

## **Council**

27 April 2016

By the Leader of the Council

### **DECISION REQUIRED**



**Horsham  
District  
Council**

Not Exempt

## **Report on 'Key Decision' making in the council**

### **Executive Summary**

The majority of decisions taken by a council are operational or administrative and have a limited effect on a council's budgets or its residents. There are also a small number of decisions which are regarded as 'key' since they affect large numbers of a council's residents or are of a significant high value.

A key decision is a cabinet decision which:

- a) results in the council spending money or making savings which are deemed to be 'significant'.
- b) is 'significant' in terms of its effects on communities living or working in a district area comprising two or more electoral areas (wards).

This report proposes changes to (a), the financial element of the Council's 'Key Decision' process, to ensure that all such decisions are taken by Cabinet in a public meeting yet are of sufficient value to ensure that lower value administrative decisions do not overburden this public process.

### **Recommendations**

The Council is recommended:

- i) To revise the financial threshold for a 'key decision' as defined by the Local Government Act 2000 to £250,000;
- ii) To agree that all key decisions will be made by the Cabinet meeting in public;
- iii) To agree that the Accounts, Audit and Governance Committee undertake a review of the effectiveness of these changes in 2017 after one year of operation.

## **Reasons for Recommendations**

To enable improvement to governance arrangements at Horsham District Council.

## **Background Papers**

Governance briefing three – presentation from the Governance Group to all members on 29 March 2016.

**Wards affected:** All Wards.

**Contact:** Paul Cummins, Head of Legal and Democratic Services; Ben Bix, Governance Project Manager.

# 1 Introduction and Background

- 1.1 The 'Key Decision' monetary threshold had not been reviewed by this council since 2001 and this report seeks to address that and to provide clarity as to who should take a key decision.
- 1.2 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 state that a key decision is, 'an executive (cabinet) decision, which is likely
  - a) to result in the relevant local authority incurring expenditure which is, or the making of savings which are, significant or
  - b) to be significant in terms of its effects on communities living or working in an area comprising two or more wards'.
- 1.3 Individual councils define the monetary value of 'significant' to make it clear which decisions to them are the most important.
- 1.4 HDC has operated on significant value levels that have been unchanged since the system was introduced in 2001. These levels are defined in the constitution as £50,000 or 5% of the projected cost for capital matters (whichever is the lower) or £10,000 or 10% of any saving for revenue matters (whichever is the lower) subject to a minimum of £2000.
- 1.5 Currently at HDC it is unclear whether a key decision needs to go to Cabinet, should be made by a portfolio holder or whether an officer can make the decision.

## 2 Relevant Council policy

- 2.1 The Corporate Plan 2016/19 has a council priority of '*Efficiency - Great value services*' which will be better enabled by clear, well understood and supported governance arrangements that allow the council to achieve this.

## 3 Details

- 3.1 Key decisions are defined in legislation as being only the most important ones for a council in terms of value or effect on the community, which should be taken in public in an open and transparent way. The taking of key decisions is therefore central to any proposed changes to provide good and clear governance.
- 3.2 The current situation at HDC regarding key decisions did not satisfy the ambition of the governance group set up by the Leader to look into future council governance at HDC. The governance group wanted clarity around how key decisions are taken. It should be very clear who can take them and importantly they should be taken by the Cabinet meeting in public.
- 3.3 The public and members should receive notification of those key decisions from the Forward Plan and be able to attend and speak at the meeting of Cabinet where the decision is to be taken.

- 3.4 The above actions would mean that going forward all key decisions of significant value would be taken by cabinet members in a public meeting. Furthermore, it would bring clarity for officers since there would be no doubt as to who needs to take that level of decision.

### **'Significant' monetary threshold for a Key Decision**

- 3.5 It is most important that the monetary level that makes a decision a key one is of sufficient value to ensure that a disproportionate number of such decisions do not overburden or devalue the process of bringing all such decisions to cabinet meetings.
- 3.6 The typical 'significant' value range of district council financial thresholds for a key decision within the wider geographical region of the council ranges from £500,000 (Crawley) to £100,000 (Chichester). Larger council key decisions thresholds often exceed £1m. Appendix 2 provides a sample list of thresholds at district councils.

### **Proposals**

- 3.7 That the definition of the value of a key decision at HDC should be changed and be made much clearer and easier for the public, officers and members to understand.
- 3.8 To provide alignment with similar councils, it is proposed that the future key decision monetary figure for HDC be £250,000 and that this value be reviewed annually.

### **Urgent decisions**

- 3.9 Key decisions are required by regulation to appear on the Forward Plan for 28 days. Paragraphs 15 and 16 of Part 4E of the Constitution describe the steps that must be taken if a key decision needs to be made urgently. There is no change required to those existing provisions. The existing provisions are briefly a) to inform the chairman of the scrutiny committee when a decision cannot be included on the forward plan by public notice for 5 clear days upon the elapse of which the decision may be taken or b) seek the agreement of the chairman of the scrutiny committee that the decision cannot be reasonably deferred. In both cases, a decision notice must be published.

