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## Report of the Chief Democratic Services Officer

### Corporate Governance and Audit Committee

Date: 30<sup>th</sup> June 2009

### Subject: Annual Monitoring of Key and Major Decisions

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**Electoral Wards Affected:**

**Specific Implications For:**

Equality and Diversity

Community Cohesion

Narrowing the Gap

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## 1.0 Purpose of the Report

- 1.1 This report provides an annual review, as requested by Members at its meeting in February 2010 in respect of the monitoring of Key and Major decisions notified to Democratic Services during the financial year 2009/10.
- 1.2 This report provides information, for 2009/10, in respect of ;
- the percentage of Key and Major decisions<sup>12</sup> that had been designated as exempt from the Call-In process.
  - the percentage of Key Decisions<sup>3</sup> that were not in the Forward Plan of Key Decisions.
  - Key Decisions taken under Special Urgency provisions.
- 1.3 The report also Informs Members of any significant issues which have arisen in year along with the opinion of the Head of Governance Services with respect to the operation of the Council's decision making arrangements during 2009/10..

## 2.0 Background Information

- 2.1 At its meeting on the 28<sup>th</sup> October 2008 Members raised concerns regarding the risks associated with unconstitutional decision making. These concerns were based upon anecdotal reports of decisions which may have been implemented prior to the conclusion of the call-in period.

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

<sup>2</sup> That is decisions which have been notified to Governance Services in accordance with constitutional requirements.

<sup>3</sup> That is decisions which have been notified to Governance Services in accordance with constitutional requirements.

- 2.2 Subsequently a sample of decisions were audited by Internal Audit to assess whether the correct procedures were being followed; the outcomes of which were reported at the meeting of this Committee in June 2009.
- 2.3 A further report was received by Committee in February 2010 updating Members on;
- a) Availability of Decisions for Call-In April and November 2009
  - b) Key Decisions Taken under Special Urgency provisions
  - c) The Forward Plan of Key Decisions
  - d) Improvements in Monitoring Delegated Decisions
  - e) Further Assurances sought with respect to Key and Major Decisions
- 2.4 This report provides an end of year position with respect to a) – c) above and an opinion with regard to overall compliance with the Council's decision making arrangements.

### **3.0 Availability of Decision for Call 2009/10**

- 3.1 Key and Major decisions made by officers and decisions taken by the Executive Board are subject to Call-In by Scrutiny Boards and cannot be implemented until either the Call-In period has expired or the relevant Scrutiny Board has made a decision regarding the Call-In.
- 3.2 The extent to which Key and Major decisions are available for Call In provides a proxy measure for the openness and transparency of decision making within the Council, particularly in respect of democratic accountability. The higher the percentage of decisions available the greater the breadth of challenge which can be exercised by Members through the scrutiny process.
- 3.3 Whilst Directors can identify a decision as being exempt from Call-In, this is only in cases where a Director considers that the decision is urgent and any delay in implementing the decision would seriously prejudice the Council's or public interest. These reasons are included in reports and, where necessary, accompanying delegated decision notices.
- 3.2 The authority has achieved its target of 95% of eligible decisions been available for Call-in for the year ending 31 March 2010 and more details are shown at appendix 1 with additional commentary.

### **4.0 Forward Plan of Key Decisions**

- 4.1 The Leader of Council is required to produce each month a Forward Plan of Key Decisions<sup>4</sup> detailing those Key Decisions which are to be taken by the Executive Board and by Officers (under delegated powers).
- 4.2 Again, a proxy measure of the openness and transparency of the council's decision making arrangements is the extent to which Key Decisions are pre notified on the Forward Plan.
- 4.4 The authority has achieved its target of no more than 13% of Key Decisions taken by the Council not appearing in the Forward Plan of Key Decisions for the year ending 31 March 2010 and more details are shown at appendix 1 with additional commentary.

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<sup>4</sup> See Glossary at the end of this report.

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

- 5.1 In the period under review there was 1 decision taken under the 'Special Urgency' provisions contained within the Constitution.
- 5.2 Paragraph 15 of the Access to Information Procedure Rules allows for 'Special Urgency' and states: "If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the decision can only be taken if the decision taker (if an individual) or the chair of the body making the decision, obtains the agreement of the chair of a relevant Scrutiny Board that the taking of the decision cannot be reasonably deferred and the decision is urgent. If there is no chair of a relevant Scrutiny Board, or if the chair of the relevant Scrutiny Board is unable to act, then the agreement of the Lord Mayor of the Council, or in his/her absence the Deputy Lord Mayor will suffice"
- 5.3 The decision subject to the Special Urgency provisions related to the designation of a conservation area in Buslingthorpe to avoid the loss of important historic buildings and to preserve the special historic character of the area.
- 5.4 In accordance with the requirements of the Access to Information Procedure Rules the use of the Special Urgency provision was reported to Executive Board and Council.
- 5.5 The Head of Governance Services is of the view that the circumstances of the use of the Special Urgency provisions was reasonable and compliant with the provisions of the Constitution.

## **6.0 Financial Commitments 2009/10**

- 6.1 In 2009, all financial commitments over £100,000 for the financial year 2008/09 were reviewed to establish whether an appropriate delegated or Executive Board decision had been taken to support that expenditure. The outcome of this was reported to the Committee last municipal year and has led to further work being undertaken by the Assistant Chief Executive (Corporate Governance) aimed at reviewing the controls that are in place and establish whether opportunities exist for better alignment and improved clarity.
- 6.2 A further review of all financial commitments over £100,000 for 2009/10 is nearing completion and any additional lessons learned will be fed into the work being led by the Assistant Chief Executive (Corporate Governance).

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

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

## **8.0 Recommendations**

8.1 Members of the Committee are asked to;

- note the percentage of eligible decisions available for Call-In during the period 1 April 2009 and 31 March 2010 as detailed in appendix 1 of this report
- note the percentage of Key Decisions that did not appear in the Forward Plan of Key Decisions during the period 1 April 2009 and 31 March 2010 as detailed in appendix 1 of this report.
- note the details of the Key Decision taken under Special Urgency provisions.
- note the further work to be undertaken in respect of financial commitments over £100,000
- note the assurances provided by the Head of Governance Services in this report.

## **Glossary**

### Key Decision

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

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

### Major Decision

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

- result in the Authority incurring expenditure or making savings over £100,000 per annum, or
- have a significant effect on communities living or working in an area (including one ward)

### Forward Plan

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

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

## **Background Documents**

Democratic Services Performance Reports

Reports to Corporate Governance and Audit Committee

Guidance Notes on Delegated Decision Making

Access to Information Procedure Rules