

Executive Procedure Rules

Report by the Monitoring Officer

1.0 Summary

- 1.1 Requirements relating to Executive Decision Making are, in large part, provided for in legislation. The Councils have set out procedures relating to such decision making in their Constitutions to ensure compliance with statutory requirements, the principles of decision making, and the principles for those holding public office, whilst retaining agility, transparency and accountability in the process.
- 1.2 Procedures for Executive decision making may be found in The Executive Procedure Rules which can be found in Part 4 of each Council's Constitution. Those rules have been reviewed and various proposals for amendment are suggested by the Monitoring Officer.
- 1.3 This report makes proposals for change and revised Executive Procedure Rules can be found at Appendix 1 to this report for Adur District Council and Appendix 2 to the report for Worthing Borough Council.
- 1.4 The Joint Governance Committee is asked to consider the proposed new rules and to make a recommendation to each Council for the new Executive Procedure Rules to be adopted to become part of each Council's Constitution from the date of the Annual Council Meetings in 2017.
- 1.5 Consultation has been undertaken with each Council's Leader of the Council by way of a report asking them to provide comment to the Joint Governance Committee. The Committee will want to take account of such comments and will be updated with any comments or feedback received.

2.0 Background

- 2.1 Executive decisions are routinely made by the Executive Collectively (e.g. at Executive meetings), by the Executive sitting with another body (e.g. Joint Strategic Committee), by an Executive Member with the appropriate delegation from the Leader of the Council, and by Officers with the appropriate delegation from the Executive.

- 2.2 Specific legislation relates to Executive decisions which may be Key, or contain either Exempt or Confidential information. Subject to urgency provisions set out in the Access to Information Rules, such decisions must be included on the Councils' forward plans to provide 28 days' notice before the decision may be made. This is the case regardless of whom the decision maker, or decision making body, may be and therefore applies equally to Officer Executive Key, Exempt or Confidential decisions as to such Member decisions.
- 2.3 There are statutory requirements relating to the earliest date upon which an Executive decision may be made. Where a decision is Key, Exempt or Confidential it cannot be made (other than in very limited circumstances) until the matter has been published on the forward plan for at least 28 days. Further the decision cannot be made until the expiry of 5 clear working days after the date of publication of the Officer report. The time period for the forward plan and publication of the report can run concurrently.

However there are no statutory requirements governing the timescale in which the decision should be made. In the case of decisions of the Executive as a whole, this is governed in practice by the schedule of meetings, with the ability to hold additional meetings as required. But for Individual Executive Member decisions, it is hoped that greater speed and agility is gained in the decision making process as there is no requirement to call a meeting or publish an agenda. This agility is lost if the decision maker fails to make the decision in a timely manner. It is therefore proposed in the revised rules that Individual Executive Member decisions should be made within 14 days of the earliest date that the decision could be made. It is not proposed that this be a mandatory rule as flexibility may be required depending on the specific decision to be made, and in particular any consultation process that may be appropriate.

- 2.4 Joint Executive decision making is governed by the Councils' Joint Committee Agreement between Adur District Council and Worthing Borough Council. Paragraph 4.2 of the Joint Committee Agreement establishes the process for the taking of decisions jointly by Individual Executive Members from different Authorities. It provides that where a decision relating to an Executive function falls within the portfolio of a single Executive Member and relates to a joint service, the relevant Individual Executive Member report shall be sent simultaneously to the relevant Individual Executive Member for each Council. The two Executive Members are required to consult with one another prior to the making of the decision.

In practice therefore, Officers should send Individual Executive Member reports to the relevant Executive Member for each Council, provided the matter relates to something within a joint service. It is now the case that almost all of the Councils' services are joint, with the exception of Adur District Council's Adur Homes Service and parts of Worthing Borough Council's Culture and Bereavement Services. Compliance with this provision of the Constitution has not always been good and is not clearly reflected in the existing Executive Procedure Rules.

Compliance with this provision of the Joint Committee Agreement will result in an increased number of Individual Executive Member reports and there will be circumstances when the Individual Executive Member from one Authority, considers it prudent to abstain from the decision making process, if the matter in reality, despite falling under a joint service, is primarily of relevance only to the other Authority.

The Joint Committee Agreement provides that where the two Individual Executive Members from different Authorities agree on the decision to be made, then it is to be made; where one abstains, the decision of the other will stand and where there is not agreement, the report will be referred to the Joint Strategic Committee for determination.

3.0 Proposals

3.1 The revised procedure rules aim to:

- Emphasise the need for compliance with the statutory requirement for 28 days' notice afforded by the Councils' forward plans.
- Sets out the procedures for an individual decision maker who may have a conflict of interest in the decision to be made.
- Clarifies that the Leader may withdraw a delegation of an Executive function to a Member or Officer at any time, whether temporarily for a particular decision or permanently.
- Explains the difference between exempt and confidential information in Executive decision making and the rights of the public to have access to Executive meetings and copies of Executive reports.
- References the principles of decision making set out in Article 12 of the Constitution.
- Sets out the business which must be included at meetings of the Executive.
- Sets out the information which must be included in written reports for Executive decision makers.
- Sets out the information which must be included in the minutes or record of decision following an Executive decision.
- Sets out the timescales for making Executive decisions, publishing minutes and records of decisions and for implementation of such decisions.

4.0 Legal

- 4.1 The Local Authorities (Functions and Responsibilities) (England) Regulations 2000 establishes the functions which may be Executive, cannot be Executive and which are a matter of Local Choice. Part 3 of the Councils' Constitutions set out the determination for Adur District Council and Worthing Borough Council as to Local Choice functions.
- 4.2 Part 3 of the Councils' Constitutions set out the Executive delegations by the Leader to his Individual Executive Members and specifies their portfolios.
- 4.3 Part 4 of the Councils' Constitutions contain the Scheme of Delegations to Officers and includes Executive functions delegated to Council Officers.
- 4.4 The Joint Committee Agreement between Adur District Council and Worthing Borough Council sets out Executive functions that have been delegated to the arena of joint decision making between the two Authorities.
- 4.5 The Local Government Act 1972 makes provisions as to the publication of reports and agendas, exempt and confidential information, and public access to agendas, reports and meetings.
- 4.6 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 set out requirements as to the Council's Forward Plan.

