



General Purposes Committee Report

Meeting:	General Purposes Committee
Date:	3 July 2013
Classification:	For General Release
Title:	Review of Arrangements for Notification of Member-Level Executive Decisions
Wards Affected:	Not Applicable
Financial Summary:	There are no financial implications arising from this report
Report of:	Head of Legal and Democratic Services

1. Executive Summary

- 1.1 At its meeting on 7 November 2012 the Committee received a report which set out details of new statutory Regulations relating to executive decisions. Members expressed initial reservations regarding the proposal to give advance public notification of all forthcoming Member-level executive decisions rather than Key Decisions exclusively, as required by Regulation. The Committee resolved to review the position after an operation period of 6 months had elapsed. This report therefore provides the Committee with an update on the implementation and operation of this specific aspect of the requirements.

2. Recommendations

- 2.1 That the actions taken to respond to the Regulations be noted; and
- 2.2 That the implementation of the requirements regarding the advance public notification of all Member-level executive decisions be noted and endorsed.

3. Background Information

- 3.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 were introduced on 10 September 2012 as part of the Government's "transparency" agenda. They essentially changed

the way in which executive decisions must be notified to the public and consequently impacted upon the way in which Member-level executive decision making must be governed, publicised and managed by the responsible officers (Committee and Governance Services).

Notification of Key Decisions

- 3.2 One of the most notable requirements enforced by the Regulations related to the notification of Key Decisions. Although the statutory definition of a Key Decision remains the same, the requirements regarding the public notification of Key Decisions has altered.

Firstly, it is no longer necessary to publish a Forward Plan of Key Decisions (as enforced under legislation arising from the Local Government Act 2000). Instead, a Key Decision must not be taken until a suitable notice has been published on the Council's website at least 28 clear days in advance of the decision being taken, which provides the following information:

- (a) that a Key Decision is to be made on behalf of the relevant local authority;
- (b) the matter in respect of which the decision is to be made;
- (c) where the decision maker is an individual, that individual's name and title if any and, where the decision maker is a decision-making body, its name and a list of its members.
- (d) the date on which, or the period within which, the decision is to be made;
- (e) a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the Key Decision is to be made;
- (f) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision maker, and
- (h) the procedure for requesting details of those documents (if any) as they become available.

If a Key Decision has not been notified on the list for the required 28 clear days, the relevant Policy and Scrutiny Chairman must be *informed* and a notice issued on the website stating the reasons why the decision in question did not receive the required 28 days public notice. 5 clear days must then elapse prior to the decision being taken. This is the 'General Exception' provision.

If a Key Decision has not been notified on the list for at least 5 clear days, the relevant Policy and Scrutiny Chairman must *agree that the decision in question is urgent and cannot reasonably be deferred*. A notice must then be issued on the website stating the reasons as to why the taking of the decision is urgent and cannot reasonably be deferred. This is the 'Special Urgency' provision.

3.3 The City Council has historically chosen not to determine a local interpretation of a Key Decision (i.e. we have not set a specific financial threshold), preferring instead to treat each decision on its merits having regard to the specific implications in the context of the service area, following the statutory definition:

- (a) An Executive Decision which results in the relevant local authority incurring expenditure which is, or the making of savings which are, significant having regard to the relevant local authority's budget for the service or function to which the decision relates; or
- (b) To be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the relevant local authority.

Having regard to the more stringent requirements now applied to the procedure for the notification of Key Decisions as enforced by new Regulations (those summarised above) it was proposed to give public notice of all forthcoming Member-level executive decisions (not just Key Decisions) for the following reasons:

(i) To act as a safeguard

Giving the required 28 day notice of all Member-level executive decisions (not just Key Decisions to be taken by Members) ensures that if an officer has interpreted the statutory definition incorrectly, without seeking advice from Committee and Governance Services or the Head of Legal and Democratic Services, the Key Decision in question will have complied with the Regulations regardless of the initial mistake and the General Exception or Special Urgency provisions will not need to be invoked.

