

Audit and Governance Committee



Date of meeting:	29 November 2021
Title of Report:	Executive Decision Guidance
Lead Member:	Councillor John Riley (Cabinet Member for Governance, HR, IT & Community Safety)
Lead Strategic Director:	Giles Perritt (Assistant Chief Executive)
Author:	Jamie Sheldon (Senior Governance Advisor)
Contact Email:	Jamie.sheldon@plymouth.gov.uk
Your Reference:	JS21
Key Decision:	No
Confidentiality:	Part I - Official

I. PURPOSE OF REPORT

- 1.1. This amended report is provided following initial consideration by the committee in September.
- 1.2. The Committee raised several concerns in their initial discussion regarding the guidance, most principally the perceived risk that elected member decision-making powers could be curtailed. The committee collectively requested that the report was amended and brought forward for consideration at this meeting.

2. BACKGROUND

- 2.1. In 2010, the Council adopted the Strong Leader and Cabinet model of decision making. Under these arrangements all executive functions are vested in the Leader who can both delegate functions and revoke delegations as seen fit.
- 2.2. In Plymouth, all decisions made under these arrangements have been compliant with the relevant legislation and local processes. Since 2012 all decisions of the executive have been compliant with the provisions of [The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) (the regulations).
- 2.3. The Council is always concerned to engage in decision making on an informed basis. From time to time it will be necessary to consider courses of action that are new and innovative.
- 2.4. Whilst the statutory requirements in relation to executive decision making have not changed, this proposed guidance sets out the governance arrangements that should be considered when making key, innovative and unusual decisions to best ensure openness and transparency.

3. KEY / INNOVATIVE / UNUSUAL DECISIONS

- 3.1. Key decisions, as defined with Part A: 11.4 of the [constitution](#), are subject to regulation which requires that proper notice of decisions is drawn to the attention of the public due to their significance.
- 3.2. Other decisions may also reasonably be expected to benefit from enhanced transparency if they are of an unusual or innovative nature and this can include decisions relating to any aspect of Council business including treasury management.
- 3.3. From a governance perspective it is often preferable that any such decisions are taken in a public meeting where there is an opportunity for members of the public to hear the merits of the decision debate. This is particularly the case for unusual and innovative decisions.
- 3.4. There are well established processes to deal with sensitive and commercially confidential information at public meetings, therefore the inclusion of sensitive information should not be seen as a barrier to public decision making. Decisions which contain sensitive or confidential information can be made in public forum within the guidelines set down in the [Local Government \(Access to Information\) Act 1985](#).
- 3.5. There are also governance advantages in ensuring that key decisions which are unusual and innovative decisions are debated in public rather than being taken by individual members of council or officers as this will bring a wider perspective to the decision being taken.

Recommendations and Reasons

That the Audit and Governance Committee:

1. Endorses the guidance set out at Appendix A.
2. Approves the amendment to Part C: 5.2 of the Constitution as shown in Appendix B.

Reason:

To ensure that before taking any unusual or innovative decisions due consideration is given to certain factors to ensure transparency and openness.

Alternative options considered and rejected

The recommendations of the external auditors Grant Thornton were considered by the Corporate Management Team and following this consideration it was agreed that the recommendation should be accepted and not rejected.

Relevance to the Corporate Plan and/or the Plymouth Plan

The priorities within the Corporate Plan/Plymouth Plan are all supported by the decision making process in order for the Council to achieve outcomes against the priorities. This guidance and amendment to the Constitution supports decision makers to make decisions in a way that promotes transparency and good governance.

Implications for the Medium Term Financial Plan and Resource Implications:

There is no impact directly on the MTFP or resources from the creation of this guidance. However the use of this guidance ensures future decisions are taken with sound governance applied to the process in order for enhanced transparency and consultation

Financial risks:

No implications identified.

Carbon Footprint (Environmental) Implications:

None arising directly from the recommendations of this report, other than the positive impact of enhanced governance of any relevant future key decisions relating to environmental stewardship

Other Implications: e.g. Health and Safety, Risk Management, Child Poverty:

** When considering these proposals members have a responsibility to ensure they give due regard to the Council's duty to promote equality of opportunity, eliminate unlawful discrimination and promote good relations between people who share protected characteristics under the Equalities Act and those who do not.*

Encouraging optimum governance is applied to the decision making process allows maximum opportunity for the implications/issues to be considered more thoroughly on a number of aspects such as health and safety, risk, child poverty and equalities.

Appendices

**Add rows as required to box below*

Ref.	Title of Appendix	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
		1	2	3	4	5	6	7
A	Executive Key Decision Governance Route							
B	Constitutional amendment (Part C, 5.2)							

Background papers:

**Add rows as required to box below*

Please list all unpublished, background papers relevant to the decision in the table below. Background papers are unpublished works, relied on to a material extent in preparing the report, which disclose facts or matters on which the report or an important part of the work is based.

Title of any background paper(s)	Exemption Paragraph Number (if applicable) <i>If some/all of the information is confidential, you must indicate why it is not for publication by virtue of Part 1 of Schedule 12A of the Local Government Act 1972 by ticking the relevant box.</i>						
	1	2	3	4	5	6	7

Sign off:

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Originating Senior Leadership Team member: Giles Perritt (Assistant Chief Executive)

Please confirm the Strategic Director(s) has agreed the report? Yes

Date agreed: 25/11/2021

Cabinet Member approval: Councillor John Riley (Cabinet Member for Governance, HR, IT and Community Safety)

Date approved: 25/11/2021

APPENDIX A

EXECUTIVE DECISION GUIDANCE

1. PURPOSE

1.1. The framework for decision making within Plymouth City Council is laid out within the [Leader's Scheme of delegation](#). This document provides guidance to decision makers on when to exercise discretion, use the powers delegated to them and identify the most appropriate place to take decisions.

