

Appendix 5a

DRAFT guidance for members and officers – Individual Executive Decision Notices (IEDNs)

1. Purpose

1.1. This guidance has been adopted by the Council to help it achieve the following aims:

- To protect the financial and proprietary interest of the Council.
- To ensure that decisions are based upon thorough and accurate information and advice from appropriate officers.
- To ensure that decisions are made in accordance with the Council's agreed processes and standards.

2. Scope

2.1. This guidance does not purport to be a complete guide to decision-making under Executive Arrangements and members and officers will also need to be aware of and be guided by the relevant provisions set out in:

- The Constitution – Part 3 – Responsibility for Functions
- Part 2 – Article 12 – Decision-making
- The Code of Conduct for Councillors
- The Code of Conduct for Employees
- Protocol for Councillor/Employee relations

3. Executive (Cabinet) decisions

3.1. The Council has adopted executive arrangements described in the Constitution¹.

3.2. The effect of these arrangements is that Members of the Executive (Cabinet) can set policy priorities and strategies to reflect local interest and needs, and they are responsible for allocating funding between priority areas. Directors and their staff implement these strategies and policies by delivering services and major initiatives within the Council's policy and budgetary framework.

3.3. The Leader may decide to exercise any of the "executive" functions of the Council in a number of ways, including by authorising individual Executive Members to make decisions within their areas of responsibility as set out in the Member's Portfolio². Within the Council, this type of decision is referred to as an Individual Executive Notice or IEDN.

3.4. Until the Leader has determined that such authority should be given to individual Executive Members, the position remains that those individuals cannot take executive decisions.

3.5. An Executive Member must not make decisions on a matter in exercise of their executive function where they have an interest in the matter as defined in the Code of Conduct for Councillors.

¹ Constitution, Part 3 – Responsibility for Functions, 1. Executive Functions

² Constitution, Part 3 – Functions of Cabinet, Cabinet Portfolios

4. What type of decision cannot be an IEDN

4.1. The Cabinet Member responsible for each portfolio will take decisions on behalf of the Council relevant to their portfolio other than those matters which:

- By law or the Council's Constitution require approval by full Council or full Cabinet (or their Committees or sub-Committees).
- Where appropriate, should be determined by the Council due to its significance or importance following consultation with the Leader.
- The Executive Member responsible for the relevant portfolio believes the matter should be considered by Cabinet because of its significant importance.
- Are reserved to Scrutiny, Planning, Licensing, Governance and Ethics Committee or to the Cabinet.
- Are delegated to other Council Committees or to Employees.
- Are significant in financial terms as specified in the Financial Procedure Rules.
- Are Key Decisions.
- Are decisions which have an impact on any other Cabinet portfolio or portfolios and should be taken by Cabinet collectively or by the relevant Cabinet Members jointly.

5. Where an IEDN may be appropriate

5.1. Subject to the exclusions noted above, a Director may request a decision from an individual Executive Member where there:

- Are significant new policy issues or changes.
- Is significant public interest.
- Is significant member interest.
- Is public interest.
- Is member interest.

6. How long does and IEDN remain valid

6.1. Officers who are acting on an IEDN, or Directors considering whether to seek a fresh decision, must be mindful of:

- the length of time that has passed since the original decision was made. On occasion, the passing of a significant amount of time may itself be reason to seek a fresh decision.
- Whether the facts on which the original decision were based, have altered.
- Whether there is additional relevant information which would be provided if a fresh decision were being requested.
- Whether the political or national policy position remains the same.
- What impact the Council's recent financial position, or change in priorities, might have on the original decision.
- If any changes of the type noted above were anticipated and specifically addressed within the decision paperwork.

6.2. The validity of an IEDN can only be determined on the facts of each case and consideration of the decision papers. The Monitoring Officer (monitoring.officer@wolverhampton.gov.uk) should be approached for advice if officers or members are in any doubt.

7. Process for decision-making for IEDNs

7.1. A request for an IEDN may be prepared by a Director on his or her own initiative or at the request of an Executive Member. The process for IEDNs shall be as follows:

- The Executive Member shall make his or her decision at a meeting with the Director. Before doing so an Executive Member must take into account professional, legal and financial implications.
- If the relevant Executive Member is unavailable the Leader can make a decision in their place.
- The law requires the Executive Member to then instruct the relevant officer to produce a written statement of the executive decision. This must be created within Mod.gov.
- Detailed instructions on how to do this can be found in the Modern.Gov IEDN User Guide (September 2022) which is available from Democratic Services.
- Mod.gov will create a template report, which must set out the following:
 - o The Executive Portfolio within which the issues fall.
 - o The issue to be decided.
 - o A record of any conflict of interest declared by any Executive Member who is consulted about the decision (and in a case where there is conflict, a record of any dispensations given).
 - o Supporting information – a summary of the facts relating to the matter under consideration. This section of the report should indicate whether or not the recommended decision is in accordance with the relevant policy framework of the Council.
 - o The comments of representatives of Legal and Finance should be included, together with an impact assessment.
 - o Alternative options considered, if any.
 - o The Director's recommendations (if any) and the reasons for that recommendations.
 - o Any consultations undertaken, the method of consultation, and a summary of responses received.
 - o If the report contains confidential or exempt information.
 - o A list of background papers considered by the decision-maker. Record of the reasons for the decision.
 - o The date on which the decision was made
 - o The date on which the decision will be implemented.
- The report will then be submitted as per the User Guide.

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