

Report of City Solicitor, Chief Officer Elections and Regulatory, and Chief Planning Officer

Report to Corporate Governance and Audit Committee

Date: 25th June 2019

Subject: Annual Decision Making Assurance Report

Are specific electoral wards affected? If yes, 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.
2. The report provides assurances that the Council's arrangements are up to date, fit for purpose, effectively communicated and routinely complied with.
3. The assurances contained within this report will feature in the Annual Governance Statement when reported to the committee in July for approval.

Recommendations

1. Members are requested to consider and note the positive assurances provided in this report given by the Head of Governance and Scrutiny Support, the Head of Service Legal Services, the Chief Planning Officer and the Chief Officer Elections and Regulatory.

1. Purpose of this report

- 1.1 This is the annual report to the committee concerning the Council's decision making arrangements.
- 1.2 The 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 In giving their assurance statement in respect of the Council's decision making arrangements the authors of this report consider four aspects. This report sets out evidence to confirm the positive assurances given that decision making arrangements are:-
 - 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.

Reporting Period

- 2.2 The Committee receives an annual assurance report in respect of executive decision making, Regulation of Investigatory Powers Act, licensing and planning matters. Most recently, the Annual Decision Making Assurance Report was received by committee on 26th June 2018 covering the period to 31st March 2018.
- 2.3 The information set out in this report reflects decision making arrangements for the period 1st April 2017 to 31st March 2018, although Members will note that the Annual Licensing Report covers the period 1st January to 31st December 2018.

3. Main issues – Executive Decision Making

Up to Date and Fit for Purpose

Review of Constitution

- 3.1 Article 15 of the Constitution requires that the Monitoring Officer is aware of the strengths and weaknesses of the Constitution and that she ensures that the aims and principles of the Constitution are given full effect. The Article provides authority to the Monitoring Officer to make any amendments to the Constitution necessary as a result of legislative change, to give effect to decisions of Council or the Executive or for the purpose of clarification only.

- 3.2 Article 15 further sets out which person or body has authority to amend each document within the Constitution.
- 3.3 Each year the Head of Governance and Scrutiny Support co-ordinates a review of the Constitution. Directors and other key officers are invited to contribute any recommendations as to ways in which the various parts of the constitution could or should be amended to ensure that they remain up to date and fit for purpose, reflecting current structures and processes.
- 3.4 The majority of decisions taken to amend the constitution form part of the annual review of the constitution or are the result of routine review of particular documents.
- 3.5 In 2018 changes recommended as a result of the annual review were given effect in a series of delegated and committee decisions:-
- On 23rd May the Leader approved the Council's executive arrangements with effect from 25th May;
 - On 24th May Full Council approved Committee Terms of Reference and Officer Delegations, whilst also approving minor amendments to Articles 5, 6 and 15, the Council Procedure Rules and the Planning Code of Good Practice and Protocol for Public Speaking at Plans Panels;
 - On 25th May Licensing Committee approved delegations to Licensing Subcommittee and to the Director of Communities and Environment, whilst also confirming the Licensing Committee Procedure Rules and the Code of Practice for Determining Licensing Matters;
 - On 25th May the City Solicitor approved amendments to Article 12, Functions of Full Council, Committee Membership, the Officer Delegation Scheme Executive Functions, and the Council Procedure Rules consequential upon the decisions of Full Council on 24th May, or to reflect legislative provisions.
- 3.6 The Council's Constitution for 2018/19 was published following the annual review.
- 3.7 Since this time a number of decisions have been taken during the reporting period to ensure that the constitution remains up to date and fit for purpose. These decisions included:-
- The annual review and refresh of the Contracts Procedure Rules;
 - Minor corrections to the Code of Practice for Determining Licensing Matters, Functions of Full Council, Corporate Governance and Audit Committee Terms of Reference and Joint arrangements
 - The annual update report in respect of the Members Allowances Scheme giving effect to the decision of Council to apply an annual uplift to the allowances set out;
 - The introduction of arrangements through the Executive and Decision Making Procedure Rules to provide for officer decisions made at short notice.

Executive Arrangements

- 3.8 The Executive and Decision Making Procedure Rules require the Leader to present details of her Executive Arrangements for the forthcoming municipal year. These include the details of:
- Executive Members (including Deputy and Support Executive Members)
 - Executive Committees
 - Delegation of Executive Functions to
 - Community Committees,
 - Health and Wellbeing Board,
 - other authorities
 - officers
 - Joint arrangements
- 3.9 As detailed above, the Leader's Executive arrangements were set out in a delegated decision dated 23rd May 2018. They were reported to the annual meeting of Council on 24th May 2018. The Leader has made one subsequent change to her appointment of deputy and support executive members during the reporting period.

Delegation of Functions

- 3.10 The delegations of functions to committees and to officers of the Council are set out in part 3 of the Constitution. Delegations to committees are expressed as the terms of reference of each committee. Delegations are set out in the officer delegation scheme to ten Directors¹. The scheme is divided into two parts – the first reflecting the delegation of Council functions and the second the delegation of executive functions. Both parts contain general delegations to all Directors and specific delegations which reflect the remit of each officer.
- 3.11 Following delegation of functions through the Leader's executive arrangements and by the resolution of Full Council, each of the ten Directors is required to make arrangements for the sub-delegation of those functions to officers of suitable experience and seniority. Schemes follow a template approach, setting out delegations in respect of both Council and Executive functions and specifying appropriate terms and conditions in respect of each delegation. Each scheme also provides for the exercise of those functions not delegated in the event of the absence of the Director.
- 3.12 All directors had their sub delegation schemes in place by the 1st June 2018.
- 3.13 Since this time all Directors have kept their sub-delegation schemes under review. In the reporting period four² Directors have updated their scheme. Amendments ensure that the sub-delegation schemes remain up to date and fit for purpose.

¹ The ten officers who receive delegated functions through the constitution (the Chief Executive, Director of Resources and Housing, Chief Officer (Financial Services), City Solicitor, Director of Communities and Environment, Director of City Development, Chief Planning Officer, Director of Children and Families, Director of Adults and Health, Director of Public Health) are referred to as the Directors within the Constitution.

² Chief Planning Officer, Director of Communities and Environment, Director of Resources and Housing and City Solicitor

Routinely Complied With

Decision Monitoring

- 3.14 Members are familiar with the categorisation of decisions as key³, significant operational⁴ or administrative⁵. The Head of Governance and Scrutiny Support undertakes regular monitoring of key and significant operational decisions taken and recorded across the Council. Whilst there are no formal performance indicators attached to the publication of significant operational decisions it is helpful to understand the numbers of decisions recorded in accordance with the decision making framework.
- 3.15 The Executive and Decision Making Procedure Rules, and the Access to Information Procedure Rules require that records of all key and significant operational decisions are published as soon as practicable after those decisions have been taken.
- 3.16 The Head of Governance and Scrutiny Support monitors the numbers of decisions published by each directorate each month. Where the monitoring shows unusual peaks or troughs in publishing activity the relevant directorate is invited to comment, enabling the Head of Governance and Scrutiny Support to offer support around the decision making framework with the aim of ensuring that there is understanding of the arrangements for publication of decisions and that the arrangements in place are mindful of any excess administrative burden being placed on directorates.
- 3.17 Over the course of the reporting period a total of 727 significant operational decisions have been taken by individuals; 725 taken by officers and 2 by the Leader. A further 81 significant operational decisions have been taken by Executive Board. The view has been taken that Members would not find it helpful to receive email notifications in relation to every significant operational decision published. However it is possible to subscribe to Modern.gov (the system used to publish information in relation to Council decision making) and request email alerts to decisions taken by decision maker and/or by ward.
- 3.18 Over the course of the reporting period a total of 244 key decisions were taken; 171 by officers and 73 by Executive Board. Members receive notification of every officer key decision as it is taken through the circulation of an email when the relevant report is published alongside notice of intention to take the decision. Executive Board agendas are published on the Council's website and circulated to Members of the Executive Board. Other Members can be added to the electronic distribution list by request to Governance and Scrutiny Support.

