

Joint Report of City Solicitor, Assistant Chief Executive (Citizens and Communities) and Chief Planning Officer and

Report to Corporate Governance and Audit Committee

Date: 11th July 2014

Subject: Decision Making Framework: Annual 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 2014).
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 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 assurances given in relation to the use of special urgency provisions, and that there have been no Key Decisions which have not been treated as such; 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 monitoring and reduction in use of RIPA powers.

3.3. In relation to licensing:-

- The monitoring of decisions in relation to entertainment and miscellaneous licensing and the introduction of responsibility under the Scrap Metal Dealers Act 2013;
- The monitoring of taxi and private hire licensing;
- The ongoing review of licensing policy; and
- The introduction of three yearly DBS disclosures for licence holders.

3.4. In relation to planning:-

- The sub-delegation of planning decisions;
- The assurance from internal audit in relation to the robustness of system in place to determine planning applications;
- The ongoing work in relation to declaration of officer interests;
- The review of the work of plans panels and the protocol in place to guide their Members;
- Monitoring of planning workloads and performance in relation to statutory timescales including the use of agreed extensions of time;
- Monitoring of decisions against officer recommendation, appeals and complaints;
- steps taken to continue to embed the framework for planning matters; and
- ongoing work to build and develop relationships 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, planning and licensing matters. The most recent report to be received being the Decision Making Framework; Annual Assurance Report – 20th September 2013. This report seeks to update the committee in respect of each of these decision making areas.

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.
- 3.3 An annual review of the Constitution was carried out culminating in the Annual Council Meeting on 9th June 2014. Amendments made at this time centred on the community engagement agenda and the introduction of Community Committees in place of the old Area Committees.

- 3.4 Both changes made during the 2013/14 Municipal year and those resulting from the annual review of the Constitution have taken place in accordance with Article 15. Amendments made by the Monitoring Officer were recorded as Significant Operational Decisions and published on the Council's web site, amendments made by the Leader of Council or Executive Board were reported to the next available meeting of the Council, and decisions to be taken by Full Council were first considered by the General Purposes Committee in order that recommendations could be made.

