






Extract From Chapter 7 – Statutory Guidance – New Council Constitutions

- 7.15 Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 sets out the definition of decisions which must be included in the forward plan (i.e. key decisions). The definition is a two-stage test.
- 7.16 Any decision in relation to an executive function which results in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, is a key decision.
- 7.17  It will be for the potential decision-maker to decide, in any one case, whether a decision to be taken is likely to involve significant expenditure. In order to assist potential decision-makers within a local authority reach consistent and demonstrative objective judgements and to ensure the public are clear about what is regarded as significant locally, the local authority should agree as a full council limits above which items are significant. The agreed limits should be published. A local authority is able to set different thresholds for different services or functions, bearing in mind the overall budget for those services and functions and the likely impact on communities of each service or function. A decision involving expenditure or saving above the limit for the service or function concerned would be a key decision.
- 7.18  In setting such thresholds, a local authority will need to bear in mind the underlying principles of accountable decision-making that there should be a presumption towards openness so that local people have knowledge sufficiently in advance of all those decisions which will be of genuine concern to local communities. In particular, local authorities will need to ensure that there is a consistency of openness between neighbouring local authorities at the same tier. Thus, whilst there may be a higher threshold set for certain matters in a large metropolitan local authority than in a small shire district operating executive arrangements, there should not be a wide discrepancy of approach, for example, between similar districts within a county or between neighbouring metropolitan boroughs.
- 7.19 The Secretary of State intends to issue further guidance which will specify indicative thresholds for service or function budgets and that any executive decision which is likely to give rise to expenditure or savings above such thresholds should be treated as a key decision. The Secretary of State will be consulting shortly on what these thresholds should be and how this guidance might best be framed to ensure that, taking into account the need to ensure consistency between councils of the same type and size, thresholds can be set which will suit local circumstances and arrangements.
- 7.20  The second test for a key decision focuses on those decisions which are not likely to involve significant expenditure or savings but which nevertheless are likely to be significant in terms of their effects on communities. The Regulations require that a decision which is likely to have a significant impact on two or more wards or electoral divisions is a key decision. Nevertheless, local authorities should, unless it is impracticable to do so, specify that they will treat as if they were key any decisions which are likely to have a significant impact on communities in one ward or electoral division. For example, a council should regard as key a decision to close a school or carry out roadworks (such as introducing or altering traffic calming measures) in a neighbourhood, notwithstanding the thresholds of financial significance and that there may be an impact in only one ward.

Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division the decision maker should ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision making process.

- 7.21  In considering whether a decision is likely to be significant, a decision-maker will need to consider the strategic nature of the decision and whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality affected. Regard should again be given to the underlying principles of accountable decision-making in paragraph 7.3 of this guidance to ensure that there is a presumption towards openness. While in broad terms, a key decision for the purposes of this test should be regarded as something which under traditional arrangements would have been referred to a committee or sub-committee of the council for decision, rather than being delegated to officers, the Secretary of State recognises that there are large variations in the levels of delegation in decision-making by authorities at present. Local authorities should seek, through consultation with other local authorities of the same type and size, to ensure there are not large variations in the level of openness between authorities in the future, and that any convergence in the practice of authorities is in the direction of greater openness.
- 7.22  The Secretary of State is of the view that any decision made by an executive in the course of developing proposals to the full council to amend the policy framework would be a key decision within the definition in regulation 8. Nevertheless, if a decision maker is of the view that any such decision does not fall within the regulation 8 definition then that decision should be treated as a key decision. Similarly, where the executive has been granted power by the full council to amend any aspect of the policy framework then the Secretary of State is clear that any decision to do so would also be a key decision within the definition in regulation 8, but that if a decision maker is of the view that any such decision does not fall within the regulation 8 definition then that decision should be treated as a key decision.
- 7.23 The Secretary of State recognises that not all key decisions will need to be, or indeed will be capable of being, identified four months in advance of the decision being taken. Some decisions (such as the adoption of certain plans or strategies in the policy framework) will be able to be identified that far in advance and therefore will be on the forward plan for some time whereas others will not be known until, say, a few weeks before the decision is due to be taken. The forward plan will inevitably include more decisions which will be taken within, say, one month than it will decisions to be taken in, say, three or four months and can therefore be viewed as a planning tool for managing the work programme of the executive.