

**Retrospective Scrutiny of Council Cabinet Key and Budget and Policy Framework decisions 14 December 2010 – 15 February 2011****SUMMARY**

- 1.1 Since 2008 this report has been a regular standing item on the Scrutiny Management Commission's agenda. This enables the Commission to ensure that the Forward Plan is being used correctly by officers and helps all Commissions to plan their work programmes effectively.
- 1.2 The report stems from a meeting between the then Chair and Vice Chair with the then Leader and Deputy who gave assurances that procedures would be tightened up and an audit trail be made available. A further meeting between Chair, Vice Chair and Leader took place on 2 February 2011.
- 1.3 This report details the Key and Budget Performance Framework decisions taken by Council Cabinet during the period 14 December 2010 – 15 February 2011.
- 1.4 Where it has been possible to do so, the Council Cabinet decision has been related to the relevant Forward Plan item. In these cases the time between the item being placed on the Forward Plan and the decision being made by Council Cabinet is shown in the table.
- 1.5 When an item has not been included on the forward plan, the report author was asked to provide an explanation for its absence. These responses are provided in the table in appendix 2.

RECOMMENDATION

- 2 That the Commission consider the report, including the outcome of the 2 February 2011 meeting with the Leader

REASONS FOR RECOMMENDATION

- 3 To continue the standing practice of the Commission and take account of the recent meeting.

SUPPORTING INFORMATION

- 4.1 The Commission received a report detailing the Key and Budget and Policy Framework decisions made by Council Cabinet which were and were not included on the Forward Plan at its meeting in September 2007.
- 4.2 Following this meeting the Commission made the following recommendations to Council cabinet:
- That for items which have previously appeared on the Forward Plan, the Forward Plan reference number and the date that the item was placed on the Forward Plan is included on all reports to Council Cabinet on those items, and in the minutes of any subsequent decisions relating to the items.
 - That wherever practicable items are retained on the Forward Plan for a minimum of three months before a decision is made by Council Cabinet.
 - That before any non-urgent decision on a Forward Plan item is taken, Council Cabinet confirms that adequate opportunity has been given to anyone wishing to make representations about the item and that this is noted in the minute of the decision together with a summary of any representations that were received by the officer identified in the Forward Plan.
 - That the list contained in Table 2 of the attached report, or a list of similar content, is maintained and is made accessible through the Council's Committee Information Website (CMIS).
- 4.3 On 20 February 2008 a meeting was held between the Chair and Vice Chair with the Leader and Deputy Leader to discuss Commission recommendations for the Forward Plan.
- 4.4 The Leader and Deputy Leader gave assurances that procedures would be tightened up and an audit trail be made available.
- 4.5 When the last quarterly report was made to the 7 December 2010 meeting Members of the Commission expressed concerns that some items could have been included earlier and that this should be tightened up. It was resolved to request the Leader of the Council to meet with the Chair and Vice Chair of the Commission to discuss the concerns. That meeting took place on 2 February 2011 and the note is included at Appendix 5.
- 4.6 This report details the Key and Budget Performance Framework decisions taken by Council Cabinet during the period 14 December 2010 – 15 February 2011.

This report has been approved by the following officers:

| | |
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| Legal officer Financial officer Human Resources officer Service Director(s) Other(s) | |
|--|--|

For more information contact:

Background papers:

List of appendices:

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Forward Plans for period July 2010 – February 2011

