

THE ROYAL BOROUGH OF KENSINGTON AND CHELSEA
OVERVIEW AND SCRUTINY COMMITTEE – 08 MAY 2024
THE FORWARD PLAN AND KEY DECISION TRACKER
REPORT OF THE SCRUTINY MANAGER

Within the Council’s governance arrangements, overview and scrutiny acts as a check and balance by holding decision makers to account. This is most effectively achieved when scrutiny councillors look at decisions before they are made and this is known pre-decision scrutiny.

This reports the definitions of key decisions and the role of the Forward Plan in assisting scrutiny councillors in pre-decision scrutiny.

The Overview and Scrutiny Committee is recommended to:-

- Review the Forward Plan of Key Decisions (Appendix One) and identify any to be scrutinised either by the Overview and Scrutiny or one of the select committees; or
- Identify any Key Decisions for which further information is necessary to enable a decision to be made on whether further scrutiny involvement is required.

1 Introduction

1.1 Overview and Scrutiny is part of the Council’s governance arrangements. The Statutory role of scrutiny is provided for in the Local Government Act 2000¹ and Statutory Guidance was issued in 2019². Scrutiny acts as a check and balance holding decision makers to account and contributing to the development of high quality services. In this report, Overview and Scrutiny is referred to as Scrutiny.

1.2 “Pre-decision” scrutiny is where the Council’s scrutiny and select committees look at a planned decision before it is made by the Executive (Leadership Team). Pre-decision scrutiny is important because it gives a way for scrutiny councillors to influence decisions before they are made. Scrutiny councillors bring a different perspective to the decision-making process that can help decisions to be more robust. It does not mean that decisions will necessarily be changed or withdrawn, however, it gives an opportunity for those decisions to be more informed. Pre-decision scrutiny can be viewed as non-executive councillors performing a ‘critical friend’ role in relation to the executive.

¹ [Local Government Act 2000 \(legislation.gov.uk\)](https://www.legislation.gov.uk)

² [Overview and scrutiny: statutory guidance for councils and combined authorities - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

- 1.3 There are two approaches to pre-decision scrutiny at the Council which are summarised below:-
- a) Scrutiny has a role in policy development and this can be achieved by looking at a key decision early in the process, sometimes several months before it is made. These decisions would usually be identified during the consultation that underpins the development of the annual scrutiny work programme. More detailed information, including examples, can be found within the Work Programming Report which is included in the agenda of each scrutiny and select committee meeting.
 - b) Looking at a decision to be taken more immediately, usually about 2 weeks before it is made.
- 1.4 This report focuses on the approach to pre-decision scrutiny of those decisions that are to be taken more immediately – usually about 2 weeks before the decision is made. It looks at the role of the Overview and Scrutiny Committee in selecting those key decisions and options for scrutiny involvement.
- 1.5 Pre-decision scrutiny does not replace decision-making. It is not intended to blur the lines of accountability, which will always rest with the Leadership Team as the executive.

2 Key Decisions (Definitions) and the Forward Plan

The Local Government Act 2000 - Definition

- 2.1 The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 define a key decision as an executive decision which, is likely:-
- a) To result 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; or
 - b) To be significant in terms of its effect on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.

The Council's Constitution - Definition

- 2.2 The statutory definition of a key decision has been implemented as follows in the Council's Constitution.
- A key decision (KD) is an executive decision which is likely:-
- a) To result in income or expenditure as follows:-
 - Contracts, capital expenditure and/or the disposal of property or interests in property (e.g. Leases) with a total value of £1.5 million or more;
 - Revenue expenditure or income of £500,000 or more; and
 - The making of individual grants of £50,000 or more; and/or
 - b) To be significant in terms of its effects on communities living or working in an area comprising two or more wards.
- 2.3 The Constitution reserves some KDs to the full Leadership Team such as:-

- The introduction of new, or the development or termination of existing services within the Borough;
 - All property or asset disposals of £1.5million or more;
 - Proposals for major policy plans to be recommended to Council;
 - Proposals for the annual revenue and capital budgets to be recommended to Council, including proposals for local taxation;
 - The setting up of a local authority trading company.
- 2.4 Other KDs can be taken by the relevant individual Lead Member (in whose portfolio a matter falls) provided the Lead Member is content to do so.

