

# Appendix P

## LOCAL GOVERNMENT ACT 2000

### IDENTIFICATION AND NOTIFICATION OF KEY DECISIONS

#### Introduction

1. The Local Government Act 2000 requires local authorities to ensure that people know what decisions are planned and how they can influence those decisions. The Executive<sup>1</sup> of a local authority is required to set out its programme of work in the coming four months, as far as it is known, in a **Forward Plan**. This will have to be made publicly available and in particular it will have to be made available to the Scrutiny Commissions at least two weeks in advance of the commencement of the period covered.
2. This document sets out what decisions should be included in the Forward Plan (i.e. **Key Decision**) bearing in mind the definition in the Regulations and local circumstances, to outline the format for the Forward Pan and a process for it to be produced and up-dated.

#### Definition of a Key Decision

3. The Regulations state that Key Decisions will be decisions which:
  - a) Result in expenditure or savings which is/are significant having regard to the overall budget for the service or function to which the decision relates; or
  - b) Are likely to be significant in terms of their effects on communities in two or more Wards
4. Government guidance indicates that local authorities should agree, at Full Council, and publish the level of expenditure/savings it considers to be “significant” in the case of 3a above. The guidance states that this may vary from service to service, taking account of relative overall budgets, but, for simplicity, a single threshold of £250,000 has been adopted in Barnsley. Although not specifically referred to in the guidance, this definition should be taken to include the provision by the Council of cash-flow funding to third parties of £250,000 or more and also decisions which will result in income to the Council of that amount.
5. It is not intended this definition should include decisions which are a direct consequence of implementing a Key Decision. So, for example, once the details of a capital scheme of £250,000 had been approved, the submission of a report to approve a select list of tenderers for that scheme would not be considered a Key Decision. Neither is it intended that this definition will include bids to third parties for funding of £250,000 where a further report will be submitted for approval of the scheme, should the bid be successful.

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<sup>1</sup> In Barnsley, “Executive” is taken to mean the Cabinet and officers supporting it.

6. The limit of £250,000 shall not apply to expenditure which is inevitable (as defined by the Borough Secretary) for the day to day provision of services (e.g. day to day supplies, payment of energy bills etc.) provided that such expenditure was in the contemplation of Members when the revenue budget was approved or is necessary to comply with the requirements of contracts won by the Council in competitive tender.
7. The definition at 3b is intended to catch decisions which are strategic in nature and will have a positive or negative impact (for example, an environmental, physical, social or economic effect) on a significant number of people living or working in the area affected. In particular, this will include any matter relating to the Council's Budget or Policy Framework which is reserved in Terms of Reference for determination by Full Council
8. By way of clarification, a decision will not be a Key Decision under 3b simply because it would result in work being carried out in two or more Wards. So, for example, a programme of works to a number of individual Council houses across the Borough may impact on individuals in two or more Wards but is unlikely to have significant impact on the community as a whole. Conversely, proposals to redevelop a site on one of the Borough local town centres may be confined to one Ward but its impact is likely to be significant on the communities in surrounding Wards which use those facilities, making such a matter a Key Decision.
9. A summary of the Definition of a Key Decision is set out at **Appendix 1**.

### **Content and Format of the Forward Plan**

10. The Guidance indicates that the Forward Plan should include the following information:
  - a) A short description of matters under consideration and when Key Decisions are expected to be taken
  - b) Who is responsible for taking the decisions<sup>2</sup> and how they can be contacted
  - c) What relevant reports and background papers are available
  - d) How and when the decision maker intends to involve local stakeholders, e.g. those who are affected by the policy (tenants, community groups etc.) and those who can help deliver the policy (e.g. the police, health service, voluntary sector and private sector), in the decision making process
11. In order to ensure that this information is presented consistently across the authority, a standard format for the Plan is to be established as set out in **Appendix 2**.

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<sup>2</sup> Generally, in Barnsley's case this will be always be the Cabinet for Key Decisions. Some matters will be reserved for determination by Full Council on recommendation from Cabinet, as identified in the Terms of Reference.