5.0 Financial implications

- 5.1 There are no financial implications arising from this report.

6.0 Recommendation

The Joint Governance Committee is recommended to:

- 6.1 recommend the adoption of the revised Executive Procedure Rules as set out at Appendix 1 to Adur District Council as part of their Constitution; and
- 6.2 recommend the adoption of the revised Executive Procedure Rules as set out at Appendix 2 to Worthing Borough Council as part of their Constitution.

Local Government Act 1972

Background Papers:

The Councils' Constitutions.

Local Government Act 1972.

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

The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

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Schedule of Other Matters

1.0 Council Priority

- 1.1 Executive Procedure Rules are part of the governance framework for the efficient operation of Council decision making.

2.0 Specific Action Plans

- 2.1 No issues identified

3.0 Sustainability Issues

- 3.1 No issues identified

4.0 Equality Issues

- 4.1 [Details of any equality issues or how the proposal improves the current position]

5.0 Community Safety Issues (Section 17)

- 5.1 No issues identified

6.0 Human Rights Issues

- 6.1 No issues identified

7.0 Reputation

- 7.1 Sound decision making procedures, and governance arrangements, established in the Councils' Constitutions, enhance transparency and accountability in the decision making process, which has a positive impact on the public perception and reputation of the Councils.

8.0 Consultations

- 8.1 Consultation is being undertaken, via this report, with both Leaders of Adur District Council and Worthing Borough Council. Feedback received from this consultation will be provided to the Joint Governance Committee when considering this matter, prior to their making a recommendation to each Full Council.

9.0 Risk Assessment

- 9.1 Matter considered and no issues identified

10.0 Health & Safety Issues

- 10.1 Matter considered and no issues identified

11.0 Procurement Strategy

11.1 Matter considered and no issues identified

12.0 Partnership Working

12.1 Adur District Council and Worthing Borough Council remain separate legal entities and retain separate Constitutions governing their operation. Entirely separate Executive Procedure Rules have therefore been produced for Adur District Council and Worthing Borough Council.

EXECUTIVE PROCEDURE RULES

1.0 INTRODUCTION

- 1.1 These Executive Procedure Rules have been adopted by the Council to help achieve the following aims:-
- (a) to protect the interests of the Council, individual Members and Officers;
 - (b) to ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
 - (c) to ensure that decisions are made in accordance with the Council's agreed governance arrangements.
- 1.2 A clear audit trail of decision-making must be maintained for future reference. The Monitoring Officer will advise Members and Officers to ensure that the decision-making process meets the requirements of the law and good governance and on the proper implementation of these procedures.
- 1.3 These Executive Procedure Rules do not cover all aspects of decision-making under Executive arrangements. Members and Officers will also need to be aware of and guided by other relevant sections of the Council's Constitution, particularly:-
- Scheme of Delegation;
 - Access to Information Procedure Rules;
 - Overview and Scrutiny Procedure Rules;
 - Members' Code of Conduct;
 - Officers' Code of Conduct;
 - Protocol on Member/Officer Relations;
 - Code of Corporate Governance;
 - Article 12 concerning decision-making.
- 1.4 If primary or secondary legislation is introduced which supersedes these Executive Procedure Rules, statutory legislation will prevail.
- 1.5 These Executive Procedure Rules must be read in accordance with the Joint Committee Agreement.

2.0. HOW THE EXECUTIVE OPERATES

2.1 Who May Make Executive Decisions

The arrangements for the discharge of Executive functions are to be determined by the Leader of the Council who may arrange for the discharge of any of the Executive functions to:

- (a) the Executive;
- (b) Member of the Executive;
- (c) a Committee of the Executive;
- (d) an Officer of the Council;
- (e) an Area Committee;
- (f) another body in accordance with joint working arrangements;
- (g) another Local Authority.

2.2 Delegation of Executive Functions

The Solicitor to the Council will present to the Council, on an annual basis, a written record of delegations made by the Leader, for inclusion in Part 3 of the Council's Constitution. The document presented by the Solicitor to the Council will contain the following information about Executive functions in relation to the forthcoming year:

- (a) the name, address and Ward of each Member appointed to the Executive;
- (b) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (c) the terms of reference and composition of such Executive Committees as may be appointed and the names of Executive Members appointed to them;
- (d) the nature and extent of any delegation of Executive functions to any other Authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the forthcoming year; and
- (e) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

2.3 Sub-Delegation of Executive Functions

Where the Executive is responsible for an Executive function, it may delegate further to a Committee of the Executive, an individual Executive Member, an Officer or another body in accordance with joint working arrangements.

Unless the Executive directs otherwise, a Committee of the Executive or Executive Member may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

2.4 The Scheme of Delegation of Executive Functions

The Scheme of Delegation of Executive Functions may be adopted by the Council containing the details required in Article 7 and thereafter is set out in Part 3 and Part 4 of this Constitution.

2.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the principles of the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred to a meeting of the Executive as a whole, or where appropriate, another body in accordance with joint working arrangements.
- (b) If every Member of the Executive has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred in accordance with paragraph 2.1 (d) (e) and (f) above.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made to the person with the conflict, and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

3.0 FORWARD PLAN OF EXECUTIVE KEY DECISIONS AND/OR EXECUTIVE EXEMPT DECISION

- 3.1 Subject to the Access to Information Procedure Rules, where an Executive decision is either 'key' (as defined in Article 12) or 'exempt' as (defined in the Access to Information Procedure Rules), the decision shall not be taken unless details have been included in the Council's forward plan.
- 3.2 Paragraph 3.1 above applies regardless of which individual or body is the decision-maker and is therefore applicable to decision to be made by the Executive, collectively or individually, and to Officers.

