

## **COUNCIL**

**25 APRIL 2013**

### **SPECIAL URGENCY DECISIONS**

Portfolio Holder: Councillor Rodney Chambers, Leader

Report from: Neil Davies, Chief Executive

Author: Perry Holmes, Monitoring Officer

#### **Summary**

This report details decisions taken by the Cabinet under the special urgency provisions contained within the Constitution.

#### **1. Budget and Policy Framework**

1.1 The Constitution requires that these decisions are reported to Council.

#### **2. Background**

2.1 The Constitution allows for Cabinet to consider urgent reports on occasions where the taking of the decisions cannot be reasonably deferred. This requires the agreement of the Chairman of the relevant Overview and Scrutiny Committee, in accordance with rule 17 of chapter 4, part 2 of the Constitution (access to information rules). Such matters must be reported to Council following the use of rule 17, in accordance with section 18.3 of the access to information rules. In summary, this relates to those occasions when it is necessary for Cabinet to consider items which have not been included on the Forward Plan and the Cabinet agenda itself.

2.2 The Constitution also allows for the call-in provisions to be waived where a decision is considered urgent, in that any delay caused by the call-in would seriously prejudice the Council's or public's interest. This requires the agreement of the Chairman of the relevant Overview and Scrutiny Committee and for the matter to be reported to the next available meeting of the Council, in accordance with rule 16.11 of chapter 4, part 5 of the Constitution (overview and scrutiny rules).

2.3 A summary of the recent use of these provisions is set out in the following section.

### **3 Proposal to Establish a Joint Venture Company for Facilities Management**

- 3.1 On 12 March 2013, the Cabinet considered a report presented details of a proposal to establish a joint venture company with Norse Commercial Services Limited so that the Council would benefit from a total facilities management solution that both delivered savings from the Council's expenditure on such activities and generated income by undertaking such activities for private and public sector clients in the region. A copy of the report is available via the Council's website: <http://democracy.medway.gov.uk/ielIssueDetails.aspx?IId=9852&Opt=3>
- 3.2 The Cabinet agreed to establish a joint venture company that is operational from 1 June 2013.
- 3.3 The Cabinet agreed that Norse Commercial Services Limited be formally invited to establish a joint venture with the Authority on the terms outlined in the principal Heads of Terms subject to the satisfactory negotiation of the various legal agreements that will underpin this arrangement.
- 3.4 The Cabinet agreed that the transfer should be for services described in paragraph 2.6 of the report commencing June 2013.
- 3.5 The Cabinet agreed the principle of adding further Facilities Management services in later phases subject to agreeing a business case for such additions.
- 3.6 The Cabinet agreed that the Chief Executive, in consultation with the Leader, will appoint Councillors and Senior Officers to be Directors of the joint venture company.
- 3.7 The Cabinet agreed that regular further reports be brought back to Cabinet by the joint venture company.
- 3.8 The Cabinet agreed that the Assistant Director for Legal and Corporate services determine the joint venture company name, in consultation with the Portfolio Holder for Finance, following a consultation with Members and staff.
- 3.9 The Cabinet agreed that these decisions were conditional upon the outstanding matters listed in paragraph 4.66 of the report being resolved to the satisfaction of the Portfolio Holder for Finance, the Chief Executive and the Chief Finance Officer.
- 3.10 The Cabinet agreed that these decisions are considered urgent and therefore should not be subject to call-in.

- 3.11 In line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in could be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. This was considered to be an urgent item because the budget for 2013/14 included the proposed savings in this report.
- 3.12 It was noted that the Chairman of the Business Support Overview and Scrutiny Committee had agreed to waive call-in on this report on the basis that this matter was reasonable in all the circumstances and to it being treated as a matter of urgency (in accordance with rule 16.11 of Chapter 4, Part 5 of the Constitution).
- 3.13 The Business Support Overview and Scrutiny Committee was notified, via email and letter, when agreement to use these provisions was given on 6 March 2013.

#### **4. Gateway 1 Procurement Commencement: Local Welfare Provision (LWP) Scheme**

- 4.1 On 16 April 2013, the Cabinet considered a report which sought permission to commence the procurement for the operation and administration of Medway's Local Welfare Provision Scheme from 1 July 2013 for a 21 month period, with potential for extension subject to funding.
- 4.2 A copy of the report is available via the Council's website:  
<http://democracy.medway.gov.uk/ielssueDetails.aspx?Id=10577&Opt=3>
- 4.3 The Cabinet approved the procurement of a Service Provider for the Local Welfare Provision Scheme to be undertaken in accordance with the EU Procurement Regulations.
- 4.4 The Cabinet agreed that these decisions are considered urgent and therefore should not be subject to call-in.
- 4.5 In line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in could be waived where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. This was because the Council took on the responsibility of part of the Discretionary Social fund from 1 April 2013. The interim arrangement of 3 months allows for sufficient time for the Council to procure the longer-term contract. The value of this longer-term procurement requirement is above the EU Procurement Threshold for Services of £173,934 and in order to procure the service for the required date of 1 July 2013, the procurement process must commence in April 2013.
- 4.6 It was noted that the Chairman of the Health and Adult Social Care Overview and Scrutiny Committee had agreed to waive call-in on this

report on the basis that this matter was reasonable in all the circumstances and to it being treated as a matter of urgency (in accordance with rule 16.11 of Chapter 4, Part 5 of the Constitution).

- 4.7 The Health and Adult Social Care Overview and Scrutiny Committee was notified, via email and letter, when agreement to use these provisions was given on 8 April 2013.

## **5. Financial, legal and risk implications**

- 5.1 The requirement to report decisions taken under the various urgency provisions is set out within the Constitution. Details of the financial, legal and risk implications are set out in full within the relevant Cabinet report.

## **6. Recommendation**

- 6.1 That the report be noted.

### **Lead officer contact**

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### **Background papers**

None