
Effective Organisation Overview & Scrutiny Committee

30 September 2009

Review of the Executive Forward Plan

Summary

1. This report details the regulations around use of the Executive Forward Plan, examines how this Council's Executive Forward Plan is currently used and whether it enables and supports the pre-decision scrutiny of forthcoming decisions. The report also identifies alternative options for its use in order to support the recent changes to the decision making process and the overview and scrutiny function in York.

Criteria

2. The decision to consider this possible review was taken at the last meeting of this Committee in June 2009 and as a result, no topic registration form was completed for this. However the Scrutiny Officer has identified that the proposed topic fits with the following eligibility criteria:
 - It is in keeping with the Corporate Strategy - the correct and most effective use of the Executive Forward Plan will support and enable an effective decision making process, which in turn will enable the Council to be an 'Effective Organisation'
 - Significant Public Interest – The Executive Forward Plan is published on the Council's website in order to give members of the public access to and information on forthcoming Executive and Executive Member decisions so they can participate in the decision making process. This is a legislative requirement, and therefore the most effective use of the Forward Plan is crucial.

Executive Forward Plan Regulations

3. The principal aims of Executive arrangements are to make decision making more efficient, transparent and accountable so that local authorities can be more open and responsive to the needs and aspirations of the communities they serve. Central to Executive arrangements there will need to be effective access for the public to decision making and decision makers. The key characteristics of effective access which local authorities should follow are:
 - it is publicly known who is responsible for decisions;
 - it is publicly known what decisions they are planning to take;

- people know how they can make an input to those decisions and at what point in the process they can best influence them;
 - people have access to information about decisions;
 - people know what decisions have been taken and the reasons for them; and
 - significant decisions should not be a surprise to those whom they affect.
4. Key decisions which have significant effects within the community or on interests outside the local authority will need to be identified and properly consulted on. Such key decisions may be delegated to various bodies within the local authority, including officers but, no matter who is taking the decision, the same principles should apply.
5. Principles of Accountable Decision-Making
All decisions of a local authority (whether they are the responsibility of the Executive or not), need to be made in accordance with the following principles:
- proportionality (i.e. the action should be proportionate to the desired outcome);
 - decisions should be taken on the basis of due consultation and professional advice from officers;
 - respect for human rights;
 - a presumption in favour of openness; and clarity of aims and desired outcomes.
6. Advance Notification of Decisions of the Executive
The Executive is responsible for delivering the local authority's policy framework either through taking decisions individually or collectively in respect of functions which are the responsibility of the Executive or through delegation of decisions to officers, particularly for day-to-day operational and management decisions, and to area committees etc.
7. Wide participation is essential to an effective local authority. Local authorities need to ensure that people know what decisions are planned and how they can influence those decisions. In addition, the Executive needs to ensure that any decisions it takes are consistent with the agreed policy framework and take into account the needs and aspirations of the local community.
8. Executive Forward Plan
To underpin these principles of greater accountability and transparency, regulation 13 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 requires the Executive to set out its programme of work in the coming four months, as far as it is known, in a 'Forward Plan'. Regulation 12 requires an annual statement to be published by the proper officer of the local authority giving notice of when Forward Plans will be published for the coming year, explaining what a Forward Plan is and how it can be obtained from the local authority.
9. The Regulations require the Forward Plan to be made publicly available and in particular a local authority Executive should ensure that it is made available to the relevant overview and scrutiny committee at least two weeks in advance of the

commencement of the period covered.

