



REPORT OF THE GOVERNANCE COMMITTEE

KEY DECISIONS – AMENDMENT OF DEFINITION

The Local Government Act 2000, as amended by the Localism Act 2011, requires that, when decisions that are considered to be “Key” are to be made, particular procedural steps be taken before, when and after they are made. Failure to observe those steps – for example, giving 28 days’ notice of them before they are taken, and allowing time for them to be called in before being implemented – could result in the decisions being challenged and, for example, open to being quashed on judicial review.

There is no statutory definition of what constitutes a “key decision”: each local authority is free to develop its own definition. The Council’s current definition is as follows:

A key decision is an Executive decision which is likely

- (i) to result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority’s budget for the service or function to which the decision relates. For this purpose “significant” is defined as
 - (a) In excess of £500,000
 - (b) In excess of 10% of the gross controllable composite budget at Head of Service/ Assistant Chief Executive level (subject to a minimum value of £250,000)

In determining the meaning of “significant”, regard must be had to any guidance issued by the Secretary of State

The term “savings” has not thus far been defined further. This had not resulted in any particular difficulty until changes had recently been made in the law relating to the making of executive decisions, with the explicit aim of ensuring that decision-making by the executives of local authorities was more transparent and more open to public scrutiny. It was now reported that the lack of definition of savings left the Council potentially open to challenge in that, for example, if a decision to dispose of an asset valued in excess of £500,000 were treated as non-key (on the basis that the prospective capital receipt was not a “saving”), it would be open to an aggrieved party to accuse the Council of acting improperly.

The Committee accepted that the meaning of “saving” should now be defined in order to avoid the possibility of such challenges and accordingly now RECOMMENDS to the Council that the note to paragraph (14)(a)(i) of the Council’s Executive Procedure Rules be amended to read:

In determining the meaning of “significant”, regard must be had to any guidance issued by the Secretary of State. For the avoidance of doubt, “savings” includes expenditure avoided, additional revenue income generated or capital receipts obtained.