



## Joint Executive Committee

### **Scheme of Delegation in relation to the procurement and award of contracts for hosted services**

Clause 17.1 of the Inter Authority Agreement made between Cumberland Council and Westmorland and Furness Council and dated 31<sup>st</sup> March 2023 provides that

*the Host Authority with the agreement of the Recipient Authority and the approval of the Joint Executive Committee (or approval under delegated authority from the Joint Executive Committee) may procure any contract as may be required for the purpose of the discharge of the Functions and the delivery of the Services*

The Joint Committee has, by way of resolution dated 17<sup>th</sup> July 2023, agreed to delegate power to procure and award such contracts as may be required to discharge and deliver hosted services, as set out below.

The purpose of this scheme is to provide a streamlined, clear and simple decision-making process. This scheme is subject to the restrictions and requirements in the Host Authority's Constitution, including the Contract Procedure Rules, the Financial Procedure Rules and other Procedure Rules, and is subject to any specific reservations or delegations which may be determined by the Joint Executive from time to time.

In deciding whether or not to exercise a delegated power, the relevant Officer or Member should consider whether it is appropriate to refer the matter to the Joint Executive and, for the avoidance of doubt, the matter should be so referred where:

- i) The matter under consideration is a high profile matter;
- ii) The decision has a significant budgetary impact;
- iii) There is a need, or it is considered prudent, to engage the public and/ or raise public awareness; and/or
- iv) The function/ matter provides important performance management information.

Any member of the Joint Executive may also request an officer not to exercise their delegated power in any particular case and to instead bring a report to Joint Executive.

Certain executive decisions are defined in law as “Key Decisions”. Each of Cumberland and Westmorland and Furness Councils have adopted its own definition of a Key Decision.

A Key Decision differs from other kinds of decisions because, where a decision maker intends to make a key decision, they must first publish a document containing publicity requirements about the decision and (subject to certain exception and urgency provisions) they cannot make the decision until the document, known as the “Forward Plan”, has been made available for inspection by the public for at least 28 clear days. Publication will be made by both Authorities, regardless of which is hosting the Chair of the Joint Executive Committee at the time. Further information on this can be found in each Authority’s Access to Information Procedure Rules.

All Key Decisions are subject to each Authority’s call-in process.

All decisions taken by an officer or an individual Joint Executive Member under the delegated powers set out in this Scheme of Delegation must be recorded in a Decision Notice and reported to the next meeting of the Joint Executive Committee.

Before exercising any power delegated under this Scheme of Delegation, decision takers must seek and obtain appropriate professional advice from those employed or otherwise engaged by the Council for the Host Authority for the relevant service for that purpose in connection with a matter under consideration for determination. The making of Key Decisions requires such advice to be in writing.

## **Delegations to Joint Executive Members**

An individual Joint Executive Member may take a decision to commence procurement or to award a contract in respect of a service which is hosted by the authority to which the member is elected, where:

- (a) The decision has not been otherwise reserved or requested to be taken by the Joint Executive sitting as a whole;
- (b) The proposed decision does not concern the commencement of a procurement exercise, or the award of a contract over the value of £5,000,000 when taken over the lifetime of the contract;
- (c) The proposed decision does not concern the award of a contract where the tender value exceeds the figure set out in the relevant budget;
- (d) The proposed decision must be recorded in a written decision notice which sets out:
  - i) A record of the names and titles of the decision taker and, where appropriate, the officer(s) in attendance;
  - ii) A record of the decision;
  - iii) The date of the decision;
  - iv) A statement of the reasons for the decision;
  - v) Details of any alternative options considered and rejected by the Executive member when making the decision;
  - vi) A record of any declaration of interest and, in respect of decision making by elected members, a note of any dispensation granted; and

- vii) Where appropriate, a statement of urgency and that the decision is exempted from call in in accordance with the relevant authority's procedures and is countersigned by the relevant authority's Monitoring Officer (or deputy).
- (e) The individual Joint Executive Member's decision notice shall be formally reported to the next meeting of the Joint Executive Committee.
- (f) Where the decision is a Key Decision, it shall be subject to call-in by either authority.

## **Delegations to Officers**

The Joint Executive Committee authorises the Head of Paid Service and Chief Officers of each authority to take decisions to commence procurement exercises and award contracts in so far as these relate to the delivery of services for which their employing authority is the Host Authority and for which they have responsibility and which have not been otherwise reserved to the Joint Executive Committee or an individual Joint Executive Member under this Scheme of Delegation.

An Officer may then take a decision to commence procurement or to award a contract, where:

- (a) The proposed decision does not concern the commencement of a procurement exercise, or the award of a contract over the value of £1,000,000 when taken over the lifetime of the contract;
- (b) The proposed decision does not concern the award of a contract where the tender value exceeds the figure set out in the relevant budget;
- (c) The Monitoring Officer and Section 151 Officer for each authority, and the relevant Director of the receiving authority for the service, have been consulted and are in agreement with the decision being taken;
- (d) The proposed decision must be recorded in a written decision notice which sets out:
  - i) A record of the name and title of the decision taker;
  - ii) A record of the decision;
  - iii) The date of the decision;
  - iv) A statement of the reasons for the decision;
  - v) Details of any alternative options considered and rejected by the Officer when making the decision;
  - vi) A record of any declaration of interest and, in respect of decision making by elected members, a note of any dispensation granted;
  - vii) The names and titles of the other officers consulted in accordance with paragraph (c) above and the dates upon which they confirmed agreement to the decision being taken; and
  - viii) Where appropriate, a statement of urgency and that the decision is exempted from call in in accordance with the relevant authority's procedures and is countersigned by the relevant authority's Monitoring Officer (or deputy).
- (e) The Officer's decision notice shall be formally reported to the next meeting of the Joint Executive Committee.
- (f) Where the decision is a Key Decision, it shall be subject to call-in by either authority.