4.0 EXECUTIVE MEETINGS

4.1 Exempt and/or Key Decisions

Subject to the Access to Information Procedure Rules, the Executive may not make an exempt or key decision unless details have been included in the forward plan.

4.2 Frequency and Location of Executive Meetings

The Executive will meet at least 8 times per year at times as agreed by the Council and at such other times as it shall determine. Some of these meetings will be held as the Executive sitting as another body in accordance with joint working arrangements. At least one of its Meetings each year will be held to deal with the Executive's recommendation to Council on its budget. The Executive shall meet at the Shoreham Centre, Pond Road, Shoreham-by-Sea or another location in accordance with Council Procedure Rules, or at another location in accordance with joint working arrangements.

4.3 Public Access to Meetings of the Executive

Subject to (a) and (b) below, meetings of the Executive will be held in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

- (a) Exempt Information – where the Executive decides, by passing a resolution of its Members, to exclude the press and public, to prevent exempt information to be disclosed. It is open to the Executive to choose to consider in public matters involving exempt information; there is no statutory requirement compelling the body to discuss exempt information in a private meeting.
- (b) Confidential Information – where the presence of the public is likely to result in the Executive breaching a legal obligation to third parties about the keeping of confidential information, the meeting should be held in private. Confidential information means:
 - Information provided to the Council or Executive by a Government department on terms which forbid the disclosure of the information to the public; and
 - Information which is prohibited from being disclosed by any enactment or by a Court Order.

4.4 Quorum

The quorum for a meeting of the Executive shall be 3 Members of the Executive, or as provided for under joint working arrangements.

4.5 Decision-making by the Executive

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, these Rules will still apply.
- (c) Details of Executive decision-making under joint arrangements are contained in the Joint Committee Agreement.
- (d) All decisions made at Executive meetings are to be made following an Officer report and recorded in either the Minutes of the Meeting or a Decision Notice, both of which must be made publicly available, by the end of the third working day following the day of the meeting.
- (e) All decisions made at Executive meetings must be made in accordance with Article 12 of the Council's Constitution.

4.6 The Person Presiding

The Leader, or in his or her absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, another Member of the Executive will be appointed to preside.

The Person Presiding at a Meeting held under joint arrangements is determined in accordance with the Joint Committee Agreement.

4.7 Business of the Executive

At each meeting of the Executive, the following business will be conducted:

- (a) disclosure of any disclosable pecuniary and personal interests;
- (b) consideration of the minutes or decision notice of the previous meeting(s) of the Executive;
- (c) questions by the public in accordance with Council Procedure Rules;
- (d) matters referred to the Executive by Overview and Scrutiny or by the Council (or under Joint Committee arrangements) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution, or such joint procedure rules;
- (e) consideration of reports and recommendations from the Overview and Scrutiny or Joint Overview and Scrutiny Committee;
- (f) matters set out in the agenda for the meeting;

- (g) urgent items which are defined as those items which by reason of special circumstance are urgent as they have arisen since the publication of the agenda and need to be determined before the next Meeting of the Executive, which may or may not be a meeting held in accordance with joint working arrangements, and are items of pressing importance requiring swift action given the gravity of the situation, which were unforeseeable (in an objective sense) and are not attributable to a failing on the part of the Council.

4.8 Written Reports for Meetings of the Executive

4.8.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

4.8.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issues falls, if appropriate;
- (b) The Ward(s) and any Parish(es) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date of the meeting at which the decision may be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) and/or the Parish Council(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 4.8.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

4.8.3 All reports to the Executive on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and any statutory or other requirements.

4.8.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the Director for Communities shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:-

- (a) forward a copy of the report by e-mail to the Executive Members and all Members of the Council; and

- (b) make the report publicly available on the Councils' website.

4.9 Decisions of Executive Meetings

4.9.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by the Executive, either draft minutes of the meeting or a Record of Decision will be prepared by the Director for Communities. He or she will publish, by placing on the Councils' website, the draft minutes or Record of Decision which shall include:-

- (a) whether or not it was a key decision;
- (b) the title of the item;
- (c) the title of the decision-making body;
- (d) the date on which the decision was made;
- (e) the date on which the decision may be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) details of consultation undertaken prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-making body, including the report of the relevant Officer.

4.9.2 By 5.00 p.m. on the third working day, following the day of the meeting of the Executive, the Director for Communities shall publish the draft minutes or Record of Decision by e-mail to all Members of the Council and, at the same time, make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

4.9.3 The Director for Communities will maintain records of all decisions made, together with associated reports, in accordance with the Council's Access to Information Procedure Rules.

4.9.4 The report author will ensure that all background papers listed in the report are made publicly available, by at least 5 working days prior to the date of the meeting at which the decision may be taken.

5.0 DECISIONS TAKEN BY AN INDIVIDUAL EXECUTIVE MEMBER

5.1 Exempt and/or Key Decisions

Subject to the Access to Information Procedure Rules, the Individual Executive Member may not make an exempt or key decision unless details have been included in the forward plan.

5.2 Decision-making by an Individual Executive Member

- (a) Details of Executive decision-making by Individual Executive Members under joint arrangements are contained in the Joint Committee Agreement.
- (b) All decisions made by Individual Executive Members are to be made following an Officer report and recorded on a Decision Notice, which must be made publicly available, by the end of the second working day following receipt of the Decision Notice.
- (c) All decisions made by Individual Executive Members must be made in accordance with Article 12 of the Council's Constitution.

5.3 Written Reports for Individual Executive Member Decisions

5.3.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

5.3.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issue falls, if appropriate;
- (b) The Ward(s) and any Parish(es) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date the proposed decision may be taken and the date by which it must be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) and relevant Parish Council(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 5.3.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

5.3.3 All reports to the Individual Executive Members on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and any statutory or other requirements.