³ >£250K or significant impact in one or more wards

⁴ >£100K, exempt from Key or record required for transparency and accountability

⁵ <£100K, within budget and policy framework

	Significant operational decisions		Key decisions	
	taken 2017/18	taken 2018/19	taken 2017/18	taken 2018/19
Officer/Executive board				
Chief Executive	6	5	1	0
Resources and Housing	170	151	35	65
Chief Officer (Financial Services)	2	2	3	1
City Solicitor	13	20	0	0
Communities and Environment	117	89	15	11
City Development	219	225	23	44
Chief Planning Officer	27	18	0	0
Children and Families	205	165	35	24
Adults and Health	36	42	26	20
Public Health	10	8	7	6
Leader	6	2	0	0
Executive Board	74	81	75	73
Total	885	809	220	244

3.19 Members will note:-

3.19.1 the concentration of decisions published in the Children and Families directorate noted in the last annual report, and considered further by this Committee during the course of the municipal year has not been repeated;

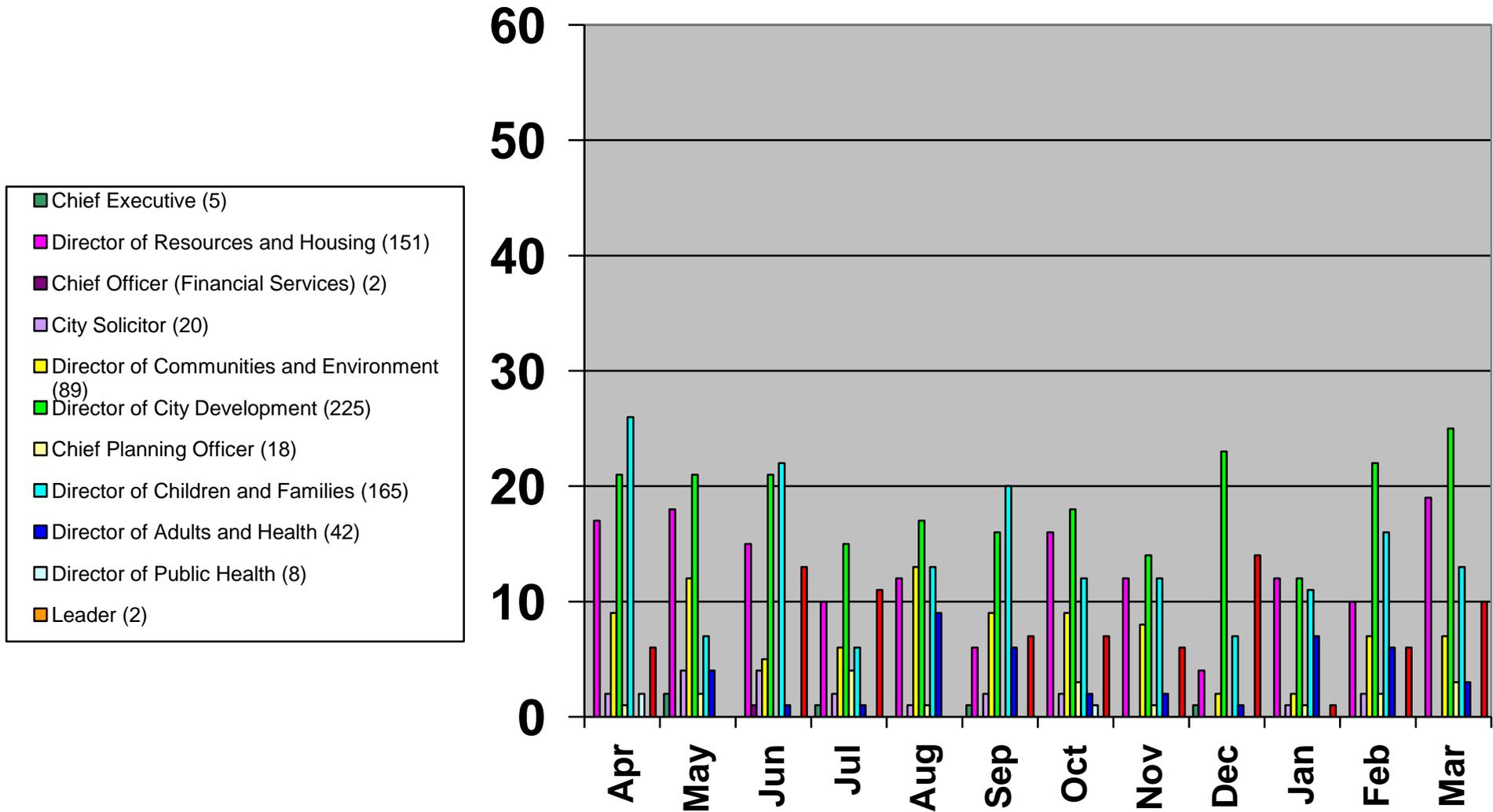
3.19.2 although they have delegated authority to do so neither the Chief Executive, City Solicitor nor the Chief Planning Officer took any key decisions during the reporting period. This reflects the way in which functions are delegated as the Chief Executive maintains an overview of decision making, the role of the City Solicitor is predominantly advisory, and planning functions are largely Council functions and would not therefore be categorised as Key decisions;

3.19.3 the increase in key decisions taken by the Director of Resources and Housing. These can be accounted for by:-

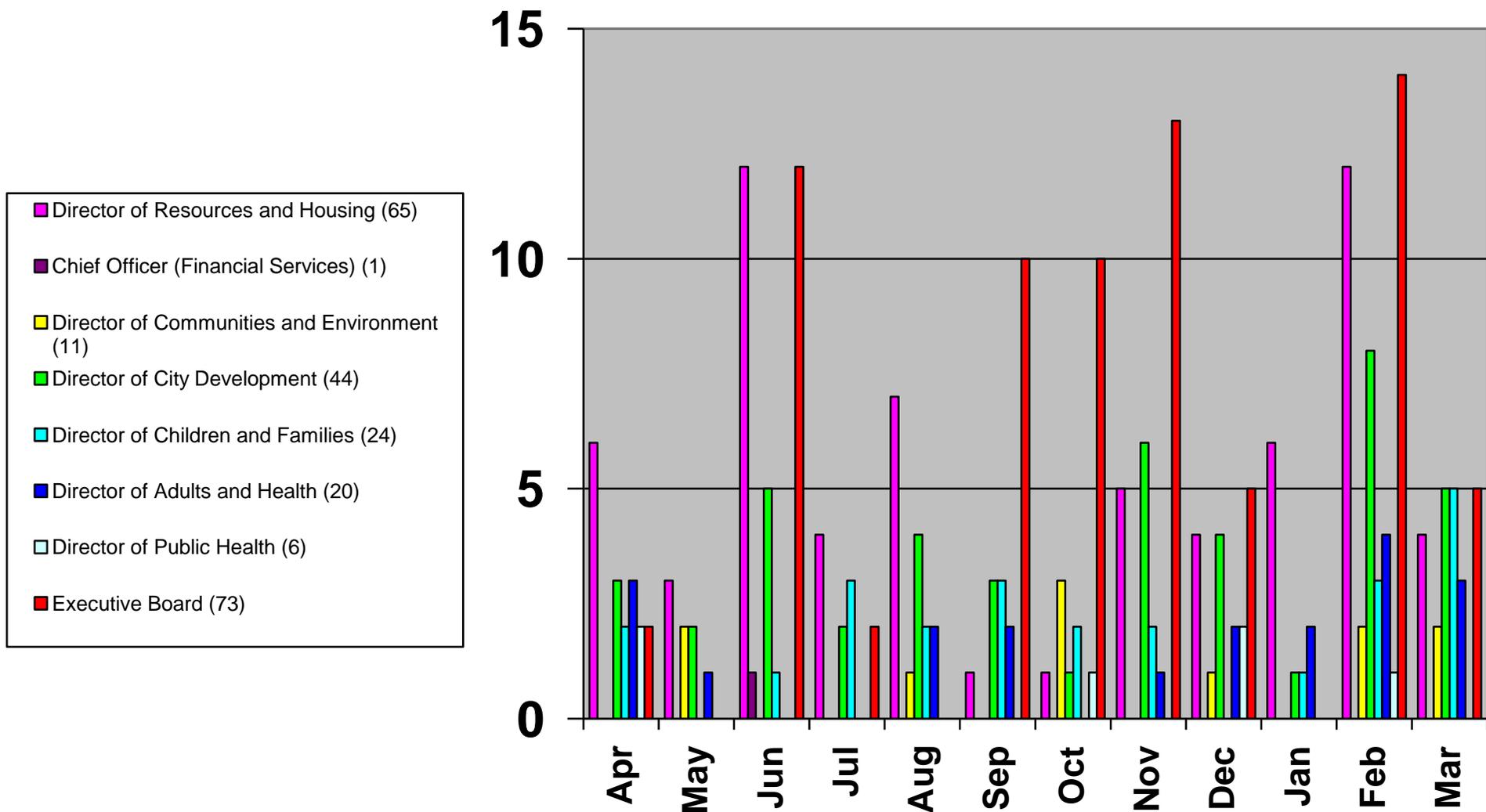
- decisions to develop staffing resource, infrastructure and supply chain to enable delivery of £10M additional works through the council's internal service provider;
- decisions taken in accordance with the directorate's procurement strategy following a review of need to ensure contractual arrangements in place are of adequate scope and value;
- decisions to deliver the clean air zone and district heating network; and
- the routine cycle of renewal and extension of contracts.

