



---

## Report of the Director of Resources

### Corporate Governance and Audit Committee

Date: 18<sup>th</sup> July 2011

Subject: Decision Making Framework; Annual Assurance Report

---

**Electoral Wards Affected:**

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

---

### 1.0 Purpose of the Report

- 1.1 This report provides an annual report to the committee, in respect of the the Council's decision making arrangements. The report does not consider delegated planning decisions (which were considered as part of the Chief Planning Officers report to the committee in June), nor does it address delegated Licensing decisions.
- 1.2 The report also provides details of the results of a follow up audit undertaken by Internal Audit in 2010/11 with regard to decision making.
- 1.3 The report concludes with an opinion from the Head of Governance Services with regard to overall compliance with the Council's decision making arrangements.

### 2.0 Background Information

- 2.1 This report forms one of a series of annual reports to the committee that provide the basis for the committee to agree the Annual Governance Statement (scheduled for consideration by the committee in September 2011).

In previous years the committee has received a year end position with respect to;

- Key Decisions Taken under Special Urgency provisions
- The Forward Plan of Key Decisions
- Key and Major decisions which have been designated as exempt from the Call-in process

- 2.2 This year the annual report has been expanded in scope and coverage.

### **3.0 The Decision Making Arrangements at Leeds City Council.**

- 3.1 The decision making framework at Leeds comprises the systems and processes through which decision making is directed and controlled. The arrangements are comprised primarily of **Constitutional** provisions, namely;

#### **Articles of the Constitution:**

Article 1 (describing the powers and purpose of the Council and the purpose of the constitution), Article 3 describing the rights of Citizens (for example rights to attend meetings, rights in respect of the forward plan, access to information regarding decisions), Article 4 – the budget and policy framework of the Authority, Article 6 the role of function of Scrutiny Boards, Article 7 the role, form and composition of the Executive, Articles 8-10 describing the role, function and membership requirements of committees and Article 13 (which describes requirements relating to decision making);

#### **Responsibility for Functions**

Arrangements whereby the responsibility for various Council, Local Choice and Executive functions are delegated to committees and officers. In addition there are arrangements to further document how these functions are discharged within directorates by way of a sub-delegation scheme.

#### **Procedure Rules**

Arrangements to govern the processes of decision making; specifically those relating to;

- Full Council
- The Executive
- Scrutiny
- Area Committees
- Access to Information

#### **Codes and Protocols**

- Specifically, codes of conduct for members and officers (specifically arrangements for members and officers to register and declare relevant interests) and protocols describing the respective roles of members and officers in decision making.

- 3.2 To support these arrangements training and advice is provided by the Governance Services staff. Specifically this includes;

- Training to officers regarding the decision making process;
- Advice to officers regarding reports to committees and which support delegated decisions

- 3.3 In addition the Head of Governance Services uses a number of mechanisms to review the effectiveness of the decision making process, particularly the extent to which the council has been able to demonstrate (as per Article 1 of the Constitution), clear, accountable and efficient decision making processes. These include;

- Delegation and Sub delegation arrangements;
- Call In;
- The Forward Plan;
- The Use of Special Urgency Provisions;
- Financial commitments;

- Publication of agendas (and reports), delegated decisions and committee minutes;
- Publication of delegated decisions;
- Training provision and attendance;
- Opinion of Internal Audit.

## **4.0 Review of the Effectiveness of the Decision Making Arrangements**

### **Annual Review of the Constitution**

- 4.1 On an annual basis the various provisions of the constitution are reviewed. As a result of this the Annual Council meeting approved amendments to committee terms of reference (specifically around scrutiny boards) and to Scrutiny Board Procedure Rules, specifically in relation to the arrangements whereby decisions can be called in, widening the facility for members to call in matters of concern. In addition the Council Function delegation scheme for council officers was agreed.
- 4.2 The Leader of Council has also reviewed the executive arrangements in year, specifically, following Executive Board agreement, further delegations have been made to Area Committees. Amendments to the Executive arrangements were reported to full Council in accordance with our constitutional arrangements.

### **Sub Delegation Arrangements**

- 4.3 Those officers with direct delegations from Full Council and the Leader have in place sub delegation schemes which document the scope of decision making authority of officers within directorates. These have been reviewed on an annual basis following the Annual Council meeting and at other times during the year as the director (or relevant chief officer) feels appropriate.

