

# WIRRAL COUNCIL

## SCRUTINY PROGRAMME BOARD - 14 JANUARY 2010

### REPORT OF THE DIRECTOR OF LAW, HR AND ASSET MANAGEMENT

#### THE FORWARD PLAN AND THE SCRUTINY FUNCTION

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#### EXECUTIVE SUMMARY

At the last meeting of the Scrutiny Programme Board held on 4 November 2009 Members reviewed the Forward Plan and resolved: That

- “(1) the content of the Forward Plan be noted; and
- (2) the Director of Law, HR and Asset Management be requested to attend the next meeting to provide an overview of the operation of the Forward Plan.”

(Minute No. 27/2009 refers)

#### 1. Background

- 1.1 The Forward Plan of Key Decisions is prepared by the Leader of the Council to cover a period of four months, beginning with the first day of any month. It is updated monthly on a rolling basis. It contains all of the Key Decisions that the Cabinet, a Committee of the Cabinet, individual Members of the Cabinet, officers, or under joint arrangements in the course of the discharge of Executive functions that are expected to be taken during this time. Decisions to be taken are grouped under the relevant Cabinet portfolios.
  - 1.2 The definition of a “key decision” is set out in the Council’s Constitution and below:
    - (a) any decision of the Executive incurring expenditure or making savings in excess of 10% of the relevant budget head, or £250,000, whichever is the smaller, unless –
      - (i) the specific expenditure or saving has previously been agreed by the Council;
      - (ii) it is a decision taken in accordance with the Council’s Treasury Management Policy;
- OR
- (b) any decision of the Executive which, in the view of the Leader, will have a substantial effect on a significant number of people living or working in two or more wards in the Borough.
- 1.3 For the avoidance of doubt, any decision approving proposals for the making or amendment of a plan or budget which requires the approval of the Council is regarded as a key decision.

- 1.4 Any person wishing to make representations about a proposed key decision can do so by contacting the relevant Cabinet portfolio holder, responsible chief officer or a nominated officer. Contact details are included against each entry on the Plan.
- 1.5 Decisions of the Executive that are Key Decisions will be published within five days of them being made.

## **2. Introduction**

- 2.1 In accordance with the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 major decisions are included on the Forward Plan of Key Decisions. The Forward Plan must be published at least 14 days before the start of the period covered. Its purpose is to reinforce the openness and accountability of the Council's decision making process.
- 2.2 Exempt information need not be included on a Forward Plan and confidential information cannot be included.
- 2.3 At each meeting of the Scrutiny Programme Board Members are invited to consider the Council's latest Forward Plan of Key Decisions published on the Internet and agree, in the light of the Overview and Scrutiny Work Programme whether to scrutinise any of the items listed for decision, that fall within their remit, bearing in mind timescales and the resources available. This can sometimes prove difficult as the description on the Forward Plan of the Key Decisions to be taken is not always clear and comprehensive enough for Members to understand exactly what will be discussed and decided upon. Consequently, Members are often in doubt as to what exactly is to be determined until after the determination has actually been made.
- 2.4 The Forward Plan is not currently on the agenda of each of the other Overview and Scrutiny Committees.
- 2.5 The Forward Plan could be improved to help Members fulfil the Overview and Scrutiny function if it was to carry more meaningful descriptions of the issues associated with the key decision to be taken; where to get further information, more information regarding the significance of the decision, etc.

## **3 The Reason for the Forward Plan**

- 3.1 The reason for introducing these arrangements is that it was considered that there has generally been only limited engagement of Scrutiny in the development of issues prior to any decisions being taken. A key role for Scrutiny is to enable Scrutiny Members to be clear about decisions to be made and to challenge and explore with the Executive, the rationale surrounding and the appropriateness of decisions to be taken. Scrutiny of the Forward Plan should be seen ultimately as a key tool to aid work programming and to present an opportunity for Members to discuss how Scrutiny involvement will have an impact or make a difference to decisions.
- 3.2 The Forward Plan sets out
  - A short description of matters under consideration and which month the key decisions are expected to be taken over a four month period
  - Who is responsible for taking the decision and contact details so representations can be made
  - What relevant reports and background papers are available

- Any consultations that may be undertaken with relevant groups and organisations.

