

Report of Head of Governance Services

Report to Corporate Governance and Audit Committee

Date: 9th July 2015

Subject: Annual Decision Making Assurance Report

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. This is the annual report to the committee concerning the Council's decision making arrangements and provides assurances which will feature in the Annual Governance Statement (to be considered by Committee in September 2015).
2. From the review, assessment and ongoing monitoring carried out, the Head of Governance Services, Head of Property, Finance and Technology, Head of Licensing and Registration and Chief Planning Officer have reached the opinion that, overall, decision making systems are operating soundly and that arrangements are up to date, fit for purpose, effectively communicated and routinely complied with.

Recommendations

3. Members are requested to consider and note the positive assurances provided in this report in relation to executive decision making, licensing, planning and the regulation of investigatory powers. Particularly:
 - 3.1. In relation to executive decision making:-
 - The assurances that the Council's Constitution has been reviewed and maintained as an accurate reflection of Council practice and procedure;
 - the monitoring which has taken place in relation to publication of agendas and minutes of committee meetings and the publication and call in of Key Decisions;
 - the monitoring of the use of officer delegations together with the reporting of one use of special urgency provisions; and

- the steps taken to continue to embed the decision making framework

3.2. In relation to Regulation of Investigatory Powers Act 2000 (RIPA):

- The appointment and training of authorising officers;
- Steps taken to embed and ensure compliance with guidance and procedure; and
- That there have been no applications for directed surveillance or CHIS authorisations and that there has been no use of the powers to obtain communications data.

3.3. In relation to licensing:-

- The monitoring of entertainment and miscellaneous licensing decisions;
- The monitoring of taxi and private hire licensing decisions; and
- The procedure adopted for review of the Statement of Licensing Policy for the Gambling Act.

3.4. In relation to planning:-

- The framework for planning decisions;
- Assurances in relation to officer conflict of interest;
- The monitoring of workload and the improvement in performance around decisions being made in time;
- The monitoring of committee decision making contrary to officer recommendation;
- The ongoing review of appeals and complaints as indicators of quality decision making;
- Ongoing training to ensure planning framework is embedded with both officers and Members ; and
- Assurances in relation to steps taken to engage with partners and customers.

1 Purpose of this report

- 1.1 This is the annual report to the committee concerning the Council's decision making arrangements.
- 1.2 This report provides one of the sources of assurance which the Committee is able to take into account when considering the approval of the Annual Governance Statement.
- 1.3 Members are asked to consider the results of monitoring documented within the body of this report and to note the assurances given by the Head of Governance Services, the Head of Licensing and Registration and the Chief Planning Officer, that the decision making framework in place within Leeds City Council is up to date, fit for purpose, effectively communicated and routinely complied with.

2 Background information

- 2.1 The Council's decision making framework, which is detailed within the Council's Constitution, comprises of the systems and processes through which decision making is directed and controlled. Whilst a number of these systems and processes are put in place in direct response to primary and secondary legislation, others reflect the implementation of locally adopted definitions and choices made to ensure maximum transparency and accountability within Council practice and procedure.
- 2.2 The committee has received previous assurance reports in respect of Executive decision making, RIPA, planning and licensing matters. The most recent report to be received being the Decision Making Framework; Annual Assurance Report – 11th July 2014. This report seeks to update the committee in respect of each of these decision making areas. This report therefore provides information in respect of the period 1st June 2014 to 31st May 2015.

3 Main issues

3.0 EXECUTIVE DECISION MAKING

- 3.1 The Head of Governance Services has responsibility to ensure that the Council's decision making arrangements are up to date, fit for purpose, effectively communicated, routinely complied with and monitored.

Amendments to the Decision Making Framework

- 3.2 As in any other municipal year it has been necessary to review and amend the Constitution in order to implement changing legislation and to ensure that it remains an accurate reflection of practice and procedure within the Council.

Openness of Local Government Bodies Regulations

- 3.3 As anticipated the Secretary of State issued the Openness of Local Government Bodies Regulations in the summer of 2014. The regulations required publication

of decisions in relation to Council functions where a decision in relation to a Council function is delegated to an officer and the decisions is taken either:-

- a) Under a specific express authorisation; or
- b) Under a general authorisation to officers to take such decisions and, the effect of the decision is to –
 - i. Grant a permission or a licence;
 - ii. Affect the rights of an individual; or
 - iii. Award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.

3.4 The Head of Governance Services worked with DCLG and liaised closely with directorates to understand the type and quantity of decisions affected by the regulations. Having considered the content of the regulations, and consulted with the directorates in relation to arrangements already in place to record and publish council functions, and the remaining number of decisions which would require publication in accordance with the regulations the Head of Governance Services put the following arrangements in place:-

3.4.1 Council functions falling within the definition set out in the regulations were included within the definition of Significant Operational decisions set out in Article 13;

3.4.2 The Access to Information Procedure Rules were amended to require the publication of decisions in relation to Council functions which fall within the definition of a Significant Operational decision and which are not the subject of an existing requirement to publish; and

3.4.3 The timescale was amended to require publication "as soon as reasonably practicable" This enables directorates with high volumes of relevant decisions to publish a monthly decision containing a schedule of all relevant decisions taken during the course of that month. This means that the requirement to record Significant Operational decisions in relation to Council functions is dealt with in an effective manner, enhancing transparency of decision making whilst not creating an undue administrative burden,

3.5 Leeds City Council was a leading authority in implementation of the regulations and many authorities sought to learn from the practice and procedure adopted. The Head of Governance Services has shared with DCLG the steps taken to implement the regulations.

The Local Government (Electronic Communications) (England) Order

3.6 A further amendment to the Access to Information Procedure Rules ensured that the authority is in compliance with The Local Government (Electronic Communications) (England) Order 2015. This provision enables the digital communication of notice of meetings where the Member consents.

- 3.7 The Head of Governance Services is liaising with Group Whips to establish a procedure by which Members may, if they prefer, receive notice of meetings by electronic communication. The procedure will also make provision for such consent to be withdrawn should a Member wish to do so.

Leeds City Region arrangements

- 3.8 The Leeds City Region Leaders Board has been wound up and the Leeds City Region Business Rates Pool Joint Committee established. This change in the authority's joint arrangements has been reflected in part 3 section 4 of the Constitution.