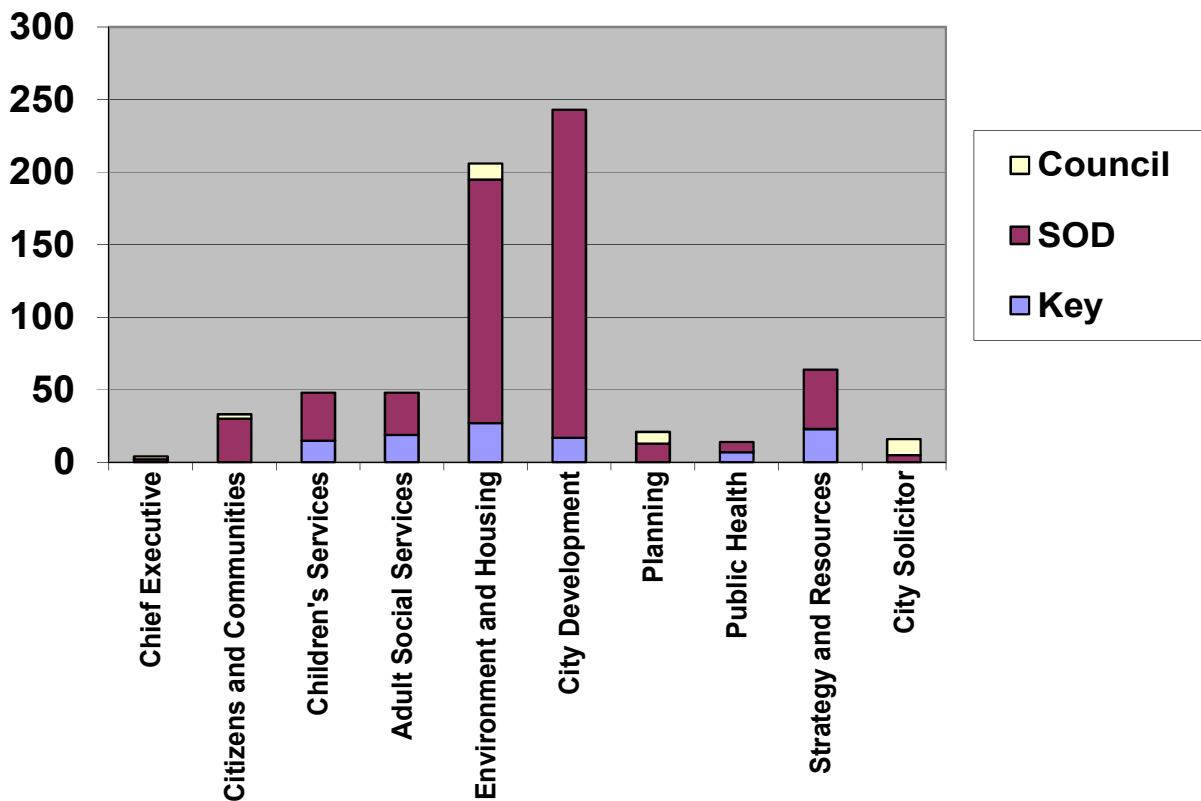
Delegation of Functions

- 3.5 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. As part of the annual review the general executive delegations have been greatly reduced and simplified, reflecting the fact that each Director is authorised through their specific delegations to take such financial and procurement decisions as are necessary in relation to those functions.
- 3.6 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. The Head of Governance Services is able to confirm that each Director maintained and reviewed their own sub delegation scheme as necessary and appropriate in the 13/14 Municipal Year.
- 3.7 Each Director is required to make a new sub delegation scheme following the Annual Meeting on 9th June 2014. The Head of Governance Services can confirm that all ten Directors have made a scheme. Each scheme is published on the Council's web site as part of the Modern Gov 'library'.
- 3.8 Any amendments to a Director's scheme, necessary to ensure that the scheme contains an accurate representation of the way in which functions are carried out and the officers with authority to make decisions under the scheme, will be publicised as Significant Operational Decisions ensuring transparency of decision making in relation to both Council and Executive functions.
- 3.9 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).
- 3.10 The chart below shows the distribution of Key, Significant Operational and published Council decisions taken by officers in accordance with the relevant delegation schemes between 1st September 2013 and 31st May 2014.

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.

3.11 It will be noted that of the 697 decisions recorded by officers in that period:-

- 15% (108 decisions) were Key, 79% (554 decisions) Significant Operational and 5% (35 decisions) Council decisions;
- 35% (243) of these decisions were taken by or on behalf of the Director of City Development, and 30% (206 decisions) were taken by or on behalf of the Director of Environment and Housing.



Performance Monitoring

3.12 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 September 2013 to May 2014.

Publication of Agendas

- 3.13 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.
- 3.14 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.
- 3.15 Of 225 meetings which took place within the reporting period covered by this report, 9 agendas were not issued within the 5 clear day deadline. Two of these agendas were for meetings called at short notice. Five of the remaining seven 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.
- 3.16 The overall figures give a performance of 96% of agendas published within the required notice period, which shows a minor decline in performance on the previous 3 years as follows:-

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

- 3.17 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

- 3.18 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.
- 3.19 Of 208 committee meetings which have taken place within the period covered by this report, 17 sets of draft minutes were published outside of this locally established target. This gives a performance indicator of 92% draft minutes published within the required period which shows a decline in performance over the previous 3 years as follows:-

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

2011	96%
2012	96%
2013	96%
2014	92%

3.20 However, if the figures are adjusted to allow for the workload in relation to licensing sub-committee 95% of minutes are published within the 10 day target period.

3.21 In addition, 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 September 2013 and May 2014.

Key Decisions on the List of Forthcoming Key Decisions

3.22 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.

3.23 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 89% of Key Decisions to be included on the List of Forthcoming Key Decisions, and monitors inclusion of Key Decisions on this list..

3.24 During the period covered by this report of 108 Key decisions taken by officers 3 were not on the List of Forthcoming Key Decisions as appropriate, and of 71 Key decisions taken by Executive Board 3 were not on the List. This gives a total performance indicator of 97% Key decisions on the List of Forthcoming Key Decisions.

3.25 This continues the trend of improvement on the 3 previous years which show performance indicators as follows:-

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

In view of this continued improvement in performance the Head of Governance Services is minded to revise this local target (which was aspirational at the time and context in which it was set) to 95%.

3.26 Each of the decisions not included on the List of Forthcoming Key Decisions was taken in accordance with the general exception provisions contained in Regulations and reflected in the Executive and Decision Making Procedure Rules.

Special Urgency

- 3.27 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, is able to confirm that the Special Urgency Provisions, enabling an Executive Decision to be taken at less than 5 days' notice, have not been used during this period.

