

REPORT TITLE: KEY DECISIONS NOT INCLUDED WITHIN THE FORWARD PLAN DURING 2020/21 MUNICIPAL YEAR

19 JULY 2021

REPORT OF CABINET MEMBER: Deputy Leader and Cabinet Member for Finance and Service Quality

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WARD(S): ALL

PURPOSE

An annual monitoring report is produced reporting on 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 2020/21 Municipal Year, the Chairperson of The Scrutiny Committee was informed of a total of five Key Decisions which were not included in the [Forward Plan](#).

RECOMMENDATIONS:

1. That the Committee considers and makes 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 None arising directly from the content of the report.

3 LEGAL AND PROCUREMENT IMPLICATIONS

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

4 WORKFORCE IMPLICATIONS

- 4.1 None arising directly from the content of the report.
4.2

5 PROPERTY AND ASSET IMPLICATIONS

- 5.1 None arising directly from the content of the report.
5.2

6 CONSULTATION AND COMMUNICATION

- 6.1 Senior Managers and the Deputy Leader and Cabinet Member for Finance and Service Quality have been consulted on the contents of this report.

7 ENVIRONMENTAL CONSIDERATIONS

- 7.1 None arising directly from the content of the report.

8 EQUALITY IMPACT ASSESSMENT

None arising from the content of the report, although officers will have regard to the considerations as set out in the Equalities Act 2010 and whether an Equality Impact Assessment will be required to be undertaken on any specific recommendations or future decisions made. This report is not making any decisions and is for noting and raising issues only.

9 DATA PROTECTION IMPACT ASSESSMENT

- 9.1 None required

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 for 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:

- a) 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

- b) 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.
- 11.2 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 the Cabinet is proposing to meet in an exempt session.
- 11.3 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.
- 11.4 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](#).
- 11.5 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 first approve its inclusion (Access to Information Procedure Rule 18 – General Exception and Special Urgency). Reasons for the special urgency must be specified.
- 11.6 Details of the five 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.

<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 Pan</u>
Fees and Charges 2021/22	10 Mar 2021	"The reason for the urgency is that Cabinet approval is required to enable the fees & charges to be implemented from April 2021."
General Fund Budget Options and Medium Term Financial Strategy (exempt appendix - NNDR write-offs)	16 Dec 2020	"The decision cannot be delayed because the write-offs should be dealt with at the same time as the MTFS rather than waiting for a separate report later."
Vaultex - provision of decked park & ride car park - financial appraisal	21 Oct 2020	"The decision is urgent and must be taken at Cabinet on 21 October because of the need to meet the Local Enterprise Partnership funding timetable by entering into preconstruction contracts with Wilmott Dixon."
Vaultex - LEP Funding and Decked car park provision	18 Aug 2020	"The reason for the urgency is related to the imminent decision from the LEP regarding funding to support the delivery of a decked car park at Vaultex as part of the delivery of enhanced park and ride provision to support economic recovery and the Winchester Movement Strategy. The timeframe for delivery of the project in line with the funding is challenging and necessitates that work is commenced asap"
Commercial rents - deferrals and abatements	18 Aug 2020	"The need for the decision relates to urgent requests for additional support from commercial tenants and an urgent need to finalise an end of tenancy to facilitate handover to a new business."

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
2019/20	6
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