Annual Review

- 3.9 An annual review of the Constitution was carried out culminating in amendments being approved at the Annual Council Meeting on 21st May 2015. Amendments made at this time included:-

- The reflection of the Best Council Plan within the policy framework;
- the realignment of Scrutiny Boards in line with directorates; and
- the extension of Corporate Governance and Audit Committee's terms of reference to give effect to the Accounts and Audit Regulations 2015.

- 3.10 Council also approved the appointment of and terms of reference for its committees and the officer delegation scheme (Council (non-executive) Functions.)

- 3.11 In addition the Annual Council Meeting received details of the Leader's executive arrangements. These introduced changes to the portfolios held by Executive Board Members which were further reflected in amendments to the officer delegation scheme (Executive Functions.)

- 3.12 Both changes made during the 2014/15 Municipal year and those resulting from the annual review of the Constitution have taken place in accordance with Article 15 and at all times an up to date copy of the Constitution has been available for public inspection and published on the Council's website in accordance with Article 16.

Delegation of Functions

- 3.13 The Constitution documents the delegation of Council and Executive functions to Officers. Each of the Council and Executive delegation schemes are set out in two parts; the first part documenting general delegations shared by all Directors¹ and the second documenting those delegations which are specific to each Director.

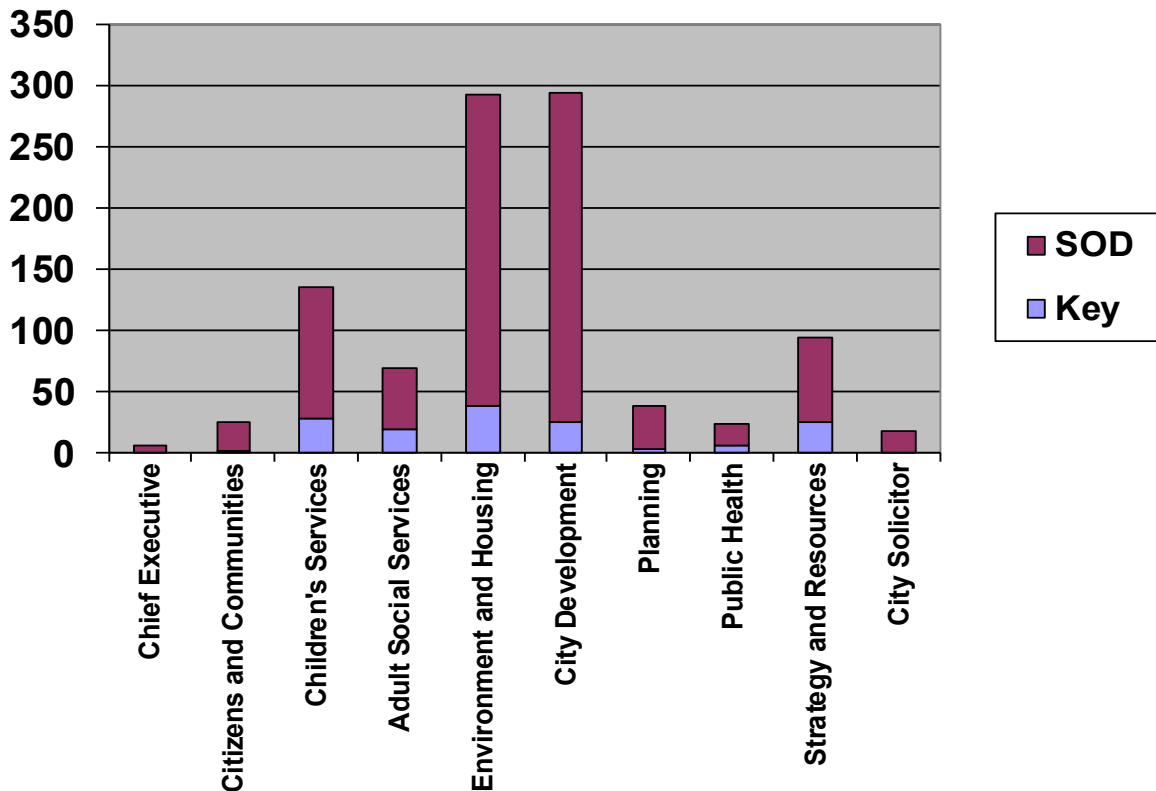
¹ Functions are delegated to the Chief Executive, Deputy Chief Executive, City Solicitor, Assistant Chief Executive (Citizens and Communities), Director Public Health, Director Adult Social Services, Director Children's Services, Director Environment and Housing, Director City Development and Chief Planning Officer who are collectively known as Directors for these purposes.

- 3.14 Functions delegated to Directors through the Constitution are further sub-delegated to other officers of the Council. These arrangements provide for transparency in terms of officer accountabilities, setting out arrangements for decision taking by individual officers in each directorate.
- 3.15 The Head of Governance Services is able to confirm that each Director maintained a sub delegation scheme in the 14/15 Municipal Year and made amendments throughout the course of the year as necessary and appropriate. Amendments to individual sub-delegation schemes have been published as significant operational decisions in addition to their inclusion in the electronic library maintained by the Head of Governance Services.
- 3.16 Each Director was required to make a new sub delegation scheme following the Annual Meeting on 21st May 2015. The Head of Governance Services can confirm all ten Directors have made a scheme. Each scheme is published on the Council's web site as part of the Modern Gov 'library'.
- 3.17 As part of the continued drive to ensure that governance arrangements are open and transparent the Head of Governance Services has worked with directorate support officers during the 14/15 municipal year to redesign the template on which directors record their sub-delegation schemes. The new template, trialled by the Director of Adult Social Services, the Director of City Development and the Chief Planning Officer during the 14/15 year, was used by all directors to record their new scheme of delegation for the 15/16 municipal year. The template provides a glossary of terms, together with clear, plain English, introductions to each element of the scheme and provides for Directors to indicate that the absence provisions apply when away from the office for business reasons as well as during periods of leave.