5.3.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the

Director for Communities shall, at least 5 clear working days prior to the earliest date that the proposed decision may be made:-

- (a) forward a copy of the report by e-mail to the Individual Executive Member and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

5.4 Timescales

Subject to the Access to Information Rules, the decision cannot be made until the expiry of the time specified in the forward plan for a key decision. Further, the decision cannot be taken by the individual Executive Member before the expiry of 5 clear working days after publication of the report. The decision should be made at the latest by 14 days thereafter.

The Executive Member shall provide a written record of their decision, including reasons, to the Director for Communities within one working day of the decision being made.

5.5 Interests

Prior to taking the decision, the Executive Member will be required to consider whether they have any disclosable pecuniary or personal interest in the matter, or any other interests as may be described in the Members' Code of Conduct from time to time. If a personal interest, the Executive Member shall disclose it by recording the interest at the beginning of their record of decision. If a disclosable pecuniary interest, the Executive Member shall take no part in the consideration of the matter, save as permitted by law, and shall refer the matter to the Leader without comment, save as to record the nature of their disclosable pecuniary interest. Other interests shall have effect as outlined in the Members' Code of Conduct from time to time. See paragraph 2.5(c) above.

5.6 The Leader making a decision referred by an Individual Executive Member

- 5.6.1 The Leader can either make the decision on a report referred to him/her by an Individual Executive Member in accordance with Rule 5.5 above, or may refer the report to the next full meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a Meeting of the Executive on the Decision Notice and it will be actioned by the Director for Communities.
- 5.6.2 If the Leader is exercising his ability to make the decision himself in these circumstances, the timescales in paragraph 5.4 above still apply: the decision may not be made until the expiry of 5 clear working days after the original publication of the report and should be made prior to the expiry of 14 days thereafter.

5.7 Delegations

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified in writing.

5.8 Decisions of Individual Executive Members

5.8.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by an Executive Member and the Record of Decision provided to the Director for Communities, he or she will publish, by placing on the Councils' website, the Record of Decision which shall include:-

- (a) whether it was a key decision;
- (b) the title of the item;
- (c) the name of the decision-maker;
- (d) the date on which the decision was made;
- (e) the date on which the decision will be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) a list of any groups or individuals consulted prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-maker, including the report of the relevant Officer.

5.8.2 By 5.00 p.m. on the second working day following the day upon which the Record of Decision was received, the Director for Communities shall forward the Record of Decision by e-mail to all Members of the Council indicating when it will become effective and, at the same time, will also make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

5.8.3 The Director for Communities will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.

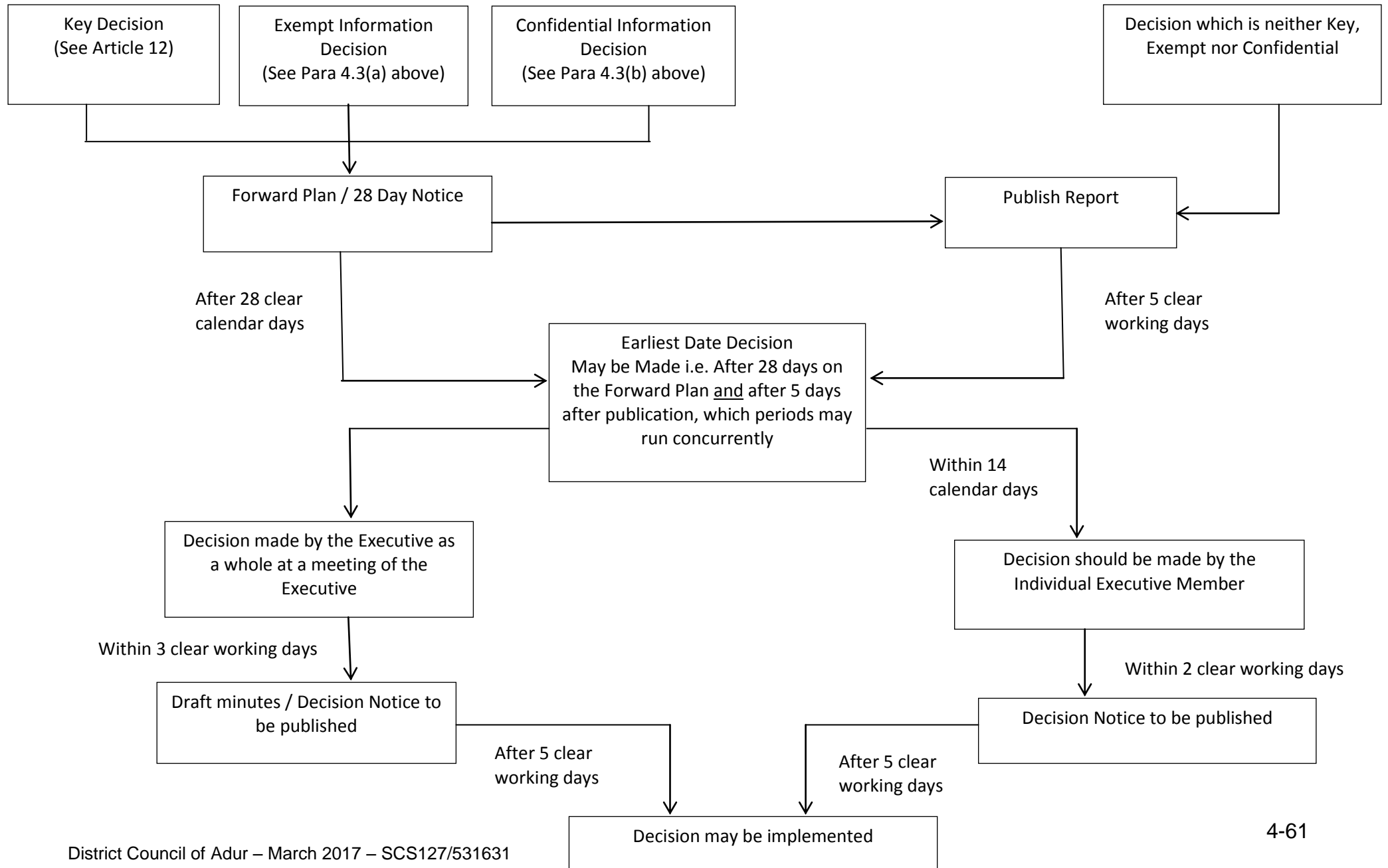
5.8.4 The report author will ensure that all background papers listed in a report are made publicly available, by at least 5 working days prior to the earliest date upon which the decision may be taken.