Eligible Decisions Open for Call In

- 3.28 The Council has established arrangements for significant 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.
- 3.29 Of 262 eligible decisions taken 14 (2 decisions taken by officers and 12 taken by Executive Board) were not open for call in. This gives a performance of 95% Key decisions being available for Call In. This shows an apparent decline on the 3 previous year's performance as follows:-

2011	98%
2012	96%
2013	97%
2014	95%

- 3.30 The Head of Governance Services has reviewed the reasons given by decision takers for exempting decisions from call in and has noted that ten of the fourteen decisions exempted from Call In were so exempted to comply with an external timetable imposed on the council, for example in relation to statutory processes, or applications for grant funding.
- 3.31 The remaining four decisions⁵ were exempted to respond to internal pressures in relation to timescale which were outlined in the report supporting the decision in each case. In some cases the Head of Governance Services has been of the opinion that improved planning could have prevented the need to exempt the decision from Call In.
- 3.32 In this ongoing review of decision making, the Head of Governance Services, has raised appropriate decisions with the relevant Director where it was considered that improved planning could have avoided the need for exemption. In addition

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.

⁵ September Executive Board - Item 68 – design and cost report for West Yorkshire Local Broadband Project and Authority to spend

December Executive Board – item 143 – Victoria Gate: progress and the next steps

March Executive Board – item 203 – Design and cost report for Holbeck Urban Village Land Assembly Proposals

May D41174 – Tendering of Insurance contracts

Corporate Leadership Team has been kept informed of trends arising in the Council's decision making.

- 3.33 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.
- 3.34 To provide further context for Members in the period September 2013 to May 2014 two of the 262 eligible decisions were called in by the relevant Scrutiny Board; both were released for implementation.

Decisions Not Treated as Key

- 3.35 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.
- 3.36 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

- 3.37 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 the Decision Making Framework.
- 3.38 During the reporting period 49 officers have attended "Working in a Political Environment", 45 have attended "Report Writing for Achieving Outcomes" and 69 have attended "Council Structures and Decision Making". Feedback received on all three courses has been positive. When this training was first offered, the head of Governance Services worked with Directorate Support Officers to identify those officers with authority through the Director's sub-delegation schemes to take decisions, offering training to each of those officers. Since this time 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 invites individual officers to attend as their need becomes apparent, either through attendance on other courses, or through requests for advice.
- 3.39 As a running theme within these learning opportunities the Head of Governance Services seeks to embed good decision making practice and procedure against the context of the political environment in which decisions are taken.
- 3.40 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. The Head of Governance Services is of the view that the steady increase in inclusion of Key Decisions in the List of Forthcoming Key Decisions is a reflection of the impact of this training. In addition, although the number of decisions exempted from Call In has increased slightly, the Head of Governance Services notes that the reasons given for exemption from call in are, in the main, coherent and genuine although there is a clear need for ongoing work.

Induction

- 3.41 The Head of Governance Services is represented in the 'Knowledge Café' section of the Corporate Induction Event to which all new Council employees are invited. The opportunity is taken to place each and every role into the context of the Council as a political organisation, with the attendant importance of decision making. Officers are signposted to further learning opportunities as appropriate.
- 3.42 As part of the induction programme provided for newly elected Members, the Head of Governance Services provided a session entitled 'How the Council Works – Structures and Decision Making' which provided Members with an outline of the decision making framework in place in Leeds, together with guidance in relation to the Members' Code of Conduct.

Regulation Of Investigatory Powers Act 2000

- 3.43 Members previously agreed that authorisations for directed surveillance could only be granted by Directors. In practice, the only Services who have used surveillance as part of their investigations have been those involved in combatting anti-social behaviour or dealing with environmental health issues. However, the "default position" in these Services now is to undertake investigations overtly. Consequently only three authorisations have been granted over the last 3 years, each being granted by the Director of Environment & Housing. One of these was subject to the additional requirement that it should be approved by a JP and approval was appropriately given.
- 3.44 There has been no use of the powers to obtain communications data, over the past three years.
- 3.45 Given that the grounds for authorising surveillance have been limited, and approval by a JP is now also required in both cases, it is unlikely that the use of RIPA will increase.
- 3.46 In their last inspection of the Council's use of directed surveillance, the Office of Surveillance Commissioners (OSC) noted that having only 1 Authorising Officer left the Council exposed, and that the time a Director could devote to RIPA was limited. The Inspector therefore recommended that the Council appoint 2 or 3 officers as Authorising Officers, and suggested that they should be officers at the Head of Service level. In order to avoid the possibility that a Head of Service could be perceived to be agreeing to "their" investigation within their own Service, it is proposed that Authorising Officers at Head of Service level are appointed from

within Strategy & Resources, with the City Solicitor continuing to undertake the role of SRO for these purposes.