(ii) To simplify the process

Officers have one straight-forward rule to follow: - "*give 28 clear days notice of all Member-level executive decisions*", thereby making the process as uncomplicated as possible for service-area officers to adhere to. This message has embedded well and officers Council-wide have been mindful to ensure their forthcoming Cabinet or Cabinet Member decision is added to the public list at the earliest opportunity.

(iii) To speed-up decision-making

If public notice of a Member-level executive decision has been given correctly for at least 5 days the requirement to publish the full Cabinet Member Report for 5 clear days before the decision can be taken is removed. In effect, Cabinet Members may now sign their reports immediately on the day of formal issue and the process can move forward without delay at the crucial end of the process – saving officers one weeks ‘stand-still’ period between the date of formal issue and the date upon which we can issue the Statement of Decision. This makes the new Regulations work in our favour for the benefit of our officers and increases the speed of decision-making.

(iv) Localism and transparency

Giving a period of advance notice of all executive decisions provides the public with an *indication* of the forthcoming decisions to be taken by our executive, thereby increasing democratic transparency and showing that we are committed to taking real action to adhere to the spirit of localism. It should be noted that the public are not afforded any right to access the report or associated documents. They are simply provided with the very basic details about the forthcoming decision set out in paragraph 3.2 above (i.e. the draft report title, the name of the report author, when the decision is likely to be taken etc). This increased level of transparency has not caused any issues to date. In light of the fact that the public have no right to access information beyond the basic details provided through the Executive List, no issues are anticipated going forward.

(v) Good governance

The requirement for officers to provide 28 days advance notice of Member-level executive decisions provides Committee and Governance Services with a more accurate overview of forthcoming decisions and enables us to manage the process more robustly and effectively. If we are aware of forthcoming decisions we can provide more timely advice and work with service-area officers to ensure the correct checks and balances are carried-out in good time, avoiding unnecessary delays at the crucial end of the process. These new requirements have already proved to be advantageous in terms of encouraging service-area officers to think about the governance process at the outset of the respective project, strategy or contract and how best to forward-plan their decision. In fact, we have seen a significant improvement to the way in which officers are thinking about practical timetabling for their executive decisions and seeking advice accordingly.

- 3.4 In response to the aforementioned Regulations, Committee and Governance Services commissioned the Council's ICT team to create a bespoke front-facing facility on the corporate website to publicise executive decisions; and an internal submission facility on the WIRE (intranet) site to record notice of executive decisions. The latter facility allows officers to input all the necessary statutory information in the most accessible and straight-forward way possible – simply completing the required fields and submitting the information for review before it goes 'live'. A screen-shot of the respective webpages are attached as Appendices A and B.
- 3.5 Committee and Governance Services subsequently worked with the Communications team to publicise the new online 'Executive List' facility throughout the organisation and carried-out a council-wide programme of service area training on executive decision-making to ensure the requirements were known and fully understood.
- 3.6 In order to determine officers' views about the new requirements and, to a degree, the Cabinet Member decision-making process more generally, a survey was circulated to the Senior Leadership Team for distribution to regular Cabinet Member report authors. The results were positive. 85% of respondents felt that the new Executive List facility was easy to use. The few who did not consider the facility easy to use were officers from the Westminster Adult Education Service (WAES) who do not currently have access to the WIRE intranet site and this issue is being taken-up with the ICT team. 85% of respondents also felt they had a good or very good understanding of the executive decision-making process and 100% said they were happy with the level of support and advice provided by their contact officer in the Committee and Governance Services team.
- 3.7 The only negative messages communicated through the survey were not in fact related to the new changes to the governance process but to various delays officers have reportedly encountered, including:
- (1) Delays obtaining financial clearance from Strategic Finance Officers;
 - (2) Delays receiving feedback and/or clearance from Cabinet Members at the informal issue stage of the process; and
 - (3) Delays receiving a decision from Cabinet Members at the formal stage of the process.

