



GOVERNANCE COMMITTEE

REPORT

11 SEPTEMBER 2012

Subject Heading:

Changes to Statutory Rules on Executive Decisions

Report Author and contact details:

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Policy context:

To comply with new legislation

Financial summary:

Any increased costs will be absorbed within existing budgets

The subject matter of this report deals with the following Council Objectives

- | | |
|--|-------------------------------------|
| Ensuring a clean, safe and green borough | <input type="checkbox"/> |
| Championing education and learning for all | <input type="checkbox"/> |
| Providing economic, social and cultural activity in thriving towns and villages | <input type="checkbox"/> |
| Valuing and enhancing the lives of our residents | <input type="checkbox"/> |
| Delivering high customer satisfaction and a stable council tax | <input checked="" type="checkbox"/> |

SUMMARY

The government has introduced new regulations governing the process of making executive decisions and increasing the amount of information that has to be published on decisions. The new rules took effect on the 10 September 2012 and apply to all executive decisions taken by members and staff.

RECOMMENDATIONS

That the report be noted

REPORT DETAIL

1. The Government has, at short notice and without apparent prior consultation, introduced new statutory rules relating to executive decision making and public access to information on those decisions. The statutory instrument was made in mid-August and came into effect on the 10 September 2012.
2. The new rules relate to decision making by the Cabinet, individual cabinet members and officers. It does not impact on decision making by non-executive bodies such as this Committee, Regulatory Services Committee or Licensing Committee.
3. The regulations make a number of minor detailed changes to existing procedures, but there are 3 major changes introduced.

a. Forward Notifications

While the requirement for a Forward Plan is abolished, it is replaced with a general requirement for at least 28 days prior notice of the proposed making of a Key Decision. The 28 day period is double the minimum notification time under the Forward Plan. To minimise the impact of this change it is proposed that there will be a 'rolling' notification system with prior notifications being published (primary on the website but also available for inspection at an agreed location) as and when they are ready, rather than publish them at set intervals or dates. There is still a procedure to enable decisions to be made without 28 days prior notification but it is very much for exceptional cases.

b. Recording and publication of Decisions by Individuals

Currently only Key Decisions have had to be formally registered and published. The new rules massively expand this requirement to all Executive Decisions made by individual Members and officers. The publication of all decisions currently recorded using the Executive Decision forms will be a very substantial increase of the amount of work to be undertaken. It will also require a much expanded section of the Council's website to accommodate this information – such decisions have to be available for public inspection for 6 years. Copies of the decisions will also have to be available for public inspection at a main office, although potentially this can be met by providing access to the relevant part of the website at a terminal in the office. The current intention is that access will be provided at Central Library rather than to go to the Town Hall as public facilities for web already exist there and it has long opening hours.

c. Inspection of background papers

Background papers relied upon in the preparation of all executive decisions must also be available for public inspection at the Council offices and on the website, this time for 4 years after the decision is

made. Currently the requirement is for just a list of background papers. This new requirement is for the actual documents to be published on the website and a set available for public inspection. Again this requirement will substantially increase the amount of work needing to be undertaken. In some cases, such as decisions on tenders, there could be several hundred pages of relevant documentation that will need to be reviewed, redacted (where appropriate, indexed and published).

IMPLICATIONS AND RISKS

Financial implications and risks:

There will clearly be a cost to the Council in the amount of extra time that staff will have to devote to preparation of the background documents for publication, but it is not possible to put a figure to that cost. Given the Council's overall financial position and the diverse range of staff involved in the drafting of reports the cost will have to be absorbed by services. Similarly while the changes will create additional work for Committee Administration, the work will have to be absorbed within the overall workload of staff.

Legal implications and risks:

These rules are statutory requirements which the Council has no choice but to comply with. Failure to comply with the statutory requirements could be a ground for challenge of the validity of a decision and would usually amount to maladministration

Human Resources implications and risks:

There are no direct human resource implications

Equalities implications and risks:

There are no direct Equalities implications as this is compliance with government legislation, but the steps taken to publish this documentation needs to provide for persons with limited or no sight and those unable to read English. This is the situation with the formal publication of other information and the same steps to meet the need, e.g. translation services, will be deployed.

BACKGROUND PAPERS

Notes: Analysing the regulations