- 3.47 The Head of Property, Finance and Technology has reviewed the arrangements for the use of RIPA powers and has monitored their use. He is satisfied that the procedures in place are up to date, fit for purpose, effectively communicated, and routinely complied with.
- 3.48 Although there is little use of these powers currently, officers will continue to update Members annually on their use, and on any changes in procedure which may be required as a result of legislation, in line with the relevant codes of practice.

4 DECISIONS IN RELATION TO LICENSING MATTERS

- 4.1 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

- 4.2 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.
- 4.3 The table set out at Appendix A to this report shows the number of applications received for, 2011, 2012, 2013 and the period between January and May in 2014. 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.
- 4.4 The licensing authority is now responsible for the new Scrap Metal Dealers Act 2013. As this is an executive function, the refusal of applications is delegated to officers through the sub delegation scheme, until such time as it becomes a council function when it may be delegated to Licensing Committee.

Taxi and Private Hire Licensing Decisions

- 4.5 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 Act 2000. 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.

- 4.6 The figures for 2010, 2011, 2012, 2013 and for January to 28 May 2014 for applications, renewals, refusals, suspensions and revocations of taxi and private hire driver licences are set out in the table below.

	Applications	Refusals	Suspensions	Revocations
2010	629	18	86	69
2011	508	15	129	46
2012	794	16	74	37
2013	672	9	109	25
2014 (1 ST Jan – 28 th May)	307	3	48	7

- 4.7 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 were suspended in the previous year.
- 4.8 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, many officer decisions flow directly from the application of an approved council policy.
- 4.9 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 January and 28 May 2014, 25 appeals have been received. The reason for these appeals and the outcomes are set out below:-

Type of Appeal	Volume	Result
Against conviction	1	Refused
Against conviction and sentence	3	Dismissed
		Withdrawn for training, no costs against Council
		Withdrawn
Against refusal	2	Refused
		Allowed
Against revocation	10	Remain suspended
		Withdrawn
		Refused x 2
		Appellant unable to attend
		Re-listed x 2
		Dismissed x 2
		Allowed in part
Against sentence	1	Withdrawn
Against suspension	7	Dismissed
		Refused x 2
		Withdrawn x 3
		Badge returned
Refusal to renew	1	Licence will be granted
Total	25	

Licensing Policy Review

- 4.10 As Members are aware, the licensing decision making framework is dependent upon a comprehensive list of policies agreed, as appropriate, by the then Licensing and Regulatory Panel, the now Licensing Committee, Executive Board

or Full Council. These policies are regularly reviewed by Licensing Committee in response to changes in legislation, law and practice, or other circumstances. Any changes are carried out after a full public consultation.

4.11 The report which Members received in September 2013 set out details of planned policy reviews. Since this time the following progress has been made:-

- The Statement of Licensing Policy for the Licensing Act 2003 was approved by Full Council in November 2013 and the next review is not expected until 2018.
- The Statement of Licensing Policy for the Licensing of Sex Establishments, incorporating amendments to deal with local concerns, was agreed at Executive Board and took effect from 1st September 2013. This will be kept under review and renewed when appropriate.
- The Statement of Licensing Policy for the Gambling Act 2005 was approved by Executive Board in October 2012, effective from January 2013. This is set for review 2015, to come in to effect from January 2016.;
- Licensing Committee considered proposals for a review of the Private Hire Operating conditions in December 2013. Those proposals have just completed a further round of public consultation and were re-considered by the Licensing Committee at its meeting in June 2014. The revised policy has now been introduced.
- The Licensing Committee considered proposals to update the convictions criteria used when assessing new hackney carriage and private hire drivers in January 2014. Those proposals have just completed a further round of public consultation and are due to be re-considered by the Licensing Committee at its meeting in June 2014.
- The Licensing Committee considered proposals to introduce a new policy for three year licences in March 2014. Those proposals have just completed a further round of public consultation and were re-considered by the Licensing Committee at its meeting in June 2014. The revised policy has now been introduced.
- The Licensing Committee considered proposals to abolish the English comprehension requirement for Hackney Carriage Proprietors in March 2014. Those proposals have just completed a further round of public consultation and were re-considered by the Licensing Committee at its meeting in June 2014. The committee have asked for some further work to be done on the proposal and will re-consider the matter in August 2014.
- The Licensing Committee considered proposals to increase the age restriction for advertising on hackney carriage vehicles in April 2014. Those proposals have just completed a further round of public consultation and are due to be re-considered by the Licensing Committee at its meeting in July 2014.