## **Process for Production and Updating of the Forward Plan**

12. The Executive is required to update the Forward Plan each month on a rolling basis setting out likely Key Decisions over the next four months. Although this cannot be an exhaustive list, it should give an indication of those decisions which it is known the Executive will need to consider in the coming period. 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. The updating process will therefore need to identify both new issues and issues already on the Plan which have slipped or withdrawn, giving reasons for this.
13. The Secretary of State's Guidance indicates that the timing of the publication of the Forward Plan should have regard to the cycle of meetings of Scrutiny Commissions and electoral cycles, although an incoming new administration would not be bound by it. In view of this, monthly updates of the Plan will be published by the Cabinet Support Unit on the second Monday of each calendar month. Contributions from each Executive Directorate will be required by the end of the previous week. It will need to include any Key Decision proposed over the next four months, from the beginning of the next calendar month. Directorates will need to establish their own procedures for clearing their Forward Plan through the relevant Cabinet Spokesperson.
14. The Executive is required to publish annually the arrangements for publication of the Forward Plan and how relevant information and processes identified within it can be accessed. The Forward Plan itself will need to be available in paper form and accessible on the Council's website, together with relevant papers. There should also be opportunities for local people to comment, including electronically, to the authority on issues raised by the Forward Plan. Work will need to be undertaken on how to achieve this latter aspect. However, as a first step, Directorates will be expected to provide the monthly updates by e-mail so these can be lodged on the website.

## **Failure to Include a Key Decision in the Forward Plan**

15. The Regulations and Guidance recognise that not all key decisions will be capable of being identified four months in advance of the decision being taken. Decisions such as the adoption of certain plans or strategies 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.
16. Where Key Decisions need to be taken with less than two weeks' notice, the Executive will be able to make the decision even though it was not notified on the Forward Plan. However, at least three clear days notice of the decision will need to be given to the Chairs of the relevant Scrutiny Commission(s) and the public before it is formally taken. In Barnsley, a Notice of Key Decisions not included in the Forward Plan (see **Appendix 3** for a specimen) will be issued by the Cabinet Support Unit with the relevant Cabinet agenda for this purpose. Executive Directors will be responsible for identifying any items designated as Key Decisions which are not included in the Forward Plan when these are notified to the Cabinet Support Unit.

## Cases of “Special Urgency”

17. The Regulations and Guidance also accept that, in very rare circumstances, it may be necessary for a Key Decision to be taken with less than three clear days’ notice. However, in such cases, the “decision maker” will need to obtain agreement from the chair of a relevant Scrutiny Commission (and in their absence the Chair of the local authority or in her or his absence the Vice-Chair of the local authority<sup>3</sup>) that the decision could reasonably be regarded as urgent in the circumstances. If this agreement is not forthcoming, then the decision cannot be taken without three days’ notice for publication of the relevant papers.
18. Executive Directors will be responsible for obtaining agreement from the Chair of a relevant Scrutiny Commission, as described above, using the form attached at **Appendix 4**. Ideally, any such items will need to be passed to the Cabinet Support Unit by 9.00 a.m. on Tuesday of any week to allow processing through Senior Management Team prior to the following day’s Cabinet meeting. A report on the use of this urgent action procedure must be presented to Full Council on a quarterly basis and this will be prepared by the Cabinet Support Unit, collating the urgent item forms.
19. The Regulations also make clear that, if a particular decision was not included on the Forward Plan but a Scrutiny Commission comes to the view that it should have been included, that Scrutiny Commission will be able to require the Executive to make a report to the local authority on the decision and the reason why it was not included. Such references by the Scrutiny Commissions will be dealt with under this Council’s existing Protocol for Scrutiny References, with Executive Directors having to respond within 14 days.

