

APPENDIX 5 EXECUTIVE DECISION MAKING RULES

INTRODUCTION

1. This Appendix sets out the Rules for Executive decision making referred to in paragraph 5.5.2 of the Constitution.
2. The formal delegation of powers to make Executive decisions is set out in paragraph 5.5 of the Constitution.
3. These rules set out the process for making decisions.

WHO SHOULD MAKE THE DECISION?

4. Executive decisions can be made:
 - By Cabinet
 - By an Executive Member
 - By the Deputy Chief Executive or Strategic Directors or delegated to other officers
 - By Council if the decision is contrary to the Policy Framework (see paragraph 4.2.1 of the Constitution).
5. The formal powers delegated to Executive Members and officers to make decisions are set out specifically but not exclusively in the table at the end of this Appendix. Provided that a decision is within the formal powers of a decision maker it will be his or her judgement whether to make the decision or refer it higher. He or she will be accountable not just for the decision itself but also for why he or she chose to make the decision rather than refer it higher and may have to justify it to the Overview and Scrutiny Committee, Cabinet or to Council.
6. Executive Members, Deputy Chief Executive and Strategic Directors are expected to work together to develop mutually agreed understandings on the type and range of decisions that will be referred to the Executive Member for a decision. Categories of delegated executive member decisions (Category A) and delegated decisions to Strategic Directors (Categories B and C) are set out in the table at the end of this Appendix.

DECISION MAKING BY CABINET

7. The procedure for Cabinet decision making is set out in the Constitution part 4 and is not repeated here.

DECISION MAKING BY EXECUTIVE MEMBERS

8. Decisions by Executive Members can only be made on the basis of a written report from the Deputy Chief Executive or Strategic Directors with recommendations, that are in a format and includes the information required by the Proper Officer for such reports. The report shall make clear if it is exempt or confidential.
9. Notice of intention to make key decisions will be included in the Forward Work Programme referred to below unless the decision needs to be made too urgently for such inclusion.
10. If the Strategic Director does not accept the decision of the Executive Member, he or she may refer the matter to the Cabinet to make the decision. If such a referral is made, the decision of the Executive Member will not be effective and the decision making responsibility on that matter on that occasion shall be that of Cabinet whose decision shall be final (subject to the call in powers of the Council Overview and Scrutiny Committee).
11. The Leader, Chief Executive, Chief Financial Officer or Monitoring Officer may refer any Executive Member decision that has not been implemented to Cabinet for a decision. If such a referral is made, the decision shall not take effect until Cabinet have considered the matter.

A record shall be made of each Executive decision in a form and containing information required by the Proper Officer and the decision shall not be implemented until the challenge requirements set out in 5.12 of Part 5 have been met.

12. Non executive members will be notified of forthcoming executive decisions at least 5 clear working days before the decision is due to be made. During this period non executive members have the opportunity to submit comments to the relevant executive decision maker who can then consider them before making the decision. That decision (unless urgent) will not be implemented until a set period of 2 clear working days afterwards. During this latter period, a minimum of 2 members who have commented in the pre scrutiny period may challenge that decision where there are genuine and serious concerns about the decision taken.

FORWARD WORK PROGRAMME

13. Strategic Directors shall forward to the Democratic Services Team a forward work programme setting out the key decisions expected to be taken within the next month. They may choose the frequency of updating.
14. The programme will be in a form and contain such information as the Proper Officer shall determine.

The Democratic Services Team will publish the programme and forward a copy to the members of the relevant Overview and Scrutiny Committee.

DECISION MAKING BY STRATEGIC DIRECTORS

15. The categories of delegated decisions by Strategic Directors (Categories B & C) are set out in the Table at the end of this Appendix. The types of decisions that are key decisions may include some decisions by Strategic Directors or by other officers and notice of these key decisions by officers will also be included in the Forward Work Programme unless the decision needs to be made too urgently for such inclusion.

16. Category B decisions set out in the table at the end of this Appendix shall also be subject to the same process as executive member decisions (unless urgent) as set out in paragraph 12 above.
17. Category C decisions will be made available to members of the relevant overview & scrutiny committee after the decision has been taken. These decisions will not be subject to challenge.
18. If the Executive Member does not accept a decision of the Strategic Director he or she may refer the matter to the Cabinet whose decision is final (subject to call in by the Council Overview and Scrutiny Committee.)

PARTNERSHIPS

19. Where an Executive Member or a Strategic Director is attending a meeting of a decision making Partnership body listed in Appendix 19, the following rules apply in place of those set out above if the Partnership has a constitution approved by the Monitoring Officer on behalf of the Council and by all the Partners which is publicly available and sets out the terms of reference of the partnership and the rules requiring advance publication of agendas and reports and the publication of minutes.
20. A decision making Partnership body means a partnership body that is making decisions which would be reported to the Overview and Scrutiny Committee if made by the Council alone.
21. Executive Members and officers attending partnerships may participate in decisions and vote on matters being considered by the Partnerships including decisions that would normally amount to key decisions.
22. The Democratic Services Team will be nominated to receive all agendas, reports and minutes of partnerships with Constitutions and will publish these documents (unless exempt or confidential) and circulate them to members of the relevant Overview and Scrutiny Committee.
23. The rules in respect of the specific delegated powers granted by Cabinet on 5 July 2016 are that executive decisions made by the Leader at the Cardiff Capital Region City Deal Shadow Joint Committee will be reported back to Cabinet by the Chief Executive.

