

Part A – Your Council

Section A2:- The Core Objective and Principles of Decision Making

In Part A:-

Section A1 provides an overview of the key components of this authority and a brief explanation of what they do. The rest of the constitution contains more detailed information about each of these components and how they operate.

This Section (A2) explains the core objective of this authority's approach to decision making and outlines how this objective is achieved. It sets out the principles that all decision takers must follow.

Section A3 explains some of the rights and responsibilities of the people who live and work in the Borough and how they can get involved in everything that the authority does. It also explains how citizens can submit petitions to the council.

Part A – Your Council

Section A2:- The Core Objective and Principles of Decision Making

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1. The Core Objective in Decision Making

- 1.1 The core objective in the authority's approach to decision making is to ensure that decisions are made at the most appropriate level closest to the local or immediate point of service delivery or at the level that is closest to those who will be affected by the decision in question.
- 1.2 Council has set out to achieve this by putting in place a system of delegation known as a "cascade of powers". Under this system Council has delegated the full extent and range of its operational powers through the hierarchy of the Cabinet, individual Cabinet Members, the authority's committees and the authority's officer structure. Under this system, power follows responsibility so powers ultimately rest where they need to be so that the decisions that need to be taken to deliver the authority's objectives can be taken at the most appropriate level.
- 1.3 This system of delegation also enables the Council and Cabinet to develop and respond quickly to new ways of working, particularly in establishing local joint and area working arrangements, and to reconfigure the authority and its Offer structures accordingly.
- 1.4 Because the authority's officers will usually be operating at the point closest to service delivery, they will tend to take the majority of operational day to day decisions and actions. For this reason Council has decided that unless a power or function is specifically reserved by law or in this constitution to the Council, the Cabinet, or a committee, it stands delegated to officers to the full extent that is required to enable them to do everything that their role requires of them from time to time.

2. Principles of Decision Making

- 2.1 There are, of course, a number of controls and principles which must be observed whenever powers are exercised. These controls and principles are set out below and apply to all decision makers including Members and Officers whether or not they are discharging Cabinet functions and regardless

of whether they are acting alone or in a group or committee or under joint or area working arrangements.

- 2.2 It is the responsibility of every Member and Officer to familiarise themselves with these controls and principles and to be satisfied that they are (and can show that they are) complying with them every time they take a decision.

The Correct Decision Taker

- 2.3 The first consideration in all decision making is whether the decision is being taken by the most appropriate person or body. The core objective underpinning all decision taking is that decisions are to be taken at the most appropriate level closest to the local or immediate point of service delivery, or at the level that is closest to those who will be affected by the decision in question.
- 2.4 Sections B1, B2 and C set out the matters that Council has decided must be determined either by itself, its committees, or by the Cabinet. Everything else stands delegated to Officers in accordance with Section F.
- 2.5 Whether the person or body closest to the local or immediate point of service delivery or impact is the appropriate decision taker will be governed by these Sections, and by the following additional arrangements:-
- (a) The Council, Committee and Cabinet Procedure Rules in Sections B4, B5 and C3.
 - (b) The Contract and Finance Procedure Rules in Section G4
 - (c) Member and Officer Codes of Conduct in Section G
 - (d) The Principles of Decision Making set out in this Section.
 - (e) Internal Schemes of Financial Delegation
 - (f) Any Service Specific Operational Guidance on the Scheme of Delegation of Officer Powers, as published on the council's website from time to time
- 2.6 Any ambiguity that may arise as to whether a decision taker is authorised to take any particular decision is to be resolved by reference back up through

the hierarchy of the “chain of cascade”, and legal advice should be taken if need be.

- 2.7 There should, however, be a presumption against referring (or calling) decisions back up the chain unless it is absolutely necessary to do so. Members and Officers are to take responsibility for making all decisions commensurate with their position and role in the authority.

Particular Considerations for Individual Decision Takers

- 2.8 Individual decision takers (usually Cabinet Members or Officers) should pay particular regard to potential (or perceived) conflicts of interest and the rules on pre-determination, bias, interests, gifts and hospitality set out in Section G.
- 2.9 Individual decision takers should consider whether it would, in all the circumstances, be prudent for a decision which would otherwise fall to be taken by them to instead be taken (or ratified) by:-
- (a) in the case of an Cabinet Member, by the Cabinet collectively
 - (b) in the case of an Officer, by their manager or other officer with equivalent authority
 - (c) in the case of a decision taker under a bespoke delegation, by the person or body who made that delegation.
- 2.10 Individual decision takers should also have particular regard as to whether a decision should be made in conjunction with any Officer or Member and the need to consult and take advice as appropriate.

Best Interests of the Borough

- 2.11 All Members and Officers must act in the best interests of the communities of Cheshire West and Chester at all times. Decision takers should always act in accordance with best practice, take the option that will deliver the best value for money and will result in the most effective and efficient use of resources

Compliance with the Law, Guidance and Codes of Practice

- 2.12 All decisions must be taken in accordance with statutory requirements, guidance and codes of practice including any professional standards that

apply to decision takers who are affiliated to professional associations that operate codes of conduct for their members.

