

REPORT TITLE: KEY DECISIONS NOT INCLUDED WITHIN THE FORWARD PLAN DURING 2019/20 MUNICIPAL YEAR

2 JULY 2020

REPORT OF CABINET MEMBER: Councillor Neil Cutler, Deputy Leader and Cabinet Member for Finance and Risk.]

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WARD(S): ALL

PURPOSE

An annual monitoring report is produced in relation to the number of Key Decisions which came forward for decision, which had not been included in the [Forward Plan](#).

The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 require, as a minimum, that an annual report be made, to show instances of where the special urgency provisions have been used.

During the 2019/20 Municipal Year, the Chairperson of The Scrutiny Committee was informed of a total of six 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.

IMPLICATIONS:

1 COUNCIL PLAN OUTCOME

1.1 Annual consideration of Key Decisions not included within the [Forward plan](#) helps to support the proper governance of the Council and its decision making structures.

2 FINANCIAL IMPLICATIONS

2.1 No immediate financial implications.

3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 These are discussed within the Purpose section of the report.

4 WORKFORCE IMPLICATIONS

4.1 None

5 PROPERTY AND ASSET IMPLICATIONS

5.1 None

6 CONSULTATION AND COMMUNICATION

6.1 Senior Managers and the Portfolio Holder for Finance and Risk have been consulted on the contents of this report.

7 ENVIRONMENTAL CONSIDERATIONS

7.1 None

8 EQUALITY IMPACT ASSESSEMENT

8.1 None

9 DATA PROTECTION IMPACT ASSESSMENT

9.1 None

10 RISK MANAGEMENT

Risk	Mitigation	Opportunities
<i>Property – N/A</i>		
<p><i>Community Support</i></p> <p>A high number of exceptions to the Forward Plan risks affecting the Council's objective to be open and transparent.</p>	<p>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.</p>	<p>The mitigation means increased transparency and confidence in the Council.</p>
<i>Timescales</i>		
<i>Project capacity</i>		
<i>Financial / VfM</i>		
<p><i>Legal</i></p> <p>Failure to comply with the legislation could lead to a challenge to the decision.</p>	<p>Decisions are reviewed by Legal and Democratic Services staff to check whether the decision is a key decision, and whether an exception is required.</p>	<p>The mitigation means increased transparency and confidence in the Council.</p>
<i>Innovation</i>		
<i>Reputation</i>		
<i>Other</i>		

11 SUPPORTING INFORMATION:

- 11.1 Key decisions are defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 as being an executive decision which is likely:
- 11.2 To result in the local authority incurring expenditure, which is or the making of savings which are significant having regard to the local authority's budget for the service or function to which the decision relates; (For Winchester City Council, the financial limit above which a decision is regarded as significant is £250,000), or
- 11.3 To be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.
- 11.4 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 an intention to make a Key Decision. The statutory requirement is reflected in Rules 17.1 and 17.2 of Part 4.4 of the [Council's Constitution](#). There is an additional statutory requirement to provide at least 28 days notice of when Cabinet is proposing to meet in exempt session.

- 11.5 The purpose of this timeframe is to provide an opportunity for representations to be made that request the item be dealt with in public session – and that any representations are considered before the agenda for the meeting is published. This requirement exists whether or not the matter is a Key Decision.
- 11.6 Under the [Council's Constitution](#), Access to Information Procedure Rules at Part 4.4 (Rule 18 – General Exception and Special Urgency), if it is not possible to meet the requirements of Rules 17.1 and 17.2 then the Key Decision may proceed so long as (in summary) the Monitoring Officer is in agreement and has received the agreement of the Chairperson of The Scrutiny Committee that a Key Decision may proceed without inclusion in the [Forward Plan](#).
- 11.7 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 Chairperson of The Scrutiny Committee must firstly give approval for its inclusion (Access to Information Procedure Rule 18 – General Exception and Special Urgency). Reasons for the special urgency must be specified.
- 11.8 Details of the six Key Decisions are listed below. In accordance with paragraphs 12.3 and 18.1 of the Access to Information Procedure Rules, the Chairperson of the Scrutiny Committee agreed for these decisions to be considered, with the exception to the item “Environmental Services – Award of Contract” where, in the absence of the Chairperson of the Scrutiny Committee, the Monitoring Officer received in writing the agreement of the Vice-Chairperson of Scrutiny Committee and the Chairperson of Council to this item being considered.

<u>Detail of Key Decision not included within Forward Plan</u>	<u>Date Decision Taken</u>	<u>Reason given for not being included in Forward Plan</u>
Declaration of Climate Emergency	5 June 2019	“The item was proposed by the new Council administration which came into effect from Annual Council on 15 May 2019 and it was therefore not possible to give the required 28 days notice”
Response to consultation – M3 Junction 9	28 August 2019	“The reason for the urgency is that the proposed works at J9 of the M3 represent a significant infrastructure scheme within the district and so the Council wants to be open and transparent in the way it is responding to this important project which is at the pre-application stage. There is a need to consider this at the August Cabinet because the Council has to send its comments to Highways England by 30th August.”
Environmental Services – Award of Contract	15 November 2019	“The reason for the urgency is that tenders received for the Environmental Services Contract include specific options for additional services. An early decision is required whether to include some or all of the options in the final assessment or to award the contract based only on the existing service.”
Minute extract from Winchester Town Forum held 23 January 2020 (with regard to North Walls Pavilion)	12 February 2020	“It was not possible to give 28 days notice due to an administrative oversight. However, the recommendations were published on the council’s website as part of the agenda for the meeting of the Town Forum on the 15/01/20. The reason for the urgency is

<u>Detail of Key Decision not included within Forward Plan</u>	<u>Date Decision Taken</u>	<u>Reason given for not being included in Forward Plan</u>
		to enable the pavilion project to proceed without delay. “
Procurement of Insurance & Risk Services – Award of Contract	10 February 2020	“The reason for the urgency is that is that approval is required from all ten Hampshire authorities, as members of the procurement collaboration, before the award of insurance contracts can be made.
Housing Revenue Account (HRA) Property Acquisitions	11 March 2020	The reason for the urgency is to ensure there is sufficient capital expenditure by the end of March 2020 to potential avoid a repayment of Right to Buy receipts to MHCLG.

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
2018/19	1
2017/18	5
2016/17	8
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
Average	8

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 None.

BACKGROUND DOCUMENTS:-

Web Link to: [Published Exceptions to the Forward Plan.](#)

Other Background Documents:-

None

APPENDICES:

None