

HOW DECISIONS ARE MADE

The Leader and Cabinet Executive is the part of the Council which is responsible for most operational decisions. The Leader and Cabinet Executive is made up of the Leader and up to 9 other Councillors appointed by the Leader. When major decisions (called “Key Decisions”) are to be discussed or made, at least 28 days public notice must be given. these are published in the Forward Plan in so far as they can be anticipated. A Notice of Key Decisions is published by the Council on a regular basis. This Plan must include at least those decisions which the Leader and Cabinet Executive anticipates it will have to make over the next 4 months. If the required 28 days notice for a Key Decision has not been made needs to be made which is not in the Forward Plan, there are special provisions to allow the decision to be taken. ~~exist to enable this to happen.~~

If these major decisions are to be discussed at a meeting of the Cabinet, this will be open for the public to attend except where personal or confidential matters are being discussed. The Cabinet has to make decisions which are in line with the Council’s overall policies and budget. If it wishes to make a decision which is outside the budget or policy framework, this must be referred to the Council as a whole to decide.

SCRUTINY

The Scrutiny Assembly and Scrutiny Committees, including a Scrutiny Management Board, support the work of the Cabinet and the Council as a whole. This allows members outside the Cabinet and citizens to have a greater say in Council matters by investigating issues of local concern. This can include questioning officers of the Council and inviting people from outside the Council to give opinions and expert advice. These lead to reports and recommendations which advise the Cabinet and the Council as a whole on its policies, budget and service delivery. The Scrutiny Committees and Scrutiny Assembly also monitor the decisions of the Cabinet. They can ‘call-in’ a decision which has been made by the Cabinet but not yet implemented. This enables them to consider whether the decision is appropriate.

They may recommend that the Cabinet reconsider the decision. They may also be consulted by the Cabinet or the Council on forthcoming decisions and the development of policy.

AREA WORKING ARRANGEMENTS

In order to give citizens a greater say in local affairs, the Council may consider the introduction of area working arrangements. The Council will decide on whether to introduce these arrangements in all or parts of the Borough.

THE COUNCIL’S EMPLOYEES

The Council employees (called ‘officers’) give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely. A Protocol governs the relationships between officers and councillors

CITIZENS' RIGHTS

Citizens have a number of rights in their dealings with the Council. These are set out in more detail in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes. The local Citizens' Advice Bureau can advise on individuals' legal rights. This and other useful links can be found on the Council's website www.telford.gov.uk.

Citizens have the right to:

- vote at local elections if they are registered;
- contact their local councillor about any matters of concern to them;
- access a copy of the Constitution;
- see agendas and reports and attend meetings of the Council and its committees except where, for example, personal or confidential matters are being discussed;
- petition to request a referendum on a mayoral form of Cabinet;
- find out, from the [Notice of Key Decisions Cabinet's Forward Plan](#), what major decisions are to be ~~discussed by the Cabinet or~~ decided by the Cabinet, [the Leader](#) or officers, and when;
- attend meetings of the Cabinet where decisions are being discussed or decided;
- see reports and background papers, and records of decisions made.
- complain to the Council about Council services or how they feel they have been treated by the Council;
- complain to the Ombudsman if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own complaints process. Telephone: 01952 380000;
<http://www.telford.gov.uk/Council+democracy/Customer+complaints/Complaints+comments+and+compliments.htm>
- complain to the local Standards Committee if they have evidence which they think shows that a councillor has not followed the Code of Conduct; and
- inspect the Council's accounts and make their views known to the external auditor.

Where members of the public use specific council services, for example as a parent of a school pupil, they have additional rights. These are not covered in this Constitution.

The Council welcomes participation by its citizens in its work. For further information, or if you would like to join the Telford & Wrekin Community Panel, details can be found on the Council's website at www.telford.gov.uk

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Article 1– Citizens and the Council

Explanatory Comment

This sets out what citizens can expect from the Council and what rights they have. However, with rights come responsibilities and it is also the role of the Constitution to show how the Council expects to be treated in return.

3.01 Citizens' rights

Citizens have the following rights. Their rights to information and to participate are explained in more detail in the Access to Information Rules in Part 4 of this Constitution: Citizens also have rights under the **Freedom of Information Act 2000** to make requests for information held by the Council.