Cabinet Agenda papers for the period 14 December 2010 – 15 February 2011

Appendix 1 – Implications

Appendix 2 - Table detailing entries in Forward Plan

Appendix 3 - Graph showing the length of time an item has been on Forward Plan

Appendix 4 – Explanation of AI26 and AI27

Appendix 5 – Note of the meeting held 2 February 2011

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IMPLICATIONS

Financial

- 1 None arising from this report

Legal

- 2.1 The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations SI 2000/3272 govern the production and content of the Forward Plan. By the law it is prepared on behalf of the Leader and needs to 'contain details of all the matters likely to be the subject of key decisions ... for a period of four months', including:
 - (a) the issue on which the key decision is to be made;
 - (b) where the key decision maker is: i) an individual, give their name and title or where the decision maker is a decision making body, its name and a list of its members (ie the Council Cabinet);
 - (c) the date when, or the period within which, the key decision is to be made;
 - (d) the identity of the principal groups or organisations the key decision maker proposes to consult before taking the decision;
 - (e) the means by which the consultation at (d) is proposed to be undertaken;
 - (f) the steps any person may take to make representations to the Council Cabinet (or to an individual decision maker) about the issue to be decided and the date those steps need to be taken by; and
 - (g) a list of the documents submitted to the Council Cabinet (or individual decision maker) that relate to the forthcoming decision.
- 2.2 A key decision is 'any decision that is likely to have a significant impact on two or more wards' or where it involves expenditure or savings of £250,000 (or £25,000 where it relates to a voluntary body).

Personnel

- 3 None arising from this report

Equalities Impact

- 4 None arising from this report

Health and Safety

5 None arising from this report

Carbon commitment

6 None arising from this report

Value for money

7 None arising from this report

Corporate objectives and priorities for change

8 This report has potentially links with all Corporate Objectives.

Appendix Two begins on next page

| Date of Council Cabinet Meeting | Name of Key or Budget and Policy Framework Item on which Cabinet decision was made | Forward Plan Item Number | Forward Plan in which item first appeared | Approximate time for which item was available on Forward Plan | Urgent Item? | Reason why item not included on Forward Plan/ Urgency |
|---------------------------------|--|--------------------------|---|---|--------------|--|
| 15 February 2011 | Approval of the Corporate Plan | 20/10 | October 2010 | 4 Months | | |
| | Housing Rents and Service Charges | 29/10 | November 2010 | 3 Months | | |
| | Housing Revenue Account Business Plan and Budget 2011/12 | 30/10 | November 2010 | 3 Months | | |
| | Supporting People Strategy and Spending Plan | 50/10 | January 2011 | 2 Months | | |
| | General Fund Revenue Budget and Council Tax 2010/11 | 51/10 | February 2011 | 1 Month | | |
| | Castleward Urban Village | 55/10 | February 2011 | 1 Month | | |
| | Policy Position on Academy Proposals in Derby | 58/10 | February 2011 | 1 Month | | |
| | Treasury Management Strategy and Prudential Code Indicators 2011/12 | 59/10 | February 2011 | 1 Month | | |
| | Capital Programme 2011-14 | 60/10 | February 2011 | 1 Month | | |
| | Approval of Derby's Sustainable Community Strategy | 18/10 | October 2010 | 4 Months | | |
| | Public Conveniences | 46/10 | December 2010 | 2 Months | | |
| | Leisure Centre Efficiencies | | | | | The budgetary position requires a decision to be taken urgently. The tight timescales meant there was insufficient time for inclusion on the |

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| | | | | | | Forward Plan. |
| | Shaftsbury Sports Centre | | | | | The budgetary position requires a decision to be taken urgently. The tight timescales meant there was insufficient time for inclusion on the Forward Plan. |
| | Healthy Living Coaching Programme | | | | | The funding was not in place until after the Forward Plan was published. A decision needs to be made in February so that the project can start in March, to ensure the funding remains in place. |
| | Transferring Community Centres | | | | | The budgetary position requires a decision to be taken urgently. The tight timescales meant there was insufficient time for inclusion on the Forward Plan. |
| | Review of Ground Maintenance 2011/12 and 2012/13 | | | | | The budgetary position requires a decision to be taken urgently. The tight timescales meant there was insufficient time for inclusion on the Forward Plan. |
| | Review of Library Opening Hours | | | | | The budgetary position requires a need for greater efficiencies to be found than first |

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| | | | | | | anticipated. Initial proposals would not have required a key decision and the revised proposals were not prepared until after the Forward Plan deadline. |
| | De-designation of Flats | 16/09 | 2009 | 4 Months + | | |
| 11 January 2011 | Approval of the Council Tax Base | 49/10 | January 2011 | 1 Month | | |
| | Local Investment Plan which relates to the Derby Local Housing Market Area | 41/10 | December 2010 | 2 Months | | |
| | Consultation on Local Authority Provision of Free Transport to Schools and to Children in Care | 43/10 | December 2010 | 2 Months | | |
| 14 Dec 2010 | Disposal of St Helen's House | 44/10 | December 2010 | 1 Month | | |
| | Award of the Demolition Contract for part of the Council House in preparation for it to be refurbished | 45/10 | December 2010 | 1 Month | | |
| | Approval of the Homelessness Strategy | 41/09 | November 2009 | 2 Months | | |
| | New Build Phase 2 St David's Close | | | | | The reason for this item being considered is that the form to put the item in the Forward Plan was received on time |