Publication of Decisions

- 3.18 Directors continue to be responsible for publishing items to the List of Forthcoming Key Decisions where appropriate in addition to publishing reports and delegated decision notifications in relation to Key and Significant Operational Decisions (SOD).
- 3.19 The chart below shows the distribution of Key and Significant Operational decisions taken by officers in accordance with the relevant delegation schemes between 1st June 2014 and 31st May 2015. (Council decisions are no longer included as a separate category as they now come within the definition of a Significant Operational decision.)
- 3.20 It will be noted that of the 1001 decisions recorded by officers in that period:-
- 15% (149 decisions) were Key and 85% (852 decisions) Significant Operational;
 - 29% (295) of these decisions were taken by or on behalf of the Director of City Development, 29% (293 decisions) by or on behalf of the Director of Environment and Housing, and 14% (136 decisions) by or on behalf of the Director of Children's Services. The remaining 28% (277 decisions)

are distributed between the Chief Executive, Deputy Chief Executive, Assistant Chief Executive, Director of Adult Social Services, Chief Planning Officer, Director of Public Health and City Solicitor, with none of these officers taking more than 100 decisions. This distribution of recorded decisions amongst the directors reflects the pattern of previous years and the distribution of functions amongst those directorates.



Performance Monitoring

3.21 Both national legislation, and local practice and procedure place requirements on the governance of decision making. To provide a test of the extent to which the council's arrangements meet these requirements, a suite of performance indicators have been established. These are explored further below. In order to ensure continuity of reporting to the Committee these statistics cover the period from June 2014 to May 2015.

Publication of Agendas

3.22 The Council is required to publish agendas and reports for committees five clear working days in advance of a meeting. This requirement is contained within

Section 100B of the Local Government Act 1972 for Council Committees and in the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2012 for Executive committees. Both pieces of legislation also contain exception provisions for meetings to be called at short notice.

- 3.23 The Head of Governance Service has established a target for 99% of agendas to be issued and published within the five day statutory deadline²; this being a reasonable measure of timely transparency and an indication of the extent to which exception provisions are utilised to call meetings at short notice.
- 3.24 Of 318 meetings which took place within the reporting period covered by this report, 8 agendas were not issued within the 5 clear day deadline. 2 of these agendas were for meetings called at short notice. 4 of the remaining 6 agendas related to meetings of the licensing sub-committee which meets weekly. Clerks to the Licensing Sub-Committee seek to ensure that the agendas are published with all necessary documentation relating to the applications to be heard. On occasions agendas need to be issued with less than five days' notice to enable this to happen. Provision for this is contained within legislation.
- 3.25 The overall figures give a performance of 97% of agendas published within the required notice period, which shows a slight improvement in performance on the previous year as follows:-

2011	96%
2012	97%
2013	98%
2014	96%
2015	97%

- 3.26 However, if the figures are adjusted to remove the impact of the short notice meetings, and agendas issued outside the target period for licensing sub-committee 99% of agendas have been issued within the target period.

Publication of Minutes

- 3.27 There is no statutory framework stipulating the time period for the publication of committee minutes. To enable the decisions of the Council to be accessible and transparent the Head of Governance Service has established a local target; this being for 100% of draft minutes to be published on the Council's internet site within ten working days.
- 3.28 Of 318 committee meetings which have taken place within the period covered by this report, 43 sets of draft minutes were published outside of this locally established target. This gives a performance indicator of 86% draft minutes published within the required period which shows a further decline in performance over the previous 4 years as follows:-

2011	96%
2012	96%

² Licensing Sub Committees are not bound by these statutory requirements but, for completeness, are included in the monitoring information.

2013 96%
2014 92%
2015 86%

- 3.29 The Head of Governance Service has reviewed the reasons for this and found some inconsistencies in officer practice. In order to tighten up performance each Governance and Scrutiny Officer has had a target in respect of minute publication included in their appraisal objectives for 2015/16.
- 3.30 In addition to publication of minutes, to enable speed of implementation and facilitate Call In, all Executive Board minutes are published within two working days of the Executive Board meeting. The Head of Governance Services is able to confirm that Executive Board minutes have been published within two working days for each meeting held between June 2014 and May 2015.

Key Decisions on the List of Forthcoming Key Decisions

- 3.31 As Members are aware, a significant element of the decision making framework concerns requirements surrounding the pre-notification of an intention to take a Key decision. These provisions seek to ensure transparency of decision making and allow representations from stakeholders etc.
- 3.32 Regulations require that a Key decision is included on the List of Forthcoming Key Decisions for no less than 28 clear calendar days prior to the decision being taken. The Head of Governance Services has set a local target of 95% (revised from 89% in 2014) of Key Decisions to be included on the List of Forthcoming Key Decisions, and monitors inclusion of Key Decisions on this list.
- 3.33 During the period covered by this report of 149 Key decisions taken by officers 8 were not on the List of Forthcoming Key Decisions as appropriate, and of 70 Key decisions taken by Executive Board 1 was not on the List. This gives a total performance indicator of 96% Key decisions on the List of Forthcoming Key Decisions.
- 3.34 This shows a slight decline from the previous year's performance but is in line with a general improvement over the last 5 years which show performance indicators as follows:-

2011 84%
2012 93%
2013 95%
2014 97%
2015 96%

- 3.35 Of the 9 decisions not included on the List of Forthcoming Key Decisions 8 were taken in accordance with the general exception provisions contained in Regulations and reflected in the Executive and Decision Making Procedure Rules. Each of these decisions gave a clear reason for use of the general exception.

Special Urgency

- 3.36 In accordance with Rule 2.6.2 of the Executive and Decision Making Procedure Rules³, the Head of Governance Services, on behalf of the Leader, reports that the Special Urgency Provisions, enabling an Executive Decision to be taken at less than 5 days' notice, was used once during this period.
- 3.37 The use of the special urgency provisions related to the Tropical World energy efficiency scheme. The scheme, which involved the closure of Tropical World while works were carried out, had to be amended when a key developer dropped out. The importance of re-opening Tropical World in time for February Half Term Holidays meant that the timing of the scheme was critical and the decision necessary to resolve the situation had to be taken as a matter of urgency.
- 3.38 The Chief Officer Parks and Countryside met with the Chair of the Safer and Stronger Communities Scrutiny Board and both parties agreed that the decision was urgent and could not reasonably be deferred.
- 3.39 The Head of Governance Services is able to confirm that the use of special urgency in the circumstances was appropriate and that all relevant rules and procedures were followed.