### **Call In**

- 4.4 Key and Major decisions made by officers and decisions taken by the Executive Board are subject to Call-In by Scrutiny Boards and cannot be implemented until either the Call-In period has expired or, in the case of a decision that has been called in, the relevant Scrutiny Board has considered the decision, and where relevant the Scrutiny Board's recommendations have been considered.
- 4.5 The extent to which Key and Major decisions are available for Call In provides a proxy measure for the openness and transparency of decision making within the Council, particularly in respect of democratic accountability. The higher the percentage of decisions available the greater the breadth of challenge which can be exercised by Members through the scrutiny process.
- 4.6 Whilst Directors can identify a decision as being exempt from Call-In, this is only in cases where a Director considers that the decision is urgent and any delay in implementing the decision would seriously prejudice the Council's or public interest. These reasons are included in reports and, where necessary, accompanying delegated decision notices.
- 4.7 The authority has achieved its target of 95% of eligible decisions been available for Call-in for the year ending 31 March 2011 and more details are shown at appendix 1 with additional commentary.

- 4.8 The Head of Scrutiny and Member Development has reported that the Call In facility was used on 10 separate occasions during 2010/11, seven of which related to Executive Board decisions. Scrutiny of these 10 decisions led to six of them being referred back to the decision maker for reconsideration, primarily due to concerns raised around insufficient consultation and/or a lack of sufficient information on which the original decisions had been based.
- 4.9 Following the Call In process, all six of the decisions were reaffirmed by the decision maker following consideration of additional supporting information and, where appropriate, improvements made to consultations.
- 4.10 This perceived weakness in the control environment will be addressed during the forthcoming year specifically through specific cross council targets within the Council Business Plan and also through changes to the report writing template.

### **Forward Plan**

- 4.11 The Forward Plan of Key Decisions<sup>1</sup>, detailing those Key decisions which are to be taken by the Executive Board and by Officers (under delegated powers), over a four month period is produced on a monthly basis. The purpose being that pre-notification of Key decisions is given, thus allowing representations to be received and pre-scrutiny of proposals to take place.
- 4.12 Monitoring the proportion of Key decisions which are pre notified provides a proxy measure of the openness and transparency of the council's decision making. In particular this is because notification of decisions on the Forward Plan allows for representations to be made to decision makers in advance of decisions being taken.
- 4.13 The authority has a target of no more than 11% of Key Decisions being taken by the Council which have not been notified on the Forward Plan of Key Decisions. For the year ending 31 March 2011, this target has not been achieved with some 16% of key decisions being taken with no prior notification on the Forward Plan. Again more details are shown at appendix 1 along with additional commentary.
- 4.14 Governance Services provides data for Corporate Performance Management purposes in respect of both Call in and the Forward Plan. This information is considered by Corporate Leadership Team on a quarterly basis. From quarter two this year, more detailed performance information, by directorate will be possible. This will enable, where necessary and on an exception basis, further challenge to take place as part of regular appraisal and accountability meetings.

### **Key Decisions Taken Under Special Urgency Provisions**

- 4.15 Paragraph 15 of the Access to Information Procedure Rules allows for 'Special Urgency' and states: "If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant Scrutiny Board that the taking of the decision cannot be reasonably deferred and the decision is urgent. If there is no chair of a relevant Scrutiny Board, or if the chair of the relevant Scrutiny Board is unable to act, then the agreement of the Lord Mayor of the Council, or in his/her absence the Deputy Lord Mayor will suffice".

---

<sup>1</sup> See Glossary at the end of this report.

- 4.16 Regular use of these provisions would negate a number of the decision making controls outlined in section 3 of this report. However in the period under review there were no decisions taken under the 'Special Urgency' provisions.

### **Financial Commitments**

- 4.17 A review of financial commitments over £100,000 for 2009/10 and 2010/11 was recently undertaken. This threshold has been chosen as it equates to a Major Decision and therefore has relevance in terms of the Council's existing controls. The review identified a number of commitments which could not readily be referenced to a decision.
- 4.18 As an outcome of this, further work is ongoing with the Chief Officer (Financial Management) to establish whether it might be proportionate to introduce an additional control into financial management processes to ensure that financial commitments over £100,000 can evidence an appropriate prior decision.