3.20 The Head of Governance Services believes that the distribution of key decisions taken accurately reflects the distribution of functions across directorates and the way in which these functions are operationally discharged.

3.21 The charts below shows the comparative distribution of decisions between directors and Executive Board by month.



**Table Showing Number of Significant Operational Decisions Taken by Directors, Leader and Executive Board
April 2018 to March 2019**



**Table Showing Number of Key Decisions taken by Directors and Executive Board
April 2018 to March 2019**

Performance Indicators

- 3.22 In addition to the informal monitoring that takes place the Head of Governance and Scrutiny Support also monitors a number of indicators in respect of the statutory requirements surrounding the Council's decision making.

List of Forthcoming Key Decisions

- 3.23 Regulations⁶ require that the Council publishes details of all likely Key Decisions no less than 28 clear calendar days before those decisions are taken. As details are published a significant time before the decision is taken it is not anticipated that the final details of the proposal will be available at the time this notice is given. Rather this publication is intended to alert Members and the public to the fact that decisions involving significant financial implications or impact on local communities are being considered. The details published include the contact details for the lead officer in relation to the decision in question, allowing Members and the public to seek further information and to contribute to the decision making process.
- 3.24 Following feedback from this committee, officers have reviewed and amended the form by which officers request the addition of an issue to the list of forthcoming key decisions. A decision was taken to pause implementation of the amended process pending the outcome of the review of governance thresholds⁷. New arrangements will be in place from 1st July 2019.
- 3.25 The Council's List of Forthcoming Key Decisions is available on Leeds.gov.uk. Decisions can be added to the List at any time, with flexibility in the way in which the timescale for the decision is expressed. As it is possible to amend the published details or even to 'unpublish' a planned notified decision if it becomes unnecessary or is re-categorised, officers are encouraged to publish details of all key decisions the Executive may wish to take as early as possible in the contemplation of that decision.
- 3.26 The Head of Governance and Scrutiny Support has set a target of 89% of all Key Decisions to be published to the List of Forthcoming Key Decisions no less than 28 clear calendar days before those decisions are taken. This target reflects the statutory provisions allowing for urgent decisions to be taken without complying with this requirement. Such decisions must however comply with the General Exception or Special Urgency provisions detailed below.
- 3.27 During the reporting period of 171 Key decisions taken by officers 168 (98%) were included in the List of Forthcoming Key Decisions. For the same period of 73 Key decisions taken by Executive Board, 72 (99%) were included in the List of Forthcoming Key Decisions. In combination 98% of Key decisions were published to the List 28 clear calendar days before those decisions were taken.

⁶ Regulation 9, Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

⁷ More detail on the review of thresholds can be found in the 'Looking Forward' section from paragraph 3.86 below.

3.28 The table below sets out comparative figures for this and the previous two reporting periods:-

Reporting Period	1 st April 2016 to 31 st March 2017	1 st April 2017 to 31 st March 2018	1 st April 2018 to 31 st March 2019
Key decisions on List	200	212	240
Percentage Key decisions on list (target 89%)	97%	96%	98%

General Exception

- 3.29 The General Exception is a legislative provision⁸ which permits a Key decision to be taken, although not included on the List of Forthcoming Key Decisions for the requisite period if it is impracticable to delay the decision until such time as those 28 clear calendar days have elapsed.
- 3.30 The regulation requires that five clear working days' notice is given of a general exception decision, setting out the reason why it is impracticable to delay. This information is included in paragraph 4.5 of the corporate report template under the heading 'Legal Implications, Access to Information and Call In'. In addition the information is set out in the delegated decision notice published in relation to officer decisions.
- 3.31 The regulation also requires that the Chair of the relevant Scrutiny Board **is notified** that such a decision is to be taken. As all Members are automatically advised of the publication of all Key decisions, through the circulation of agendas and delegated decision notices, this statutory requirement is met.
- 3.32 All of the 4 Key decisions which were not included in the List of Forthcoming Key Decisions for 28 clear calendar days prior to those decisions being taken were taken under the General Exception. The reasons given in each case are set out in the tables below:-

Officer Decisions		
D48328 Feb 19	Director of Resources and Housing	The decision relates to a funding agreement between the Council and Homes England to be approved following protracted legal negotiations. The decision could not have been subject to publicity any earlier as the details of the agreement continued to evolve.
D48422 Feb 19	Director of Resources and Housing	Both decisions relate to the implementation of the Clean Air Zone which must be delivered in January 2020 in order to comply with Ministerial Direction. Delay in taking these decisions would prevent the Council meeting deadlines set out in the Government's grant agreement and consequently failure to meet the CAZ requirement.
D48429 March 19	Director of Resources and Housing	

⁸ Regulation 10, Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Executive Board Decisions		
Minute 109 Nov 19	Director of City Development	The decision related to the relocation of Channel 4 to Leeds. The announcement was made too late for inclusion in the List prior to the next meeting of Executive Board and could not be deferred as there was a need to progress proposals with Channel 4 as soon as possible.

3.33 Members will note that good and cogent reasons were given on each occasion that the general exception was relied on during the reporting period.

Special Urgency

3.34 Special Urgency is a legislative provision⁹ permitting urgent decisions which have not been included on the List of Forthcoming Key Decisions to be taken without giving five working days' notice. In order to do so the Director **must seek the agreement** of the relevant Scrutiny Chair that the decision is urgent and cannot be deferred.

3.35 Again the reasons for urgency are recorded in the report to the decision maker at paragraph 4.5 "Legal implications, access to information, and call in" and are repeated on the delegated decision notice for officer decisions.

3.36 In accordance with Rule 2.6.2 of the Executive and Decision Making Procedure Rules¹⁰, the Head of Governance and Scrutiny Support, on behalf of the Leader, is able to confirm that, of the 4 Key Decisions which were not on the List of Forthcoming Key Decisions for the required 28 day period, **none were taken under Special Urgency**.

3.37 The table below sets out comparative figures for the use of general exception and special urgency provisions over this and the previous two reporting periods:-

Reporting Period	1 st April 2016 to 31 st March 2017	1 st April 2017 to 31 st March 2018	1 st April 2018 to 31 st March 2019
General Exception	5	6	4
Special Urgency	1	2	0

Short Notice Decisions

3.38 Members will recall that at their meeting in November 2018 they considered a report relating to a decision taken at short notice by the Director of Children and Families in August that year. Whilst the decision had been included in the List of Forthcoming Key Decisions for the required 28 day period, the report supporting the decision had not been published for five days before the decision was taken. In the absence of alternative constitutional provision the Director of Children and Families

⁹ Regulation 11 Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

¹⁰ Regulation 19 Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012

used the special urgency procedure and obtained the approval of the relevant Scrutiny Chair that the matter was urgent and could not be delayed. Members received assurance that no children had been put at risk as a result of this administrative error.

- 3.39 Following consideration of the report this committee recommended amendments to the Council's constitution and new short notice provisions are now included in the Executive and Decision Making Procedure Rules requiring that the relevant Executive Member agrees that the decision maker may proceed with the decision without giving the required notice of the report.
- 3.40 As required by Executive and Decision Making Procedure Rule 3.1.4 the Head of Governance and Scrutiny Support is able to confirm that there have been no other occasions in the reporting period on which the procedure set out in this new rule has been used.