10. The Forward Plan, should be updated each month on a rolling basis, and will, in accordance with regulation 14 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 set out:
 - a short description of matters under consideration and when key decisions are expected to be taken;
 - who is responsible for taking the decisions and how they can be contacted;
 - what relevant reports and background papers are available; and
 - how and when the decision maker intends to involve local stakeholders in the decision making process.
11. The timing of the publication of the plan should have regard to the cycle of meetings of overview and scrutiny committees and electoral cycles (the forward plan should not bind an incoming new administration although it would be useful to make clear what issues will be in the "in-tray" of any incoming executive).
12. The Forward Plan cannot be an exhaustive list of all decisions but it should give an indication of those key decisions which it is known the Executive will need to consider in the coming period, as well as relevant key decisions which will be delegated by the Executive to officers or to devolved structures.
13. Key Decisions
Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 sets out the definition of decisions which must be included in the Forward Plan i.e. **only key decisions**. The definition is a two-stage test.
14. **Stage 1** - Any decision in relation to an executive function which results in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates, is a key decision.
15. It will be for the potential decision-maker to decide, in any one case, whether a decision to be taken is likely to involve significant expenditure. In order to assist potential decision-makers within a local authority reach consistent and demonstrative objective judgements and to ensure the public are clear about what is regarded as significant locally, the local authority should agree as a Full Council the limits above which items are significant and those agreed limits should be published. . In York the limits have been set at 10% of the budget for a particular area or £500,000. Any decision involving expenditure or saving above the limits set would be a key decision.
16. **Stage 2** - The second test for a key decision focuses on those decisions which are not likely to involve significant expenditure or savings but which nevertheless are likely to be significant in terms of their effects on communities. The Regulations require that a decision which is likely to have a significant impact on two or more wards or electoral divisions is a key decision. Nevertheless, local authorities should, unless it is impracticable to do so, specify that they will treat as if they were

key any decisions which are likely to have a significant impact on communities in one ward or electoral division. For example, a council should regard as key a decision to close a school or carry out roadworks (such as introducing or altering traffic calming measures) in a neighbourhood, notwithstanding the thresholds of financial significance and that there may be an impact in only one ward.

17. Where a decision is only likely to have a significant impact on a very small number of people in one ward or electoral division the decision maker should ensure that those people are nevertheless informed of the forthcoming decision in sufficient time for them to exercise their rights to see the relevant papers and make an input into the decision making process.
18. It is recognised that not all key decisions need to be, or indeed will be capable of being, identified four months in advance of the decision being taken. Some decisions (such as the adoption of certain plans or strategies in the policy framework) will be able to be identified that far in advance and therefore should be on the forward plan for some time, whereas others will not be known until a few weeks before the decision is due to be taken. The forward plan will inevitably include more decisions which will be taken within, say, one month than it will decisions to be taken in, say, three or four months and can therefore be viewed as a planning tool for managing the work programme of the Executive.
19. Local authorities should make widespread use of electronic media in disseminating a forward plan. Where a local authority has a website, the forward plan should be accessible on that website, together with relevant papers. Local authorities should also consider the opportunities to ensure that communities have advance notification of decisions which, whilst they may not be of significance across the local authority as a whole, will be of particular relevance to a particular locality within that local authority. The use of electronic media should assist in that respect. In particular, local authorities should consider ways of allowing local people to comment electronically on issues raised by the forward plan although they will also need to ensure that local people without access to the Internet are equally able to comment effectively to the local authority.
20. Where key decisions need to be taken and timing means it is unfeasible to include them on the Forward Plan, regulation 15 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 allows that, in such cases, the person or body to whom, the decision has been delegated will be able to make the decision even though it was not notified on the Forward Plan. However, at least five clear days notice of the decision needs to be given to the relevant Overview and Scrutiny Committee(s) and the public before it is formally taken.
21. Urgency Procedures
In very rare circumstances it may be necessary for a decision to be taken with less than five clear days' notice. In such cases, regulation 16 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 states that the decision maker will need to obtain agreement from the chair of a relevant overview and scrutiny committee (and in her or his absence the chairman of the local authority or in her or his absence the vice-chairman of the local

authority) that the decision could reasonably be regarded as urgent in the circumstances. If the relevant person does not agree that the decision may reasonably be regarded as urgent in the circumstances then the decision cannot be taken without five days' notice for publication of the relevant papers. Under regulation 20, the Executive Leader, elected Mayor (in mayor and cabinet constitutions) or council manager (in mayor and council manager constitutions) will need to report quarterly to full council on how often the urgency procedure has been used together with the reasons for the decision and why the matter was urgent.

22. Under regulation 19 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 if a particular decision was not included on the forward plan or was not dealt with in accordance with the provisions of regulations 15 or 16 (i.e. has not been regarded as a key decision) but an overview and scrutiny committee comes to the view that it should have been, that overview and scrutiny committee will be able to require the Executive to make a report to the local authority on the decision and the reason why it was not regarded as a key decision.