Eligible Decisions Open for Call In

- 3.40 The Council has established arrangements for eligible Executive decisions⁴ to be available for Call In. This allows for Overview and Scrutiny Committees to request that a decision, which has been taken, but not yet implemented, be considered by the relevant Scrutiny Committee. This mechanism is an important element of democratic accountability arrangements in place at Leeds and is monitored by the Head of Governance Services, with a target of 95% of all eligible decisions being available for Call In.
- 3.41 Of 149 Key decisions taken by officers and 294 eligible decisions of Executive Board taken during the reporting period, 11 decisions (4 taken by officers and 7 taken by Executive Board) were not open for call in. This gives a performance of 98% eligible decisions being available for Call In. This shows a return to previous good performance on the 4 previous year's performance as follows:-
- | | |
|------|-----|
| 2011 | 98% |
| 2012 | 96% |
| 2013 | 97% |
| 2014 | 95% |
| 2015 | 98% |
- 3.42 The Head of Governance Services has reviewed the reasons given by decision takers for exempting decisions from call in and is satisfied that decisions are being exempt from Call In only in appropriate circumstances. Reasons given for the majority of exempted decisions focus on time sensitivity for a number of reasons

³ Regulation 19 Executive Arrangement Regulations 2012

⁴ All decisions of Executive Board and all Key decisions of officers are eligible for Call In provided that they have not been the subject of a previous call in.

including statutory and funding processes, and commercial requirements. Others refer to changes necessary to previous decisions necessary to complete the procurement process. No pattern of concern arises in respect to the directorates from which exempt decisions originate.

- 3.43 Arrangements are in place within Directorates with large numbers of Key decisions to facilitate horizon scanning in relation to decision making and to ensure compliance with the relevant procedures.
- 3.44 To provide further context for Members in the period to May 2014 four decisions were the subject of a Call In request and all four were released for implementation. In the equivalent period for the most recent municipal year, June 2014 to May 2015, none of the 443 eligible decisions have been called in for consideration by the relevant Scrutiny Board.

Decisions Not Treated as Key

- 3.45 There have been no decisions taken during the reporting period that have been considered by a Scrutiny Board as Key Decisions which were not treated as Key.
- 3.46 Members will also receive assurance from the arrangements put in place by the Head of Governance Services and the Chief Officer (Financial Services) whereby no financial commitment can be processed on the financial management system without a corresponding Delegated Decision reference or Committee Minute being entered.

Embedding the Decision Making Framework

Training

- 3.47 Throughout the reporting period the Head of Governance Services has continued to provide information through the Decision Making Toolkit available to officers on Insite, together with a suite of training in relation to Decision Making Governance.
- 3.48 During the reporting period training on “Report Writing for Achieving Outcomes” has run on 3 occasions, and “Council Structures and Decision Making” training has run on 11 occasions. Feedback received on these courses has been positive. The Head of Governance Services has continued to work with Directorate Support Officers to publicise the training and to identify officers new to decision making roles within the authority with a need to attend. The appraisal process supports this directorate wide approach as it can be used to identify training need in individual cases. In addition the Head of Governance Services offers timely one to one sessions with Directors and Chief Officers appointed to the Council during the course of the municipal year. This has included making 1:1 arrangements with the new Director of Adult Social Care.
- 3.49 In addition The Head of Governance Services works with specific teams and officer groups to provide tailored training where appropriate. For example, bespoke training was provided to the Internal Audit team, and the Head of Governance Services contributed to the training provided during the induction for the Graduate Scheme.

- 3.50 As a running theme within these learning opportunities the Head of Governance Services continues to contextualise good decision making practice and procedure against the political environment in which decisions are taken.
- 3.51 The training in relation to decision making also specifically concentrates upon the importance of meeting the requirements in relation to checks and controls on decision making, and the need to plan decisions in good time to ensure that appropriate practice and procedure can be followed.

Induction

- 3.52 Throughout the 2014/15 municipal year the Head of Governance Services has been represented in the 'Knowledge Café' section of the Corporate Induction Event, to which all new Council employees are invited. Following a review of the event the Head of Governance Services has worked with colleagues in Human Resources to prepare an interactive presentation to familiarise with the structure of the Council as a political environment, and to signpost further learning opportunities as appropriate.
- 3.53 As part of the induction programme provided for newly elected Members, the Head of Governance Services provides sessions covering the practical arrangements in Council meetings, an outline of the decision making framework in place in Leeds, and guidance in relation to the Members' Code of Conduct.

Audit

- 3.54 Internal Audit have carried out a cross cutting audit of decision making within the Council to ensure that decisions are made in accordance with the constitution and other relevant policies and procedures. Expected controls include; appropriate consultation; correct classification of decisions; compliance with List of Forthcoming Key Decisions, Notification and Call In requirements; sufficiency of information within reports and adherence to timescales.
- 3.55 The audit considered sample decisions from City Development and from Children's Services and showed substantial assurance for compliance with the relevant controls.

Looking forward

- 3.56 In March 2015 DCLG undertook a consultation exercise in relation to a proposed review of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended). In addition to revising and updating the regulations to give effect to changes in local authority functions and responsibilities, the consultation sought views in relation to an extension to the decisions which would be reserved to full council including decisions in relation to parking enforcement, waste collections and disposals of assets over £500,000 in value. The Head of Governance Services took the lead in collating the council's response to the consultation.
- 3.57 It is anticipated that the proposed regulations will be made during the course of the 2015/16 municipal year, requiring revision of the officer delegation scheme as

set out in the Constitution. If the wider suggestions of the Secretary of State are also implemented within the regulations then a more extensive review of Part 3 of the constitution may be necessary to give effect to those requirements. The Head of Governance Services will ensure that appropriate steps are taken to consult with Members and Directors whilst making those changes required to give effect to the regulations in accordance with the powers delegated to the Monitoring Officer in Article 15.

- 3.58 In September 2013 the Council began to broadcast webcasts of meetings of Full Council. Following approval by General Purposes Committee trials are being arranged for webcast suppliers to webcast meetings from the newly created committee rooms in the Civic Hall. The intention being, subject to cost constraints, for meetings of Executive Board and City Plans Panel to be webcast live. It is considered that this will increase the transparency of committee decision making in line with the Council's value of being open, honest and trusted.