Availability for Call In

- 3.41 The Council is required to make arrangements for decisions of the Executive which have been made but not yet implemented to be considered by an overview and scrutiny committee¹¹. The provision of Call is an important element of democratic accountability arrangements as it allows Members to hold the executive to account.
- 3.42 The Council's procedure is set out in the Executive and Decision Making Procedure Rules, and provides for non-executive members to Call In any eligible decision by 5 p.m. on the fifth working day after the decision is published.
- 3.43 The Rules provide that certain categories of decisions will not be eligible for call in. The Head of Governance and Scrutiny Support has considered the list of categories which are not available for call in and is of the view that the inclusion of each is appropriate.
- 3.44 All decisions of the Executive Board, Executive Decisions of the Health and Wellbeing Board and Key decisions of officers are eligible and will be open for call in unless exempted.
- 3.45 Significant operational and administrative decisions taken by officers are not included with those eligible for call in as the required framework to monitor the numbers of decisions taken, to ensure the call in control is applied, and the delay in implementation for those decisions would be disproportionate to the benefit gained.
- 3.46 The Executive and Decision Making Procedure Rules provide that a decision taker may exempt a decision from Call In if the decision is urgent (i.e. that any delay would seriously prejudice the Council's or the public's interests.) The reasons for urgency must be set out in the report relating to the decision.
- 3.47 Availability of eligible decisions for call in is one of the performance indicators monitored by the Head of Governance and Scrutiny Support with a target of 95% of all eligible decisions being open for call in.
- 3.48 During the reporting period all of the 171 Key decisions were taken by officers were eligible for call in. 10 of these were exempted from call in. 161 decisions (94%) were available for call in.

¹¹ S9F Local Government Act 2000

3.49 The table below sets out the reasons given for exempting decisions taken by officers from call in during the reporting period.

Decision Number	Director	Reason for exemption from call in.
D47431	Director of Children and Families	Urgent decision to provide schooling for 160 pupils without school places following inward migration, delay in undertaking works would seriously prejudice pupils.
D47634	Director of Resources and Housing	Approval expedited to enable retrofitting of buses to meet air quality standards in compliance with strict DEFRA funding deadlines.
D47881 August 18	Director of Children and Families	Administrative error lead to urgency. (see 3.38 above for further information)
D48328 Feb 2018	Director of Resources and Housing	Homes England delayed indicative approval for Housing Investment Fund Bid. Urgent need to action scheme or risk it becoming financially unviable and consequent loss of grant funding if scheme not delivered.
D48372	Director of City Development	Decision urgent to ensure sale of property at price negotiated on basis of contract exchange by agreed date.
D48422	Director of Resources and Housing	Decisions formalise spend of grant funding for Clean Air Zone as considered previously by Executive Board. Decisions could not be taken earlier as dependent on government timescales. Projects must be delivered in line with deadlines specified in grant funding agreements for delivery of the Clean Air Zone.
D48429	Director of Resources and Housing	
D48487	Director of Communities and Environment	Decision could not be taken until equipment evaluated following winter maintenance regime, but urgent need to procure identified machinery for start of summer season.
D48491	Director of City Development	Terms and cost for acquisition of property dependent on completion within negotiated timescale.
D48513	Director of City Development	Terms for sale of property dependent on completion within negotiated timescale. Failure to complete would lose capital receipt.

3.50 During the reporting period of the 154 decisions taken by Executive Board, 143 were eligible for call in. 11 decisions were ineligible for call in as they were taken as part of the process set out for approving or amending the budget and policy framework which has separate arrangements for scrutiny in place.

3.51 Of the 143 decisions taken by Executive Board which were eligible for call in 9 were exempted from call in leaving 134 (94%) of eligible decisions available for call in.

3.52 The table below sets out the reasons given for exempting executive board decisions from call in during the reporting period.

Minute Number	Director	Reason for exemption from call in.
Minute 15	Director of City Development	Ministerial direction requires submission of full business case within deadline, therefore implementation of decision to commence formal statutory consultation urgent.
Minute 16	Director of City Development	Negotiated contract price for Leeds Playhouse refurbishment requires immediate commencement of works, delay in implementation would risk renegotiation of contract terms.
Minute 28	Director of Children and Families	Need to implement decision by publishing statutory notice to ensure notice period falls within term time allowing maximum opportunity for stakeholder comment without risking delay in provision of school places.
Minute 58	Director of City Development	Grant funding subject to strict timescales on delivery of grant objectives which may not be met if implementation delayed.
Minute 123	Director of Children and Families	Decisions related to school expansion and required immediate implementation to meet contract requirements and enable construction works aligned to school shut down periods.
Minute 150	Director of Children and Families	
Minute 180	Director of City Development	Immediate implementation of decision through acceptance of funding agreements required to allow timely delivery of partner agreements and associated employment contracts.
Minute 182	Director of City Development	Bid framework established by government permitted short timescale. Delay in implementation would risk missing opportunity to bid for funding from the Future High Street Fund.
Minute 184	Director of City Development	Need to complete purchase during short period of exclusivity in strong industrial market.

3.53 The Head of Governance and Scrutiny Support notes that 7 of the 19 decisions which were exempt from call in related to grant funding arrangements, and a further 4 related to acquisition and disposal of property, and that both are areas of decision making where tight timescales are often imposed over which the Council has little if any influence.

3.54 The Head of Governance and Scrutiny Support is mindful that the precise details of a key decision do not need to be known in order to include the future intention to take a decision in relation to the matter on the List of Forthcoming Key Decisions. However, the full detail of the decision is required in order to develop the supporting report and seek approval from the relevant decision maker. It is only at the point of the report being complete, and the decision being taken that the decision can be

opened for call in, so in circumstances where the timescales are imposed externally exemption from call in can often not be avoided.

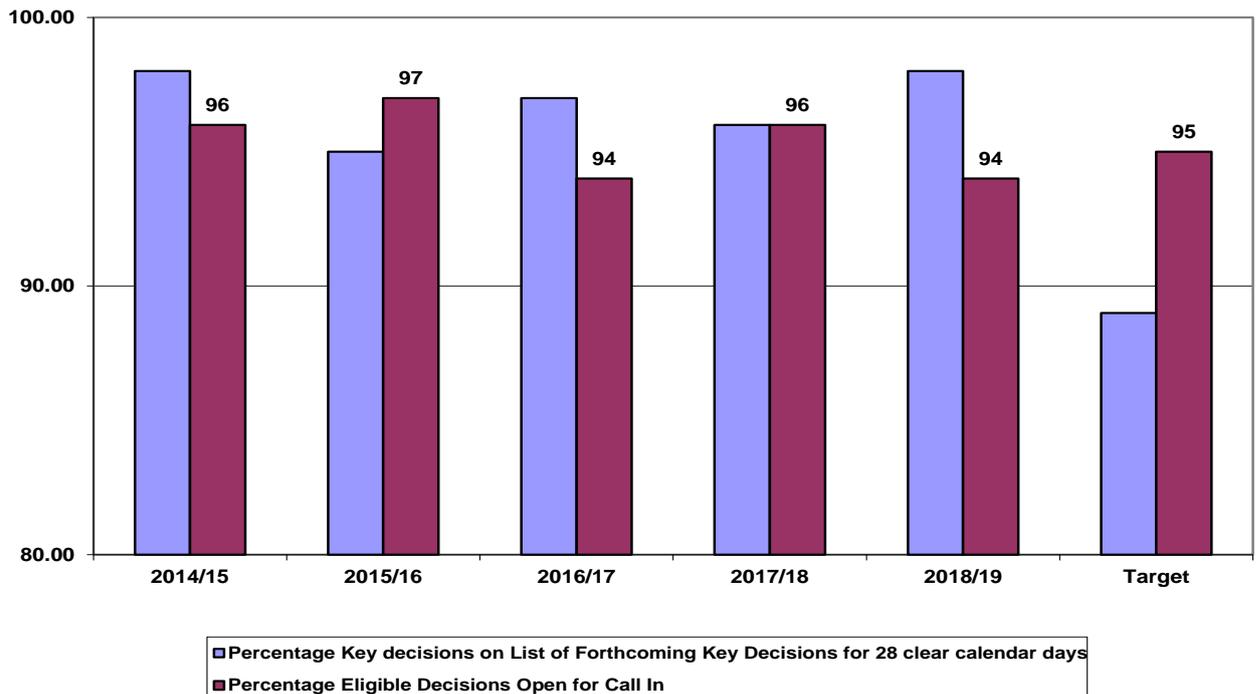
- 3.55 The table below sets out comparative figures for eligibility and exemption from call in together with figures for use and outcome of the call in process over this and the previous two reporting periods:-

Reporting Period	1 st April 2016 to 31 st March 2017	1 st April 2017 to 31 st March 2018	1 st April 2018 to 31 st March 2019
Decisions eligible for call in	285	282	314
Decisions available for call in	267	271	295
Percentage eligible decisions available for call in (target 95%)	94%	96%	94%
Decisions called in	2	0	2
Decisions released for implementation following Call In	1	NA	2
Recommendations made following Call In	1	NA	0

- 3.56 There were two call in requests received during the reporting period. Both related to Executive Board decisions. The first which related to the increase in primary places at Moor Allerton Primary School was released for implementation following a meeting of the Scrutiny Board (Children and Families) on 10th October. The second related to the decision to disband the School Organisation Advisory Board and was also released for implementation following a meeting of the same Scrutiny Board on 8th April 2019.