- 4.12 This review process ensures that all policies remain up to date and are fit for purpose, reflecting the up to date position on changes to legislation or law and practice.
- 4.13 Licensing policies are published on the council's website and form part of a comprehensive training programme designed for new Members of the Licensing Committee. Newly recruited officers are provided training in the policies as part of their initial appraisal process and can only take decisions after they have completed their training. Only a limited number of officers can take decisions at different levels in accordance with the scheme of delegation. All training is monitored through the appraisal process and regular meetings with their line manager.
- 4.14 Reports on the numbers of licences granted and any delegated decisions are provided to Licensing Committee so they can monitor the effectiveness of the licensing decision making framework and the policies that guide it. Entertainment Licensing and Taxi and Private Hire Licensing last provided reports to Licensing Committee in January 2014.

Regular DBS Disclosures for Taxi and Private Hire Licence Holders

- 4.15 The introduction of three yearly DBS disclosures for licence holders was approved by the Licensing Committee in December 2013.

5 PLANNING

- 5.1 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.
- 5.2 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 this are described below.

Decision making framework for planning matters

Delegation Scheme

- 5.3 The Chief Planning Officer is authorised to carry out specific functions on behalf of the council. All planning applications are considered to fall within the delegation scheme and will be determined by officers under the sub-delegation scheme, unless they fall into defined exceptional categories which were detailed in the previous report to this Committee.
- 5.4 The Chief Planning Officer's delegation scheme forms part of the Constitution and was last reviewed and approved by Full Council in May 2013.

Sub Delegation Scheme

- 5.5 The sub delegation scheme sets out which functions have been sub-delegated by the Chief Planning Officer to other officers and any terms and conditions attached to the authority sub-delegated by the Chief Planning Officer. The latest sub delegation scheme was approved on 25 February 2014.
- 5.6 The Chief Planning Officer's sub-delegation scheme ensures that decision making is undertaken at the appropriate level of seniority and experience. For example, only officers at Deputy Area Planning Manager level and above have the authority to determine major applications. Other applications can only be signed off by officers at PO4 level and above. No officer can 'sign off' their own applications and therefore an appropriate level of external scrutiny is brought to bear on each proposal before it is finally determined.

Audit of decision making

- 5.7 Internal Audit undertook a review of the processes and systems in place for undertaking planning decisions in early 2014. The scope of the review was to obtain assurance that there was a robust system in place to ensure decisions in respect of planning applications were taken promptly and in accordance with all relevant legislation and guidance and that appropriate levels of income are collected and recorded. The audit concluded that Substantial Assurance was provided for the control environment. This was found to be sufficiently robust to provide assurance in respect of compliance with legislation and in respect of the full and complete collection of fee income. However, one action was identified: ensuring all officers consistently sign a declaration of no interest. Although the organisational impact of this identified issue was assessed to be minor.

Officer Conflict of interest and declaration of interest

- 5.8 Previously we reported the robust process in place to detect any potential conflicts of interest on delegated 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 where there is a potential conflict (eg financial interests or relationship with the applicant).
- 5.9 Additionally, 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. The 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.
- 5.10 In order to strengthen this process, a review has been undertaken to look at extending the number of officers who would be required to declare their interest, by recognising that it is not necessarily grade, but role that may dictate whether there is a need to know information on interests. There is ongoing dialogue with Trade Union representatives regarding the proposed officer declarations of "no interest", reflecting their concerns about the need for clear guidance on what

constitutes a declarable interest and ensuring all officers involved in delegated decisions on planning matters are involved and treated on an equitable basis. Further discussions are taking place.