4 REGULATION OF INVESTIGATORY POWERS ACT 2000

- 4.1 At their July 2014 meeting, Members of Corporate Governance and Audit Committee noted the monitoring and reduction in use of RIPA powers, which included a proposal that the Council should appoint 2 or 3 officers at Head of Service level from within Strategy & Resources Directorate, to act as authorising officers. Since that meeting, 2 officers at Head of Service level have been appointed, and have received an initial full training session, and also a follow-up training session. In addition, the City Solicitor who acts as Senior Responsible Officer, and who can act as authorising officer in exceptional circumstances, has received a full training session in relation to her role, both as regards directed surveillance and the use of covert human intelligence sources (CHIS), and also as regards the acquisition and disclosure of communications data.
- 4.2 Also since the June 2014 meeting, the Guidance and Procedure document issued by Legal Services has been fully revised and updated to take account of new Codes of Practice issued by the Home Office on 10 December 2014, and new Procedures and Guidance issued by the Office of Surveillance Commissioners. The network of practitioners across all Council services has also received a full training session on the revised Guidance and Procedure document, and practitioners have been asked to identify potential applicants for authorisations in their Directorates, so that they can also receive the necessary training.
- 4.3 Practitioners have also been asked to identify any current or planned activity which might require authorisation under RIPA. To date, no Directorate has indicated any current or planned activity, other than Environmental Health colleagues who have indicated that going forward, they need to make limited use of the powers to acquire communications data. In order to raise awareness generally about the legal rules governing surveillance, an item has been placed in 2 editions of "Essentials" (which is circulated to all staff). In relation to any surveillance being carried out by Directorates which cannot be authorised under RIPA, practitioners have been asked to ensure that the proper auditable process set out in the Guidance and Procedure document is being followed, namely that

Human Rights Audit forms are being completed, and that any such surveillance is only carried out where it is necessary and proportionate, and where it is for the purpose of one of the permitted grounds of interference with the right to private and family life, in Article 8.

- 4.4 There have been no applications for directed surveillance or CHIS authorisations, since the June 2014 meeting. There has been no use of the powers to obtain communications data, over the same period. Given that the grounds for authorising surveillance are limited to preventing or detecting serious crime, and approval by a JP is now also required for directed surveillance and CHIS authorisations it is unlikely that there will be any increase in authorisations. As mentioned above, it seems that going forward, there will need to be a small number of notices or authorisations for acquiring communications data. However, it is important to note that notices or authorisations for acquiring communications data must be subject to assurance by an accredited SPoC (single point of contact) at the National Anti-Fraud Network that a notice or authorisation is appropriate and lawful, and must also be subject to approval by a JP.
- 4.5 Members are asked to consider whether they require any changes to the RIPA policy appended to this report. Minor changes have been made to the policy to reflect the change to the role of authorising officer. No other changes are recommended at this time. Although there is little use of these powers currently, officers will continue to update Members periodically on their use, and on any changes in policy or procedure which may be required as a result of legislation, or relevant Codes of Practice.

5 LICENSING MATTERS

- 5.1 The Head of Licensing and Registration has responsibility to ensure that the Council's arrangements in respect of licensing matters are up to date, fit for purpose, effectively communicated, routinely complied with and monitored.

Entertainment and Miscellaneous Licensing Decisions

- 5.2 As Members are aware the Council is required to take a variety of licensing decisions in accordance with the Licensing Act 2003, Gambling Act 2005 and other miscellaneous legislation providing for the licensing of scrap metal dealers, sex establishment licence, place of marriage, hypnotism, house to house collections and street collections.
- 5.3 The table set out at Appendix A to this report shows the number of applications received for the period between April 2014 to March 2015 and the previous two financial years for comparison purposes only. The table indicates the numbers of decisions made by Licensing Sub-Committee after representations were received. Members should note that where no representations have been received the legislation dictates certain licences must be granted.
- 5.4 The table shows that there has been an increase in the number of applications made under the Licensing Act 2003, and yet there has been a reduction in the

number of hearings before the Licensing Sub-Committee. This can be attributed to the pre-application advice offered to applicants which in turn informs better quality applications and reduces the risk of adverse representations. Similarly the close partnership working between agencies and licence holders has reduced the number of reviews brought against licensed premises.

Taxi and Private Hire Licensing Decisions

5.5 As Members are aware, the granting, suspension, revocation and enforcement of an individual hackney carriage (HC) or private hire (PH) licence whether for a vehicle, driver or operator is a council function under the Local Government (Miscellaneous Provisions) Act 1976. In Leeds, these functions are concurrently delegated to the Licensing Committee and to the Assistant Chief Executive (Citizens and Communities) under the Scheme of Delegation approved annually at full Council. The Assistant Chief Executive (Citizens and Communities) has sub-delegated that power to the Head of Licensing and Registration, the Section Head of Taxi & Private Hire Licensing and, in some circumstances, to Principal Managers, Licensing Officers and Licensing Supervisors. All decisions taken by officers are taken in accordance with policy and guidance decided by Members of Licensing Committee.

5.6 The figures for 10/11, 11/12, 12/13, 13/14 and 14/15 for applications, renewals, refusals, suspensions and revocations of taxi and private hire driver licences are set out in the table below.

	Applications	Renewals	Refusals	Suspensions	Revocations
10/11	482	6543	18	86	69
11/12	454	5981	15	129	46
12/13	674	6148	12	93	41
13/14	691	5888	9	133	25
14/15	665	6179	8	104	18

5.7 When considering the above information it is important to note that there is no direct correlation between the number of suspensions and revocations in any one year. For example, the number of licences revoked in any one year will include a proportion which was suspended in the previous year.

5.8 It is also important to note that many decisions result from the application of other legislation and the decisions of other bodies such as the courts or DVLA. As

explained earlier in this report, most officer decisions flow directly from the application of an approved council policy.