**TORFAEN COUNTY BOROUGH COUNCIL
SCHEME OF DELEGATION – EXECUTIVE DECISION MAKING**

CATEGORY A	CATEGORY B	CATEGORY C
Decisions by Executive Members which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which are not subject to challenge before implementation and will be reported in due course in the relevant Overview & Scrutiny Committee
# These decisions must be made available for overview and scrutiny members to comment on 5 clear working days prior to the decision being made and subject to comments being made, may be challenged up to 2 clear working days following the date of decision.		
Key Decisions All decisions identified as key decisions by Executive Members in the Forward Work Programme for the service area.	Key Decisions All decisions identified as key decisions by Strategic Directors in the Forward Work Programme for the service area.	
		Staff To approve the appointment & dismissal of staff in accordance with the Constitution and to include: Discipline & grievance procedures; Contractual progression through grades; Re-grading; Re-designation of posts; Honoraria; Flexible retirement Termination of employment; Health & Safety matters; changes to the staff structure
Budget Provision To approve budget provision for the portfolio area including variations to budgets in accordance with financial regulations and the Constitution.		Expenditure To commit & authorise expenditure within budget provisions including budget variations in accordance with Financial Regulations & the Constitution.
		Tenders To seek tenders offers or bids in accordance with Contract Standing Orders.
	Contract Award To award contracts (subject to tendering) not awarded on the basis of lowest price or most economically advantageous tender [£0 to £75,000]	Contract Standing Orders Exemptions & Contract Award To award Contract Standing Orders exemptions and the associated contract (£0 to £150,000) and to award Contracts (subject to tendering) based on the lowest price or most economically advantageous tender (£0 to £150,000)
	Contract Standing Orders Exemptions & Contract Award To award Contract Standing Orders exemptions and the associated contract (£150,001 to £2,000,000) and to award Contracts (subject to tendering) based on lowest price or most economically advantageous tender (£150,001 to £2,000,000)	
Policies & Strategies To recommend policies & strategies to Cabinet & Council.		Operational Policies & Procedures To adopt operational policies & procedures.
Service Provision To introduce / adjust / withdraw service provision within the portfolio.	Service Objectives To determine service objectives within operational & action plans consistent with the Council's corporate objectives & processes.	
Performance Indicators & Monitoring To determine local performance indicators for services within the portfolio; To monitor performance management targets as set out in the Council's agreed performance management processes & to determine any actions arising.		
Joint Arrangements To arrange for delivery of services with other public bodies or through joint arrangements; To decide whether to enter into any non statutory partnership or compact arrangements or to take part in any non statutory forum arrangements subject to accordance with the Council's Policy Framework budget and Constitution.		
Fees To increase / decrease / introduce fees including: To set fees & charges for services within the portfolio; To determine subsidies or concessions within any charging or other Schemes; To determine circumstances in which payment or repayment of a grant may be waived.		

**TORFAEN COUNTY BOROUGH COUNCIL
SCHEME OF DELEGATION – EXECUTIVE DECISION MAKING**

<u>CATEGORY A</u>	<u>CATEGORY B</u>	<u>CATEGORY C</u>
Decisions by Executive Members which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which will be reported as intended decisions and not implemented until an opportunity has been given for call-in/challenge #	Decisions by Strategic Directors which are not subject to challenge before implementation and will be reported in due course in the relevant Overview & Scrutiny Committee
# These decisions must be made available for overview and scrutiny members to comment on 5 clear working days prior to the decision being made and subject to comments being made, may be challenged up to 2 clear working days following the date of decision.		
	Projects To undertake projects.	
Buildings and Land To acquire or dispose of land with a capital value between £100,001 and £200,000. To acquire or grant leases and licences with a rental value between £100,001 and £200,000 per annum (Executive Member for Resources).		Buildings and Land To declare buildings or land surplus to service requirements (All Strategic Directors for their respective areas). To acquire or dispose of land with a capital value up to £100,000 (Deputy Chief Executive, only). To acquire or grant leases and licences with a rental value up to £100,000 per annum (Deputy Chief Executive, Resources only).
	Funding To make applications or submit bids for funding or financial assistance in kind to any person or body.	
	External Funding To allocate external funding.	
	Grants To award grants.	
		Public Consultation To make arrangements for publicity & public consultation documents.
		Feasibility Studies To commission any feasibility or other study subject to available finance.
		Observations To provide observations to National & Local Government & other bodies on behalf of the Council.