Overall Performance Trends

- 3.57 The chart below sets out performance indicators for decisions on the List of Forthcoming Key Decisions and eligible decisions open for Call In over the previous four reporting periods.



- 3.58 In quantitative terms, Members will note that although the number of decisions taken during the reporting period has increased year on year targets in relation to performance in respect of inclusion in the List of Forthcoming Key Decisions (89%) has improved. Performance monitoring has however shown that availability of eligible decisions for Call In (95%) has marginally (by 1% or 4 decisions) slipped below target.
- 3.59 From a qualitative perspective the Head of Governance and Scrutiny Support has noted that in the majority of cases where the publicity and call in requirements have not been met (General Exception, Special Urgency and Exemption from Call In) appropriate advice was sought and in all cases the reasons given have been set out in a public report.
- 3.60 Training provided by the Head of Governance and Scrutiny Support will continue to emphasise the importance of call in to enable democratic oversight of decision making and that decisions should only be exempted from call in in extremis.

Decisions Not Treated as Key

- 3.61 Executive and Decision Making Procedure Rule 6.1 enables Members to challenge the categorisation of significant operational or administrative decisions which they believe should have been treated as Key. The relevant Scrutiny board is empowered to require the decision maker to prepare a report to Council if the Board agrees the decision should have been treated as Key
- 3.62 The Head of Governance and Scrutiny Support can confirm that there have been no decisions taken within the reporting period that have been challenged under Executive and Decision Making Procedure Rule 6.1 as wrongly treated

Publication of agendas and minutes

- 3.63 The Head of Governance and Scrutiny Support monitors local performance indicators in relation to the publication of agendas and minutes for Council, Executive Board and their committees. Performance in respect of those committees monitored is set out below.

Agendas

- 3.64 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.
- 3.65 The Head of Governance and Scrutiny Support has established a target for 99% of agendas to be issued and published within the five day statutory deadline; 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.
- 3.66 Of 172 meetings which took place within the reporting period covered by this report, 167 agendas were issued in accordance with the 5 clear day deadline.
- 3.67 Of the five agendas which were not published 5 clear working days in advance of the meeting during the reporting period, one¹² related to a meeting called at short notice; the remaining four¹³ were all late as a result of administrative delay in publishing the agenda (On each occasion Members did receive their agenda packs as per their indicated preference).
- 3.68 Taking the short notice decision into account this gives a performance of 98% agendas issued and published within the five day statutory deadline.

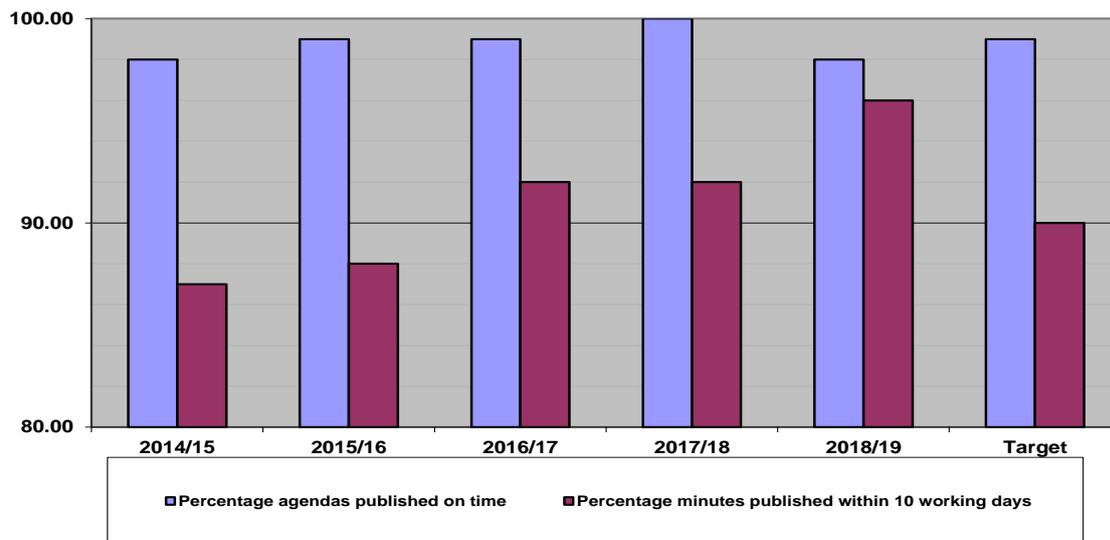
Minutes

- 3.69 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 90% of draft minutes to be published on the Council's internet site within ten working days.
- 3.70 In addition the Executive and Decision Making Procedure Rules require that minutes for all meetings of Executive Board are published within two working days of the meeting. This permits prompt availability of Executive Board decisions for call-in and minimises the delay to implementation necessary to allow for the call-in process. Members should note that there has been 100% compliance with this requirement.
- 3.71 Of 172 committee meetings which have taken place within the period covered by this report, 165 sets of draft minutes were published within this locally established target. This gives a performance of 96% draft minutes published within the specified target period.

¹² General Purposes Committee 16th May 2018

¹³ City Plans Panel 31st May, Inner North East Community Committee 3rd September, Development Plan Panel 16th October & Inner North East Community Committee 4th March.

- 3.72 Of the seven sets of minutes which were not published within 10 working days of the meeting during the reporting period, six were published within 15 working days of the meeting, and one was published 18 working days after the meeting. All late minutes were published before the next meeting of the relevant committee.
- 3.73 The table below shows performance indicators for agenda and minute publication for the previous four reporting periods, compared to this period and against target. Members will see that the rate of agenda publication has dipped slightly, however there has been a significant improvement in relation to the publication of minutes.



Committees outside monitoring arrangements

- 3.74 There are a number of committees for which the Head of Governance and Scrutiny Support does not collate agenda and minute publication statistics.
- 3.75 In particular Section 101(15) of the Local Government Act 1972 disappplies the provisions requiring prior publication of agendas from functions of the Licensing Authority which fall instead to be discharged in accordance with the Licensing Act 2003 and the Licensing Act (Hearing) Regulations 2005. For this reason the Head of Governance and Scrutiny Support does not include meetings of the Licensing Sub-Committee in the performance indicator for publication of agendas.

Effectively Communicated

Support for the Decision Making Framework

- 3.76 Effective support in relation to the governance framework will continue to seek to encourage compliance, improve governance administration, and enhance organisational effectiveness.

Training and Awareness

3.77 Appropriate and timely provision of training will

- ensure that officers involved in all stages of the decision making process are able to identify when decisions are being taken, which rules and procedures apply, the steps which they as individuals need to take and the steps which need to be taken by others within the process;
- strengthen a culture of compliance, by presenting the decision making framework with clarity; showing how systems and processes achieve relevant and necessary outcomes (that processes support the democratic mandate, are reflective of the Council's values, encourage public and Member engagement with decision making before decisions are taken, and that decisions stand up to challenge once taken); and
- encourage application of the framework to organisational reality, sharing best practice and developing application of framework and procedures to continuously improve efficient decision making practice whilst enhancing the transparency and quality of decisions taken.

3.78 Within the communication plan developed to implement the amended governance framework the Head of Governance and Scrutiny Support has provided a series of training and awareness events including:-

- Attendance at directorate leadership teams to outline changes and seek support in embedding a culture of good governance in line with the refreshed framework;
- Training for colleagues in finance; internal audit; legal and democratic; and procurement and commercial services to ensure that up to date advice is available from a range of officers involved in the governance of decision making;
- Ten face to face training sessions (two for each directorate), accommodating up to 30 officers each setting out the legislative and political context in which decisions are taken and giving detailed information on the thresholds and controls in place;
- Inclusion of a one off decision making module appropriate to each of the apprenticeship courses supported by Leeds City Council;

3.79 In addition it is planned to develop an e-learning module which will both support the delivery of face to face training and provide a mechanism to monitor and evaluate understanding of the council's decision making framework.

