

**GOVERNANCE AND AUDIT COMMITTEE  
29 JANUARY 2013**

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**RECORDING OF OFFICER DECISIONS FOR EXECUTIVE FUNCTIONS  
Director of Corporate Services – Legal**

**1 PURPOSE OF REPORT**

- 1.1 This report seeks the approval of the Committee as to the criteria to be applied to determine which officer decisions should be recorded and published in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (“the Regulations”).

**2 RECOMMENDATION**

- 2.1 **That the Committee approve the criteria proposed in paragraph 5.5.**

**3 REASONS FOR RECOMMENDATION**

- 3.1 The proposed criteria are considered to strike a reasonable balance between the desire for transparency evinced by the Regulations and the practical need not to impose an unrealistic bureaucratic burden upon officers which would be detrimental to the efficient working of the Council. The criteria proposed have been endorsed by Corporate Management Team.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 The Council could require the recording of all Officer decisions under Executive functions as prescribed by the Regulations. However, such an option is considered to be unworkable.

**5 SUPPORTING INFORMATION**

- 5.1 At its last meeting the Committee considered a report on the Regulations. In particular, the report discussed the difficulties attendant upon the (possibly unintended) drafting of the Regulations which required all officer decisions in the discharge of an Executive function to be recorded as prescribed by the regulations. The Committee decided that it wished to approve the criteria for determining which non-Key officer decisions should be recorded in accordance with the Regulations.
- 5.2 The Regulations apply to all decisions made by officers in the discharge of Executive functions, excluding (probably) purely administrative functions such as ordering stationery. “Executive functions” covers all those functions other than those which are the responsibility of committees (Planning Development Control, Licensing and Employment) or full Council (approval of the budget and policy framework).
- 5.3 Under the Regulations, as soon as reasonably practicable after an officer has made a decision he/she should produce a written statement to include:-
- a record of the decision including the date it was made
  - the reasons for the decision

## Unrestricted

- details of any alternative options considered and rejected by the officer when making the decision
- a record of any conflict of interest declared by any Executive Member who was consulted on the matter
- whether the Head of Paid Service (the Chief Executive) granted any dispensation in respect of a conflict of interest

The statement should be published on the Council's web-site.

5.4 To give the Regulations a literal interpretation would be to impose a very significant administrative burden on officers. Any benefits from an increase in transparency would be considerably more than offset by the consequent burden generated. However, it is accepted that the Regulations cannot be ignored and therefore in order to give effect to them in a practical manner criteria need to be developed as to which officer decisions should be published.

5.5 It is proposed that officer decisions falling within any of the categories below should be recorded as set out in the Regulations:-

- (a) any decision to incur expenditure or the making of a saving of £10,000 or more
- (b) any decision taken following public consultation
- (c) any decision which would have a material impact upon ten or more persons
- (d) any decision which is taken in exercise of an express delegation made to an officer by the Executive, an Executive Committee or an individual Executive Member
- (e) a decision whether or not to list a property as an Asset of Community Value (the "Community Right to Bid" under the Localism Act)
- (f) a decision whether or not to accept an expression of interest submitted under the Community Right to Challenge

5.6 It is not possible to predict with any degree of certainty how many decisions will fall within the categories set out in 5.5 above or what the impact will be of implementing the Regulations as proposed in this report. It would therefore be appropriate for the categories to be reviewed after an appropriate period has elapsed to allow the impact to be gauged.

## **6 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

6.1 The Borough Solicitor is the author of this report.

Borough Treasurer

6.2 There are no financial implications directly arising.

Equalities Impact Assessment

6.3 Not required.

Strategic Risk Management Issues

6.4 Not relevant.

Other Officers

6.5 None.

**7 CONSULTATION**

Principal Groups Consulted

7.1 None.

Method of Consultation

7.2 Not Applicable.

Representations Received

7.3 Not Applicable.

Background Papers

None.

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Doc. Ref.

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