



## Dealing with Decisions

How are decisions made  
within local authorities?



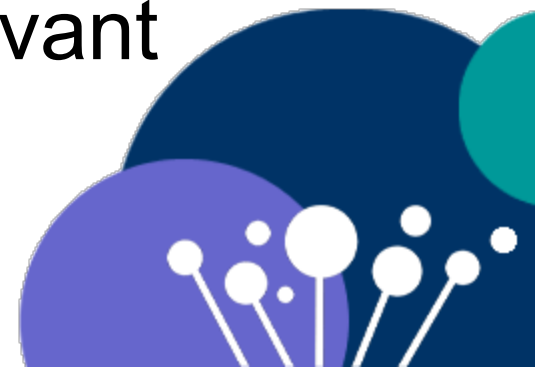
# SEE Principles of decision-making

1. A local authority can lawfully do only those things that it's obliged or permitted to do by law

2. It must act lawfully, rationally and fairly



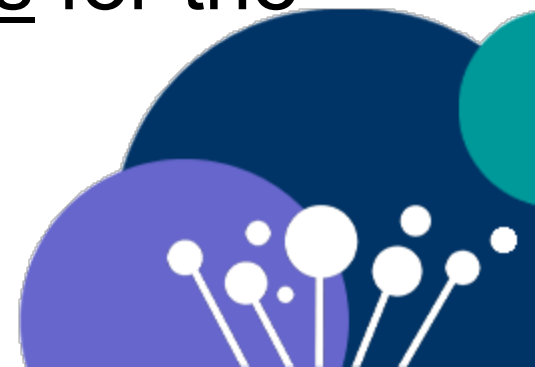
3. All relevant matters must be fully taken into account.....and nothing irrelevant





## Principles of decision-making

4. Decisions must be based on clearly written reports which address all of the relevant issues
5. Decisions must comply with the Council's policies, constitution and procedural rules
6. Minutes must be clear on the actual decisions made and the reasons for the decisions



# SEE Powers and duties

- ❖ Local authorities are creatures of statute
- ❖ They may only act where empowered to do so by legislation
- ❖ Parliament passes laws which confer specific powers and duties
- ❖ Decisions would be unlawful where a local authority has no powers to do something (Ultra vires - “beyond the powers”)





## Council & executive functions

If your council is operating under an executive model, its functions are by law divided into:

- ❖ Council functions - that can only be exercised by full council or by others acting under delegated powers
- ❖ Executive functions - that can only be exercised by the Leader (or Executive Mayor) or by others acting under delegated powers





## Delegation of council functions

- ❖ Decisions on council functions can only be taken by the full council unless delegated to:
  - ✓ committees
  - ✓ sub-committees; or
  - ✓ officers

Note: some functions may be reserved to full council either by law or by the council's constitution





# Delegation of executive functions

- ❖ Decisions on executive functions can only be taken by Leader (or Executive Mayor) unless delegated to:
  - ✓ meetings of the cabinet
  - ✓ committees of the cabinet
  - ✓ individual cabinet members
  - ✓ area committees, joint arrangements or officers



## Decisions taken at meetings

- ❖ Decisions at meetings are taken by a simple majority of members present – normally by assent of the meeting, or by show of hands if a vote is called



- ❖ Chair puts the recommendation – calls for those for and against, and any abstentions
- ❖ Recommendation is carried or lost
- ❖ Chair has a second or casting vote





The logo features the word "SEE" in a large, bold, blue sans-serif font. To the left of "SEE" is a stylized teal graphic element consisting of a curved line that starts at the top left and curves downwards and to the right, ending under the letter "E".

# SEE Voting

- ❖ Any member may require that his/her vote be recorded in the minutes
- ❖ The meeting may call for a recorded vote and the outcome must be recorded in the minutes
- ❖ By law all decisions taken by full council on the setting of the budget and council tax must be by way of a recorded vote





## Licensing decisions

A licensing sub-committee must have regard to:

- ✓ the material facts in light of the evidence presented;
- ✓ the relevant statutory provisions;
- ✓ the national guidance and the council's licensing policy statement;
- ✓ the licensing objectives; and
- ✓ the individual merits of the case





## Planning decisions

- ❖ Planning decisions are based on balancing competing interests and making an informed judgement against the local development plan and national planning policy framework
- ❖ The committee is expected to act reasonably and fairly
- ❖ This means hearing the arguments for and against the application before reaching a decision



# SEE Executive arrangements

- ❖ Formal Cabinet meetings
- ❖ Individual Cabinet member decision-making
- ❖ Officer decisions under delegated powers
- ❖ Publication of decisions
- ❖ Checks & balances – overview & scrutiny  
(pre-scrutiny and call-in of decisions)
- ❖ Extended rights of access to information  
for members of scrutiny committees





## Cabinet decisions

- ❖ Key decisions are published in the Cabinet's forward plan
- ❖ The Cabinet meets in public except where confidential or exempt matters are being discussed. It 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 approved policies and budget, this must be referred to the Council to decide





## Decisions by cabinet members

- ❖ Executive decisions may be taken by individual members of the cabinet ('known as portfolio holders')
- ❖ At the Leader's discretion
- ❖ A written report is required - as for decisions to be taken at meetings
- ❖ The report on which the decision is based should be publicly available at least 5 working days in advance
- ❖ A written record of the decision is required



# **SEE** The statutory officers

- The Head of Paid Service, Section 151 Officer and Monitoring Officer
- These three need to work together to ensure a council is properly run.
- It can be tough out there!

“Members don’t listen to things they don’t want to hear”

“Officers were often asked to re-word cabinet reports to present the most favourable position”

“The statutory officers didn’t have enough visibility or traction at the top table”



# **The monitoring officer**

- ❖ Duties under S 5 of LG&H Act 1989
- ❖ Overseeing the constitution and ethical standards
- ❖ Ensuring lawfulness and fairness of decision-making
- ❖ Reporting to full Council or Executive if any proposal, decision or omission is likely to give rise to unlawfulness or maladministration
- ❖ Expansion of the role under LG Act 2000
- ❖ Changing nature of role and increasing complexity of decision-making process







# Dealing with decisions

Some examples for discussion