Advice and Guidance

3.80 The Head of Governance Services maintains the Decision Making Toolkit on the Council's insite pages which is available to all officers. In addition to links to public facing pages containing the Council's constitution, officer delegation schemes, committee records, the list of forthcoming key decisions, and records of officer decisions; the toolkit contains a variety of information and advice including frequently asked questions and how to guides. The information contained in the toolkit has been reviewed and refreshed to ensure that it continues to be up to date and fit for purpose.

- 3.81 In addition advice is provided by a network of professionals with specialist knowledge relating to the law, finance and procurement. The Head of Governance and Scrutiny Support works closely with colleagues from all disciplines, sharing information and expertise, ensuring that colleagues are able to obtain the right information at the right time, and that responsibility for ensuring compliance with the governance framework is shared across all disciplines whilst providing appropriate advice and expertise where necessary.

Performance Monitoring

- 3.82 Performance Monitoring ensures that key performance indicators are monitored monthly together with general patterns of decision publishing. Any anomalies or emerging trends are shared with directorates via the directorate support officers.
- 3.83 Performance Monitoring will continue with regular reviews on the numbers of key and significant operational decisions taken, and use of general exception, special urgency and exemptions from call in providing indicators as to the impact of the change in thresholds on decision making governance.

Audit

- 3.84 The Audit Plan, which informs the work of Internal Audit, includes work designed to test the features of the decision making framework as part of the ongoing programme of audit. Audits test decisions at both high and low level, considering the way in which the framework, rules and procedures are complied with. Where potential for improvement is identified recommendations are made as to how compliance can be secured through practicable measures.

Decision Making Governance Assurance Statement

- 3.85 From the review, assessment and on-going monitoring carried out, the Head of Governance and Scrutiny Support has 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.

Looking Forward

- 3.86 The Head of Governance and Scrutiny Support has undertaken a review of the thresholds applying to finance, procurement and decision making governance. Following detailed consultation with Members (including the former chair of this committee) Full Council approved changes to the thresholds for decision making governance as set out in Article 13 of the Constitution together with amending the revenue virements limits at the annual meeting in May 2019. These will be effective from 1st July 2019. Alongside this the Chief Officer (Financial Services) made amendments to the capital approval tables.
- 3.87 The review sought to ensure that arrangements in place secure compliance with relevant legislation; support the democratic oversight provided by members through defined constitutional arrangements to 'check and challenge'; secure openness, accountability and engagement with Members (and the public); and allow the authority to be agile and responsive in how it conducts its business.

4. Main Issues – RIPA

- 4.1 In line with the Council's last inspection report, Members were last updated in relation to applications for directed surveillance and CHIS (Covert Human Intelligence Source) authorisations at their December 2018, and March 2019 meetings. It is confirmed that there have been no applications for directed surveillance or CHIS authorisations, since the June 2018 meeting. There has been no use of the powers to obtain communications data, over the same period. Given that the grounds for authorising directed surveillance are limited to preventing or detecting serious crime, and given also that approval by a JP is now also required for directed surveillance, use of a CHIS or obtaining communications data, it is unlikely that the use of these powers will increase.
- 4.2 Members are asked to consider whether they require any changes to the RIPA policy appended to this report. No changes are recommended at this time. Although there is no 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 new legislation, or changes to the Codes of Practice.

RIPA Assurance Statement

- 4.3 From the review, assessment and on-going monitoring carried out, the Head of Service Legal Services has reached the opinion that, overall, systems and processes relating to RIPA are operating soundly and that arrangements are up to date, fit for purpose, effectively communicated and routinely complied with.

5. Main Issues – Licensing

- 5.1 In order to avoid duplication of effort it has been agreed that the annual licensing report, which is agreed by Licensing Committee before being received by Full Council, will be received as the assurance report in relation to decision making for licensing. The most recent report was considered by Licensing Committee on 5th March 2019 and received by Council on 27th March 2019. The information set out in the annual licensing report reflects decision making arrangements from 1st January to 31st December 2018.
- 5.2 The Annual Licensing Report can be found at <https://democracy.leeds.gov.uk/documents/s185907/Licensing%20Committee%20Annual%20Report%20Appendix%20A%20080319.pdf>
- 5.3 Since the annual licensing report was published, Licensing Committee continues its function for the overview of licensing decisions and activities, and there are no issues that require to be brought to the attention of this committee at this time.

Licensing Assurance Statement

- 5.4 From the review, assessment and on-going monitoring carried out, the Chief Officer Elections and Regulatory has reached the opinion that, overall, systems and processes relating to licensing are operating soundly and that arrangements are up to date, fit for purpose, effectively communicated and routinely complied with.

6. Main Issues – 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. The Leeds adopted Local Plan sets out the council's vision and strategy for planning the area until 2028.
- 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.

Delegation and sub delegation schemes

- 6.5** 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 previous reports to this Committee. The Chief Planning Officer's delegation scheme was last reviewed and approved by Full Council on 24 May 2018.
- 6.6** 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 9 January 2019.
- 6.7** 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 planning team leader 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. The majority of decisions are made by officers under the delegation scheme and in 2018-19, officers made 98.4% of the decisions. This is necessarily high due to the sheer volume of applications received in Leeds, in order to maintain expeditious decision making. The scheme of delegation provides for members to request Panel consideration of items and for particularly sensitive items to be considered by Panel.

Re Audit of Community Infrastructure Levy

- 6.8 In February 2017, Internal Audit commenced an audit into the Community Infrastructure Levy. The scope of the audit was to gain assurance over the arrangements in place to ensure income was identified and collected. Internal Audit produced a report in June 2017 providing an opinion of limited assurance for the control environment and acceptable assurance for compliance with actual controls. An action plan was agreed in order to address the weaknesses identified in the Audit.
- 6.9 Internal Audit returned in January and February 2019 to assess the progress made against the action plan. Following the appointment of the CIL Officer in March 2018, significant progress has been made ensuring that processes are now robust and routinely complied with and ensuring that the appropriate assurances and control measures are in place. Internal Audit issued their report in March 2019 and now provides an opinion of good assurance for the control environment.

Planning performance 2018-19

- 6.10 The service collects a range of information and data to monitor its own performance and to take corrective action wherever necessary. The service reports on performance twice a year, in a half year and end of year performance report to the Joint Plans Panels.
- 6.11 In 2018-19, the service received 4,741 applications, a 7.6% reduction from those received the previous year. This is the first time in a seven years that application numbers have fallen. Nationally, for the period April to December 2018, applications have reduced by 4.6%.
- 6.12 There were also 4,711 decisions made in the reporting period, a 5.5% decrease from the previous year.
- 6.13 The table below shows the services' performance in relation to applications being determined in time or within agreed timescale.

	% Majors in time	% Minors in time	% Other in time
2018-19	84.6%	83.2%	83.0%
2017-18	91%	84.3%	88.2%
2016-17	93.1%	89.4%	93%

- 6.14 The lower performance this year can be accounted for by the number of staff vacancies and sickness levels (average 12.6 days per FTE compared to City Development average of 7.1 days) There were also a number of staff who left the service due taking posts externally to the council or as a result of promotion to other areas of the Council; this had an impact on the time taken to determine applications. However, since the start of quarter 4 when many of the staff resourcing issues had been resolved, performance increased markedly to 86.6% of majors, 87.5% of minors and 86.2% of others being determined in time.
- 6.15 The latest national figures¹⁴ for applications determined in time show that Local Planning Authorities decided 89% of major applications within 13 weeks or the agreed time. Therefore, Leeds' performance is slightly below the national average. However as mentioned above the service faced a number of challenges at the start

¹⁴ Ministry of Housing, Communities and Local Government Statistical release [Planning Applications in England: October to December 2018](#).

of the year but now has the additional staff recruited as a result of the 20% uplift in planning fees and recruitment continues to take place to fill vacant posts.

- 6.16 It is important for the LPA to maintain high performance. Members have heard previously about the Government’s approach to measuring the performance of authorities which was introduced by the Growth and Infrastructure Act 2013; it is based on assessing local planning authorities’ performance on the speed and quality of their decisions on applications for majors and in 2018 the regime was broadened to include non-major development. Where an authority is designated as underperforming, applicants have the option of submitting their applications for major and non-major development (and connected applications) directly to the Planning Inspectorate (who act on behalf of the Secretary of State) for determination. The Government’s current assessment period is October 2016 to September 2018 and have already announced the next assessment period and thresholds, this is shown in the table below.

