

REPORT TITLE: MONITORING REPORT – KEY DECISIONS NOT INCLUDED
WITHIN THE FORWARD PLAN DURING 2018/19 MUNICIPAL YEAR

4 JULY 2019

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.

Key Decisions are defined by Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 (the “2012 Regulations”) as an executive decision which is likely to be:

- a) Significant in terms of its effect on communities living or working in two or more wards; or,
- b) Incur an expenditure or savings which is significant for the service or function to which the decision relates, being over £200,000 (now £250,000, wef 15 May 2019) (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 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.

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.

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.

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.

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 2018/19 Municipal Year, the Chairman of The Scrutiny Committee was informed of a total of **one** Key Decision which was not included in the Forward Plan.

RECOMMENDATIONS:

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. | The mitigation means increased transparency and confidence in the Council. |
| <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. | The mitigation means increased transparency and confidence in the Council. |
| <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> |
|---|---------------------------------------|--|
| CAB3072 – Durngate Flood Alleviation Scheme | 12 December 2018 | “urgent consideration to enable a decision to be taken without delay. The Chairman of The Overview and Scrutiny Committee has agreed 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 |
|-----------------------|---|
| 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 |

3. OTHER OPTIONS CONSIDERED AND REJECTED

3.1 None

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

None

APPENDICES:

None