### **Publication of agendas and committee minutes**

- 4.19 The Head of Governance Services considers monthly performance information in respect of the publication of committee agendas and committee minutes. The performance information relating to the publication of agendas provides a measure of the extent to which the Council is providing advance notice of matters to be considered by committees (and thereby complying with Access to Information requirements of the Local Government Act 1972). Whilst provisions exist for meetings to be called by way of special urgency, such arrangements should not be the norm and so the Head of Governance Services has established a target of 99% of agendas being issued and published within the 5 day statutory deadline.
- 4.20 Of 314 meetings taking place in the 2010/11 Municipal Year 12 meeting agenda's were published late – 96% (not published in the Democratic Services information system) of which 5 meetings were called at short notice – 98% overall.
- 4.21 Although not meeting the target of 99% this represents a slight improvement in respect to performance in 2009/10, which was 95%, and in the opinion of the Head of Governance Services, does not indicate a concern in respect of the control environment.
- 4.22 Whilst there is no statutory requirement in respect of the timeliness of minute publication, the Head of Governance Services also measure the timeliness of committee decisions being reported and put in the public domain. The measures for this are twofold, firstly publishing a record of executive decisions taken by Executive Board and Area Committees in the public domain within 48 hours of the meeting. This is done to enable the various Call In processes to commence as soon after a meeting takes place as possible. All but one set of decisions (that relating to an Area Committee) were notified within this timescale.
- 4.23 Secondly the timeliness of minutes being published across all committees is measured. The Head of Governance Services has established a target of 100% of minutes being published within ten working days. Of the 314 meetings taking place in the 2010/11 Municipal Year 302 sets were published within this timescale, equating to 96%. Of those:

3 related to Licensing Sub Committees  
3 related to Scrutiny Boards

3 related to Plans Panels  
2 related to Development Plans Panels  
1 related to an Area Committee

- 4.24 Although not meeting the target of 100% this represents consistent performance when compared to in 2009/10, which was 96%, and in the opinion of the Head of Governance Services, does not indicate a concern in respect of the control environment. However the Head of Governance Services is in the process of reinforcing the importance of prompt publication via appraisal and one-to-one meetings.

### **Publication of Delegated Decisions**

- 4.25 Governance Services publishes on the Council's all delegated Key, Major, Significant Operational and Council decisions which are notified to them. As an integral part of the administration of these decisions Governance Services;

- Check that delegated/sub delegated authority exists for the decision taker;
- Ensure relevant public interest test arguments are contained in reports which contain exempt information;
- Advise on compliance issues regarding publication and notice requirements and Call In;
- Inform members of all notified Key and Major decisions taken for the purposes of Call in
- Inform members on a monthly basis of all notified significant operation decisions on

- 4.26 During 2010/11 the following number of delegated decisions were notified to Governance Services;

Key Decisions – 263  
Major Decisions – 288  
Significant Operational Decisions – 1424  
Council Decisions - 89

- 4.27 The number of decisions being notified indicates that a large volume of decisions are taken in a clear and accountable way. However anecdotally, there appears to be concerns as to the efficiency of some aspects of the decision making process. In this respect there may well be scope for the decision making process to be reviewed, particularly to consider the extent to which decision making framework is aligned with financial and contracts procedure rules and the existing thresholds for Key and Major decisions and reporting requirements for Significant Operational decisions.

### **Internal Audit Opinion**

- 4.28 Internal Audit undertook a follow up audit in respect of delegated decision making in early 2011 and issued their findings in May 2011. The Internal Audit opinion was that;

'**Good assurance** has been provided for the **Control Environment** as Governance Services has substantially implemented the recommendations made in the audit of 2008/09.

The **Organisational Impact** has been assessed as **Minor** as the weakness identified during the review have left the council open to low risk.'

4.29 The Internal Audit report, and recommended areas for improvement, is attached to at Appendix 2.

### **Training Provision and Attendance**

4.30 To help embed the decision making framework the Head of Governance Services has provided a training programme and supporting guidance. The sessions were primarily targeted at those officers having delegated or sub delegated authority for decision taking.

4.31 The training session comprises 4 parts;

- the need for and benefit of a Decision Making Framework,
- the differentiation between Council and Executive Functions and the various decision making routes which apply to each type,
- the controls which apply to decision making (largely in relation to executive decision making, but with some reference to Council decisions), and
- practical application of those controls to case studies.

Each session is supported by a pack of materials, all of which are available on the 'decision making – corporate governance' intranet site. Delegates are signposted to this site and invited to share the contents with their colleagues.

4.32 However given the scale of demand 11 sessions have been delivered reaching 218 delegates. response to the course was very good in terms of feed back received on the day, there is a need to measure the benefit accrued from the course. The first real measurement will be in terms of the decisions which are made by officers complying with the decision making framework. This should be reflected in the Performance Indicators, for example around key decisions being made which are not on the Forward Plan. Secondly a set of Decision Making Skills Criteria has been prepared and forwarded to all course delegates in order that they can identify and feed back any gaps in their knowledge and practice. These criteria have also been included on the intranet page for more general use by officers and their managers to identify future training needs.

