

Part 4J

Protocol for Recording Decisions made by Officers

1. Introduction

- 1.1 The Council is required by law to record certain decisions made by officers. In addition officers are required to record when they exercise their delegated powers on all occasions in accordance with the requirements below. This protocol sets out which decisions should be recorded and requirements regarding publication. Report templates can be requested from the Governance Service.
- 1.2 The Governance Service can advise on the recording of decisions and/or what sort of decisions should be recorded. The requirement to record decisions comes from the Openness of Local Government bodies Regulations 2014.

2. Decisions which must be recorded

2.1 Decisions made under a specific express delegation from Cabinet, a committee, sub-committee or Council should be recorded in a Delegated Powers Report (DPR).

- 2.1.1 These decisions are ones where a particular decision has been delegated to an officer by Council, a committee, sub-committee or Cabinet.

2.2 Decisions made under the Chief Officer's scheme of delegation

- 2.2.1 The Chief Officer's scheme of delegation will indicate whether a DPR or Officer Decision (OD) is required.

2.3 Recording required by legislation

- 2.3.1 The legislation requires that permissions or licences and decisions that affect the rights of individuals should be recorded or awarding a contract or incurring expenditure which, in either case, materially affects that relevant local government body's financial position. The method of recording can be found in the Chief Officer's scheme of delegation. a-g below are examples of such decisions.

- a) Highways - Permits to undertake works on the highway, Temporary Traffic Orders, Permission for temporary suspension of Controlled Parking Spaces, Street works licences
- b) Building Regulations approvals
- c) Licences granted in relation to, Alcohol and entertainment, Gambling, Houses in Multiple Occupation, Special Treatment Licensing, Skip, Scaffolding and Cranes
- d) Deprivation of liberty under Schedule A1 of the Mental Capacity Act 2005
- e) 'Best interests' decisions made under section 4 of the Mental Capacity Act 2005 which significantly affect the welfare of the individual about whom the decision is made.
- f) Decisions made under the Mental Health Act 1983 in relation to detention in hospital for assessment and/or treatment, guardianship and community treatment orders
- g) Awarding a contract or incurring expenditure which, in either case, materially affects that relevant local government body's financial position and the Chief Officer will maintain a list of all decisions over £50,000.

3. Delegated Authority to Chief Executive and Chief Officers (DPR or OD)

- 3.1 Chief Officers have the following delegated powers in respect of all matters which are not key decisions and not reserved for decision by the Council, Cabinet or by a Committee of the Council
- a) to make decisions and approve expenditure relating to their functions and the functions of their Department, where necessary. They should also comply with (b) and (c) below. The sum expended must be within the approved budget for the Department and/or relevant portfolio, and the amount in relation to any single matter must not exceed £213,478.
 - b) to determine employment matters relating to staff including all changes to staffing structures. This power will not include changes to terms and conditions of employment or additional payments to any individual member of staff above £100K.
 - c) to approve tender strategies and award contracts in accordance with the Council's Contract Procedure Rules within Part 4 of the Constitution.
- 3.2 Where appropriate the Head of Paid Service may exercise any function delegated to any other officer, e.g., in case of absence.
- 3.3 Where a Chief Officer believes that a matter that is within their delegated authority is significant or sensitive they have the discretion to refer it to Members for decision.

4. How to record decisions

- 4.1 The Regulations require that the decision-making officer must produce a written record of the decision as soon as reasonably practicable after making the decision and should contain the following information:
- a) The date the decision was taken;
 - b) A record of the decision taken along with reasons for the decision;
 - c) Details of alternative options, if any, considered and rejected; and
 - d) A record of any conflict of interest and dispensation granted for the member consulted.

5. Record-keeping

- 5.1 Each record must be kept for 6 years. Any background papers must be kept for 4 years. These are statutory requirements.
- 5.2 Background papers are documents which:
- a) relate to the subject matter of the decision, or part of the decision;
 - b) disclose relevant facts or matters on which the decision or an important part of the decision is based; and
 - c) Were relied on to a material extent in making the decision.
- 5.3 DPR's must be published on the Council's website once the decision is taken.
- 5.4 A list of OD's is published on the Council's website every 6 months and citizens can request access to details of the decisions to the Governance Service.
- 5.5 In relation to the above, the following exceptions apply:

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- a) Confidential information (provided by a government department on terms which forbid the disclosure of the information to the public or where disclosure is prohibited by an enactment or court order);
- b) Exempt information (as defined under Schedule 12A of the Local Government Act 1972); and/or
- c) In the case of executive decisions, the advice of a political assistant or a council officer.