Review of the Plans Panel

- 5.11 Following the reorganisation of the Plans Panels in 2012, two review reports were presented to General Purposes Committee (GPC); the first after six months operation in May 2013 and a further report after a year's operation in October 2013. The reports focussed on workloads, delivery of major schemes, pre-application process, and operation of meetings. After initial teething problems, the Plans Panel meetings are now more focussed, there is more first time decision making with significant and strategic schemes delivered in a timely manner. The report recommended that GPC embed the Plans Panel arrangements permanently as part of the Council's decision making framework, which was agreed.
- 5.12 A close watch will continue to be maintained on workloads and the duration of meetings, particularly if major application numbers continue to rise, leading potentially to more applications coming to City Panel. However, the use of special meetings to deal with particular applications such as energy from waste, NGT and Thorpe Park have been useful and allows for the appropriate time and level of scrutiny to be given to strategically important applications.

Governance documents

- 5.13 One of the recommendations arising from the review of the plans panel arrangements in 2012 was the development of an officer-member communication protocol which would provide a framework for ward member involvement in the planning process, particularly on significant major applications.
- 5.14 The protocol was developed in conjunction with the Executive Board Member for Neighbourhoods, Planning and Support Services, the Plans Panel Chairs, Chair of Development Plan Panel and representatives of the two main political parties and was agreed at a joint meeting of the Plans Panels on 14 November 2013. It reflects the essential need to inform ward members and to keep them involved in the formation of development proposals. It also reflects the speculative nature of some pre-application approaches by applicants, constraints commercial confidentiality can initially place on the service and the need for expeditious decision making, in order to deliver major and strategically important applications, essential to the growth of the City. The protocol seeks to maintain this balance by adopting a practical approach, providing scope for initial officer- developer contact, leading to further ward member engagement, as appropriate.
- 5.15 The protocol has the flexibility to meet the different needs and requirements of ward members, rather than taking a "one size fits all" approach, whilst delivering within existing resources.
- 5.16 The protocol has been reviewed after six months operation and this will be reported to the Joint Plans Panel at the next meeting on 10 July 2014.

Planning performance workloads September 2013 to end May 2014

- 5.17 During this reporting period the service has been dealing with a significant workload, whilst progressing with a number of large and strategically important developments including East Leeds Extension, Thorpe Park, Thorp Arch, Victoria Gate and a number of complex residential schemes. There has also been considerable input with local members and communities reflecting the localism agenda; emphasis on working positively with applicants on raising the quality of design in Leeds and helping to deliver the ambitious Core Strategy housing targets. This is within a context of increasing application numbers and changes brought about from the Government's planning reform agenda.
- 5.18 In the period covered by this report 3,263 applications were received by the Local Planning Authority, with 2,946 decisions being made. 97.7% of decisions were made by officers under the delegation scheme, a small increase in the number of delegated decision for the whole of 2012-13 where 96.8% were made under delegated powers.
- 5.19 Overall planning application numbers have been on the increase, with numbers in 2013-14 up by 2.8% compared with the whole of 2012-13. However, major applications for 2013-14 increased by 20% compared with the previous year.
- 5.20 There are statutory determination timescales for different categories of applications, which are described in the table below. Progress continues to be made in improving performance year or year and currently the service is exceeding performance in all areas. The most progress has been made on performance on major applications, and at the end of May 2014, 76.5% of major applications were determined in time.

	% Majors in time (target 60%)	% Minors in time (target 65%)	% Other in time (target 80%)
2011-12	56.3	76.9	85.1
2012-13	61.3	77.4	88.9
2013-14	73.3	70.3	83.3
2014-15 (to 31 May 2014)	76.5	70.0	83.0

- 5.21 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". This is based on two criteria: determination of fewer than 30% of major applications in time and more that 20% of major appeal decisions overturned. The service's performance on major applications, and as Committee will see in the appeals section below, clearly exceeds the threshold for special measures designation. This is critical for local decision making 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.

Planning performance Agreements and extension of time

- 5.22 Most applications can be dealt with within the statutory period, but for some applications a bespoke timetable is appropriate. The provisions in the Growth and

Infrastructure Act that brings in the power to designate poor performing authorities also recognises that where council and applicants agree, the timetable for dealing with major development applications can be extended beyond the period. Where the council is then able to meet the new agreed date, an application is counted as satisfying the timeliness requirement for major development applications.

- 5.23 The tools for achieving this bespoke approach are planning performance agreements (PPA) and agreed extensions of time. PPA are a useful project management tool which sets milestones for ensuring that applications are dealt with expeditiously and within agreed timeframe. PPA have been used in Leeds for a number of years and give an additional level of scrutiny and proactive management on the largest and most complex of applications. In the reporting period there have been 24 PPA, all of which have been dealt with within agreed timescales.
- 5.24 Agreements to an extension of time have mutual advantages for both the council and the applicant in reducing uncertainty around project managing the planning application process. In the reporting period there have been 142 extension of time agreements and are now being embedded within the service as good practice.

