plan for at least 28 clear days. That means calendar days but the date of publication and the date of the decision are not included.
- d) The Council aims to give the same 28 days clear notice of non-key decisions. Exceptionally this may not be possible and, if a satisfactory reason is given, a non-key decision may be added to the Forward Plan at shorter notice but before the decision is taken, with the agreement of the Leader in consultation with the Chief Operating Officer and the Monitoring Officer.

4.2 Period of Forward Plan

- a) The Forward Plan will be prepared by the Head of Democratic Governance to cover a period of four months. An updated plan will usually be published weekly but items may be added to the plan where the Head of Democratic Governance considers that to be appropriate.

4.3 Contents of the Forward Plan

The Forward Plan will:

- a) describe the matter in respect of which a decision is to be made;
- b) identify whether the Council considers that the decision to be made is a key or non-key decision;
- c) where the decision maker is an individual, give that individual's name, and title if any, and where the decision maker is the Executive, include a list of its members;
- d) include the date on which, or the period within which, the decision is to be made;
- e) include a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;
- f) give the address from which copies of, or extracts from, any document listed is available. This is subject to any restrictions on releasing that information;
- g) advise that other relevant documents may be submitted to the decision maker; and

- h) state the procedure for requesting details of those documents (if any) as they become available.

## **5 Decision Making by Full Council**

- 5.1 The Council meeting will follow the Council Procedure Rules set out in Appendix 3 of this Constitution when considering any matter.

## **6 Decision Making by the Executive**

- 6.1 The Executive will follow the Executive Procedure Rules set out in Appendix 4 of this Constitution when considering any matter.

## **7 Decision Making by Scrutiny Committees**

- 7.1 Scrutiny Committees will follow the Scrutiny procedures rules set out in Appendix 5 of this Constitution when considering any matter.
- 7.2 Scrutiny Committees have no Executive decision-making powers in relation to the functions within their scope, nor does any Scrutiny Working Group or Forum.
- 7.3 Scrutiny working Groups and Forums will follow those parts of the Scrutiny Procedure Rules set out in Appendix 5 of this Constitution as apply to them.

## **8 Decision Making by Other Committees and Sub-Committees established by the Council**

- 8.1 Other Council Committees and sub-committees will follow those parts of the Council Procedure Rules set out in Appendix 3 of this Constitution as apply to them.

## **9 Decision Making by Individuals**

- 9.1 Where decisions are delegated to individual Councillors or Officers under the Council's Scheme of Delegation they will

observe the procedure rules for such delegations as set out in Appendix 1 of this Constitution.

## **10 Urgent Decision making**

10.1 Decisions which are deemed to be urgent will be made in accordance with the Urgent Decision Making Guidance as detailed at Appendix 21 of this Constitution.

## **11 Conflicts of Interest**

11.1 No Councillor or Officer will take, or participate in a decision in which they have a prejudicial interest (as defined by the Members' Code of Conduct and/or the Employee Code of Conduct). Where an individual Executive Member has delegated power to make a decision but has a disclosable pecuniary interest or other registerable interest the matter will be referred to the Executive for a decision or to the Leader of the Council who may defer the matter to another Executive Member for determination.

## **12 Decision-making by Council bodies acting in a quasi-judicial or appellate capacity**

12.1 The Council, Councillors a Councillor or an Officer acting as a tribunal or as an appellate body 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 proceed in accordance with the requirements of natural justice and the Human Rights Act 1998 (and any other relevant and subsequent legislation).

## **13 Quoracy**

13.1 Quoracy of Council, The Executive and its Committees is as follows:

- Full Council – 12 Members
- Executive – 3 Members
- All Scrutiny Committees – 3 Members
- Audit & Governance Committee – 3 Members
- Joint Standards Committee – 3 Members 1 of whom must be a Parish Councillor if Parish Council business is to be conducted
- Licensing Committee and Sub-Committees – at least 3 Members
- Planning Committee – at least 3 Members
- Any other Committee of the Council will not transact any business unless at least 3 Members are present unless any rules within this Constitution stipulate otherwise

13.2 In respect of quoracy, the principles of political proportionality will aim to be adhered to but shall not apply to the Executive, Joint Standards Committee and if necessary Licensing Sub Committees

#### **14 Substitutes** (see also Appendix 6 of this Constitution)

14.1 The Council may appoint named substitutes for Member bodies as follows:-

- (a) For Planning Committee, up to four named substitutes shall be allowed for each of the political Groups. For other Member bodies up to three named substitutes shall be allowed for each political Group. Substitutes do not have to be appointed from within the same political group. Independent Councillors may also be appointed to act as named substitutes for other Independent Councillors within this rule.
- (b) Any Member of the Executive may substitute for another Member of the Executive who is (either individually or as part of a Committee of the Executive) unavailable.

- (c) Where no named substitute is available a political group may instruct the Chief Operating Officer or the Monitoring Officer to replace for the duration of a particular meeting, an existing Member with another substitute identified by the political group provided always that this provision will not apply to Licensing and Regulatory Committee or Joint Standards Committee or any Sub-Committees thereof.
- (d) The Council may appoint a Member of the Executive as the Deputy Executive Leader who will act for the Executive Leader in their absence or unavailability.

14.2 If a meeting which is attended by a substitute is adjourned, then the substitute will have the right to attend on the adjourned date in place of the original Member. If the substitute is unable to attend, then the original Member or another named substitute may attend.