2. TAKING A KEY/UNUSUAL AND INNOVATIVE DECISION

2.1. When taking a decision, the decision maker should consider the following points to ensure enhanced openness and transparency:

- Is the decision key / unusual / innovative? (see process map below for criteria)
- Has the decision been published on the forward plan?
- Have all the potential and relevant options and key issues been considered?
- Should the decision be considered by a scrutiny committee before it is taken?
- Have the relevant stakeholders been consulted?
- Have the appropriate communications been put in place to manage the impact of the decision?
- Have all questions raised by stakeholders including external advisors and legal advisors been dealt with satisfactorily?
- Have alternative options been comprehensively considered and rejected?
- Has an equalities impact assessment been completed?

3. KEY DECISIONS

3.1. Key decisions can be taken by the Leader or by Cabinet. The flowchart below gives guidance on the circumstances in which it may be more appropriate for Cabinet to take a decision rather than an individual councillor, in order to enhance transparency and openness in the Council's decision making.

4. WHERE TO TAKE AN UNUSUAL AND INNOVATIVE DECISION

4.1. Decisions of this nature can be defined as decisions that are:

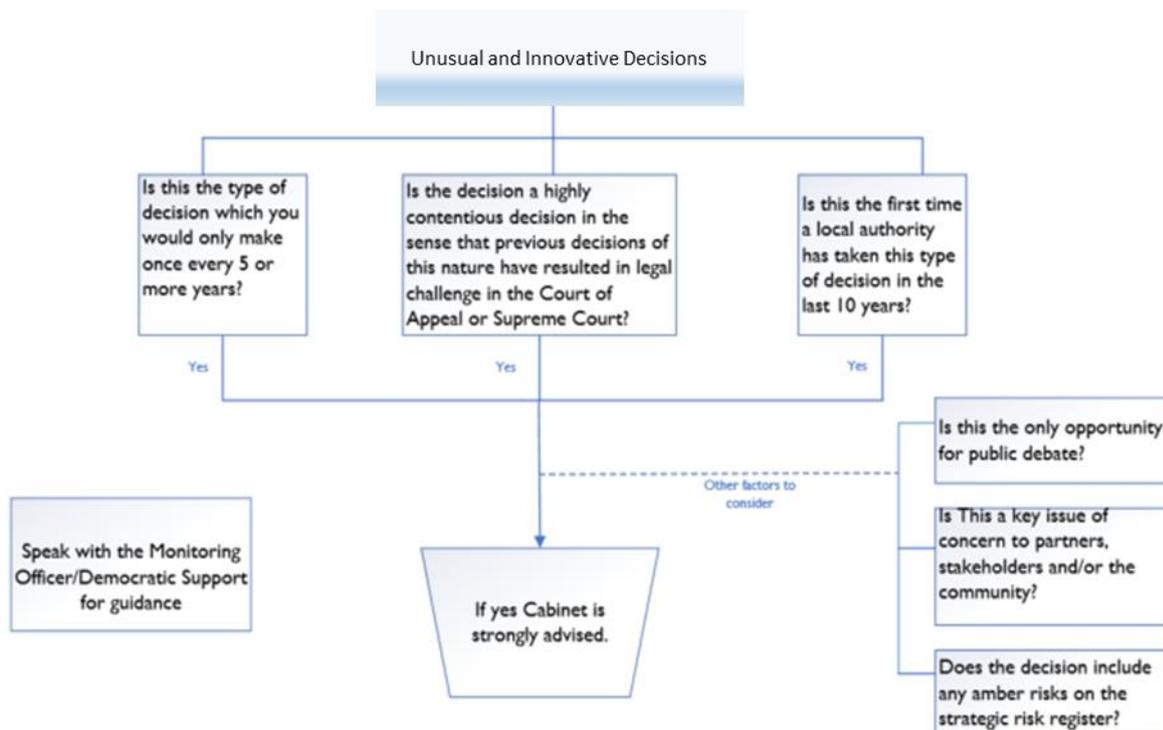
- only taken once every five or more years.
- could be considered highly contentious.
- decision(s) of a type not previously taken by a local authority.

4.2. They may not be key decisions, but still represent a significant decision in terms of impact or perception. In this instance the decision may be taken by the Leader, Cabinet, Cabinet Member or an officer, depending on the Scheme of Delegation. The flowchart below gives guidance on

the circumstances in which it may be more appropriate for Cabinet to take a decision rather than an individual.

5. Factors in favour of Cabinet decision making.

- 5.1. If the answer is yes to any of the following questions below then taking the decision within Cabinet is strongly advised.
- 5.2. If the answer is 'no' to all the questions below, the decision maker may exercise discretion and give consideration to other factors which may indicate a Cabinet decision is beneficial.



Note: All executive responsibilities are carried out on behalf of the council and in the council's name are subject to the indemnity scheme for members and officers.

Appendix B – Constitutional Amendment.

5. Cabinet Member Decision Making Procedures

5.1. Only those persons properly appointed to make decisions under the Leader's Scheme of Delegation shall be entitled to exercise these powers.

5.2. A Cabinet Member shall have the discretion not to exercise his or her delegated powers to make a decision, choosing in preference for the matter to be considered by and subject to decision by the full Cabinet or Leader. In deciding whether to exercise this discretion the **Cabinet Member should consider the 'Executive Decision Guidance'**.