Decisions contrary to the officer recommendation

- 5.25 Decisions on planning applications are taken in accordance with the Development Plan, unless material considerations indicate otherwise. 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 level 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.
- 5.26 During 2013-14, the three Plans Panels considered 136 applications. Seven decisions were made contrary to officer recommendation, this is similar to 2012-13 performance where 6.3% of member decisions were contrary to the officer recommendation.

Appeals and complaints

- 5.27 The service uses several indicators to determine the quality of decision making: number of lost appeals, number of ombudsman complaints received and numbers upheld.
- 5.28 The table below shows that performance on the number of dismissed appeals is improving year on year, demonstrating that the service's decision making is robust and transparent. A continuous review of appeal decisions takes place to ensure that any common themes are highlighted and to mitigate the risk of appeals occurring on similar grounds.

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

- 5.29 In 2013-14 appeal costs of £4,796 were received by the council from the Planning Inspectorate from the rerun of the Hook Moor Wind Farm Inquiry following the quashing of the original decision. Costs paid out on 2 appeals totalled £12,900. Two other costs awards (one full and one partial) made in August / September 2013 have not resulted in claims being made yet.
- 5.30 There are currently 51 outstanding planning appeals. The outcome of the Kirklees Knoll Protected Area of Search (PAS) site inquiry is expected from the Secretary of State towards the end of May. A second PAS Inquiry at Grove Road, Boston Spa is scheduled to start on 20th May and there are Inquiries scheduled in July at Deighton Road, Wetherby (retirement home) and Cottingley Springs (traveller's site).
- 5.31 Between 1st September 2013 and 31st May 2014 the planning service received 16 notifications of complaints from the Local Government Ombudsman (LGO).
- 5.32 Twelve of the cases were received closed, the LGO advising the council that the case had been received but there was no evidence to support the complaint. No action was required by the planning service on these cases.
- 5.33 One case was closed after enquires were made to the planning service. The LGO concluded as there was no evidence of fault by the council causing an injustice, they decided not to investigate.
- 5.34 Three other cases referred to the same housing site where the service accepts that the impact on an adjacent Conservation Area was not properly considered. As part of the LGO investigation a report was commissioned from an independent planning consultant. The LGO provisional view on these cases has found fault with the way the LPA considered the application but found no injustice causing harm.
- 5.35 No financial settlements have been suggested by the LGO during this period.

Embedding the framework for planning matters

Training for officers

- 5.36 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.
- 5.37 The planning case officers' meeting continues to take place every 6 to 8 weeks with opportunities for guest speakers who provide information on planning and planning related information, for example the Core Strategy, health and well-being agenda, retail policy and Community Infrastructure Levy. The meeting also

facilitates two way communication to ensure agreement is reached on operational issues and a consistent approach is adopted across the service.

- 5.38 External formal training has been accessed by a number of officers through the Royal Town and Planning Institute seminar programme. Officer's attending the training cascade the information to colleagues at case workers meetings, as appropriate.

Member Training

- 5.39 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 training through a either attendance at a session in September 2013, a mop up session in November 2013 or one-to one sessions with Planning Officers. In addition, members had the opportunity to attend decision making training which dealt with recording of committee meetings by third party held in March. This is in response to new legislation soon to be made by Government.
- 5.40 Members shadowing planning officers in the planning office was offered last year and taken up by a number of members. It is anticipated that this will be offered again this year.

Relationship with partners and customers

House builders' workshop

- 5.41 In October 2013, a council led seminar with national house builders took place. The session was attended by representatives from the volume house building industry, elected members including the plans panel chairs and Executive Board member for neighbourhoods, planning and support services and council officers.
- 5.42 The service took 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 help deliver high quality development which better reflects the varied character and identity of the different communities throughout Leeds. The expectation is that this would lead to better proposals through the clear articulation of the Council's ambition for high quality housing, more clarity for applications and more consistent and speedier decision making.
- 5.43 The next steps are the agreement of principals which will hopefully form the basis a "Leeds Standard", expressing the quality in design and place making aspirations of the council for new residential schemes.