Measure and type of Application	Threshold and assessment period October 2016 to September 2018	Threshold and assessment period October 2017 to September 2019
Speed of major Development (District and County)	60%	60%
Speed of non-major Development	70%	70%

- 6.17 Based on the current assessment period, Leeds’ performance for determining major applications stands at 92.3% and 86.9%¹⁵ for non-major applications, well above the designation thresholds for both application types.
- 6.18 There is often a time lag in government statistics being published, but the table below shows Leeds performance in comparison with the Core Cities using the latest dataset available, covering the period calendar year 2018 and ending December 2018¹⁶. The table shows the performance against the three types of applications, majors, minor and others as well as the comparative workloads across the Core Cities. Whilst this does not fully cover the reporting period, it provides further assurance that Leeds performance in determining applications in time is good in comparison with the Core Cities.

¹⁵ Ministry of Housing, Communities and Local Government Tables 152 and 153 <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics#historical-live-tables>

¹⁶Ministry of Housing, Communities and Local Government [Table P132 and Table P134: district planning authorities - planning applications decided, granted, performance agreements and speed of decisions, by development type and local planning authority \(yearly\)](#)

Authority	No applications received	Majors determined in time (%)	Minors determined in time (%)	Others determined in time (%)
Birmingham	5510	74	61	74
Leeds	4796	90	85	85
Liverpool	2485	94	82	86
Manchester	2661	82	87	89
Newcastle	1343	90	89	85
Nottingham	1407	84	73	76
Sheffield	2696	88	79	87

- 6.19 Leeds is second only to Birmingham in volume of application workload and joint second for of determining major applications in time. This represents as significant achievement in delivering the largest and often most complex schemes. Performance cross the other two categories of applications is also healthy in comparison with the Core Cities.

Plans Panel decision making

- 6.20 Occasionally the Plans Panel may make a decision contrary to the officer's recommendation (whether for approval or refusal). In these circumstances a detailed minute of the Panel's reasons is made and a copy placed on the application file. Thus, members are required to explain in full their reasons for not agreeing with the officer's recommendation, observing the 'Wednesbury principle' which requires all material considerations to be taken into account and all irrelevant information (i.e. non-material matters) to be ignored. This ensures there is, as far as possible, a robust and defensible position should the application be subject to a legal challenge or appeal.
- 6.21 The table below shows the Panel workload, decisions contrary to officer's recommendation and where it was a refusal, if it led to an appeal. Due to the timescales for making an appeal, it is not possible to provide a full picture yet for 2018-19, as applications determined in March 2019 would have until September 2019 (six month window) for an appeal to be lodged.

Year	Decisions	Decisions contrary to officer recommendation(as a % of the total no of Panel decisions)	Leading to an appeal against refusal	Appeal decision
2018-19	77	1 (1.3%)	0	
2017-18	119	4 (3.3%)	3	1 dismissed 1 allowed 1 In progress
2016-17	105	11 (10.4%)	2	1 dismissed 1 allowed
2015-16	127	4 (3%)	2	1 dismissed 1 allowed
2014-15	191	14 (7%)	9	4 dismissed 5 allowed

- 6.22 Of the 77 decisions made by the three panels, just one was contrary to the officer recommendation. This was Leeds Montessori School and Day Nursery, Wetherby Road, for a detached classroom building. Members resolved not to accept the officer recommendation to refuse planning permission. Members placed greater weight on the benefits that arise from the proposal associated with child care/education and these were considered to outweigh concerns over highway safety (the recommended reason for refusal). Members delegated the approval of the application to officers and resolved that the conditions imposed to include the requirement of the submission and approval of a green travel plan.
- 6.23 Whilst it is inevitable that different decisions are reached from time to time, especially where decisions are finely balanced, or where different weight is attached to the potential planning considerations, a high number of decisions taken which are contrary to the officer recommendation may give the appearance that officers and members are not working well together and demonstrate a lack of trust in the decision making process. This has the potential to demonstrate a lack of confidence in the planning system in Leeds to applicants, local communities and investors.
- 6.24 The number of decisions contrary to the officer recommendation represents a very small percentage of the total number of decisions made by the local planning authority, around 0.02% of total decisions.
- 6.25 In addition to applications for determination, the Plans Panel workload also comprises a significant number of pre application presentations and position statements. The three stage process of pre application presentation, position statement and final determination for the most complex or sensitive applications ensures that appropriate level of scrutiny is brought to bear before determination.

Appeals received and Planning Inspectorate Decisions

- 6.26 The service uses several indicators to determine the quality of decision making: number of lost appeals, number of ombudsman complaints received and numbers upheld. In 2018-19 there were 174 new appeals received in the financial year, this is a significant drop from the previous year where 307 new appeals were received in the year, a 44% reduction. Almost half, 44% were householder appeals, however this is a significant increase from the previous year where householder appeals accounted for a quarter of appeals received.
- 6.27 The Planning Inspectorate made 212 decisions on appeals in 2018-19, this includes S78 and Household appeals. (The figures for appeals lodged and appeal decisions are different because of the six month window allowed for appeals to be made.) The table below shows the outcome of appeals for 2018-19 compared with the last three years. Performance on appeals dismissed has improved year on year with 73.6% of appeals being dismissed in comparison with the previous year where 71.3% were dismissed.

Year	Total number of appeals lodged in year	Appeal decisions received in year	Dismissed
2018-19	174	212	73.6%
2017-18	307	233	71.3%
2016-17	233	259	64.5%

- 6.28 In terms of comparative data, the latest dataset available from the Planning Inspectorate¹⁷ is for 2017-18 and whilst not the reporting year in question, the chart below shows Leeds performance in comparison with the Core Cities.

Authority	Number of S78 appeal decisions made	S78 appeals allowed (%)	Number of Householder appeals decisions made	Householder appeals allowed (%)
Birmingham	70	17%	28	39%
Leeds	116	22%	74	34%
Liverpool	41	41%	23	43%
Manchester	50	30%	12	25%
Newcastle	23	13%	9	11%
Nottingham	30	25%	3	0%
Sheffield	28	13%	21	33%

¹⁷ <https://www.gov.uk/government/statistics/planning-inspectorate-statistics#history> Table 5.1 Yearly decisions by LPA (annual)

- 6.29 Whilst this chart demonstrates that Leeds received a high number of appeals (as it has for a number of years), the performance on appeals is good, with 78% of S78 appeals being dismissed and 66% of Householder appeals being dismissed. However appeals casework requires a significant resource input from the service and therefore the service continues to monitor appeals and take corrective action, or attach different weight, as appropriate where a change of stance is perhaps required in light of recurring upheld appeals.
- 6.30 As mentioned above, the government assesses the quality of decisions made by local planning authorities by measuring the proportion of decisions on applications that are subsequently overturned at appeal. The thresholds for designation for both majors and non-majors is 10% of an authority's total number of decisions on major and non-major applications made during the assessment period being overturned at appeal. The MHCLG's latest planning statistics, published in March 2019¹⁸ show the provisional data on English authorities' performance in terms of quality of decision-making over the two years from January 2016 to December 2017; Leeds remains well above the thresholds for designation with 1.2% of non-major decisions and 1.3% of major decisions overturned at appeal.
- 6.31 In terms of costs claimed against the Council for appeals, there have been two cost claims in 2018-19 one for Metals 4U Ltd, Armitage Works, Sandbeck Way, Wetherby, costs settled at £ 5,097.78, the other Land at Rigton Farm still is under negotiation.

Customer complaints and Ombudsman cases

- 6.32 During the reporting year, 2018-2019, there have been 205 stage 1 and stage 2 complaints received by the LPA. This is compared with 117 received in the same period last year. This is a 57% increase in the number of complaints received in comparison with the same period last year. The increase in number of complaints can be accounted for in part due to the staffing and resourcing challenges the service faced at the beginning of the year but also by and the more robust processes and systems and recording of complaints since the appointment of a Complaints Officer in June 2019.
- 6.33 One of the main themes of upheld complaints was about lack of contact with the planning officer; again this was symptomatic of the staffing situation and since the service has undergone a period of recruitment, the numbers of complaints on this issue have decreased significantly.
- 6.34 There has been a decrease in the number of Ombudsman complaints received by the service in comparison with the same period last year, 17 in comparison to 22. Six of the new cases received within the past year were either closed as being out of jurisdiction or deemed to require no further action. A further six with no fault found and three cases remain open, including one where we have received a draft decision.
- 6.35 There were two cases where fault was found, one requiring a local settlement of £200 where a neighbour complained that insufficient consideration was given to privacy issues and the second in relation to a biomass boiler. In this latter case the LGO found that the Council had incorrectly stated that certain policies were relevant to the recommendation of the application before recommending its approval. The LGO found fault, but concluded that the subsequent outcome of the application

¹⁸ <https://www.gov.uk/government/statistical-data-sets/live-tables-on-planning-application-statistics#historical-live-tables> tables 153 and 154

would likely have been the same. As such, although fault was found, the LGO did not consider that there had been any injustice to the complainant.