- 5.9 The legal provisions relating to the grant, refusal, suspension and revocation of Licences set out statutory Rights of Appeal to the Magistrates Court against almost all the decisions that would take effect. In the period between 1 April 2014 and 31 March 2015, 32 appeals have been received.
- 5.10 The table below shows the reason for these appeals and the outcomes (whether rejected, upheld or withdrawn by the appellant) are set out below:-

Appeal reason	Withdrawn	Rejected	Upheld	Total
Against Magistrates decision	1	1	0	2
Against Immediate suspension	13	8	1	22
Against Immediate revocation	2	0	0	2
Against Refusal	3	2	1	6
Total	19	11	2	32

- 5.11 The report which Members received in July 2014 set out details of planned policy reviews. Since this time the following changes have occurred:-
- 5.12 The Statement of Licensing Policy for the Gambling Act 2005 is due to be reviewed this year, to come in to effect from January 2016. A draft policy incorporating changes to the Gambling Commission's Licence Conditions and Codes of Practice is currently out for a public consultation and will be presented to full Council in November 2015.
- 5.13 The review of all taxi and private hire licensing policies is now completed. A forward plan has been established to review these policies again from 2017 onwards. A review of the number of hackney carriage proprietor (vehicle) licences has just been agreed by Licensing Committee, and an unmet demand survey will be conducted during 2016 after the procurement exercise to appoint the external consultants has been concluded.

6 PLANNING

- 6.1 The Chief Planning Officer has responsibility to ensure that the Council's arrangements for dealing with and determining planning matters are up to date, fit for purpose, effectively communicated, routinely complied with and monitored.
- 6.2 Planning Services has internal arrangements in place to provide assurance in the decision making process and to mitigate any potential risk of challenge on the grounds of partiality or bias. The service is firmly committed to a programme of continuous improvement, ensuring that processes take into account best practice and from learning from past errors. A number of actions and improvements have taken place over the last year and these are described below.

Decision making framework for planning matters

- 6.3 The framework for decision making in relation to planning matters in England and Wales is plan-led. This involves the authority preparing plans that set out what can be built and where. All decisions on applications for planning permission should be made in accordance with the Development Plan unless material planning considerations indicate otherwise.
- 6.4 The decision on whether to grant permission is within the context of the Development Plan and other material considerations which includes national and local planning policy and guidance. Material considerations cover a wide variety of matters including impact on neighbours and the local area.

Officer Conflict of interest and declaration of interest

- 6.5 The service ensures there is a robust process in place to detect any potential conflicts of interest on decisions made in respect of planning applications and the process that officers follow in declaring or making it known any beneficial interest in land and property. This includes the Council's annual declaration interest process and officers declaring an interest voluntarily, where there is a perceived conflict on clearly defined criteria.
- 6.6 It was reported in the last report to this Committee that Internal Audit carried out an independent review of the controls in place to detect any conflicts of interest on the decisions made in respect of planning applications. Head of Internal Audit was able to provide high level assurances that key controls were in place within the planning application process to mitigate the risk of planning decisions being subject to conflicts of interest and inappropriate influence.

Planning performance workloads April 2014 to March 2015

- 6.7 In 2014-15 the service continued to deal with a significant workload, whilst progressing with a number of large and strategically important applications. The service contributes to the Breakthrough Project Housing growth and jobs for young people and has been working positively with applicants, communities and Ward Members to deliver the Council's ambitious housing targets, whilst at the same time trying to raise the quality of design to reflect the distinctiveness of communities in Leeds. The Core Strategy has been found sound by the Inspector appointed to oversee the public examination process and was formally adopted by the Council on 12th November 2014, providing a secure policy framework for determining applications.
- 6.8 In the reporting period, application numbers submitted overall were up slightly from 4,495 in 2013-14 to 4,511 in 2014-15, with 4,119 decisions being made in 2014-15. 96% of decisions were made by officers under the delegation scheme, a slight decrease from the previous year, where 97.7% decisions were made by officers under delegated powers.
- 6.9 There are statutory determination timescales for different categories of applications; major applications in 13 weeks, minors and others in 8 weeks. Applications are also "in time" if they are determined within a timescale, agreed by

both the applicant and local planning authority. These are “extension of time agreements”, brought in under the provisions of the Growth and Infrastructure Act. During 2014-15 there has been a considerable improvement in performance and numbers of applications which are determined in time, as demonstrated in the table below:

	% Majors in time	% Minors in time	% Other in time
2014-15	88.7	85.1	91.8
2013-14	73.3	70.3	83.3
2012-13	61.3	77.4	88.9

- 6.10 The improvement in performance has in part been due to the ability to use extension of time agreements, but also there has been more emphasis on officers taking a project managed approach to handling applications.
- 6.11 The planning guarantee was brought in through The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2013 and is now operational and means that any applications over six months old after 1 April 2013, where there is no extension of time agreement can have the planning fee refunded. Since 1st October 2013 a total of £6,119 has been refunded, £ 4,964 of which was in 2014-15. Whilst this is a relatively small amount and relates to seven applications in total, officers have been instructed to try to negotiate extension of time agreements for those applications reaching six months old, wherever possible, to mitigate the risk of returning the fees.
- 6.12 This Committee heard in the last assurance report about the provisions in the Growth and Infrastructure Act which enables the Government to place authorities in “special measures” where they have been shown to be “poor performers”, based on two criteria- speed of determination and quality of decision making as demonstrated by the number of appeals made. In 2014, the Government consulted on raising the thresholds for both criteria and in June 2014, following the consultation, the threshold was raised for the speed criteria and now an authority is deemed to be in special measures if fewer than 40% of major applications are determined in time. The 20% threshold was retained as the threshold for major appeal decisions overturned. The service’s determination performance on major applications and appeals performance, as Committee will see in the appeals section below, clearly exceeds the threshold for special measures designation. It is critical for local decision making that this good performance is maintained as one consequence of being in special measures is that applications for major schemes can be made directly to the Planning Inspectorate, bypassing the Local Planning Authority (LPA).

Decisions contrary to the officer recommendation

- 6.13 From time to time, especially where decisions are closely balanced, the Plans Panels may attach different weight to the potential planning considerations and may take a decision which is contrary to the officer recommendation. Where this occurs there is the need to provide a robust and defensible basis for taking an alternate view, so that as far as possible, it will be capable of surviving a legal challenge or appeal. A high number of decisions taken that are contrary to the

officer recommendation may give the appearance that elected members and officers are not working well together, which has the potential to show a lack of confidence in the planning system in Leeds.