- (a) **Voting and petitions.** Citizens on the electoral roll for the area have the right to vote for their local Councillor(s) and to sign a petition to request a referendum for an elected mayor form of Constitution. For a petition to be valid to require a referendum, the number of signatures to it must equate to no less than 5% of the electorate of the Borough. Citizens will have a right to vote for an elected mayor in the event of a referendum being held.
- (b) **Information.** Citizens have the right to:
- (i) attend as observers, meetings of the Council and its committees except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (ii) attend as observers, meetings of the Cabinet when decisions are being considered except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private;
 - (iii) find out from the [Notice of Key Decisions Forward Plan](#) what key decisions will be taken by the Leader, ~~and the~~ Cabinet Executive or by an officer under delegated authority
 - (iv) inspect reports and background papers, and any records of decisions made by the Council and its committees and the Leader and Cabinet Executive; and
 - (v) inspect the Council's accounts and Audit Commission's Annual Audit and Inspection Letter and make their views known to the external auditor.
 - (vi) such other information as may be specified in the Council's Freedom of Information publication scheme
- (c) **Assembly Sessions.** The Council shall facilitate further participation by holding, as and when required, meetings of Assembly Sessions at which partner organisations may through nominated spokespersons attend and debate with elected members matters of public policy. As appropriate these Assembly Sessions may also invite for debate, reports from other public and private agencies and from the Borough's, Westminster, European and other representatives.

Citizens will have the right to express views on all aspects of local government and the Council will take steps to consult effectively, and have the right to have those views considered.

13.02 Principles of decision making

All decisions of the Council, its Committees/Boards, the Leader and Cabinet Executive and those under delegated powers shall have regard to the following principles of governance and good practice:

- consideration of all options available;
- having regard to due consultation;
- consideration of professional advice from officers;
- clarity of aims and desired outcomes;
- the action proposed must be proportionate to the desired outcome;
- having respect and regard for human rights;
- presumption for openness, transparency and accountability;
- only relevant matters taken into account;
- due weight to all material considerations (including opportunities and risks);
- proper procedures will be followed.

13.03 Types of decision

- (a) Decisions reserved to full Council – Decisions relating to the functions listed in Article 4 will be made by the full Council and not delegated.
- (b) Decisions made by Committees/Boards appointed by the Council – Power to make such decisions is delegated by the Council in accordance with Part 4 of this Constitution. (Section 101, Local Government Act 1972)
- (c) Decisions of the Leader and Cabinet Executive will comprise Key Decisions and Non-Key Decisions. "Key Decisions" relate to a Leader and Cabinet Executive decision, which is likely:
 - (1) to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates;
 - or
 - (2) 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.

A key decision will relate to a decision on a matter identified in the [Notice of Key Decisions Forward Plan](#), except in cases of urgency when the provisions [contained within the Policy Framework Budget Procedure Rules] will apply.

In accordance with **Section 38 of the Local Government Act 2000**, in determining the meaning of "significant" the Council shall determine thresholds above which items are significant (see Guidance Note 3) and will ensure these limits are published. Any decisions involving expenditure or saving above the published threshold for the service or function concerned will be a Key Decision. A Key Decision may not necessarily involve significant expenditure or savings but may however be significant in terms of its effect on communities in two or more wards within the Council's area.

A decision taker may only make a Key Decision in accordance with the requirements of the Cabinet Decision Procedure Rules set out in Part 4 of this Constitution.

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Part 4 – Rules of Procedure

Section 1– Access to Information Procedure Rules

The requirements for access to information in respect of decision-taking by the Council are very largely set out in statute and regulations. This section provides a summary of those statutory provisions together with a more detailed statement where the Council has decided to grant rights of access over and above the statutory provision.

1. Council Functions

All decisions in respect of Council functions are regulated by **Sections 100A to 100K of the Local Government Act 1972**.

The Council has made no supplemental provisions for access to information in respect of Council functions.

2. Cabinet Functions

All decisions in respect of Cabinet functions are regulated by the **Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012**~~as amended~~ as follows:

a) Advance notice of forthcoming decisions

- i) The requirement for advance notice of forthcoming Leader and Cabinet Executive decisions apply to “Key Decisions”, which are defined by Regulation 8 to comprise any executive decision which is likely to:
 - result in significant expenditure or significant savings, or
 - be significant in terms of its effects on two or more wards or electoral divisions within the authority’s area.
- ii) ~~The Decision maker Leader is required, at least 1028 working days before the decision is made start of each calendar month, to publish a document prepare a Forward Plan which sets out details (as set out in Regulation 914) of the key decision(s) to be taken. any matters which he/she considers are likely to be the subject of a Key Decision within the next 4 calendar months.~~
- iii) ~~The document referred to at ii) above must be made available for inspection by the public at the offices of the Council and on its website. The Leader shall instruct that the authority shall advertise annually the existence and availability of the Forward Plan~~
- iv) Where a Key Decision is required to be taken for which at least 28 days notice has not been given publicised in the Forward Plan, the Proper Officer decision-taker must inform give at least 5 working days notice of the proposed decision and a copy of any report to the Chairman of the appropriate Scrutiny Committee in writing of the details of the decision to be made and the reasons why it is