4.33 There remain a number of officers on the waiting list who asked for but were not able to attend the first round of training and a number of people have come forward following circulation of the Decision Making Skills Criteria. It is also known that a number of recruitment processes and restructures are underway which will result in the appointment of people who are new to Leeds City Council or new to decision making responsibility, all of whom could benefit from the training. It is therefore intended that a further series of sessions will be scheduled, followed by the periodic delivery of this training.

### **Summary of Areas for Improvement**

4.34 The following areas will be progressed during the forthcoming year;

- A review of the extent to which decision making framework is aligned with financial and contracts procedure rules;
- Changes to the corporate report writing template to require incorporation of consultation planned or undertaken; equalities considerations; and other corporate considerations such as value for money.
- A review of the existing thresholds for Key and Major decisions and reporting requirements for Significant Operational decisions;

- A review to establish whether it might be proportionate to introduce an additional control into financial management processes to ensure that financial commitments over £100,000 can evidence an appropriate prior decision.
- Further training sessions specifically targeted at addressing gaps identified from the review of delegation and sub delegation schemes and those that have not attended decision making training.

## **5.0 Implications For Council Policy And Governance**

- 5.1 The Council's Constitution sets out the framework for decision making within the Council; Directors and Chief Officers have established sub delegation schemes through which authority to take decisions is further sub delegated to officers of relevant seniority and experience.
- 5.2 To underpin these constitutional requirements, the Head of Governance Services has established processes through which decisions, notified to him, are challenged, for compliance with Constitutional requirements and then subsequently documented on the Council's record system.
- 5.3 On the basis of the review of the effectiveness described in section 4 the Head of Governance Services is satisfied that the systems are operating soundly and there have been no fundamental control weaknesses during the year.

## **6.0 Recommendations**

- 6.1 Members of the Committee are asked to consider the issues explored in this report and the assurances provided by the Head of Governance Services and note the areas for further improvement.

## **Background Documents**

Leeds City Council Constitution

Democratic Services Performance Reports

Reports to Corporate Governance and Audit Committee

## **Glossary**

### Key Decision

A Key Decision as defined in the Constitution is a decision relating to an executive function which is likely to:

- result in the Authority incurring expenditure or making savings over £250,000 per annum, or
- have a significant effect on communities living or working in an area comprising 2 or more wards

### Major Decision

A Major Decision as defined in the Constitution is a decision relating to an executive function which is likely to:

- result in the Authority incurring expenditure or making savings over £100,000 per annum, or



- have a significant effect on communities living or working in an area (including one ward)

### Forward Plan

The Forward Plan is prepared on a monthly basis and contains details of the Key Decisions to be made for the four month period following its publication. This document provides details of what key decisions are to be taken, when they are to be taken, who will take the decision, what consultation has been/will be undertaken and to whom representations can be made.

The Forward Plan is published at least 14 days before the start of the period covered and once a year a notice is published in at least one newspaper circulating in the area setting out publication dates for the year.

### Significant Operational Decision

those decisions which:

- (a) do not fall within the definition of Administrative Decisions as set out in paragraph 4.6;
- (b) require an application to be made for planning permission, listed building, ancient monument or conservation area consent;
- (c) comprise or include the making, approval or publication of a draft or final scheme which may require, either directly or in the event of objection, the approval of the Secretary of State or of a Minister of the Crown;
- (d) require the passage of local legislation or the adoption by the Council of national legislation;
- (e) propose the payment of an ex-gratia payment of a sum in local settlement of a complaint, in excess of £1,000 or where that payment is not agreed with the Director of Resources;
- (f) propose a response on behalf of the Council to consultation by the Secretary of State or a Minister of the Crown;
- (g) propose an alteration in the standard charges which the Council makes for any of its services<sup>2</sup>;
- (h) gives rise to the need to appoint additional staff, redeploy or change the normal place of existing staff, materially change the terms of appointment of existing staff or result in any staff being redundant;
- (i) require the acquisition or disposal of any land or interest in land;
- (j) require a virement of funding within approved virement powers of officers;
- (k) approve a care plan which specifies residential or nursing care which the council has a duty to provide under Section 21 or Section 29(4) National Assistance Act 1948, Section 117 Mental Health Act 1983, Section 17 or 20 Children Act 1989 or Section 2 Local Government Act 2000, where the expenditure is likely to be over £100,000;
- (l) purchase energy under the terms of an energy supply contract which has been awarded following the appropriate procurement process;

---

<sup>2</sup> This paragraph refers only to those charges made in respect of executive functions.

- (m) make, pay or borrow a loan in accordance with Treasury Management Procedures;
- (n) approve or change an officer sub-delegation scheme; or
- (o) are of such significance to the locality, the Council or services which it provides that the officer is of the opinion that it should be treated as a Significant Operational Decision.