Cabinet Support Unit  
October 2003

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<sup>3</sup> Under Barnsley’s Leader/Cabinet model, this would be the Mayor or Deputy Mayor. The regulations presumably state it in these terms to avoid confusion with a directly elected Executive Mayor.

**DEFINITION OF A KEY DECISION**

In accordance with Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000, Barnsley M.B.C. has adopted the following definition of a Key Decisions:

- a) Any decision relating to the approval of or variation to the Council's Budget or Policy Framework which is reserved in the Council's Constitution for determination by Full Council on a recommendation from Cabinet, subject to the application of virement limits; or
- b) Any decision which will result in income, expenditure or savings with a gross full year effect of £250,000 or greater, whether or not the item has been included in the relevant approved budget and including the provision by the Council of cash-flow funding to third parties, with the exception of:
- decisions which are a direct consequence of implementing a previous Key Decision and where it was in the contemplation of Members when they made the original Key Decision
  - bids of £250,000 or greater for funding made by the Council to third parties where a further report will be submitted for approval of the scheme, should the bid be successful.
  - expenditure which is inevitable (as defined by the Borough Secretary) for the day to day provision of services (e.g. day to day supplies, payment of energy bills etc.) provided that such expenditure was in the contemplation of Members when the revenue budget was approved or is necessary to comply with the requirements of contracts won by the Council in competitive tender.
- or
- c) Any decision which is likely to have a significant positive or negative impact (e.g., in environmental, physical, social or economic terms) on people living or working in communities in two or more Wards, except that matters will not be Key Decisions simply because the result would be that work would be carried out in two or more Wards, for example following the approval of a Borough-wide programme of works.

**FORMAT OF FORWARD PLAN OF KEY DECISIONS**

Forward Plan Of Key Decisions - (Insert Months), 200-
(Insert Cabinet Portfolio)

<b><u>Description</u></b> and expected date of Cabinet (and Council as necessary)	<b><u>Background Papers</u></b>	<b><u>Contact Officer Name</u></b>	<b><u>History of Item</u></b>	<b><u>Arrangements for involving local stakeholders</u></b>
(this should be brief but give enough information to be clear what the issue is: Don't just say "Structural repairs to properties in Royston" but which properties and what repairs)	(what papers are being used as the basis for the decision?)	(include telephone and fax number, e-mail address so that people can access information, comment or request background papers)	(this should indicate when the item was first notified, if it has slipped from one month to another and dates of earlier Cabinet meetings it was scheduled for but missed)	(this should indicate how and when those affected by the decision – tenants, community groups etc. – will be consulted and which other organisations will help deliver the decision and how they will be consulted. Most importantly, this should indicate how local stakeholders can comment or otherwise influence the decision)

## APPENDIX 3

### BARNSLEY METROPOLITAN BOROUGH COUNCIL

The Local Authorities (Executive Arrangements) (Access to Information)  
(England) Regulations 2000 - Regulation 15

Notice is hereby given that the following Key Decision, which is not included in the current Forward Plan, will be considered at the Cabinet meeting scheduled for *[insert date]*:

*[Insert description of item]*

**Circulation:**

Cabinet Members

Scrutiny Chairs

SMT

Press

Notice Board

**APPENDIX 4**

Key Decision not included in the Forward Plan for urgent consideration at Cabinet on *(insert date)* following agreement with the Chair of the *(insert name)* Scrutiny Commission

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Subject Matter

This should include the level of detail required in the Forward Plan. The actual report concerned should be attached to this form.

Reasons for Urgency

This should state why it was not reasonably possible to give three clear days notice of the item in question by including it on the relevant Cabinet agenda.

Dated:

Cabinet Spokesperson

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or

Cabinet Support Member

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Executive Director or nominee

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Chair of Scrutiny Commission

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or

The Mayor

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or

The Deputy Mayor

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**The following section should be completed as appropriate before reference to Scrutiny Chair:**

Assistant Director - Human Resources	Borough Secretary	Assistant Director - Financial Services (Financial Implications)	Assistant Chief Executive (Pol & Co- ord)
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