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DECISION MAKING AND RECORDING

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1. Purpose**1.1 To:**

- (a) act as an aid to developing a specification for a decision making and recording system;
- (b) clarify how and when decisions can be taken in the new arrangements; and
- (c) provide the basis for a guide as to how decisions can be taken in the new arrangements.

2. Summary

- 2.1 The report outlines how decisions can be taken in the new political management arrangements and how they should and could be recorded and disseminated.

3. Recommendations

- 3.1 That the report be agreed as the basis for the new system of decision making and recording.
- 3.2 That the potential to circulate proposed decisions and accompanying paperwork, electronically be explored.
- 3.3 That the potential to circulate assembly agendas and papers electronically and via the web be explored.
- 3.4 That 'consultee lists' be drawn up of people or organisations who will be automatically consulted on particular types of issues e.g. in the development of strategic plans. (Consultees might be members of partnerships or consultative assemblies or organisations or individuals known to have useful insights or expertise or able to perform an advocacy role – in practice these will vary according to the circumstances or issue under consideration.)
- 3.5 That discussions with non-Cabinet Members be held about the particular types of issue that they are interested in and explore the potential for creating a

'flagging system' that would automatically draw their attention to that decision or proposed decision on an informal basis. (This could be tested on a ward basis first. The responsibility for picking up an issue of concern would however, ultimately rest with the individual Member (obvious flags would relate to wards but could relate to specific services or cross-cutting issues.)

4. **Principles**

4.1 In line with the approach agreed at the Democratic Structures Working Group (and ratified by the Policy and Resources Committee on 29 March 2000) the decision making processes of the new political management arrangements should be:

- (a) **Transparent** - it should be clear:
 - (i) who is deciding what, when, how; and
 - (ii) what opportunities there are for contributing to, influencing, questioning or overturning decisions.
- (b) **Consultative** - there should be opportunities for influence for external stakeholders to be built into the system.
- (c) **Accessible** - efforts should be made to ensure that all sections of the local community have the opportunity to influence decision making.
- (d) **Open** - there should be opportunities for public questions, scrutiny and influence over decision making.
- (e) **Efficient** - the systems should have regard to efficient use of Member, officer and stakeholder time and costs.

This suggests that a clear system is developed where everyone can see why a decision has been taken and how. This will involve disseminating information to an agreed range of organisations as well as Members and through agreed publicly accessible systems which are well publicised.

The process of decision making (where at all possible) should actively encourage participation or the opportunity to contribute ideas and views. However, there will be certain decisions where this is not possible and we should be realistic about this.

5. **Who Can Take Decisions**

5.1 **Officers**

Under delegated powers, delegated authority for taking decisions can be exercised by officers or 'delegated' as described but only where the authority is passed down i.e. it must be possible to track who has delegated the authority to take a decision to whom. For the purposes of this paper, only Strategic Directors are referred to, but that will also include anyone the

Strategic Director or Head of Service has delegated a decision making capability to.

5.2 **Members**

When the legislation is enacted, decisions will be able to be taken by individual Members who are in the Cabinet and acting within their powers, the Cabinet as a whole and the Council Assembly and Full Council (as is now the case).

Until the legislation is through, the Council has been determined to create arrangements that will require as small a change as possible and so that Members and officers can behave in very similar ways before and after the legislation is enacted. A device is needed that enables individual Cabinet Members and a Cabinet that is not politically balanced, to take decisions.

Under current legislation, decisions (that are not delegated to officers) can only be taken by Members in groups (or Committees) that have a political balance that reflects the balance on the Council as a whole. The device that has been created to approve or agree Cabinet recommendations is the 'Business Management Group'.

The Business Management Group will be politically balanced and exists to do four things:

- (a) Set Assembly agendas.
- (b) Receive and approve or refer back recommendations from individual Cabinet members and the Cabinet as a whole which have not been called-in for scrutiny together with whatever papers it needs to make informed decisions about the issues before it.
- (c) Decide which Scrutiny Board a called-in decision should be referred to.
- (d) Determine a decision making 'route' and a timetable for strategic documents

The Business Management Group will not be able to:

- (a) Take a decision that has not been recommended by the Cabinet or an individual Executive Member.
- (b) Amend or reject a decision recommended by the Cabinet or a Cabinet Member.
- (c) Debate or deliberate on any matter - it can only either agree a proposed decision (and its relevant paperwork) or refer it back.

In future, (when the legislation has been enacted) decisions will be able to be taken directly by the Cabinet as a whole and Cabinet Members. However, to allow for opportunities for – Scrutiny, dissent, amendment and debate, proposed decisions will be published and a period of time allowed so that any

objection or difficulty can be recorded. This process will be similar to the current 'calling in' arrangements. This will apply in both the short and longer term.

5.3 **Legal Requirements**

When a decision is taken it must be clear:

- (a) That a decision has been taken.
- (b) Who has taken a decision.
- (c) By what authority.
- (d) On what basis the decision was taken (report or documents).
- (e) When it can be acted upon.

Decisions can be broadly categorised into:

- (a) operational; and
- (b) strategic or policy decisions.

