

REPORT TITLE: MONITORING REPORT – KEY DECISIONS NOT INCLUDED
WITHIN THE FORWARD PLAN DURING 2016/17 MUNICIPAL YEAR

22 MAY 2017

REPORT OF PORTFOLIO HOLDER: Councillor Guy Ashton, Portfolio Holder for
Professional Services

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WARD(S): ALL

PURPOSE

The Overview and Scrutiny Committee has previously received an annual monitoring report in relation to the number of Key Decisions which came forward for decision, which had not been included in the Forward Plan.

Key Decisions are:

- (a) decisions having a significant impact on two or more wards; or,
- (b) incurring expenditure or savings over £200,000 for the service or function to which the decision relates (NB this can be the cumulative impact e.g. for the period of a contract, rather than annual expenditure)

Under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) England Regulations 2012, the Council must give a minimum of 28 days notice of a Key Decision being made. There is an additional requirement to give at least 28 days notice of when Cabinet or a Cabinet Committee is proposing to meet in exempt session. The purpose is to provide opportunity for representations that the item should be dealt with in public session – and any representations have to be considered before the agenda for the meeting is published. This requirement exists whether or not the matter is a Key Decision.

Under the Council's Constitution, Access to Information Procedure Rules (Rule 15.1 – General Exception), the Head of Legal and Democratic Services is required to inform the Chairman of The Overview and Scrutiny Committee when a Key Decision was to be taken by Cabinet which had not been included in the Forward Plan.

In addition, where an agenda item requiring a Key Decision was not in the Forward Plan and was sent to Cabinet after the statutory deadline, the Chairman of The Overview and Scrutiny Committee must firstly give approval for its inclusion (Access to Information Procedure Rule 16 – Special Urgency).

The 2012 Regulations require, as a minimum, that an annual report be made, to show instances of where the special urgency provisions have been used.

During the 2016/17 Municipal Year, the Chairman of The Overview and Scrutiny Committee was informed of a total of **eight** Key Decisions which were not included in the Forward Plan.

RECOMMENDATIONS:

1. That the Committee consider and make any necessary comment on the content of the Report.

1 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<i>Property N/A</i>		
<i>Community Support a high number of exceptions to the Forward Plan risks affecting the Council's objective to be open and transparent.</i>	A more detailed and longer term planning programme has been introduced. This will record projects and other matters which are likely to need key decisions, at an early stage, and therefore minimise the need to exceptions to be made.	
<i>Timescales N/A</i>		
<i>Project capacity N/A</i>		
<i>Financial / VfM N/A</i>		
<i>Legal Failure to comply with the legislation could lead to a challenge to the decision.</i>	Decisions are reviewed by Legal and Democratic Services staff to check whether the decision is a key decision, and whether an exception is required.	
<i>Innovation N/A</i>		
<i>Reputation N/A</i>		
<i>Other N/A</i>		

2. SUPPORTING INFORMATION:

<u>Detail of Key Decision not included within Forward Plan</u>	<u>Date of Cabinet Meeting</u>	<u>Reason given for not being included in Forward Pan</u>
CAB2853 – Confidential Item – Report by Assistant Director (Estates and Regeneration) (Exempt Report) [Note – this related to the purchase of the Garrison Ground by the Council]	19 October 2016	“urgent consideration to enable a decision to be taken without delay. The Chairman of The Overview and Scrutiny Committee has agreed this approach”.
CAB2839– Proposed Purchase of KAYAC Premises, Winnall Valley Road, Winchester	19 October 2016	“urgent decision is required in order for the transaction to be completed without delay. The Chairman of the Overview and Scrutiny Committee has agreed to this approach’ .

<u>Detail of Key Decision not included within Forward Plan</u>	<u>Date of Cabinet Meeting</u>	<u>Reason given for not being included in Forward Pan</u>
CAB2870 – Asset Management Plan 2016/2021 (Exempt Appendices)	7 December 2016	“urgent consideration to enable a decision to be taken on the financial and data issues without delay. The Chairman of The Overview and Scrutiny Committee has agreed this approach”.
WTF245 – Community Infrastructure Levy and Town Improvement Fund	7 December 2016	“urgent consideration to enable a decision to be taken without delay. The Chairman of The Overview and Scrutiny Committee has agreed this approach”.
CAB2886 (TP) – Car Parks Major Works Programme	4 January 2017 Cabinet (Traffic and Parking)	“urgent consideration to enable a decision to be taken without delay. The Chairman of The Overview and Scrutiny Committee has agreed this approach”.
CAB2897 – Pay Policy Statement 2017/2018	8 February 2017	“urgent consideration to enable a decision to be taken without delay. The Chairman of The Overview and Scrutiny Committee has agreed this approach”.

<u>Detail of Exempt Decision where 28 days notice had not been given</u>	<u>Date of Cabinet Meeting</u>	<u>Reason given for 28 days notice not being given</u>
CAB2923 – Proposed Land Acquisition [Note – this related to the purchase by the Council of the Bus Station]	5 April 2017 (Special Meeting)	“need to resolve negotiations and, if necessary, seek Council approval at its meeting on 5 April 2017.. This item previously listed in the April 2017 Forward Plan but with the date of the meeting to be confirmed. 28days notice of a decision to be taken in exempt session was not provided, as required under The Local Authorities (Executive Arrangements) (Meetings and Access to Information)

		(England) Regulations 2012.” The Chairman of The Overview and Scrutiny Committee has agreed to this approach.
CAB 2916 – Proposed Land Transaction [Note – this related to the purchase by the Council of the Bus Station]	5 April 2017 (Special Meeting)	“need to resolve negotiations and, if necessary, seek Council approval at its meeting on 5 April 2017.. This item previously listed in the April 2017 Forward Plan but with the date of the meeting to be confirmed. 28days notice of a decision to be taken in exempt session was not provided, as required under The Local Authorities (Executive Arrangement s) (Meetings and Access to Information) (England) Regulations 2012.” The Chairman of The Overview and Scrutiny Committee has agreed to this approach.

- 2.1 Although occasionally Key Decisions are required to be made urgently for operational reasons, officers should, wherever possible, continue to ensure that the Forward Plan of Key Decisions is updated monthly. Best practice would also be to include the specific reason for a decision to be taken at that meeting if an item had not been included within the Forward Plan.
- 2.2 For information, Members may wish to note the number of Key Decisions not included in the Forward Plans from previous Municipal Years:

Municipal Year	Number of Key Decisions not included in the Forward Plan
2015/16	12
2014/15	6
2013/14	8
2012/13	4
2011/12	3
2010/11	11
2009/10	6
2008/09	15
2007/08	15

3. OTHER OPTIONS CONSIDERED AND REJECTED

3.1 None

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

Reports as noted in table at 2.1 of Report (other than where such reports are Exempt reports)..

APPENDICES:

None