Current Use of the Executive Forward Plan in York

23. Population & Publication

- Currently, York's Forward Plan lists both forthcoming 'Key' and non-key decisions to be made by either the Executive as a whole or an individual Executive Member – this is over and above the requirement of Regulation 8 of the Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 (see paragraph 13 above)
- Each Directorate has an identified Forward Plan Contact responsible for submitting items onto the Executive Forward Plan
- Items are submitted via the electronic Committee Management System (CMS) – the system is designed to enable all report authors to submit their own items onto the Forward Plan as these are the people who have all the relevant information at hand, and is therefore the quickest and most efficient method. When the CMS was introduced in York, a decision was taken not to use the system as it was designed to be used, but rather to retain the use of a supervisor role within each Directorate, in the form of a Forward Plan Contact, responsible for making all submissions for their Directorate. This decision was based on the historic method for populating the Forward Plan i.e. each Directorate had an officer who liaised with Democratic Services regarding new entries for the Forward Plan and supervised the submission of an AF1 form containing the relevant information to Democratic Services.
- Each entry made by the Forward Plan Contact is checked by the Forward Plan Administrator in Democratic Services before being transferred into the current draft Forward Plan.

- The Forward Plan is published as a draft two days before the official publication dates. The draft is visible on the intranet to Officers and Members only.
- The Forward Plan Contacts are informed by email that the draft has been published and are expected to check that all their entries are visible and that the information contained therein is correct.
- The Forward Plan Contacts can make changes to their entries if necessary but the Administrator must accept these changes to the draft in order for the changes to take effect. This includes changes to the meeting dates - when a decision is deferred to a later meeting date the Forward Plan Contact must provide a valid reason for the deferral.
- the Forward Plan is ready for publication once all the required changes have been made
- The Plan is published twice a month on 14th and 28th of each month or on the last working day before these dates (e.g. where the 14th or 28th fall on a weekend or Bank Holiday)
- An example of the type of information required within a Forward Plan entry is shown at Annex A

24. Internal Clearance Process for Reports Linked to Forward Plan Entries

The nature of the decision required, informs the decision on who will review the draft report prior to its publication as part of an agenda. In order to keep the report writer informed, each Forward Plan entry identifies the route that the report will take through the internal clearance process.

25. In regard to Executive reports, the Corporate Management Team may choose to look at draft reports, dependant on the subject matter or strategic importance of the outcome expected from the decision. These reports are identified by the Director / Assistant Directors in each Directorate, at the time that the item is added to the Forward Plan. All other Executive reports and Executive Member reports are considered by the Quality Control Group who check that the reports are in line with the Report Writing Protocol, and that they contain all the required information i.e. the implications associated with approving or not approving the recommendations and the associated risks to the Council.

26. Members Engagement with Forthcoming Executive Decisions

Following the local election in May 2007, a decision was taken to change the way in which political groups engaged with forthcoming Executive business prior to a decision being made. At fortnightly meetings of Group Leaders, new entries on the Forward Plan were considered together with the drafts of the reports due to appear on the next Executive agenda. These meetings were held fortnightly in part to coincide with the fortnightly cycle of Executive meetings.

27. This created a problem in that at that time the Forward Plan was only published once a month (on 14th of the month) in line with the legislative requirement, often

resulting in a delay in the Group Leaders seeing new entries. A decision was therefore taken to publish the plan fortnightly in order to provide a more up to date and current view of the new decisions required. The date of the relevant Group Leaders meeting was shown against each Forward Plan entry in order to keep the report writer informed.

28. Since the Group Leaders no longer meet fortnightly there is no longer an organisational requirement to have the Forward Plan published twice a month.