impracticable to give 28 days notice. Where the urgency of the decision is such that five clear days between the notice and the decision even that notice cannot be given, the decision-maker must obtain the agreement of the Chairman of the relevant Scrutiny Committee (or in their absence the Mayor or Deputy Mayor of the Council) that the decision does need to be taken as a matter of such urgency, and the reasons why it cannot be reasonably be deferred.

b) **The decision-making process**

i) Where a decision is to be made by the Cabinet (as a body):

- the agenda for the meeting and every public, and non-exempt report shall be available for inspection as soon as they are made available to members of the decision-making body, unless it discloses confidential or exempt information. At least 5 working days notice shall be given unless the meeting is convened at shorter notice or where an item is added to the agenda at shorter notice in cases of urgency in accordance with the provisions of the **Local Government Act 1972**.

- the meeting must be a public meeting, although the press and public may be excluded during consideration of any matter which would involve the disclosure of confidential or exempt information.

- If a decision is proposed to be taken in private because exempt or confidential information might be disclosed, at least 28 days notice must be given of the intention to consider that decision in private, along with a statement of reasons. Any representations received by the Cabinet about why the meeting/decision should be open to the public must be published at least 5 clear working days before the meeting, along with the Cabinet's response to any such representations.

ii) Where an individual member of the Cabinet or an officer proposes to take a Key Decision, a Decision Notice shall first be published within four working days and sent to all Members of the Council via email.

c) **Recording the Decision**

- (i) Within four working days after a Cabinet decision has been made by the Cabinet as a whole or by an individual member, or a Key Decision made by an officer, the proper officer shall make a written record of that decision. All Decision Notices with the exception of those referred to in (d) below shall be published by being made available in the Main Reception of Addenbrooke House Civic Offices, on the Council website, and sent via email to all Members of the Council.

- (ii) ~~Records of Cabinet decisions shall be available for public inspection within four working days after the decision has been taken, together with a copy of any report considered and any background papers.~~

d) **Exceptions for Exempt and Confidential Information**

In respect of (b)(i) and (ii) above the rules do not apply where the publication of a report, ~~a Decision Notice thereon~~ or background paper or attendance at a meeting would be likely to disclose exempt or confidential information, as defined in the **Local Government Act 1972, Schedule 12A (as amended)**. Such reports, ~~Decision Notices~~ or background papers shall only be sent to Members of the Council.

2. HOW ARE CABINET MEETINGS CONDUCTED?

2.1 Who presides?

The Leader will preside at any meeting of the Cabinet at which he/she is present, and in his/her absence the Deputy Leader will preside. In the absence of both the Leader and Deputy Leader the members present may appoint another member of the Cabinet to preside.

2.2 Who may attend?

Members of the public (which may include non-Cabinet members of the Council and officers at the discretion of the Cabinet) may attend all meetings of the Cabinet except when exempt or confidential information is being considered where the press and public (including non-Cabinet members of the Council), may be excluded by resolution of the Cabinet in accordance with the Access to Information Rules contained in Part 4 of this constitution.

2.3 What business?

Meetings of the Cabinet will include the following business:

- i) consideration of the minutes of the last meeting;
 - ii) apologies for absence
 - iii) declarations of interest, if any;
 - iv) matters referred to the Cabinet (whether by a Scrutiny Committee or by the Council) for reconsideration by the Cabinet in accordance with the provisions contained in the Scrutiny Procedure Rules or the Policy Framework and Budget Procedure Rules set out in Part 4 of this Constitution;
 - v) consideration of reports from individual members of the Cabinet;
 - vi) consideration of reports from a Scrutiny Committee
 - ~~vii) Forward Plan;~~
 - viii) reports of Statutory Officers; and
 - ~~viii~~) matters set out in the agenda for the meeting, and which shall indicate which are Key Decisions.
- Items (iv) – (~~ix~~viii) shall require written reports except in cases of urgency where it is impractical to do so.