- 6.36 Training from the Local Government Ombudsman was delivered to senior officers in May 2018 which was helpful in highlighting ways to avoid common pitfalls and the measures to put in place to help mitigate the risk of reoccurrence on similar issues.

Embedding the framework for planning matters

Officer training

- 6.37 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.
- 6.38 The planning reform agenda continues with the revision of the National Planning Policy Framework in July 2018 and government consultation on a number of key areas; it therefore continues to be a time of significant change and it is necessary to ensure that officers are up to date and receive training to support decision making. Officers are provided with the opportunity to attend training sessions offered by the professional body, the RTPI (Royal Town Planning Institute) as a “season ticket” is purchased allowing a number of officers to attend the training and seminars on a variety of subjects. Additionally, this Committee has previously heard about case officer meetings and these continue to take place; the Head of Development Management provides an update of government reforms and changes that will impact on the way officers work. Guest speakers are also invited who provide information on planning and planning related information including those from the Policy team to ensure offices are kept up to date with regard to new, emerging or amended planning policy, including the latest position on the Site Allocations Plan and Core Strategy Review.

Member Training

- 6.39 Article 8.2.2 of the Council’s Constitution, says that Members of the Plans Panels must complete all compulsory training and shall not sit as a Member of the Panel unless such training has been undertaken in accordance with the Council's prescribed training programme.
- 6.40 The mandatory training session in order to sit on Panel comprises one or two session(s), depending on the experience of members on planning matters and comprises:
- Planning update: This session updates members with the latest legislation and planning guidance. It also covers any changes to the planning system which will impact on the work of members.
 - Additional training for members new to the Plans Panel. This training is run by the group managers who go through the procedural issues associated with the running of the Panel and the basic principles of planning. In this session officers will also identify some key planning issues, hot topics, direction of travel for policy and probity issues.
- 6.41 All Plans Panel members including substitutes in 2018-19 have undertaken the prescribed training. As May 2018 saw an all-out election, two main sessions and a series of additional ‘mop-up’ sessions were arranged to ensure that all Planning

members received the required training prior to the first round of Plans Panel meetings.

- 6.42 A full programme of member training has been developed for the first time in 2018-19. This discretionary training offers a diverse range of learning opportunities for members, adding further to member's knowledge and provides the most up to date information and approaches available on a range of planning issues. The topics have been agreed in consultation with the Executive Board Member and the Panel Chairs. So far, sessions on Viability, Leeds City Centre Transport Strategy, and impact of development on school places, Purpose Built Student Accommodation have been delivered. Future sessions include urban design and S106 and Community Infrastructure Levy.
- 6.43 A session has also been developed for Group Support staff and Community Committee Officers on S106 and the Community Infrastructure Levy for June 2019.

Member Tour of past sites

- 6.44 A tour of past sites was organised in summer 2018. The visits were to sites which have received planning permission and have been built or are in the process of being constructed. This allowed reflection on the relevant issues at the time of determination and to see on the ground how the development has worked out in practice.

Work of the Plans Panels

- 6.45 The third annual report of the work of the three Plans Panels and the Development Plans Panel was presented to full Council in November 2018. The report outlined the workload and other activity dealt with by the Panels and focussed on a number of significant applications which went before the Panels for determination.

Review of the Plans Panels

- 6.46 As part of planning services' commitment to continuous improvement to support the council's inclusive growth ambition for Leeds, consultants were commissioned to carry out a short piece of work to look at the function of the plans panels in Leeds and their contribution to that growth agenda. POS Enterprises were appointed to work with planning officers, members of the Plans Panels and representative from the development industry to highlight existing good practices and to learn from practices from elsewhere. A final report has been prepared by the consultants, which lists a number of recommendations. These recommendations have been developed into an action plan, which the service is now working through to implement.

Relationship with partners and customers

- 6.47 Following on from work started in 2017 with the Leeds Chamber of Commerce to support good growth in Leeds, a Planning Protocol has been developed. The Protocol is a series of promises and ambitions for both the development industry and the Council to work towards. The Protocol was launched a meeting of the Chamber's Property Forum in March 2019 and initial feedback has been positive. The Protocol will be monitored and will be reviewed after six months in operation.

Parish and Town Council and Neighbourhood Forums

- 6.48 The service recognises the important work of the many Parish and Town Councils and Neighbourhood Forums in Leeds and held a Conference for them in March 2019. The programme covered a range of issues including effective use of Public Access, an update on the Site Allocations Plan and Core Strategy Selective Review, Community Infrastructure Levy and Neighbourhood Planning. The session was well received and the service hopes to run the conference on an annual basis.
- 6.49 The Council works with neighbourhood planning groups after plans have been 'made' and form part of the statutory Development Plan - the primary basis for decision making on applications. This includes monitoring of policies, review of the plan where appropriate and assistance with project delivery. For non-parished areas, the Council provides support and advice to neighbourhood forums post-referendum, to assist more generally with plan delivery. The Council's Statement of Community Involvement (SCI) sets out how we engage and consult on planning matters generally. It is currently being revised and will include detail on how the Council will support, monitor and review neighbourhood planning activity across the city. Consultation on the draft document will take place during autumn 2019.

Working with Small and Medium Enterprise house builders (SME)

- 6.50 Positive work has continued with the Small and Medium Enterprise house builders (SME) following an initial meeting with representatives from this sector in December 2017. The service held a further meeting in May 2018 to report on progress on several areas of work. This included the development of a bespoke pre application service for the sector as it was recognised that the SMEs have different needs and requirements from pre application engagement than that of a volume housebuilder. It was agreed to trial the new pre application service with two schemes once the LPA was resourced adequately to be able to deliver an appropriate service, following the appointment of new planner posts. The service now awaits suggestions of the pilot schemes from the Chamber of Commerce who will coordinate the requests in the first instance. A follow up meeting with the SMEs is scheduled for June 2019.

Planning Matters Governance Assurance Statement

- 6.51 From the review, assessment and on-going monitoring carried out, the Chief Planning Officer has 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.

7. Corporate considerations

7.1 Consultation and engagement

- 7.1.1 The contents of this report have been shared with the Corporate Leadership Team, and all officers with delegated authority set out in the council's constitution.

7.2 Equality and diversity / cohesion and integration

- 7.2.1 There are no implications for this report.

7.3 Council policies and best council plan

7.3.1 The Council's values include being open, honest and trusted; spending money wisely; and working with all communities. The Council's decision making framework sets out systems and processes which ensure information is shared in a clear and consistent fashion to enable the people living and working in the communities of Leeds to engage with the decision maker to ensure that community wishes and needs are taken into consideration. Whilst decision makers are required to consider whether the decision to be taken represents best value the systems and processes themselves are subject to continuous review to ensure that their implementation is practicable and makes best use of the Council's resources to achieve compliance with both the statutory and local framework.

7.4 Resources and value for money

7.4.1 The systems and processes in place to meet the requirements of the decision making framework do so from within existing resources.

7.5 Legal implications, access to information, and call-in

7.5.1 The Council's decision making framework meets the statutory requirements in relation to decision making and monitoring of relevant performance indicators ensures compliance.

7.6 Risk management

7.6.1 The positive assurances set out in this report show that the Council's decision making framework is fit for purpose, embedded and routinely complied with so there are no risks identified by this report.

8. Conclusions

8.1 This report sets out evidence to confirm the positive assurances given that decision making arrangements in relation to executive decision making, RIPA, Licensing and Planning matters are:-

- up to date,
- fit for purpose,
- effectively communicated; and
- routinely complied with.

8.2 The assurances provided in this report support the Council's Annual Corporate Governance Statement.

9. Recommendations

9.1 Members are requested to consider and note the positive assurances provided in this report given by the Head of Governance and Scrutiny Support, the Head of Service Legal Services, the Chief Planning Officer and the Chief Officer Elections and Regulatory

10. Background documents¹⁹

10.1 None

¹⁹ 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.