

# Section 10

## Decision Making

### 10.1 RESPONSIBILITY FOR DECISION MAKING

This Constitution allocates to the Cabinet and Committees and Forums the functions described for each in their respective sections of Part 3 and allocates to Officers the powers and functions under the section headed Scheme of Delegations of Part 3. Where no such allocation is made the power or function lies either with the Council or the Executive in accordance with the law pertaining at the time of the decision.

### 10.2 PRINCIPLES OF DECISION MAKING

All decisions of the Council will be made in accordance with the following principles:

- (a) proportionality – (i.e. the action must be proportionate to the desired outcome). This is a defining principle of the approach to implementation of the Human Rights Act 1998 and reflects the need to find a fair balance between the protection of individual rights and the interests of the community at large;
- (b) due consultation and the taking of professional advice;
- (c) a presumption in favour of openness;
- (d) clarity of aims and desired outcomes;
- (e) respect for human rights, including equality and non-discrimination;
- (f) explaining what options were considered; and
- (g) giving reasons for the decision.

### 10.3 TYPES OF DECISIONS

- (a) **Decisions reserved to full Council** – decisions relating to the functions listed in Part 2, Section 4, of this Constitution will be made by the full Council and not delegated.
- (b) **Key Decisions by the Cabinet** –
  - (i) A key decision is defined by the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 as an executive decision likely:

- to result in the Council incurring expenditure or making savings which are significant having regard to the Council's budget for the service or function to which the decision relates, or
  - to be significant in terms of its effects on communities living or working in an area comprising two or more wards in the Council's area.
- (ii) It is for the Council to determine what is 'significant' in each case. For Cannock Chase Council this is:
- a threshold for expenditure or savings of 0.5% of the gross turnover of the Council, or
  - a decision affecting communities living or working in two or more Wards.
- (iii) A decision taker may only may a key decision in accordance with the requirements of the Cabinet Procedure Rules set out in Part 4 of this Constitution.

#### **10.4 DECISION MAKING BY THE FULL COUNCIL**

The Council meeting will follow the Council Procedure Rules set out in Part 4 of this Constitution when considering any matter.

#### **10.5 DECISION MAKING BY THE CABINET**

The Cabinet will follow the Cabinet Procedure Rules set out in Part 4 of this Constitution when considering any matters.

#### **10.6 DECISION MAKING BY SCRUTINY COMMITTEE**

The Scrutiny Committee will follow the Scrutiny and Call-In Procedure Rules set out in Part 4 of this Constitution when considering any matters.

#### **10.7 DECISION MAKING BY OTHER COMMITTEES AND SUB-COMMITTEES ESTABLISHED BY THE COUNCIL**

Other Council Committees and Sub-Committees will follow those parts of the Council Procedure Rules set out in Part 4 of this Constitution as apply to them.

#### **10.8 DECISION MAKING BY COUNCIL BODIES ACTING AS TRIBUNALS**

- (a) The Council, any of its Committees or Panels or an Officer acting as a tribunal or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will follow a proper procedure which accords with the requirements of natural justice and the right to a fair trial contained in the Human Rights Act 1998 and the European Convention on Human Rights.

(b) Examples of such decisions are:

- determining a planning application;
- determining an application for a licence;
- determining a complaint made against the Council in accordance with the Council's Comments, Compliments and Complaints Procedure;
- reviewing a decision on entitlement to Housing or Council Tax Benefit;
- reviewing a decision to terminate an Introductory Tenancy of a Council house;
- determination of Members' conduct in accordance with the Members' Code of Conduct.

*This list is not exhaustive.*