6.0 EXECUTIVE DECISIONS TAKEN BY OFFICERS

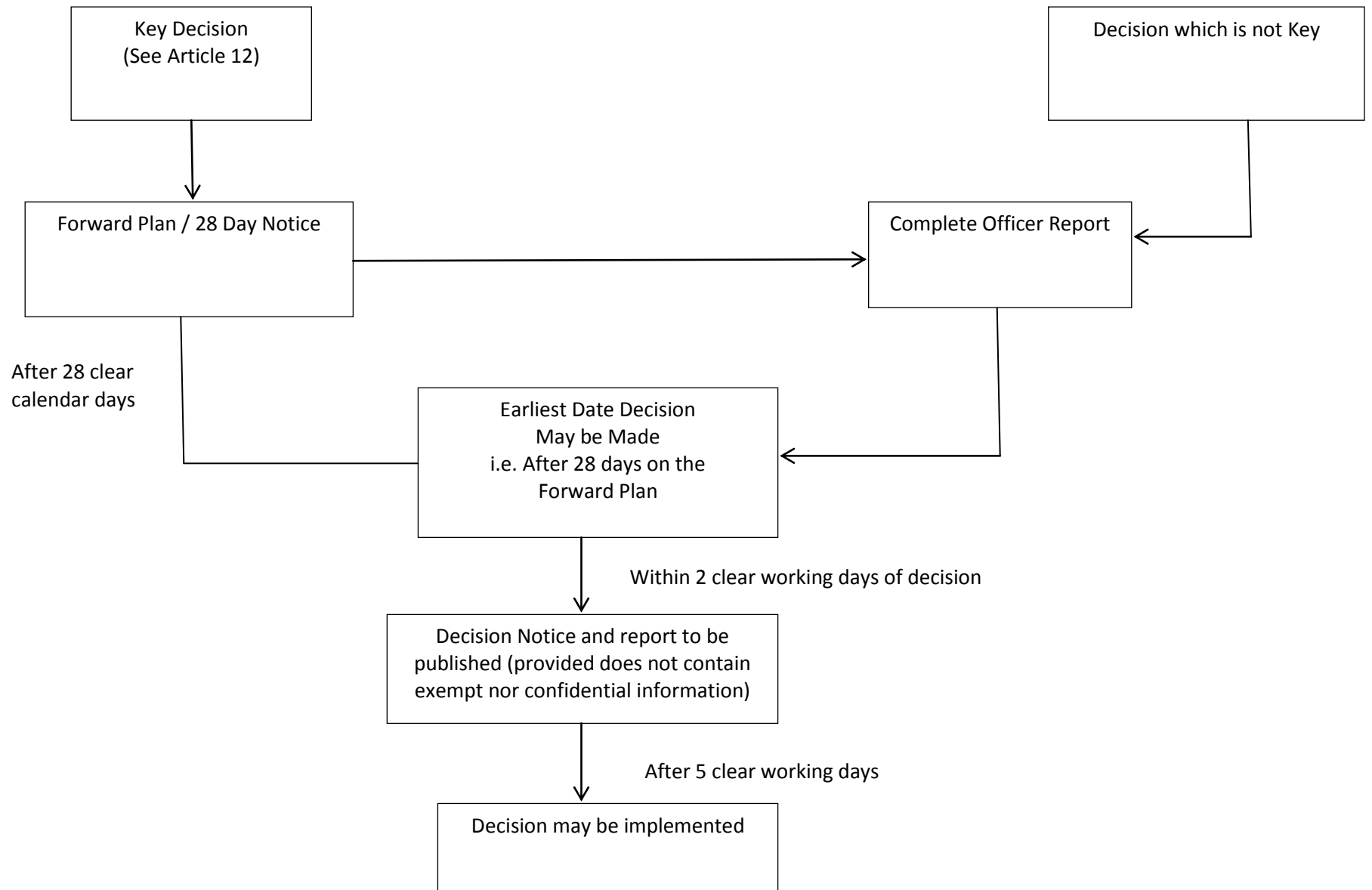
6.1 Decision-making by an Officer

Decision making by Officers should be undertaken in accordance with the Protocol on Officer Decision Making in part 5 of the Constitution.

EXECUTIVE DECISION MAKING PROCESS FOR EXECUTIVE MEMBERS



EXECUTIVE DECISION MAKING FOR OFFICERS



EXECUTIVE PROCEDURE RULES

1.0 INTRODUCTION

- 1.1 These Executive Procedure Rules have been adopted by the Council to help achieve the following aims:-
- (a) to protect the interests of the Council, individual Members and Officers;
 - (b) to ensure that decisions are based upon complete and sound information and advice from appropriate professional Officers; and
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- 1.5 These Executive Procedure Rules must be read in accordance with the Joint Committee Agreement.

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2.2 Delegation of Executive Functions

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- (b) the extent of any authority delegated to Executive Members individually, including details of the limitation on their authority;
- (c) the terms of reference and composition of such Executive Committees as may be appointed and the names of Executive Members appointed to them;
- (d) the nature and extent of any delegation of Executive functions to any other Authority or any joint arrangements and the names of those Executive Members appointed to any Joint Committee for the forthcoming year; and
- (e) the nature and extent of any delegation to Officers with details of any limitation on that delegation, and the title of the Officer to whom the delegation is made.

