

THE CONSTITUTION – SECTION 13

13. RESPONSIBILITY FOR FUNCTIONS - SUMMARY

The purpose of this Section of the Constitution is to set out who is responsible for making the various decisions in the Council.

13.1 Who can be Decision Makers?

Under this constitution, there are a number of different decision makers:

13.1.1 Full Council;

13.1.2 a Committee or Sub-Committee of the Council;

13.1.3 the Leader;

13.1.4 the Executive Board;

13.1.5 a Committee of Executive Board;

13.1.6 an individual Executive Board Member;

13.1.7 a Joint Committee;

13.1.8 an Officer.

The Council will issue and keep up to date a record of which individual has responsibility for particular types of decisions. This record is set out in Section 13 of this Constitution.

13.2 Principles of Decision Making

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

13.2.1 proportionately (i.e. the action must be proportionate to the desired outcome);

13.2.2 due consideration and the taking of professional advice from Officers;

13.2.3 respect for human rights;

13.2.4 a presumption in favour of openness;

13.2.5 clarity of aims and desired outcomes;

13.2.6 consideration of any alternative options; and

13.2.7 the giving and recording of reasons for the decision and the proper recording of these reasons.

13.3 Functions fall into the following categories:

13.3.1 Functions of the Full Council

The Council is the supreme decision making body and may, with some exceptions, exercise any of the functions vested in the Council by Law. It may also delegate many of those functions to a Committee, Sub-Committee or Officer. The functions of the Full Council are set out in Section 4.

- 13.3.2 **Non-Executive Functions**
These are functions which, by law, may not be the responsibility of the Executive Board. In some cases, only the Full Council meeting may take the decision. In other cases, the Council may delegate the responsibility for taking the decision to a Committee or an Officer.
- 13.3.3 **“Local Choice” Functions**
There are some functions which the Council may treat as being the responsibility of the Executive Board (in whole or in part) or as being non-executive, at its discretion.
- 13.3.4 **Executive Functions**
All other functions are Executive Functions.
- 13.3.5 **Allocation of Responsibility for Functions**
Section 13 of the Local Government Act 2000 provides that all the functions of the Authority shall be functions of the Executive Board except in so far as they are reserved to the Council by the Local Government Act 2000, by other legislation or by regulations made under the Local Government Act 2000. The Local Authorities Executive Arrangements (Functions and Responsibilities) (Wales) Regulations 2007 define those functions.

This part of the Constitution specifies the various responsibilities for functions of the Council and it is set out below in tabular format as set out in Tables appended to this Section 13 for ease of reference as follows:

Table 1

Those functions which are ‘local choice’ functions (i.e. they may, but need not be, the responsibility of the Executive).

Table 2

Those functions that cannot be the responsibility of the Executive to discharge.

Table 3

Those functions which are split between the Executive and Full Council depending on the circumstances.

Table 4

Those functions that are the responsibility of Committees of the Council.

Table 5

Those functions that are the responsibility of the Executive Board. The Scheme of Delegation to Executive Board Members.

Table 6

The Scheme of Delegation to Officers.

13.4 **Other Bodies**

13.4.1 **Advisory Bodies**

The Council and/or the Leader can also set up Advisory Committees and Joint Advisory Committees.

13.4.2 Scrutiny Committees

Scrutiny Committees are responsible for the overview and scrutiny function. They cannot exercise other functions and make decisions.

13.4.3 Officer Delegations

Officer delegations are also contained in this Section of the Constitution.

13.5 Who Decides – Non-Executive Functions?

13.5.1 The Council may decide whether to delegate Non-Executive Functions to a committee, sub-committee, delegated Officer or joint committee.

13.5.2 Where a non-Executive Function has been delegated to a committee, the committee may further delegate to a sub-committee or delegated Officer.

13.5.3 Where a non-Executive Function has been delegated to a sub-committee, the sub-committee may further delegate to a delegated Officer.

13.6 Who Decides – Executive Functions?

The Leader and Executive Board may decide whether to delegate Executive Functions to a committee of the Executive Board, an individual Executive Board Member, a delegated Officer or a joint committee.

13.7 Removal of Delegation

13.7.1 Where a function has been delegated, the body that delegated the function may withdraw the delegation generally or in any particular case, and may exercise the function itself.

13.7.2 Where a function has been delegated, the decision maker is not required to exercise the delegation and may refer any particular matter to the body that made the delegation or any other body that has power to exercise the function.

13.8 Who May Exercise Officer Delegations?

Where a function has been delegated to an Officer(s) (“delegated Officer(s)”), the decision may be taken in the name of (but not necessarily personally by) such delegated Officer(s) (“authorised Officer(s)”) in accordance with arrangements made from time to time by such delegated Officer(s) for this purpose. The Officer with delegated powers can only delegate to a third party if that Officer is given delegated powers to “delegate on” that decision making.