Planning Review

- 5.44 A full review of the function and role of planning services commenced in March 2014. The aim of the review is to:

- assess the appropriateness of resources, the culture of the organisation and embedding the development management approach in striving for high performance
- consideration of workload volume and level of support
- consideration of the current service income and identification of any further opportunities for further monetising the service
- consideration of the overall determination process, focusing on if and where improvements in processes or cost-savings can be identified.

5.45 The review process has involved interviewing internal and external stakeholders and follow up in depth workshops to further explore priority areas. Staff groups have been heavily involved in the review in informing the process.

5.46 The four month review ends at the end of June 2014 with the issue of a final report and action plan.

Customer Services

5.47 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 has now been broadened to include the wider planning service. The whole service was subject to an external assessment in April 2014 and was successful in gaining the award. The service is only the second planning service in the country to hold the award and will be reassessed on an annual basis.

5.48 Next year, the service will be assessed against rigorous criteria which looks at customer satisfaction. The service will run a customer survey in autumn 2014 to feed into the CSE process and methodologies are currently being considered in order to achieve a better response rate than the 7% of the January 2013 survey.

6 Corporate Considerations

6.1 Consultation and Engagement

6.1.1 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.

6.1.2 Full consultation in relation to the licensing policies adopted in accordance with the reviews described in paragraph 3.51 above ensure that those policies take into account the views of both trade and public.

6.2 Equality and Diversity / Cohesion and Integration

6.2.1 Equality and cohesion screening assessments are carried out on all reviews of licensing policies referred to in paragraph 3.51 above.

6.3 Council policies and City Priorities

- 6.3.1 The new 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.
- 6.3.2 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.

6.4 Resources and value for money

- 6.4.3 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.

6.5 Legal Implications, Access to Information and Call In

- 6.5.1 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.
- 6.5.2 Proper implementation of the decision making framework ensures appropriate access to information for both elected Members and the public.
- 6.5.3 It is anticipated that the Secretary of State will issue Openness of Local Government Bodies Regulations during the course of 2014. These regulations will place formal requirements on recording of meetings and on the publicity given to decisions taken in respect of Council functions. The Monitoring Officer will ensure that appropriate amendments are made to practice and procedure, and that these are reflected in the Council's Constitution as and when these regulations take effect.

6.6 Risk Management

- 6.6.1 The Head of Governance Services, Head of Licensing and Registration and Chief Planning Officer give assurance that the systems and processes that form part of the Council's decision making framework are functioning well and that there are no risks identified by this report.

7 Conclusions

- 7.1 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 Recommendations

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

9 Background documents⁶

9.1 None

⁶ 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.

Appendix A

			2011	2012	2013	2014 Jan - May
Licensing Act 2003	Premises Licences	Number of applications	1006	1034	1079	372
		Number of committee decisions	177	152	44	14
	Club Premises Certificates	Number of applications	8	5	4	1
		Number of committee decisions	4	2	1	1
	Personal Licences	Number of applications	467	517	473	157
		Number of committee decisions	5	5	3	0
	Temporary Event Notices	Number of applications	1741	1741	1555	519
		Number of committee decisions	23	6	5	1
	Review Applications	All heard before committee	4	11	7	7
	Gambling Act 2005	Premises Licences	Number of applications	14	14	7
Number of committee decisions			3	0	4	0
Permits		Number of applications	55	13	30	5
		Number of committee decisions	0	0	0	0
Small Society Lottery Registrations		Number of applications	50	65	55	13
		Number of committee decisions	0	0	0	0
Temporary/ Occasional Use Notices		Number of applications	0	0	0	0
		Number of committee decisions	0	0	0	0

Miscellaneous	Marriage Act Premises Registrations	Number of applications	18	13	17	9
		Number of committee decisions	0	0	0	0
	Sex Establishment Licences	Number of applications	8	12	12	2
		Number of committee decisions	0	7	13	0
	Scrap Metal Dealers Registrations	Number of applications	21	59	126	37
		Number of committee decisions	0	0	0	0
	Motor Salvage Operators Registrations	Number of applications	5	3	0	n/a
		Number of committee decisions	0	0	0	n/a
	Street Collection Permits	Number of applications	161	237	165	71
		Number of committee decisions	0	0	0	0
	House to House Collection Permits	Number of applications	39	27	34	5
		Number of committee decisions	0	0	0	0
	Hypnotist Licences	Number of applications	2	2	5	2
		Number of committee decisions	0	0	0	0