29. Advantages to Monthly Publication

- Less labour intensive than fortnightly publication i.e. better use of resources
- More time for consultation on reports or for pre-decision scrutiny to take place before a decision is required
- Less time consuming for members of the public, officers and Members to check the published forward plan once a month
- Better supports the correct use of the Forward Plan in line with the regulations e.g. officers will be less inclined to add an item 4 months in advance of the decision being required, if they can add it 2 weeks before and still get the decision made

30. Advantages to Fortnightly Publication

- New entries can be made closer to a required decision date enabling speedier decision making
- Less business added under urgency provisions due to frequency of publication

31. Effect of Recent Changes to Executive Member Decision Making Process on Executive Forward Plan

The removal of 'Information Only' reports and quarterly finance & performance monitoring reports from Executive Member agenda has, as expected, resulted in a 50% reduction to date in the number of entries appearing on the Executive Forward Plan. The number of entries per publication is shown at Annex B.

Consultation

32. Directors and Forward Plan Contacts were asked for their views in regard to their use of the Forward Plan and their feedback is shown in Annex C.

Analysis

33. It is clear from some of the feedback, that officers within Directorates feel very disconnected from the forward plan process and do not fully understand their role in the decision making process. If responsibility for submitting forward plan entries was passed to report authors (in line with the correct use of the CMS) it would require them to better understand the decision making process of the Council and help them to take ownership of that process. This would require a degree of training for report authors which could be extended to include further training on the use of the report writing database which is also part of the CMS. This would result in a more corporate approach to decision making and report writing rather

than the number of different methods currently in use within the individual Directorates.

34. Having looked at the use of the Executive Forward Plan at a number of other Councils, it has not been possible to identify another Council that includes 'non-key' decisions on their Forward Plan. If a decision were taken to stop including them here in York, the issue around length of time items appear on the Forward Plan before a decision is required would be alleviated, but would require some other mechanism for Scrutiny Members to identify items suitable for pre-decision scrutiny based on ongoing work within directorates requiring a decision in the future.
35. To support this alternative method of working, the CMS facility could be used to provide each Directorate with their own individual Annual Forward Plan / Annual Work Plan. This could be populated and published by a responsible officer within each directorate and made available on the intranet only, for officers and Members to view. This facility would support the Overview & Scrutiny Committees in their understanding of the ongoing work within directorates relevant to their individual terms of reference, long before an item appears on the Executive Forward Plan, thus enabling the O & S Committees to identify possible topics for review and opportunities for pre-decision scrutiny. This would alleviate the issues around items appearing on the Executive Forward Plan only a short number of weeks before the decision is required which is currently a barrier to pre-decision scrutiny.

Options

36. Having considered the information contained within this report, Members may choose:
 - i. To carry out a scrutiny review of the effective use of the Executive Forward Plan
 - ii. To request further information before deciding whether or not to carry out the review
 - iii. Not to carry out the review on the basis that Democratic Services had already planned to carry out an operational review of the use of the Executive Forward Plan

Conduct of Review

37. Should a decision be taken to carry out a review of 'the Use of the Executive Forward Plan', it is suggested that the review include consultation with CMT and other senior officers within Directorates, and consideration of alternative working methods at other Councils carrying out successful pre-decision scrutiny.
38. It is recognised that any review of this topic could be completed within a limited timescale over 3/4 meetings which would have a limited impact on CYC resources in regard to staff time and costs incurred.

Implications

39. There are no known Financial, Human Resources, Legal, Equalities, Property, Crime & Disorder, ITT or Other implications associated with the recommendation in this report.

Risk Management

40. There are no known risks associated with the recommendation in this report. However, if a decision is taken not to proceed with a review of this topic, there is a risk that the content of the Executive Forward Plan will continue to fall short of 'standards' set out in legislation and remain unresponsive to the organisation's needs. In any event, Democratic Services had planned to undertake an operational review of the Forward Plan, so given the current issues identified in this report, if Members choose not to proceed with this review, an officer led review will still need to take place.

Recommendation

41. Having considered the information contained within this report, Members are recommended to proceed with the review based on the overall aim and objectives suggested in Annex D.

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Feasibility Approved**Date**

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Specialist Implications Officer(s)

Wards Affected:**All****For further information please contact the author of the report****Background Papers:** None**Annexes:****Annex A** – Example of Forward Plan Entry**Annex B** – Evidence on Falling Number of Forward Plan Entries**Annex C** – Consultation Feedback**Annex D** – Suggested Remit for Review