

## **SECTION 2 - PRINCIPLES OF DECISION-MAKING**

- 2.1 All decisions of the Council will be made and recorded in accordance with the terms of this Constitution.
- 2.2 Whichever body or individual is responsible for making a decision, the decision should be made, as far as possible, in accordance with the following principles:
- (a) there should be a presumption in favour of decision-making being open and transparent, with members of the public being afforded effective access to relevant information and the processes by which decisions are taken;
  - (b) due consultation should take place with those likely to be affected by a decision. So far as practicable, decision-making should be planned in advance and the public given due notification of forthcoming decisions;
  - (c) where a decision is likely to have wide-ranging or significant impact on the Community, additional time and emphasis should be given to consultation and members of the public actively encouraged to contribute their views
  - (d) decisions must be made with regard to all relevant considerations and ignoring all irrelevant matters;
  - (e) decisions should be made having regard to any approved policies or procedures of the Council;
  - (f) decisions should be made having regard to appropriate professional advice obtained from suitably-qualified Officers;
  - (g) the action required by a decision must be proportionate to the desired outcome; and
  - (h) decisions must be made in accordance with any relevant statutory requirements and with respect for human rights.
- 2.3 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Section 9 of this Part 4 of the Constitution.
- 2.4 Every contract placed by the Council will comply with Contract Regulations as set out in Section 10 of this Part 4 of the Constitution.

### **General Duties in Decision Making**

- 2.5 Various legislation requires that the Council should have regard to or to take into account specified duties/objectives when making decisions. Those duties set out below apply to all decision making, whether Executive or non-Executive functions and whether the decisions are taken by Members or officers. The matters set out below will rarely if ever be the sole considerations to be taken into account but they must be had regard to in all decision making. In addition to those general duties set out below there will be occasions when "convention rights" are engaged under the Human Rights Act 1998. It is unlawful for the Council to act in a way which is incompatible with any of those rights. The convention rights which are most likely to be engaged in the discharge of Council functions are:-

- (a) Article 6 (right to a fair trial in the determination of civil rights and obligations and criminal charges);
- (b) Article 8 (right to respect for private and family life and a person's home);
- (c) Article 1 first protocol (right to peaceful enjoyment of possessions);
- (d) Article 2 first protocol (no person shall be denied the right to education);
- (e) Article 14 (non-discrimination in enjoyment of convention rights)

If there is any doubt as to whether any convention right is engaged and if so what the implications are, advice should be sought from the Borough Solicitor.

2.6 The general duties referred to in Section 2.5 above are as follows:-

**Sex Discrimination Act 1975**

Regard must be had to the need -

- (a) to eliminate unlawful discrimination and harassment, and
- (b) to promote equality of opportunity between men and women.

“Unlawful discrimination” includes contravention of Equal Pay legislation.

**Race Relations Act 1971**

Regard must be had to the need –

- (a) to eliminate unlawful racial discrimination; and
- (b) to promote equality of opportunity and good relations between persons of different racial groups.

**Disability Discrimination Act 1995**

Regard must be had to –

- (a) the need to eliminate discrimination that is unlawful under the Act.
- (b) the need to eliminate harassment of disabled persons that is related to their disabilities
- (c) the need to promote equality of opportunity between disabled persons and other persons
- (d) the need to take steps to take account of disabled persons disabilities, even where that involves treating disabled persons more favourably than other persons
- (e) the need to promote positive attitudes towards disabled persons; and

- (f) the need to encourage participation by disabled persons in public life.

**Crime and Disorder Act 1998**

Regard must be had to the likely effect of the decision on, and the need to do all that reasonably can be done to prevent:-

- (a) crime and disorder in the Borough (including anti-social and other behaviour adversely affecting the local environment); and
- (b) the misuse of drugs, alcohol and other substances in the Borough.