The Budget and Policy Framework

- 2.13 All decisions must be taken in accordance with the Budget and Policy Framework set by Council. This includes Directorate and Service budgets, business plans and any other policies, arrangements, procedures, rules, practices or protocols in force from time to time. It also includes various Procedure Rules which set out the processes to be followed where certain types of decisions are being taken. These are contained in Sections B4, B5 and C3.
- 2.14 If any decision taker proposes to take a decision which is (or which the Monitoring Officer or Chief Finance Officer advise is) not in accordance with the Budget and Policy Framework then that decision must (unless any exceptions set out by Council apply) be referred to the Council. More information on the Budget and Policy Framework and taking urgent decisions which are not in accordance with the Framework is contained in Section C3.
- 2.15 Scrutiny committees also have powers in respect of decisions which have or will be taken which they consider to be contrary to the Budget and Policy Framework. These powers include requiring reports to be made in respect of decisions taken or to suspend, subject to review, such decisions that are yet to be taken. More information on the Scrutiny committees' powers is set out in Section E.
- 2.16 The Budget and Policy Framework includes the Finance and Contract Procedure rules which control who can take decisions with financial implications and how those decisions are to be taken. These are set out in Section G4.

Considering Options and Impacts

- 2.17 All decision takers must be clear about the desired aims and outcomes of the decision process. This means that before any decision is taken, they will need to be clear on what needs to be achieved and gather and use all the

information that is reasonably available to them to identify and evaluate all of their options. They will need to assess the likely impacts of each option, with particular regard to human rights, equality, diversity, and sustainability issues. Ultimately, decision takers need to be satisfied that actions taken are proportionate to the desired outcome.

Consultation

2.18 In order to be able to properly evaluate options and impacts, all decision takers should consider very carefully whether there is a need to consult those who may be affected by their decisions, local Members, committee Chairmen, or Cabinet Members. They also need to consider whether they need to take any professional or specialist advice or guidance from relevant Officers, particularly legal or financial advice.

3. Transparency in Decision Taking

Meeting in Public

2.19 Most meetings where decisions are taken will be held in public. Further information on meetings that are held in public and meetings that are not is contained in Sections B4, B5 and C3. Decision takers need to understand and comply with these requirements.

2.20 A very large number of decisions are not taken in meetings, but are taken by individuals, usually an Cabinet Member or an Officer.

2.21 All decision takers need to ensure that the processes they follow are as transparent as possible, particularly when decisions are taken by individuals or in meetings that are not open to the public.

2.22 This means ensuring that it will be clear to outside observers what the aims, outcomes, options and assessed impacts were, who was consulted (and when and how they were consulted), what information was taken into account and that reasons for decisions are given.

Notice of Decisions and Meetings and Record Keeping

2.23 An important part of ensuring transparency in decision making is making sure that appropriate notice is given that decisions are going to be taken, and that appropriate records are kept of decisions taken and the reasons for them.

2.24 The nature of any notice or decision record required will depend on the type of decision in question and is, in most cases, a matter of judgement for the decision taker. There are however particular requirements for certain types of decisions.

2.25 It is important that all decision takers understand and comply with these requirements. The requirements are set out in:-

- (a) Notice requirements relating to Council and Committee meetings, publication of meeting information (B4 and B5)
- (b) Notice requirements in relation to urgent decisions (C3)
- (c) Cabinet decisions (C3)
- (d) Decisions not in accordance with the Framework (C3)
- (e) Key Decisions (C3)
- (f) Key Decisions taken by officers (C3)
- (g) Decisions by individual exec Members (C3)

4. “Judicial” Decisions

4.1 Decision takers acting in a judicial capacity, for instance when determining appeals, must pay particular regard to the requirements of this Section to ensure that principles of “natural justice” are observed.

4.2 Natural justice requires that a fair, reasonable and transparent decision making procedure is followed which affords all involved a fair opportunity to make representations. Procedures followed should eradicate any bias or conflict of interests (as far as possible) and full reasons for decisions should be given and recorded. Decision makers must ensure that they take all relevant information into account and disregard any information,

considerations or circumstances that are not relevant to the matter that has to be decided.

5. Decision Reports

- 5.1 Formal reports templates will be used to draft reports on which Key Decisions, and all decisions taken by Council, Committees, the Cabinet and Individual Cabinet Members will be based. These templates contain prompts to ensure all of the relevant matters discussed above are addressed.
- 5.2 Every such report will list those documents (called background papers) relating to the subject matter of the report which:
 - (a) disclose any facts or matters on which the report or an important part of the report is based; and
 - (b) which have been relied on to a material extent in preparing the report
- 5.3 In addition, all reports to the Cabinet on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation with stakeholders and relevant Scrutiny Committees, and the outcome of that consultation.
- 5.4 Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.
- 5.5 Directors and Heads of Service may initiate reports on any matter where they believe the Council, Cabinet, committee or sub-committee should make a decision or should be informed.
- 5.6 Where such a report affects another Service, the appropriate Director and Head of Service must be consulted. The appropriate Cabinet member shall be consulted prior to the publication of an Cabinet report which concerns their portfolio.
- 5.7 Reports shall communicate all relevant factual information and professional opinions, together with appropriate recommendations. The Cabinet Member may make suggestions as to the content and timing of the report, however the

final decision on the contents of the report will be that of the Officer in whose name the report is presented.

- 5.8 In exceptional circumstances, the Cabinet Member may submit their own report for consideration alongside that of the Officer.