2.3 Sub-Delegation of Executive Functions

Where the Executive is responsible for an Executive function, it may delegate further to a Committee of the Executive, an individual Executive Member, an Officer or another body in accordance with joint working arrangements.

Unless the Executive directs otherwise, a Committee of the Executive or Executive Member may delegate further to an Officer.

Even where Executive functions have been delegated, that fact does not prevent the discharge of delegated functions by the person or body who delegated.

2.4 The Scheme of Delegation of Executive Functions

The Scheme of Delegation of Executive Functions may be adopted by the Council containing the details required in Article 7 and thereafter is set out in Part 3 and Part 4 of this Constitution.

2.5 Conflicts of Interest

- (a) Where the Leader has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the principles of the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred to a meeting of the Executive as a whole, or where appropriate, another body in accordance with joint working arrangements.
- (b) If every Member of the Executive has a conflict of interest in exercising an Executive function, this should be dealt with in accordance with the Council's Code of Conduct for Members in Part 5 of this Constitution. If a dispensation is not granted, the matter should be referred in accordance with paragraph 2.1 (d) (e) and (f) above.
- (c) If the exercise of an Executive function has been delegated to a Committee of the Executive, an individual Executive Member or an Officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made to the person with the conflict, and otherwise as set out in the Council's Code of Conduct for Members in Part 5 of this Constitution.

3.0 FORWARD PLAN OF EXECUTIVE KEY DECISIONS AND/OR EXECUTIVE EXEMPT DECISION

- 3.1 Subject to the Access to Information Procedure Rules, where an Executive decision is either 'key' (as defined in Article 12) or 'exempt' as (defined in the Access to Information Procedure Rules), the decision shall not be taken unless details have been included in the Council's forward plan.
- 3.2 Paragraph 3.1 above applies regardless of which individual or body is the decision-maker and is therefore applicable to decision to be made by the Executive, collectively or individually, and to Officers.

4.0 EXECUTIVE MEETINGS

4.1 Exempt and/or Key Decisions

Subject to the Access to Information Procedure Rules, the Executive may not make an exempt or key decision unless details have been included in the forward plan.

4.2 Frequency and Location of Executive Meetings

The Executive will meet at least 8 times per year at times as agreed by the Council and at such other times as it shall determine. Some of these meetings will be held as the Executive sitting as another body in accordance with joint working arrangements. At least one of its Meetings each year will be held to deal with the Executive's recommendation to Council on its budget. The Executive shall meet at the Council's Town Hall, Chapel Road, Worthing or another location in accordance with Council Procedure Rules, or at another location in accordance with joint working arrangements.

4.3 Public Access to Meetings of the Executive

Subject to (a) and (b) below, meetings of the Executive will be held in accordance with the Access to Information Procedure Rules in Part 4 of this Constitution.

- (a) Exempt Information – where the Executive decides, by passing a resolution of its Members, to exclude the press and public, to prevent exempt information to be disclosed. It is open to the Executive to choose to consider in public matters involving exempt information; there is no statutory requirement compelling the body to discuss exempt information in a private meeting.
- (b) Confidential Information – where the presence of the public is likely to result in the Executive breaching a legal obligation to third parties about the keeping of confidential information, the meeting should be held in private. Confidential information means:
 - Information provided to the Council or Executive by a Government department on terms which forbid the disclosure of the information to the public; and
 - Information which is prohibited from being disclosed by any enactment or by a Court Order.

4.4 Quorum

The quorum for a meeting of the Executive shall be 3 Members of the Executive, or as provided for under joint working arrangements.

4.5 Decision-making by the Executive

- (a) Executive decisions which have been delegated to the Executive as a whole will be taken at a meeting convened in accordance with the Access to Information Procedure Rules in Part 4 of the Constitution.
- (b) Where Executive decisions are delegated to a Committee of the Executive, these Rules will still apply.
- (c) Details of Executive decision-making under joint arrangements are contained in the Joint Committee Agreement.
- (d) All decisions made at Executive meetings are to be made following an Officer report and recorded in either the Minutes of the Meeting or a Decision Notice, both of which must be made publicly available, by the end of the third working day following the day of the meeting.
- (e) All decisions made at Executive meetings must be made in accordance with Article 12 of the Council's Constitution.

4.6 The Person Presiding

The Leader, or in his or her absence the Deputy Leader, will preside. In the absence of both the Leader and Deputy Leader, another Member of the Executive will be appointed to preside.

The Person Presiding at a Meeting held under joint arrangements is determined in accordance with the Joint Committee Agreement.

4.7 Business of the Executive

At each meeting of the Executive, the following business will be conducted:

- (a) disclosure of any disclosable pecuniary and personal interests;
- (b) consideration of the minutes or decision notice of the previous meeting(s) of the Executive;
- (c) questions by the public in accordance with Council Procedure Rules;
- (d) matters referred to the Executive by Overview and Scrutiny or by the Council (or under Joint Committee arrangements) for reconsideration by the Executive in accordance with the provisions contained in the Overview and Scrutiny Procedure Rules or the Budget and Policy Framework Procedure Rules set out in Part 4 of this Constitution, or such joint procedure rules;
- (e) consideration of reports and recommendations from the Overview and Scrutiny or Joint Overview and Scrutiny Committee;
- (f) matters set out in the agenda for the meeting;

- (g) urgent items which are defined as those items which by reason of special circumstance are urgent as they have arisen since the publication of the agenda and need to be determined before the next Meeting of the Executive, which may or may not be a meeting held in accordance with joint working arrangements, and are items of pressing importance requiring swift action given the gravity of the situation, which were unforeseeable (in an objective sense) and are not attributable to a failing on the part of the Council.