2.4 Consultation

All reports to the Cabinet from any member of the Cabinet or an officer on proposals relating to the policy framework and budget should contain details of the nature and extent of consultation undertaken with stakeholders and Scrutiny Committees. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

2.5 Who can put items on the Cabinet agenda?

- (a) Any member of the Cabinet may require the Proper Officer to make sure that an item is placed on the agenda of the next available meeting of the Cabinet for consideration. The proper officer will comply, subject to the agreement of the Leader.
- (b) There will be a standing item on the agenda of each meeting of the Cabinet for matters referred by the Scrutiny Committees and Scrutiny Assembly. However the number of items per Cabinet meeting, will have regard to the amount of business on the agenda.
- (c) Any resolution of the Council which is required to be considered by the Cabinet will be so considered within fifteen working days of the date of the Council resolution, or at the next scheduled meeting of the Cabinet.
- (d) The Managing director, Monitoring Officer and/or the Chief Financial Officer may include an item for consideration on the agenda of a Cabinet meeting and may require the Proper Officer to call such a meeting in pursuance of their statutory duties. In other circumstances, where the Head of Paid Service or Chief Financial Officer or Monitoring Officer are of the opinion that a meeting of the Cabinet needs to be called to consider a matter that requires a decision, they may include an item on the agenda of a Cabinet meeting. If there is no meeting of the Cabinet soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

2.6 Timescales

In considering matters in relation to budgetary issues the Leader and Cabinet Executive will have due regard to any appropriate timescale within which the budget has to be approved by the Council. By way of example the timespan required to deal with this will include consultation with partners and other external agencies plus reference to the relevant Scrutiny Committee.

2.7 Key Decisions

Key Decisions shall only be taken provided that a notice of the intention to take that key decision has been published at least 28 days beforehand. the matter in question is contained within the Forward Plan. If 28 days notice has not been given, the provisions set out at paragraph 2 (a) (iv) of Part 4 – Section 1 of this Constitution will apply. or if not in the Forward Plan, after giving five working days notice, together with a report to the Chairman of the appropriate Scrutiny Committee and with the consent of the Chairman of the relevant Scrutiny Committee.

2.8 Recording of Decisions

All decisions including Key Decisions are to be made by a simple majority of these Members of the Cabinet present and voting, except for voting on appointments where two or more persons are nominated for any position in which case if there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

Following a meeting of the Cabinet at which a report (whether oral or in writing) has been received and at which a Cabinet decision has been made or a decision of a individual Cabinet member after consideration of a report, the proper officer shall ensure that a written record will be published

Pages 9:2 to 9:6

GUIDANCE NOTE 1–DEFINITIONS OF KEY DECISION

Key decisions are:-

(a) Decisions which have a significant financial impact:

- Decisions which will result in the authority incurring expenditure, or making savings, have a significant financial impact of more than £500,000 e.g. the letting of a contract
- Involve a virement between service budgets of more than £50,000.
- Involve a virement between service budgets of between £25,000 and £50,000 where the sum is more than 20% of the budget
- Decisions to participate or lead in collaborative schemes funded (partly or wholly) from external sources, which may expose the Council to contractual risk exceeding £500,000, e.g. schemes carrying repayment penalties or schemes where the Council will carry contractual responsibility for execution of the contract.

OR

(b) Decisions which are likely to be significant in terms of their effects on communities living or working in an area comprising two or more wards in the Borough.

~~The key tests are:~~

~~Does the decision have:~~

~~— A significant impact on more than one ward?~~

- ~~— A significant impact on terms of delivery of the Council's agreed policy?~~

~~Or:~~

~~• Is the decision likely to be of significant public interest?~~

- ~~if either apply then the decision is deemed to be a Key Decision.~~

(c) Any decision made by the Leader and Cabinet Executive in the course of developing proposals to the full Council to alter the policy framework would be a key decision.

When considering the financial limits the following guidance should be followed:-

1. Contracts of employment are to be treated as outside the scope of key decisions.
2. The aggregate value of multi-year contracts should be considered e.g. a contract for £500,000 p.a. for two years would be caught under the definition.

