

## **F&HDC Draft process for**

### **REMOVAL OF DELEGATION FOR RECONSIDERATION (RESCISSION)**

#### **1. Overview**

Members of the Council may request that a decision taken by one of the policy committees or sub-committees, or of a Key Decision taken by an officer acting under delegated authority from a Committee, is re-considered by another Committee or Council.

The effect of this process is to remove delegated authority from the Committee or officer in respect of that item of business, so that the decision is nullified, allowing the Resources Committee or Council to confirm, refer back or make the decision afresh under this procedure.

Due to the costs and delay caused by reconsidering a decision, it is intended that it should only be used in exceptional circumstances. It is therefore subject to safeguards concerning:

- (i) the number of members required to make a valid request;
- (ii) the timescale in which a request must be made; and
- (iii) criteria for acceptable reasons to make a valid request

before the delegated authority is removed and the item of business referred to the next meeting of the Resources Committee or Council

#### **2. Process**

Members may initiate a reconsideration of a decision taken by the Resources Committee, or of a Key Decision taken by an officer acting under delegated authority from one of those committees, by a meeting of another Committee or Council. This process will not apply to decisions made in the circumstances set out at paragraph 6 below.

A request for a reconsideration of an item of business must be made in writing (which may be by email) to the Monitoring Officer or Chief Executive and be made

- (i) before the expiry of [five/three?] full working days from the date on which the decision notice was published;
- (ii) supported or signed by at least half of the Members of the Council; and
- (iii) setting out why the request meets the criteria for reconsideration
- (iv) whether they wish the decision to be referred to the Resources Committee or full Council.

#### **3. Criteria**

Such a request must be received by the Monitoring Officer or Chief Executive and must set out two or more of the following grounds in support, explaining why the decision is or might reasonably be felt to be:

- (a) a key decision but not treated as such;
- (b) inadequate consultation with stakeholders prior to the decision;
- (c) inadequate evidence on which to base a decision;
- (d) contrary to the budget or policy framework;
- (e) the action is not proportionate to the desired outcome;
- (f) a potential human rights or equalities challenge; or
- (g) insufficient consideration of legal and financial advice.

A request may not apply to individual staffing matters or a matter that has been implemented and directly affects a third party's financial interests.

#### **4. Effect**

Where the Monitoring Officer or Chief Executive consider these criteria have been met, delegated authority for that matter shall be withdrawn from the Committee or officer concerned and the decision shall be accordingly nullified and made subject to referral to the next meeting of the Resources Committee or Council as the Monitoring Officer or Chief Executive may determine or, if necessary, to an extraordinary meeting for the matter to be considered afresh.

#### **5. Decision**

Upon re-considering the referred item of business, the Resources Committee or Council may:

- (a) Uphold the previous decision, following which the original decision shall take effect by 9.30am the next working day following the day of the Resources Committee or Council meeting which considered the request.
- (b) Refer the matter back to the relevant Committee, Sub-Committee or officer with a recommendation from the Resources Committee or Council. The relevant Committee, Sub-Committee or officer shall reconsider the matter, taking into account any concerns and recommendations of another Committee or Council, before reaching a final decision. The decision may not be the subject of a further request for reconsideration and will take from the date on which the new decision notice is published
- (c) Determine the matter itself, whereby the Resources Committee or Council may determine the matter as it sees fit. the Resources Committee or Council will set out its reasons for coming to a different conclusion from the originating Committee, Sub-Committee or officer whose decision has been superseded. The decision may not be further reconsidered and will take effect from the date on which the new decision notice is published.

#### **6. Exclusion from reconsideration**

- (a) A decision making Committee, Sub-Committee or officer may determine that a decision being taken by them is not to be subject to removal of delegation and reconsideration in the circumstances where:
  - (i) in the opinion of the decision-maker, any delay likely to be caused by the process for removal of delegation and reconsideration would seriously prejudice the Council's or the public's interest;
  - (ii) the Chief Executive (or in his or her absence their nominee) agrees both that the decision proposed is reasonable in all the circumstances and that it should be treated in this manner; and
  - (iii) the decision maker causes a record to be made and notice published that the decision is not to be subject to removal of delegation and reconsideration and of the reasons for that determination
- (b) The Chief Executive (or in his or her absence their nominee) may otherwise decline to act on a request made under paragraph 2 above in those circumstances where he or she considers that it would be likely that the implementation of the process for removal of delegation in respect of a decision taken and its then reconsideration by the Resources Committee would cause serious prejudice to the Council's or the public's interest.
- (c) Application of this exclusion to the removal of delegation and reconsideration procedure must be reported to the next available meeting of the Council, together with the reasons for doing so