- 3.3 The wards in the Borough that will be affected by the decision to be made are not included on the Forward Plan.
- 3.4 The most recent Forward Plan supersedes any earlier Plan and all new Key Decisions appearing on the Plan for the first time are highlighted.
- 3.5 A copy of the Forward Plan is sent to all Members of the Council for their information.
- 3.6 The Monitoring Officer publishes a notice, once a year, in at least one newspaper circulating in the Borough, setting out the detail of what is included in the Forward Plan and where it can be inspected etc.

#### **4. Call-in**

- 4.1 Key decisions can be called-in for scrutiny review prior to those decisions actually being implemented. In these cases, other Members of the Council are advised of the decision which has been made and given five working days to instigate the call-in procedures. If no requests for call-in are received, then the decision is actioned after that time.
- 4.2 Call-in does not apply where the decision being taken is urgent.

#### **5. Pre Decision Scrutiny of Forward Plan Items**

- 5.1 Cabinet and Overview and Scrutiny can work together for the benefit of the Council and to improve decision-making. Pre Scrutiny is a tool officers can use to strengthen reports and obtain Members' 'buy-in' in advance of a decision being made.
- 5.2 Scrutiny Members can scrutinise Key Decisions listed in the Forward Plan before they are taken. This allows them to hold the Cabinet and chief officers to account for the decisions they are about to take, and seek to influence the decision. This is called 'Pre-Decision Scrutiny' and it is a function of overview and scrutiny.
- 5.3 'Pre-Decision Scrutiny' describes the process whereby a report is presented to an Overview and Scrutiny Committee before it goes to the main decision making body. This can only happen if the Key Decision appears on the Forward Plan well enough in advance of the decision being made. This process has the benefit of allowing input before a decision is made and so can be a tool to avoid the call-in of a Key Decision once made.
- 5.4 Pre Scrutiny, however, can be viewed as a barrier that delays policy when deadlines are already tight.

#### **6. Potential of the Forward Plan**

- 6.1 The potential of the Forward Plan is that it enables Scrutiny Members to:
- see the decisions that will be taken during a four month period.
  - request further information on the issue from the lead officer before the decision is taken.

- consider the implications of the issue on local people and communities before the decision is formally made.
- comment on and submit views to the Executive before the decision is taken.

6.2 The opportunity is there for Scrutiny Members to make representations to the relevant Portfolio holder.

## **7. General Exception**

7.1 The Law and the Council's Constitution permit Key Decisions to be made, subject to Rule 15 (special urgency) even if they have not been included in a Forward Plan. These decisions will be published, and be available for inspection, in exactly the same way as described above.

7.2 The decision must be taken by such a date that it is impracticable to defer the decision until it has been included in the next Forward Plan and until the start of the first month to which the next forward plan relates;

7.3 The Director of Law, HR and Asset Management informs the Chair, Vice Chair and Party Spokesperson(s) of the relevant Overview and Scrutiny Committee;

7.4 The Director of Law, HR and Asset Management makes copies of the decision notice available to the public at the offices of the Council; and

7.5 At least five clear days have elapsed since the Director of Law, HR and Asset Management complied with (7.3) and (7.4).

## **8. Special Urgency**

8.1 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 the relevant Overview and Scrutiny Committee that taking the decision cannot be reasonably deferred. If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of each relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chief Executive will suffice.

## **9. Reports to Council**

9.1 Overview and Scrutiny can require a report if it believes that a key decision has been taken which was not:

- included on the Forward Plan; or
- the subject of the general exception procedure; or
- the subject of an agreement with a relevant Overview and Scrutiny Committee Chair, or the Chief Executive of the Council under Rule 15;
- the Committee may require the Executive to submit a report to the Council within such reasonable time as the Committee specifies. The power to require a report rests with the Committee, but is also delegated to the Director of Law, HR and Asset Management, who shall require such a report on behalf of the Committee when so requested by the Chair or any five Members. Alternatively, the requirement may be raised by resolution passed at a meeting of the relevant Overview and Scrutiny Committee.

9.2 In any event the Leader will submit a quarterly report to the Council on any Executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions taken and a summary of the matters in respect of which those decisions were taken.

**RECOMMENDED:** That the Scrutiny Programme Board

- (1) consider and comment on the report; and
- (2) make recommendations to the Cabinet on what it believes could be done, to make the Forward Plan more user friendly, and to assist the scrutiny function.