## **4 Next Steps**

- 4.1 This report recommends that delegation be made to the Monitoring Officer to enact the consequential and administrative changes to the constitution of the recommendations so that the requirements of this report may be discharged for the 2016/17 municipal year and thereafter.

## **5 Outcome of Consultations**

- 5.1 The need for a change to the value of key decisions was made in the third of three facilitated all-member seminars looking at future council governance held on 29 March 2016. The proposals of the governance group were supported and endorsed in full. The intention to receive the report of the governance group was included on the publicly available Forward Plan from February 2016.

## **6 Other Courses of Action Considered but Rejected**

- 6.1 The existing key decision threshold is no longer appropriate when compared with other district councils. Alternative values were considered but rejected due to the benefit of having a clear financial value of key decisions that do not conflict with other financial values in the constitution and is in line with similar district councils.

## **7 Financial Consequences**

- 7.1 Certainty of decision making parameters provides for good governance.

## **8 Legal Consequences**

- 8.1 This report addresses the requirements of Statutory Instrument 2089 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

## **9 Staffing Consequences**

- 9.1 Staffing arrangements are the responsibility of the Head of Paid Service. There are no staffing consequences to this report.

## **10 Risk Assessment**

- 10.1 The recommendations within this report are part of mitigating a Corporate Risk described in the Corporate Risk Register presented to the Accounts, Audit and Governance Committee, 23 March 2016. The risk is CRR08 Governance, *Source*: The Council's decision-making processes are based on Constitution that is overly bureaucratic and unnecessarily complicated. *Event*: Non-compliance with the Constitution and delays in decision-making. The potential consequences described in the register are: opportunities lost, complaints / claims / litigation, financial losses and lack of openness and transparency.
- 10.2 Certainty around the parameters of decision making mitigates risk.

## Appendix 1

### Consequences of the Proposed Action

<p>How will the proposal help to reduce Crime and Disorder?</p>	<p>Section 17 of the Crime and Disorder Act 1998 requires the Council to do all that it reasonably can to reduce crime and disorder. The governance arrangements at the Council enable the meeting of that duty. There are no crime and disorder implications as a result of this report.</p>
<p>How will the proposal help to promote Human Rights?</p>	<p>The Human Rights Act 1998 requires not only that the Council shall not infringe the convention rights but also (by inference) promotes the convention rights. The governance arrangements at the Council enable the meeting of that duty.</p>
<p>What is the impact of the proposal on Equality and Diversity?</p>	<p>The Equality Act 2010 brings about an obligation upon the Council as a public authority to have due regard to the need to:</p> <ul style="list-style-type: none"><li>a) Eliminate unlawful discrimination, harassment and victimisation;</li><li>b) Advance equality of opportunity between different groups; and</li><li>c) Foster good relations between different groups.</li></ul> <p>The governance arrangements at the Council enable the meeting of that duty.</p>
<p>How will the proposal help to promote Sustainability?</p>	<p>There are certain activities where the need to consider environmental and social impacts alongside traditional economic/financial considerations is a legal requirement:-</p> <ul style="list-style-type: none"><li>• if the report relates to procuring and/or commissioning the Social Value Act 2012 applies (regard must be given to economic, social and environmental well-being),</li><li>• Climate Change Act 2009 includes legally binding targets to reduce carbon dioxide emissions and for public sector organisation to prepare for changes to the climate, such as increase incidence of flooding and heatwaves,</li><li>• Significant plans and programmes might require a Strategic Environmental Assessment/Sustainability Appraisal to be completed (there are limited instances where this would apply).</li></ul> <p>Beyond these legal requirements consideration of how projects and proposals can secure environmental, social and economic benefits and reduce negative consequences should be an integral part of decision-making. The governance arrangements at the Council enable the meeting of that duty.</p>

## Appendix 2

### Sample of key decision thresholds at district councils.

Sample Key Decision Threshold	A (Expenditure)
Adur & Worthing	£100,000 revenue, £250,000 capital
Aylesbury Vale	£250,000 +/-
Blackpool	£250,000 +/-
Breckland	£250,000 +/-
Chichester	£100,000 +/-
Crawley	a) not in annual budget & capital programme b) revenue exceeding £100,000 c) Capital in excess of £500,000 d) Any contract award exceeding £500,000
Epping Forest	£250,000 +/-
Fenland	£250,000 +/-
Guildford	£200,000 +/-
Horsham	Capital: lower of 5% of the project cost or £50,000 Revenue: lower of 10% of the budget or £10,000 Minimum of £2,000 +/-
Kings Lynn & West Norfolk	£250,000 +/-
Lewes	Significant (not defined)
Mid Sussex	£50,000+ -£100,000
Mole Valley	£100,000 +/-
Northampton	£250,000 +/-
Reigate & Banstead	£250,000 +/-
Sevenoaks	£50,000 +/-
South Northants	£100,000 +/-
Stevenage	£250,000 +/-
Swale	£250,000 +/-
Tunbridge Wells	£250,000 +/-
Wealden	£250,000 +/-
Wycombe	£250,000 +/-