4.8 Written Reports for Meetings of the Executive

4.8.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

4.8.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issues falls, if appropriate;
- (b) The Ward(s) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date of the meeting at which the decision may be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 4.8.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

4.8.3 All reports to the Executive on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and any statutory or other requirements.

4.8.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the Director for Communities shall, at least 5 clear working days prior to the date that the proposed decision is scheduled to be taken:-

- (a) forward a copy of the report by e-mail to the Executive Members and all Members of the Council; and

- (b) make the report publicly available on the Councils' website.

4.9 Decisions of Executive Meetings

4.9.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by the Executive, either draft minutes of the meeting or a Record of Decision will be prepared by the Director for Communities. He or she will publish, by placing on the Councils' website, the draft minutes or Record of Decision which shall include:-

- (a) whether or not it was a key decision;
- (b) the title of the item;
- (c) the title of the decision-making body;
- (d) the date on which the decision was made;
- (e) the date on which the decision may be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) details of consultation undertaken prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-making body, including the report of the relevant Officer.

4.9.2 By 5.00 p.m. on the third working day, following the day of the meeting of the Executive, the Director for Communities shall publish the draft minutes or Record of Decision by e-mail to all Members of the Council and, at the same time, make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

4.9.3 The Director for Communities will maintain records of all decisions made, together with associated reports, in accordance with the Council's Access to Information Procedure Rules.

4.9.4 The report author will ensure that all background papers listed in the report are made publicly available, by at least 5 working days prior to the date of the meeting at which the decision may be taken.

5.0 DECISIONS TAKEN BY AN INDIVIDUAL EXECUTIVE MEMBER

5.1 Exempt and/or Key Decisions

Subject to the Access to Information Procedure Rules, the Individual Executive Member may not make an exempt or key decision unless details have been included in the forward plan.

5.2 Decision-making by an Individual Executive Member

- (a) Details of Executive decision-making by Individual Executive Members under joint arrangements are contained in the Joint Committee Agreement.
- (b) All decisions made by Individual Executive Members are to be made following an Officer report and recorded on a Decision Notice, which must be made publicly available, by the end of the second working day following receipt of the Decision Notice.
- (c) All decisions made by Individual Executive Members must be made in accordance with Article 12 of the Council's Constitution.

5.3 Written Reports for Individual Executive Member Decisions

5.3.1 A written report on the proposed decision shall be prepared by the relevant Officer and shall be approved by the relevant Director, Chief Finance Officer and Solicitor to the Council.

5.3.2 The Officer's report shall set out the following:-

- (a) The Executive portfolio within which the issue falls, if appropriate;
- (b) The Ward(s) affected by the proposed decision;
- (c) The title of the Director with overall responsibility for the subject matter of the report;
- (d) The name and title of the Officer writing the report;
- (e) The date the proposed decision may be taken and the date by which it must be taken;
- (f) The subject/title of the report;
- (g) Whether a key decision is to be taken;
- (h) Whether the report contains confidential or exempt information;
- (i) A description of the issue to be decided;
- (j) The views of the relevant Local Ward Member(s) (if appropriate);
- (k) Any consultations undertaken, the method of consultation and a summary of any representations received. See also paragraph 5.3.3 below;
- (l) The Officer's recommendations and the reasons for them;
- (m) Details of any alternative options considered;
- (n) A list of background papers.

5.3.3 All reports to the Individual Executive Members on proposals relating to the Budget and Policy Framework must contain details of the nature and extent of consultation and the outcome of that consultation. Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration and any statutory or other requirements.

5.3.4 Subject to the provisions on confidential and exempt information and special urgency as set out in the Council's Access to Information Procedure Rules, the Director for Communities shall, at least 5 clear working days prior to the earliest date that the proposed decision may be made:-

- (a) forward a copy of the report by e-mail to the Individual Executive Member and all Members of the Council; and
- (b) make the report publicly available on the Councils' website.

5.4 Timescales

Subject to the Access to Information Rules, the decision cannot be made until the expiry of the time specified in the forward plan for a key decision. Further, the decision cannot be taken by the individual Executive Member before the expiry of 5 clear working days after publication of the report. The decision should be made at the latest by 14 days thereafter.

The Executive Member shall provide a written record of their decision, including reasons, to the Director for Communities within one working day of the decision being made.

5.5 Interests

Prior to taking the decision, the Executive Member will be required to consider whether they have any disclosable pecuniary or personal interest in the matter, or any other interests as may be described in the Members' Code of Conduct from time to time. If a personal interest, the Executive Member shall disclose it by recording the interest at the beginning of their record of decision. If a disclosable pecuniary interest, the Executive Member shall take no part in the consideration of the matter, save as permitted by law, and shall refer the matter to the Leader without comment, save as to record the nature of their disclosable pecuniary interest. Other interests shall have effect as outlined in the Members' Code of Conduct from time to time. See paragraph 2.5(c) above.

5.6 The Leader making a decision referred by an Individual Executive Member

- 5.6.1 The Leader can either make the decision on a report referred to him/her by an Individual Executive Member in accordance with Rule 5.5 above, or may refer the report to the next full meeting of the Executive for discussion and decision. The Leader will record a decision to defer an item to a Meeting of the Executive on the Decision Notice and it will be actioned by the Director for Communities.
- 5.6.2 If the Leader is exercising his ability to make the decision himself in these circumstances, the timescales in paragraph 5.4 above still apply: the decision may not be made until the expiry of 5 clear working days after the original publication of the report and should be made prior to the expiry of 14 days thereafter.

5.7 Delegations

At any time, and for any reason, the Leader may temporarily, or permanently, withdraw the delegation of an Executive function to an Individual Executive Member and exercise the delegation in person.

Where the Leader temporarily removes a delegation to an Individual Executive Member for a particular decision, this must be recorded on the Decision Notice. Where the Leader removes a delegation to an Individual Executive Member on a permanent basis, the Monitoring Officer must be notified in writing.