The Forward Plan

- 2.5 Councils are required to give at least 28 days' notice of KDs. The Council publishes these in the form of a Forward Plan.

3 Pre-decision Scrutiny

- 3.1 A key tool to assist Scrutiny with identifying and scrutinising decisions before they are made is the Council's Forward Plan and scrutiny is co-ordinated by the Overview and Scrutiny Committee.
- 3.2 An extract from the Forward Plan is included in the agenda for each Overview and Scrutiny Committee meeting. The Overview and Scrutiny Committee selects those KDs they think require more in-depth scrutiny and these are allocated to the relevant select committee. The final decision on about whether further scrutiny is required, will be made when more detailed information is provided on the detail of the KD.
- 3.3 Wherever possible, the scrutiny of KDs should be at a committee meeting and it should be based on the report which is to be considered by the Leadership Team. The Select Committee Chair would invite the relevant Lead Member to attend the meeting to answer any questions from the Committee. The role of officers is to support and provide impartial advice to all councillors whatever their position (whether as executive members or scrutiny members). The Chair may also request relevant officers to attend to provide advice and assist the committee in their consideration.
- 3.4 There would be an expectation of responsible, evidence based scrutiny. In general, the committee would be expected to focus on:-
- The reasons for the proposed decision and robustness of the process;
 - Whether the report outlines all of the known or potential implications (including policy/budget issues) and risks;
 - Whether the report adequately examines all of the available options; and
 - Whether there has been adequate consultation on the proposals.
- 3.5 Should the committee feel that more work is necessary then it would need to make that case to the Lead Member and it does not mean that the committee would be responsible for such work.

- 3.6 Where possible, the final version of the Leadership Team report should include a section on the outcome from the committee meeting and demonstrate how the views expressed by the Committee have been addressed. The Chair of OSC attends Leadership Team meetings to represent the views of all scrutiny and select committees and may be invited to address the Leadership Team during consideration of the report to outline the views of scrutiny members prior to decision.
- 3.7 It may be that the meeting cycle is not aligned with the date that a KD needs to be taken by. In such cases, other options will be explored for carrying out the scrutiny including asking officers to brief the committee. The Scrutiny Team can advise on options. The Committee Chair, in consultation with members of the Committee, will draft a Reference Report for Leadership Team summarising the Committee's views and recommendations.

4 Call-in and Urgency Provisions

- 4.1 The statutory requirement for call in is contained in Section 21 of the Local Government Act 2000 and allows elected members to call in a decision made by the executive that has yet to be implemented. Call-in provides a mechanism for councillors to intervene when they feel that a decision to be revisited (or possibly changed). It should, however, be regarded as a measure that is only needed in exceptional circumstances, rather than day-to-day. A call-in should involve a discussion of the reasons behind the decision, and consideration of alternatives. Scrutiny members should assess whether their views have been adequately taken into account. This process should be used to make sure that the Leadership Team is making decisions based on the best available evidence, and that the outcomes will be beneficial for local people.
- 4.2 Only the Overview and Scrutiny Committee has powers of call-in and a majority of members must agree in writing before it can be actioned.
- 4.3 In exceptional circumstances it may be necessary to bypass the normal process so as to implement a KD quickly. In such cases, agreement must be sought from the Chair of OSC to apply the special urgency rules. Once agreement has been obtained, the KD can be confirmed immediately and can then be implemented the following day. All urgent KDs are reported to Council on a quarterly basis.

5 Conclusion and Recommendations

- 5.1 The most recent edition of the Forward Plan can be consulted at any time at [Decisions and the Forward Plan | Royal Borough of Kensington and Chelsea \(rbkc.gov.uk\)](https://www.rbkc.gov.uk/decisions-and-the-forward-plan).
- 5.2 An extract of the Forward Plan and Tracker Document is attached at Appendix One with updates on key decisions previously flagged for scrutiny.
- 5.3 The Overview and Scrutiny Committee is recommended to:-
- Review the Forward Plan of Key Decisions and identify any to be scrutinised either by the Overview and Scrutiny or one of the select committees; or

- Identify any Key Decisions for which further information is necessary to enable a decision to be made on whether further scrutiny involvement is required.

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Background papers used in the preparation of this report: None other than previously published documents.

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