5.4 **Operational Decisions**

The vast majority of decisions taken by Councils on a day to day basis are taken by officers through delegated authority as part of their daily work. These decisions are not affected by the new arrangements. Indeed, under the new arrangements it is likely that more decisions will be taken by officers. Members should be discouraged from taking operational decisions. However, if an officer feels that a decision is sufficiently important or potentially contentious to be shared with a Member - then, consideration should be given to whether or not the member should take the decision.

5.5 **Strategic or Policy Decisions**

Strategic or policy decisions are those that change the way the Council currently does things and include Policies, Plans, Strategies, major resource allocations and/or politically contentious matters. These are not open to precise definition, and where there is doubt would be likely to be the subject of discussion between Strategic Directors or Heads of Service and the appropriate leading Cabinet Member and that may then lead to the decision being taken by the Member and being subject to potential call-in.

6. **Decision Making**

A process or processes are required to 'track' decision making to ensure that they comply with legislative requirements i.e. that it is clear:

- (a) That a decision has been taken.

- (b) Who has taken it and why.
- (c) By what authority.
- (d) The basis on which it was taken.
- (e) When it can be acted upon.
- (f) Who can 'call in' a decision, how and when.

Taking each decision maker or decision making body in turn, it is suggested that the following arrangements are confirmed or put in place.

6.1 **Officer Decisions**

These will be taken under delegated authority as set out in the Scheme of Delegation. Officers will be assumed to be taking decisions in accordance with the information available to them in their daily work and will be recorded in accordance with professional disciplines. Officer decisions will not be subject to the calling-in procedure as by definition they will fall within existing policies and resources and financial approval limits.

6.2 **Cabinet Member Decisions**

It is suggested that these take place at regular structured meetings between appropriate Cabinet Members and Strategic Directors.

Decisions to be taken by Cabinet Members are those relating to specific functions only. Some regulations will be needed to identify the limits of member decision making e.g. in relation to size of contracts

Based on models elsewhere, a meeting of this type could be structured round four headings:

- (a) Decisions for the Cabinet as a whole.
- (b) Decisions to be taken by the individual Cabinet Member.
- (c) Decisions the Strategic Director has taken or proposes taking (that they particularly want to bring to the attention of the Cabinet Member).
- (d) Information to be shared.

An agenda and a detailed record of the meeting structured in this way would:

- (a) Allow decision tracking to take place.
- (b) Demonstrate what information was provided as a basis for the decision taken.
- (c) Encourage discussion about which heading a decision belonged to.

- (d) Create a referral mechanism for Cabinet agendas.
- (e) Enable a 'calling in' system to be established.

It has been suggested that the Cabinet Member would literally sign to say that the proposed decision had been made. (It has been suggested by the Head of Legal and Property Services that the Strategic Director or Head of Service present would sign to witness the Member decision.)

The **Annex** to this report illustrates how different decisions might be taken.

6.3 **Full Council, Assembly, Quasi-Judicial and Scrutiny Bodies**

Decisions or recommendations of these bodies will be taken and recorded in the usual way. Issues of decision tracking and accessibility are covered in the following sections.

7. **A Decision Making System**

7.1 In order to work the system would need:

- (a) Standard agendas.
- (b) Appropriate paper work or report attached to support the member decision making.
- (c) A means of recording Member decisions so that call in arrangements could be pursued.
- (d) An official list of people who will automatically be circulated with proposed decisions.
- (e) An agreed policy on who can call-in a decision.
- (f) To inform all those who 'need-to-know' about the decision. (This should include Ward Members, Members with particular interests, officers with particular interests, Parish and Neighbourhood Councils, public through Libraries and possibly external bodies and partnerships.)

7.2 An Information Management System would:

- (a) Flag who might be interested.
- (b) Automatically link decisions proposed to BMG agendas.
- (c) Record or list decisions ratified.
- (d) Track decisions that have been referred to Scrutiny and where they go afterwards.

7.3 This is likely to require a numbering or reference system of some sort.

7.4 If the draft calendar of meetings happens, perhaps the timing of any calling in arrangements could be linked to every Friday, so that decisions do not all fall due at different times.

7.5 A clear system of deadlines needs to be determined and agreed in advance in relation to the availability of paperwork prior to decision making (this applies to individual Cabinet Members and the Cabinet as a whole.)

8. **Information Dissemination**

8.1 Currently full Committee agendas are circulated to:

- (a) Members on that Committee;
- (b) Members requesting them; and
- (c) officers requesting them.

8.2 Summary agendas are circulated to:

- (a) all other Members;
- (b) officers requesting them; and
- (c) Parish, Town and Neighbourhood Councils.

8.3 Agendas are also:

- (a) placed in public libraries and council offices;
- (b) sent to the Press; and
- (c) sold to interested bodies.

8.4 They are not circulated electronically or on the web.

9. **Implications**

9.1 Implications for all decisions will need to be clearly identified as part of the paperwork associated with decision making.

Background Papers: Policy and Resources Committee agenda 29 March 2000
Democratic Structures item