Committee and Governance Services will be reviewing the Cabinet Member Decision process in its entirety as part of our 2013/14 Business Plan and will seek to address such issues. It should be noted that in most cases the delays referred to are largely a result of issues being raised in respect of the draft report.

- 3.8 In light of the positive feedback received through the staff survey and the anecdotal evidence received to corroborate the view that the aforementioned

changes to the governance process have improved efficiency and transparency, the Committee is asked to note and endorse the actions taken to respond to the Regulations in respect of the advance public notification of all executive decisions.

4. Financial Implications

- 4.1 There are no financial implications arising from the report. The cost of creating the bespoke online Executive List facility to enable officers to upload the necessary information to give notice of executive decisions has been met from existing resources.

5. Legal Implications

- 5.1 The new Regulations referred to in this report replace those which related to the making of executive decisions at both Member and Officer level. The constitutional changes required as a result of the new Regulations detailed in this report have been previously approved by the Committee and the full Council and have been implemented accordingly. No direct legal implications arise from the content of this report as no additional action is recommended.

**If you have any queries about this Report or wish to inspect any of the
Background Papers please contact:**

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BACKGROUND PAPERS:

General Purposes Committee Report: Constitutional Changes (7 November 2012)

Local Authorities (Executive Arrangements) (Meetings and Access to Information)
(England) Regulations 2012.

'List of Executive Decisions' – Westminster City Council Website

Appendix A

Westminster City Council - Windows Internet Explorer provided by City of Westminster (AD Ver 7.7)

http://transact.westminster.gov.uk/execdecisions/EDViewMeeting.cfm

File Edit View Favorites Tools Help

Westminster City Council

Executive Decisions

Sorry but there are no Executive Decision Submissions for Cabinet Member to view at the moment.

Please Select A Cabinet Member To Filter By :

Title of Proposed Decision	Decision-Maker	Key Decision	List of Documents for Submission	Contact Officer(s)	Date of Notice	Date of Decision
Wireless City Datacentre refresh	Cllr Melvyn Caplan	No	Cabinet Member report + appendices	Maddy Findlay Service Delivery Manager - CCTV Email: mfindlay@westminster.gov.uk	16 October 2012	15 November 2012
Network strategy and NGN Update	Cllr Melvyn Caplan	No	Cabinet member report + appendices	Ben Goward Interim CIO Email: bgoward@westminster.gov.uk	16 October 2012	15 November 2012
IS Salaries capitalisation - capital funds release	Cllr Melvyn Caplan	No	Cabinet member report + appendices	Ben Goward Interim CIO Email: bgoward@westminster.gov.uk	16 October 2012	26 November 2012
Westminster IT Strategy 2012-2016	Cllr Melvyn Caplan	No	Cabinet Member report + appendices	Ben Goward Interim CIO Email: bgoward@westminster.gov.uk	16 October 2012	03 December 2012
Tri-borough working from anywhere	Cllr Melvyn Caplan	No	Cabinet member report + appendices	Ben Goward Interim CIO Email: bgoward@westminster.gov.uk	16 October 2012	10 December 2012
Award of contract for	Cllr Melvyn	No	Cabinet member report +	Ben Goward	16 October	20 February

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Executive Decisions Submission - Windows Internet Explorer provided by City of Westminster (AD Ver 7.7)

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Executive Decisions Submission

the wire

City of Westminster

Wire I want to Your Council Celebrate Success Support Units Delivery Units Commissioning Units WorkPlace TriBnet

Search

You are here: Wire home

Executive Decisions - Add New Submission.

* Indicates a mandatory field

2.Cabinet Member - Add New Submission.

a. Title of proposed decision *

b. Decision Maker: *

c. Key Decision *

d. List of documents for submission: *

Please place each document on a separate line.

e. Contact Officer:

Name: *

Role: *

Email: *

f. Date of Notice

g. Date of decision:(28 days notice req'd): *

h. Select Committee Officer: *

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Owner: Webteam

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