

12. ARTICLE 12 – DECISION MAKING

12.1 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 chapter 3 of this constitution.

12.2 Principles of decision making

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

- Good decision making goes beyond observing the legal requirements to have regard to all relevant considerations and ignore all irrelevant factors. It also involves the realistic evaluation of alternatives and due consultation through effective access for the public to decision making and decision makers;
- Decision makers will have due regard to:
 - (a) proportionality (i.e. the action must be proportionate to the desired outcome);
 - (b) due consultation and the taking of professional advice from employees;
 - (c) respect for human rights (see below for further details);
 - (d) a presumption in favour of openness;
 - (e) clarity of aims and desired outcomes.

12.3 Types of decision

(a) Decisions reserved to Council

Decisions relating to the functions listed in article 4.2 will be made by the Council and not delegated subject to the delegation in part 4 of chapter 3 of this constitution.

(b) Key decisions

The regulations define a key decision as one which is likely:

- to result in incurring expenditure or making of savings which are significant; or
- to be significant in terms of its effects on communities living or working in the area.

A decision taker may only make a key decision in accordance with the requirements of the Leader and Cabinet rules set out in chapter 4 of this constitution.

Key decisions should only be made by members.

References: Chapter 7, DETR Guidance

Regulations made under section 22, Local Government Act 2000.

12.4 Decision making by the Council

Subject to article 12.8, the Council meeting will follow the Council rules set out in chapter 4 of this constitution when considering any matter.

12.5 Decision making by the Cabinet

Subject to article 12.8, the Cabinet will follow the Leader and Cabinet rules set out in chapter 4 of this constitution when considering any matter.

12.6 Decision making by Overview and Scrutiny Committees

Overview and Scrutiny Committees will follow the Overview and Scrutiny Rules set out in chapter 4 of this constitution when considering any matter.

12.7 Decision making by other Committees and Sub-Committees established by the Council

Subject to article 12.8, other Council Committees and Sub-Committees will follow those parts of the Council rules set out in chapter 4 of this constitution as apply to them.

12.8 Decision making by Council bodies acting as tribunals

The Council, a Councillor or an employee acting as part of 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.

References:

Chapter 7, DETR Guidance

Deciding Rights – applying the Human Rights Act to good practice in local authority decision making, Local Government Association/JUSTICE fact sheet available from IDeA Publication Sales ISBN 1 84049 189 2 code no. CA116