

West Suffolk Council

Article 11 – Decision-Making

11.1 Responsibility for Decision-Making

11.1.1 The Council will issue, and keep up-to-date, a scheme confirming which committees and individuals have responsibility for making particular types of decisions. This scheme is set out in Part 3 of this Constitution.

11.2 The Principles of Decision-Making

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

- (a) The decision must be reasonable within the common meaning of the word, i.e. it must be a rational decision based on sound judgement.
- (b) The decision must also be reasonable within the legal meaning of "reasonableness" i.e. all relevant considerations must be fully taken into account in reaching the decision and all irrelevant ones disregarded.
- (c) In the case of 'quasi-judicial' decisions (e.g. a decision as to whether or not to grant a licence) a fair hearing conducted in accordance with the rules of natural justice should be afforded to the person who is the subject of the decision.
- (d) The decision must be proportionate (i.e. the action should be proportionate to the desired outcome).
- (e) Decisions should be taken on the basis of due consultation and professional advice from Officers.
- (f) Human rights must be respected and consideration must be given as to whether the decision will give rise to any implications under the Human Rights Act 1998 and the European Convention on Human Rights.
- (g) Decisions must be taken in compliance with the Council's schemes of delegation, financial rules and instructions relating to contracts.
- (h) When making decisions a presumption in favour of openness must be applied and a clarity of aims and desired outcomes must be displayed.
- (i) Careful consideration should always be given as to whether there is an interest that should be declared; and
- (j) In the case of executive decisions taken by the Cabinet, or an individual Member of the Cabinet, or an Officer (where the decision is closely connected with the Cabinet), a proper record of the decision must be made together with a record of the reasons for the

decision, details of any alternative options considered and rejected and any conflicts of interest.

11.3 Types of Decision

11.3.1 **Decisions reserved to Council** - Decisions relating to the functions listed in Article 4.2 will be made by the whole Council and not delegated.

11.3.2 Key Decisions

11.3.2.1 A key decision is an executive decision that either:

- a) Results in new expenditure, or a reduced income or savings of more than £100k in any one year that has not otherwise been included in the Council's revenue or capital budgets.
- b) Comprises or includes the making, approval or publication of a draft or final scheme, which is not a routine business decision, that may require, either directly or in the event of objections, the approval of a Minister of the Crown.
- c) Results in the formation of a new company, limited liability partnership or joint venture
- d) Has a potentially detrimental impact on communities outside of West Suffolk District.
- e) Is a decision that is significant in terms of its effect on communities living or working in a definable local community in the District, or on one or more wards, in that it will:
 - (i) Have a long-term, lasting impact on that community; or
 - (ii) Restrict the ability of individual businesses or residents in that area to undertake particular activities; or
 - (iii) Removes the provision of a service or facility for that community; or
 - (iv) Increases the charges payable by members of the community to provide a service or facility by more than 5%; or
 - (v) Have the potential to create significant local controversy or reputational damage to the Council
- f) A matter that the decision maker considers to be a key decision.

11.3.2.2 Any matters that fall under the scope of e) above must be subject to consultation with the local Member(s) in Wards that are likely to be impacted by the decision prior to the decision being made.

11.3.2.3 A key decision shall not be made unless:

- The decision maker has followed the requisite procedure to publicise the forthcoming decision as required by the Access to Information Procedure Rules.
- The decision maker has, on the date the decision is made or as soon as practicable thereafter, published a notice setting out the reasons for the decision and any conflicts of interests declared, as required by Local Government (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012.
- A period of five clear days has elapsed following the publication of the decision to allow for a call-in by members as required by the Scrutiny Committee Procedure Rules.

11.3.2.4 Further to any statutory guidance, the Council considers that the key decision threshold above shall also be considered as an "executive decision" for the purposes of Part 4 of the Local Government (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

11.4 Urgent key decisions

11.4.1 Provisions for taking key decisions in cases of urgency where they have not been included in the Decisions Plan are set out in the Access to Information Procedure Rules (Part 4) and Scheme of Delegation (Part 3) in this Constitution.

11.5 Decision-Making by the Council

11.5.1 Subject to Article 11.9, the Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.6 Decision-Making by the Cabinet

11.6.1 Subject to Article 11.9, the Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.7 Decision-Making by the Overview and Scrutiny Committee and the Performance and Audit Scrutiny Committee

11.7.1 The Council's Scrutiny Committees will follow the Scrutiny Committees Procedure Rules set out in Part 4 of this Constitution when considering any matter.

11.8 Decision-Making by Other Committees and Sub-Committees Established by the Council

- 11.8.1 Subject to Article 11.9, other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

11.9 Decision-Making by Council Bodies Acting as Tribunals

- 11.9.1 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 of Human Rights.