

## **COUNCIL**

**24 JULY 2014**

### **SPECIAL URGENCY DECISIONS**

Report from: Neil Davies, Chief Executive

Author: Perry Holmes, Monitoring Officer

#### **Summary**

This report details decisions taken by the Cabinet and senior officers under the urgency provisions contained within the Constitution.

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

- 1.1 The Council's Constitution provides for a report to be submitted to the next available Council meeting where the call-in provisions have been waived in view of the urgent nature of a decision taken by the Cabinet.
- 1.2 The Council's Constitution also provides for a report to be submitted to the next available Council meeting where urgent action on Council side functions has been undertaken by the Chief Executive or Directors.

#### **2. Background**

- 2.1 The Council's Constitution contains provisions regarding the publication of decisions made by the Leader and Cabinet. These provisions include the ability for a decision to be called-in for scrutiny by the relevant Overview and Scrutiny Committee.
- 2.2 The call-in provisions can 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 paragraph 16.11 of chapter 4, part 5 of the Constitution (overview and scrutiny rules).
- 2.3 Additionally, where a proposed decision is a Council side function, the Chief Executive and directors shall have the power to act on behalf of the Council in cases of urgency only where the urgent matter is of such a nature that it may be against the Council's interest to delay and

where it is not practicable to obtain the approval of the Council, in accordance with paragraph 4.1 of chapter 3, part 4 of the Constitution (employee delegation scheme). This is subject to consultation with the Leaders of all the groups which comprise at least 1/10<sup>th</sup> of the membership of the Council (or their nominees) and the provisions for urgent decisions which are contrary to any plan or strategy which has been approved or adopted by the Council or which are contrary to or not wholly in accordance with the budget approved by the Council (set out in Chapter 4, Part 3 of the Constitution).

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

### **3. Transfer of Grounds Maintenance Services to Medway Norse**

3.1 On 13 May 2014 the Cabinet considered a report recommending an amendment to the earlier decision, made by Cabinet on 29 October 2013, to set up a subsidiary company of Medway Norse for grounds maintenance. A copy of the report is available via the Council's website:

<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=23760>

3.2 It was noted that as part of finalising the financial model for transferring the grounds maintenance services, it had become clear that minimising costs in relation to the services being transferred was necessary and therefore it was proposed that a division rather than a subsidiary company should be created. It was also reported that Medway Norse had taken on responsibility for the grounds maintenance services and therefore a deed of variation needed to be signed as soon as possible.

3.3 Given the specific nature of the original recommendations in the October 2013 report and before the deed of variation to the original contract with Medway Norse was signed, a revised decision was needed for the activities to be transferred into Medway Norse.

3.4 The Cabinet on 13 May 2014 agreed that the transfer of grounds maintenance services should be to a division of Medway Norse (decision no. 99/2014) and in line with rule 16.11 of Chapter 4, Part 5 of the Constitution, call-in was waived on this item to enable the deed of variation to be sealed as soon as possible (decision no. 101/2014).

3.5 The Chairman of the Business Support Overview and Scrutiny Committee had agreed that the decisions proposed were reasonable in all the circumstances and to them being treated as a matter of urgency and to waive call-in. The Business Support Overview and Scrutiny Committee was also notified, via email and letter, when agreement to use these provisions was given on 2 May 2014.

#### **4. HR Matter**

- 4.1 The Director of Regeneration, Community and Culture consulted with the Deputy Leader of the Council, Councillor Alan Jarrett as the Leader was away and the Leader of the Labour Group, Councillor Maple, as required by the Constitution. Both agreed with the course of action on 6 June 2014. Therefore, the Director of Regeneration, Community and Culture made the following decision, using urgency powers on 6 June 2014.

To terminate the employment of a member of staff in the Regeneration, Community and Culture directorate and to pay reasonable costs for settling employment tribunal claims against the Council.

- 4.2 Further details relating to this use of urgency powers are set out in an exempt appendix.

#### **5. Disposal of Premises at Doust Way, Rochester**

- 5.1 The Cabinet considered a report on 10 June which provided details of a proposal for the disposal of the premises at Doust Way, Rochester, as shown edged black on the attached plan.
- 5.2 A copy of the report is available on the Council's website:  
<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?Ild=12937>
- 5.3 The report stated that the purchaser had stipulated that it must complete the purchase by 31 July 2014. Given that the next meeting of Full Council was not until 24 July 2014, this did not give sufficient time to complete the disposal by the purchaser's deadline of 31 July 2014 and so it was proposed that the Chief Executive use the urgency provisions as set out in paragraph 4.1 of the Employee Delegation Scheme to agree the proposed disposal on behalf of Full Council, to avoid the cost and inconvenience of holding an extraordinary Council meeting for the sole purpose of considering this disposal.
- 5.4 The Cabinet agreed to dispose of the premises at Doust Way and recommended to the Chief Executive (using urgency powers (in place of referring this matter to Full Council)) that he grants delegated authority to the Assistant Director, Legal and Corporate Services, in consultation with the Portfolio Holder for Finance, to declare the premises at Doust Way surplus to the Council's requirements and to dispose of them on the best terms reasonably obtainable (decision no. 110/2014).
- 5.5 The Cabinet also agreed to take account of the income budget for commercial property as part of the budget building exercise for 2015/16, to account for the revenue foregone.

- 5.6 The Chief Executive consulted with the Leader of the Council, Councillor Rodney Chambers OBE on 17 June 2014 and the Leader of the Labour Group, Councillor Maple, on 18 June 2014 as required by the Constitution. Both agreed with the proposed course of action, therefore, the Chief Executive made the following decision, using urgency powers, on 18 June 2014:

The Chief Executive (using urgency powers (in place of referring this matter to Full Council)) granted delegated authority to the Assistant Director, Legal and Corporate Services, in consultation with the Portfolio Holder for Finance, to declare the premises at Doust Way surplus to the Council's requirements and to dispose of them on the best terms reasonably obtainable.

- 5.7 Officers have been progressing this matter and the sale is likely to be completed by 30 July 2014.

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

- 6.1 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 reports (Grounds Maintenance and Doust Way).
- 6.2 Details of any specific financial, legal and risk implications regarding the HR Matter are set out in the exempt appendix.

## **7. Recommendation**

- 7.1 That the report be noted.

### **Lead officer contact**

Perry Holmes, Monitoring Officer

Telephone: (01634) 332133 Email: [perry.holmes@medway.gov.uk](mailto:perry.holmes@medway.gov.uk)

### **Background papers**

Cabinet 29 October 2013 *Establish a Subsidiary Company of Medway Norse for Grounds Maintenance*

<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=21722>

Cabinet 23 May 2014 *Transfer of Grounds Maintenance Services to Medway Norse*

<http://democracy.medway.gov.uk/mgconvert2pdf.aspx?id=23760>

Cabinet 10 June 2014 *Disposal of Premises at Doust Way*

<http://democracy.medway.gov.uk/mglIssueHistoryHome.aspx?IId=12937>