- 6.14 In 2014- 15, the three Plans Panels decided 191 applications. Fourteen were contrary to officer recommendation - two approvals and 12 refusals. This represents a slight increase in the proportion of decisions contrary to officer recommendation, 7.3% of total Plans Panel decisions in comparison with 6% in 2013-14. North & East Panel determined 58 applications with nine overturns and South & West Panel determined 62 applications with five overturns. There were no overturns at City Plans Panel.
- 6.15 Recent feedback at the meeting of the Joint Plans Panel in February 2015, has led to some work being undertaken on improving officer reports to Panel. The aim is to make reports less repetitive, focus on the key issues and clearly show where weight has been attached to particular material considerations. Providing increased clarity in this area will aid members in their decision making.

Appeals and complaints

- 6.16 The service uses several indicators to determine the quality of decision making: number of lost appeals, number of ombudsman complaints received and numbers upheld.
- 6.17 The table below shows that performance on the number of appeals dismissed has dropped in 2014-15 compared to the previous year but is comparable to 2012/13. Since the introduction of the National Planning Policy Framework (NPPF) and relaxation of the permitted development on large house extensions, it appears from analysis of the Planning Inspectorate's (PINS) decisions that PINS is allowing more household extensions, which are "marginal". A continuous review of appeal decisions takes place to ensure that any common themes are highlighted and measures put in place to mitigate the risk of appeals occurring on similar grounds. However, there is a careful balance to be made between refusing an application with the risk of a subsequent appeal and maintaining design quality, without being unreasonable.

Year	Appealed Decisions	Dismissed	Costs awarded against Council	Costs awarded to Council
2014-15	237	66%	5	0
2013-14	251	71%	4	0
2012-13	187	67%	3	0
2011-12	254	69%	7	2

- 6.18 In 2014-15 appeal costs of £2,092 have been paid on two claims, two costs have not been claimed and one has been quashed following a challenge and will be reconsidered by the Planning Inspectorate.
- 6.19 In the reporting period from April 2014 to March 2015 the LPA received notification the Local Government Ombudsman (LGO) they had investigated eight complaints on planning matters. The LGO will not normally open a case unless

the complainant has first been through the City Council's own complaints procedure.

- 6.20 Five of these complaints arrived closed with the Council being informed by the Ombudsman that no further action was required. From the enquiries made by the Ombudsman they were satisfied there was no evidence of maladministration causing an injustice.
- 6.21 Three cases required a written response from the LPA. One case was closed by the Ombudsman, finding no maladministration; in a second case, following their investigation, the LGO found no fault in the way the Council considered a planning application and the final case relates to previous investigation by the LGO where no maladministration causing injustice was found. However, the complainant has successfully challenged the LGO who has appointed a different investigator to look at the matter again. The issue of the complaint was how a development carried out in breach of planning control took such a considerable period of time to be resolved. The Ombudsman has yet to adjudicate on the further information provided by the LPA.
- 6.22 There were no financial settlements awarded by the Ombudsman during this period.

Embedding the framework for planning matters

- 6.23 As mentioned in previous reports to this Committee, the service places emphasis on ensuring that planning officers are up to date with current legislation, best practice and government initiatives. This ensures the decision making process is based on the most current and accurate information possible. In recent years, major reforms to the planning system have taken place and the pace of change continues. In this reporting period the Infrastructure Act 2015 was enacted in February 2015 and proposes a new system for deemed discharge of planning conditions, other announcements on planning reform have been made in the Budget 2014, Technical Consultation on Planning July 2014, Consultation: planning and travellers, September 2014, National Infrastructure Plan 2014, Autumn Statement 2014, December 2014 and the Government has made the regulation of Sustainable Urban Drainage Systems through the planning process from April 2015. At a local level the Community Infrastructure Levy has been in place in Leeds from 6 April 2015.
- 6.24 It has therefore been a time of significant change and necessary to ensure that officers are up to date and have received training to support decision making. Officers have received training and updates at the planning case officers' meeting which takes place every 6 to 8 weeks. Guest speakers are invited who provide information on planning and planning related information. Planning officers have received training from internal consultees including landscaping, drainage, ecology and environmental health. Further training from conservation is planned for summer 2015. The Head of Planning Services provides a regular update of government reforms and changes that will impact on the way officers work. The meetings facilitate two way communications to ensure agreement is reached on operational issues and a consistent approach is adopted across the service.

- 6.25 External formal training has been accessed by a number of officers through the Royal Town and Planning Institute and Planning Advisory Service. Information is cascaded to colleagues at case workers meetings, as appropriate.

Member Training

- 6.26 In order to sit on the Plans Panel, members are required to receive compulsory training, as per the requirements in Article 8 of the Council's Constitution. In the reporting period, all members have undertaken the compulsory annual planning update session. The majority of members attended the two sessions, and one to one sessions were organised for three members. New members to Plans Panels appointed since the Annual General Meeting of the Council have recently received training prior to attending Panel meetings.
- 6.27 In previous years Members had the opportunity to shadow planning officers in the planning office to see how an application was handled end to end. Feedback from Members was that this was a valuable insight and shadowing will be offered again as part of the training programme in 2015-16.

Relationship with partners and customers

Housing Growth events

- 6.28 Members heard in the last report about the first house builder's conference in October 2013, which aimed to take a proactive approach to engaging with volume house builders in a bid to address concerns about the quality of large residential proposals in Leeds. The aim of the session was to work with developers to develop proposals that reflect the Council's ambition for high quality housing, provide more clarity for applicants and facilitate more consistent and speedier decision making to support housing growth in the city.
- 6.29 Following on from this conference, a further meeting with the volume house builders, registered providers, architects, agents and elected members was held in January 2015, which provided an update on the Core Strategy, formally launch the consultation on the Leeds Standard and to further reinforce the need to deliver high quality development which better reflects the varied character and identity of the different communities throughout Leeds. From this meeting, it was agreed to hold a series of three workshop sessions to explore the issues encountered by stakeholders and the Council, with the aim of reducing delays in determination, ensuring quality and facilitating a swift start on site and housing delivery.
- 6.30 The sessions were held in April and May 2015 and were well attended. An action plan is currently being developed by the service to help deliver the housing growth agenda in Leeds. However, it is anticipated this will be a shared action plan between the council and the development industry, where changes will be needed by all stakeholders. The Council has been commended by the development industry for taking such a proactive and transparent approach to delivering housing growth.