5.8 Decisions of Individual Executive Members

5.8.1 Subject to the provisions of the Access to Information Procedure Rules, after a decision has been taken by an Executive Member and the Record of Decision provided to the Director for Communities, he or she will publish, by placing on the Councils' website, the Record of Decision which shall include:-

- (a) whether it was a key decision;
- (b) the title of the item;
- (c) the name of the decision-maker;
- (d) the date on which the decision was made;
- (e) the date on which the decision will be implemented;
- (f) any declarations of disclosable pecuniary or personal interest and details of any dispensation granted if appropriate;
- (g) a list of any groups or individuals consulted prior to making the decision;
- (h) the decision;
- (i) the reasons for the decision;
- (j) the alternative options considered, if any; and
- (k) a list of the documents taken into account by the decision-maker, including the report of the relevant Officer.

5.8.2 By 5.00 p.m. on the second working day following the day upon which the Record of Decision was received, the Director for Communities shall forward the Record of Decision by e-mail to all Members of the Council indicating when it will become effective and, at the same time, will also make the record available for public inspection by publishing on the Councils' website. This will enable Members to consider whether they wish to "call-in" the decision in accordance with Overview and Scrutiny Procedure Rules.

5.8.3 The Director for Communities will maintain records of all decisions made, together with associated reports and background papers, in accordance with the Council's Access to Information Procedure Rules.

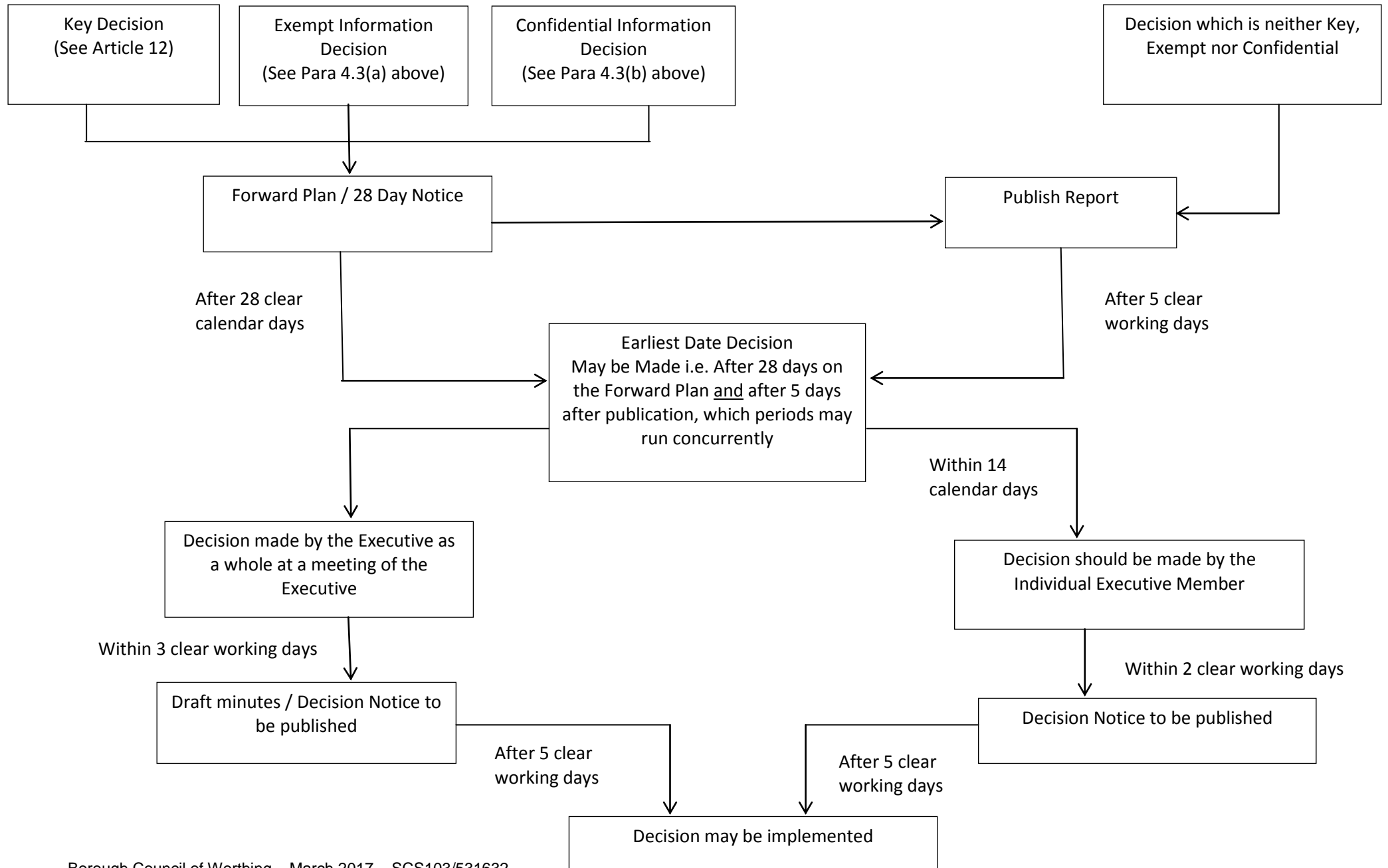
5.8.4 The report author will ensure that all background papers listed in a report are made publicly available, by at least 5 working days prior to the earliest date upon which the decision may be taken.

6.0 EXECUTIVE DECISIONS TAKEN BY OFFICERS

6.1 Decision-making by an Officer

Decision making by Officers should be undertaken in accordance with the Protocol on Officer Decision Making in part 5 of the Constitution.

EXECUTIVE DECISION MAKING PROCESS FOR EXECUTIVE MEMBERS



EXECUTIVE DECISION MAKING FOR OFFICERS