3. Reports allocating block capital budgets between specific schemes will be taken to Leader and Cabinet Executive and will be treated as Key Decisions. Changes to these allocations in excess of the virement limits will also be treated as Key Decisions. However the letting of individual contracts funded from these block capital approvals will not be treated as Key Decisions even if they affect more than one ward unless the total value of the contracts exceeds the approved budget for the particular schemes.
4. The letting of contacts for an individual child by Children & Young People or for a vulnerable adult by Adult Social Care in respect of personal care or “specialist placements” will not be treated as Key Decisions regardless of whether those contracts would be covered by approved budgets, due to statutory requirements to ensure that appropriate provision is made for personal social services or education. The cumulative effects of such commitments will be subject to reporting requirements to Leader and Cabinet Executive where there is a proposed overspend against budget provision for the year.
5. The nature of Treasury Management decisions is such that decisions to borrow or invest are taken in response to interest rate movements and to the daily cash flow position. These factors cannot be accurately forecast in order to comply with the timetable for key decisions and therefore must be treated as an exclusion to the definition of key decisions.
6. Please remember that Key Decisions can be taken by the Leader and Cabinet Executive or by officers under delegated powers.

Should you require any clarification relating to the interpretation of this guidance, please contact Legal Services

GUIDANCE NOTE 2 – ATTENDANCE AT CABINET MEETINGS (VOLUNTARY PROTOCOL)

- The Constitution requires that the Cabinet meet in public session when making decisions. The Cabinet is also subject to the Access to Information rules set out in the Constitution which require:-
 - that the agenda is made available for public inspection five working days prior to the date of the meeting
 - that all items of business are open to the public unless they meet the requirements of the Access to Information Act and are classified as exempt or confidential.
 - Section 152 - that meetings of the Cabinet can be attended by members of the public and any Member of Council for the public session. Members of the public will be asked to leave following agreement to the appropriate resolution to exclude the press and public (see also Part 4 – Section 4 – Cabinet Decision Procedure Rules paragraph 1.7 and Part 9 – Committee Procedure Rules paragraph 16)
- This Protocol gives additional rights over and above those contained in the Constitution.
- For each meeting of the Cabinet, the Group Leaders (or if unable to attend the Deputy Group Leaders) from all Groups will be invited to attend as a matter of course. In addition to attendance at the meeting each Group Leader (or Deputy Group Leader if substituting for the Leader) will be able to speak on any item on the agenda.
- In addition to Group Leaders (or Deputy Group Leader substituting for a Group Leader), any Councillor who has a significant ward matter on the Cabinet agenda may seek permission from the Leader, prior to the meeting, to speak when the item will be discussed. By permission of the Leader, members may be given the opportunity to speak for significant items/issues within their ward. It will be the Leader who will determine whether or not the item is significant or not. This mirrors the existing arrangements where Chairmen of Boards and Committees have allowed members not on the Board/Committee to speak on ward issues.
- On the Thursday prior to a meeting of the Cabinet, the Opposition Group Leaders (or their deputies) may request a briefing on agenda items.

GUIDANCE NOTE 3 – PUBLICATION OF AGENDAS, MINUTES AND DECISION NOTICES.

There are several elements within the Constitution where documents are required to be “published”. This Guidance Note sets out the minimum requirements in terms of publication.

- The range of documents required to be published are:
 - [Forward Plan Notice](#) of Key Decisions
 - Reports of Officers
 - Decision Notices/Minutes of Cabinet and Decision Notices relating to those decisions taken by Officers under delegated powers

The agendas, reports (except those that are confidential/exempt) and Decision Notice/Minutes of Cabinet and minutes of all other meetings.

- These documents will be published on the Council's web site.
- This Guidance Note is based on the principle that electronic methods will be used to the full and it will be for individual Members to regularly check their own e-mail. In particular there are only 3 working days in which to “Call In” decisions and notifying Members of the decisions quickly is key.

As a minimum requirement, a copy of these documents should be available for inspection at the Council's main office ([AddenbrookeHouse Civic Offices](#)).

FORWARD PLAN OF KEY DECISIONS

- ~~• The Constitution requires publication of a Forward Plan covering a four-month period.~~
- ~~•~~
- ~~• The Plan is rolled forward and updated on a monthly basis. Each time the Plan is rolled forward a new fourth month will be added, and there will be additions, deletions and amendments to the other three months.~~
- ~~•~~
- ~~• Each municipal year at the start of the cycle of meetings a public advertisement will be placed in the Shropshire Star indicating the dates on which the Forward Plan will be published, the effective date for each edition and where it can be inspected.~~
- ~~•~~

Public Access

- ~~• Minimum requirement: To make a copy available at the main Council Offices (Civic Offices).~~
- ~~•~~
- ~~• A copy of the Forward Plan is also available on the Council's web site.~~
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Access for Members

- ~~• Minimum requirement: An e-mail will be sent to all Members providing a link to the relevant part of the Council's web site where the Forward Plan is published.~~
- ~~•~~
- ~~• Minimum requirement: A copy will also be made available in the Members Room.~~