Customer Services

- 6.31 A customer survey was carried out in February 2015 to ascertain the level of satisfaction with the planning service. The survey only received a 2% response rate and it therefore the results are not necessarily representative. However, of those who responded, 54 % were satisfied with the service they received; this is an increase from 51% in the customer satisfaction survey conducted in 2013.
- 6.32 However, despite the low response rate there are some common themes and the main areas highlighted for improvement were communication with objectors and the lack of information and notification of an application's outcome and lack of acknowledgement by the LPA to any comments made. This resulted in respondents commenting that they didn't feel their representation was taken into consideration when a recommendation was reached. To avoid criticisms relating to inadequate consideration of the issues, or claims of unclear reasoning behind an officer's recommendation, officer reports need to ensure they robustly address, among other things the substance of objections and the views of those who have been consulted and their materiality in the decision making process.
- 6.33 Several actions are going forward to address these issues:
- A new draft report template is being produced which introduces a new section "balance of considerations", which aims to show more clearly how the decision has been made
 - Officer training on the new template will reiterate the need for a summary of the issues raised by representations and addressing of them clearly and concisely in the appraisal section so representations can be identified
 - Better use of Plain English in reports and reducing jargon and technical language wherever possible, particularly when addressing representations so objectors can easily identify their issues
 - Managing expectation through clearer information that the LPA cannot respond directly to people who have made representations

CSE reaccreditation

- 6.34 The customer services section within Planning Services has been the holder of the Customer Services Excellence Award (CSE) since 2009. This is a national government standard awarded to organisations which demonstrate that they are a customer centric organisation. The scope was broadened to include the wider planning service and the whole service was awarded CSE in 2014.
- 6.35 In April 2015, the service was assessed against rigorous criteria- Customer Insight- the identification of customers, customer satisfaction, engagement and consultation. The service was formally assessed by an external assessor who met with service users- agents, developers, community representatives and spoke with them about the service they received. The assessor concluded that the service continued to meet the CSE standard. However, there was one partial compliance in the area of customer satisfaction data. As mentioned above the

response rate to the 2015 customer satisfaction survey was very low and work is needed to try to obtain a greater response rate in the future so we can be assured that the views received represent the whole population we serve. Methods are currently being considered to try to achieve a better response, in a cost effective way.

6.36 The service will continue to be externally assessed on an annual basis.

Web refresh

6.37 A corporate review is taking place to refresh some of the pages on the Leeds City Council website, including the planning pages. Planning will become a sub site of the main LCC site, because of the complexity and volume of information provided. The service intends to consult with users and customers, members and staff to seek views on how the pages can be improved and questionnaires are currently being drafted. Further clarity is needed from the corporate web team on what is allowable on the site in terms of architecture and format of information. Once this has been agreed customers will be surveyed and an action plan developed.

7 Corporate Considerations

7.1 Consultation and Engagement

7.1.5 The information contained in this report has been shared with the Corporate Leadership Team and with the Executive Board Co-ordination Group in order that information can be further disseminated as appropriate within directorates.

7.2 Equality and Diversity / Cohesion and Integration

7.2.1 There are no implications for this report.

7.3 Council policies and the Best Council Plan

7.3.1 The Best Council Plan sets out the Council's ambition to become the best Council in the UK, using a civic enterprise leadership style, in which the council is more enterprising, businesses and partners more civic, and the citizens of Leeds more actively engaged in the work of the city.

7.3.2 In conjunction with the Council's values, particularly that of being open, honest and trusted, this ambition is captured in the Council's decision making framework which is designed to ensure open and honest decision making, enabling engagement of the public with Key decisions taken by Members or officers.

7.4 Resources and value for money

7.4.1 Given the assurances made by the Head of Governance Services, the Head of Licensing and Registration and the Chief Planning Officer as a result of the implementation and monitoring of the Council's decision making framework it is considered that the systems and processes in place represent an appropriate use of resources and good value for money.

7.5 Legal Implications, Access to Information and Call In

- 7.5.1 The Head of Governance Services, Head of Licensing and Registration and Chief Planning Officer are satisfied that the arrangements put in place through the Council's decision making framework meet all legal requirements.
- 7.5.2 Proper implementation of the decision making framework ensures appropriate access to information for both elected Members and the public.

7.6 Risk Management

- 7.6.1 From the review, assessment and ongoing monitoring carried out the Head of Governance Services has reached the opinion that, overall, decision making systems are operating soundly and that there are no fundamental control weaknesses.

8 Conclusions

- 8.1 From the review, assessment and ongoing monitoring carried out the Head of Governance Services has reached the opinion that, overall, decision making systems are operating soundly and that there are no fundamental control weaknesses.

9 Recommendations

- 9.1 Members are requested to consider and note the positive assurances provided in this report.

10 Background documents⁵

- 10.1 None

⁵ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.

			12/13	13/14	14/15	
Licensing Act 2003	Premises Licences	Number of applications	1008	1095	1145	
		Number of committee decisions	60	45	28	
	Club Premises Certificates	Number of applications	2	5	9	
		Number of committee decisions	1	2	0	
	Personal Licences	Number of applications	521	475	539	
		Number of committee decisions	6	2	0	
	Temporary Event Notices	Number of applications	1658	1621	1785	
		Number of committee decisions	1	0	0	
	Review Applications	All heard before committee	9	10	1	
	Gambling Act 2005	Premises Licences	Number of applications	11	10	5
Number of committee decisions			0	2	0	
Permits		Number of applications	16	30	30	
		Number of committee decisions	0	0	0	
Small Society Lottery Registrations		Number of applications	123	66	60	
		Number of committee decisions	0	0	0	
Temporary/ Occasional Use Notices		Number of applications	0	0	2	
		Number of committee decisions	0	0	0	
Misc.		Marriage Act Premises Registrations	Number of applications	18	13	25
			Number of committee decisions	0	0	0
	Sex Establishment Licences	Number of applications	9	10	7	
		Number of committee decisions	7	16	3	
	Scrap Metal Dealers Registrations	Number of applications	69	175	50	
		Number of committee decisions	0	0	0	
	Motor Salvage Operators Registrations	Number of applications	3	0	n/a	
		Number of committee decisions	0	0	n/a	

			12/13	13/14	14/15
Misc. continued	Street Collection Permits	Number of applications	214	150	238
		Number of committee decisions	0	0	0
	House to House Collection Permits	Number of applications	30	31	24
		Number of committee decisions	0	0	0
	Hypnotist Licences	Number of applications	3	5	6
		Number of committee decisions	0	0	0