

IDENTIFICATION AND NOTIFICATION OF KEY DECISIONS

Introduction

1. The [Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#) requires the Executive of the Council to give 28 days' notice of any Key Decision it is to take. The Regulations outline the information to be included in the notice (known as the "Forward Plan") and this note sets out the process for it to be produced and updated in Barnsley.

Definition of a Key Decision

2. 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
3. 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 2a above. The guidance states that this may vary from service to service, taking account of relative overall budgets. However, for simplicity's sake a single threshold of £500,000 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 loans to third parties of £500,000 or more, as well as decisions which will result in income to the Council of that amount.
4. It is not intended this definition should include decisions that are a direct consequence of implementing a Key Decision. For example, once the details of a capital scheme of £500,000 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 £500,000, where a further report will be submitted for approval of the scheme should the bid be successful.
5. ~~The limit of £500,000 will not apply to expenditure that is inevitable (as defined by the Executive Director Core Services) for the day to day provision of services (such as 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.~~

as defined by the Executive Director, Core Services ie expenditure which is related to the day to day running of the Council or delivery of its statutory services, which was in the contemplation of officers and members when the budgets were defined and set, subject to best value. Where there is a change to the way the services are being undertaken or the level of expenditure will exceed that which was originally anticipated then further approvals will be sought prior to commitment of additional expenditure in line with delegated approvals.

6. The definition at 2b is intended to catch decisions that 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 that is reserved in Terms of Reference for determination by Full Council.
7. By way of clarification, a decision will not be a Key Decision under 2b simply because it would result in work being carried out in two or more Wards. 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's 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.
8. A summary of the Definition of a Key Decision is set out at **Appendix 1**.

Content and Format of the Forward Plan

9. 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 (in Barnsley, this is the Cabinet) and how they can be contacted;
 - c) What relevant reports and background papers are available; and
 - d) Any consultation that has been undertaken.
- ~~10. In order to ensure this information is presented consistently across the authority a standard format for the Plan has been established, as set out in **Appendix 2**.~~

Process for Production and Updating of the Forward Plan

11. Forward Plans will be prepared on behalf of the Leader and Cabinet to cover a period of at least the next three Cabinet meetings. They will be prepared every four weeks and will **set out forthcoming Key Decisions** ~~cover items~~ for a period beginning with the Cabinet meeting not fewer than 28 days from the date of publication. ~~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 that will be taken at the Cabinet meeting in 28 days' time than it will decisions to be taken at subsequent meetings. The updating process will therefore identify both new issues and issues already on the Plan that have slipped.~~
12. The Forward Plan will be updated having regard to the need to give 28 days' notice of any Key Decision. In view of this, the updated Plan will be published by the Council Governance Unit on Tuesdays on a four-weekly cycle. Contributions from each Directorate will be requested by a week in advance of this date. It will need to include any Key Decision proposed for at least the next three Cabinet meetings. Directorates should establish their own procedures for identifying Key Decisions, including clearing these with the relevant Cabinet Spokesperson.

Failure to Include a Key Decision in the Forward Plan

13. The Regulations and Guidance recognise that not all Key Decisions can be identified 28 days in advance of the decision being taken.
14. Where Key Decisions need to be taken with fewer than 28 days' notice, the Cabinet can make the decision even though it was not notified on the Forward Plan. However, at least five clear days' notice of the decision will be given to the Chair of the Overview and Scrutiny Committee and the public before it is formally taken **and a regulation notice published as to the reasons for urgency.** ~~In Barnsley, a Notice of Key Decisions not included in the Forward Plan (see Appendix 3 for an example) will be issued published by the Council Governance Unit with the relevant Cabinet agenda for this purpose.~~ Executive Directors are responsible for identifying any items designated as Key Decisions which are not included in the Forward Plan when these are notified to the Council Governance Unit.

Cases of "Special Urgency"

15. The Regulations and Guidance also accept that, in very rare circumstances, it may be necessary for a Key Decision to be taken at shorter notice. However, in such cases the "decision maker" must obtain agreement from the Chair of the Overview and Scrutiny Committee (or in their absence the Mayor or Deputy Mayor) that the decision could reasonably be regarded as urgent in the circumstances.

16. As soon as possible after the decision maker has obtained agreement under paragraph 15, the decision maker must:
- make available at the Council's offices a notice setting out the reasons that the meeting is urgent and cannot reasonably be deferred; and
 - publish that notice on the Council's website.

If agreement is not forthcoming the decision cannot be taken without 28 days' notice for publication of the relevant papers.

17. Where agreement is required, as described above, the Council Governance Unit will liaise with the relevant Executive Directors to obtain this agreement. This will be confirm the using the form attached at **Appendix 4 2**. Such items will normally be passed to the Council Governance Unit by 12 noon on the Friday of any week prior to the following week's Cabinet meeting, to allow consideration by 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.
21. The Regulations also make clear that, if a particular decision was not included on the Forward Plan but a Scrutiny Committee comes to the view that it should have been included, that Scrutiny Committee can require the Cabinet to submit a report to the local authority on the decision and the reason why it was not included. Such references by the Scrutiny Committees will be dealt with under the Council's existing Protocol for Scrutiny References, with Executive Directors having to respond within 14 days.

APPENDIX 1

DEFINITION OF A KEY DECISION

In accordance with Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012, Barnsley M.B.C. has adopted the following definition of a Key Decision:

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 £500,000 or greater, whether or not the item has been included in the relevant approved budget and including the provision by the Council of loans to third parties, with the exception of:

- decisions that 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 £500,000 or more 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; and
- ~~expenditure that is inevitable (as defined by the Assistant Chief Executive (Legal and Governance)) 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.~~
- expenditure that is inevitable, as defined by the Executive Director, Core Services ie expenditure which is related to the day to day running of the Council or delivery of its statutory services, which was in the contemplation of officers and members when the budgets were defined and set, subject to best value. Where there is a change to the way the services are being undertaken or the level of expenditure will exceed that which was originally anticipated then further approvals will be sought prior to commitment of additional expenditure in line with delegated approvals.

or

c) Any decision that 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. Matters will not be Key Decisions simply because they would result in work being carried out in two or more Wards, for example following the approval of a borough-wide programme of works.

Forward Plan of Key Decisions
<PORTFOLIO>

<u>Description</u>	<u>Proposed Communications and/or Engagement Activity Associated with the item</u>
<Insert Title / Description> Cabinet – <Insert Date>	<Insert details of consultation undertaken or proposed, and who has been consulted>.

APPENDIX 3

BARNSLEY METROPOLITAN BOROUGH COUNCIL

~~The Local Authorities (Executive Arrangements) (Access to Information)
(England) Regulations 2012 – Regulation 10~~

~~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:-**
Document Library
Scrutiny Chair
Notice Board~~

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 Committee

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 28 clear days' notice of the item in question by including it on the relevant Cabinet agenda.

Dated:

Cabinet Spokesperson

or

Cabinet Support Member

Executive Director or nominee

Chair of Scrutiny Committee

or

The Mayor

or

The Deputy Mayor

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

Executive Director – Core Executive Services	Service Director – Finance	Chief
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