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| | | | | | | but was accidentally missed out of the Forward Plan when it was published, this was due to an administrative error. |
| | Council Day Services for older people | 40/10 | December 2010 | 1 month | | |
| | Voluntary Sector Grants | | | | | The reason for this item being considered is that the timeframe required for the consultation process to conclude and report back to Cabinet requires this item to be considered urgently. We wish to honour our Compact commitment to the Voluntary sector to consult for a full 12 weeks. |

Definition of AI26 and AI27

The Access to Information Rules in the Council Constitution defines AI26 and AI27 in the following extracts. The symbols relate to the explanatory notes.

AI26

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to Rule AI27 (special urgency), the decision may still be taken if:

- a. the decision must be taken by such a date that it is impracticable# to defer the decision until it has been included in the next forward plan and until the start of the first month to which the next forward plan relates>;
- b. the Director of Legal and Democratic Services has informed the Chair of a relevant Overview and Scrutiny Commission, in writing, by notice, of the matter to which the decision is to be made;
- c. the Director of Legal and Democratic Services has made copies of that notice available to the public at the Council House; and
- d. at least five clear days have elapsed since the Director of Legal and Democratic Services complied with a. and b.

Explanatory Notes:

'impracticable to defer' – brief reasoning should be included in the letter to the Chair

> If the 15 March Cabinet intended to take a key decision it should have been included in the March Forward Plan published on 15 February. If it did not the presumption is that the decision should be deferred, be included in the April Forward Plan and the decision be taken at the 12 April Cabinet. *Theoretically* if it failed to be included in the April Forward Plan (published on 18 March) it should be included in the May edition and taken at the next Cabinet on 7 June; in practice it would probably have become 'impracticable to defer'.

* 'informed' - however the consent of the Chair is not required or sought

AI27 ~

If by virtue of the date by which a decision must be taken Rule AI26 (general exception) cannot be followed, then the decision can only be taken if the Leader or, in his/her absence the Deputy Leader, obtains the agreement\$ of the Chair of the relevant Overview and Scrutiny Commission that the taking of the decision cannot be reasonably deferred. If the Chair of the relevant Overview and Scrutiny Commission is unable to act, then the agreement of the Mayor, or in his/her absence the Deputy Mayor will suffice.

If no agreement can be obtained, the decision must be taken in accordance with Rule AI26.

Explanatory Notes:

\$ 'agreement' – in contrast to 126 the consent of the Chair must be obtained. In the Chair's absence it is the Mayor (or Deputy) who can agree – the Vice Chair has no official role.

~ The effect of A127 is to exclude the decision from being called in. Although not stated here, this can be found on page 4-56 of the Constitution.

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Note of meeting held 2 February 2011

Present: Councillors Carr and Dhindsa (SMC) and Jennings (Leader).

Councillor Carr said the meeting had been requested because of concerns about the operation of the Forward Plan and a trend to decisions not being included or being entered late. Councillor Jennings agreed and said there were two aspects. One was an issue of officers not being aware of the requirements. The second was the current pace of change, including One Derby, One Council and the budget situation facing local authorities. Officer awareness would be addressed by training but could not be an instant answer, as would take a while. He suggested a way forward that could be introduced straightaway if the other political groups agreed. He proposed that a notice be provided each month to all councillors setting out (any) key decisions that would be considered by Council Cabinet which had not been included in the F/Plan and the reasons they had not been included. He assured the SMC Chair and VC that this would not be allowed to reduce compliance with the F/Plan requirements. Councillors Carr and Dhindsa were supportive and said they would take the proposal back to their respective groups and then let the Leader know if it was agreed.

RD

11/1/11

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