

COUNCIL

12 OCTOBER 2017

USE OF URGENCY PROVISIONS

Portfolio Holder: Councillor Alan Jarrett, Leader
Report from: Neil Davies, Chief Executive
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Summary

This report provides details of decisions taken by the Leader under the executive side (Cabinet) special urgency provisions contained within the Constitution.

1. Budget and Policy Framework

1.1 The Constitution requires that the use of urgency provisions is reported to Council for information.

2. Background

2.1 Paragraph 3.2 of Responsibility for Cabinet Functions (Part 3, Chapter 3 of the Constitution) allows for the Leader to consider urgent matters (which would ordinarily be a matter for Cabinet) 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.

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 15.11 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. Revision to Treasury Management Practices

- 3.1 On 28 July 2017, the Leader considered a report on the above matter. The Leader agreed to approve the amendment of the Council's Treasury Management Practice 1 to remove the investment limit within the Treasury Management Strategy of £5m per property fund counterparty, as set out in Appendix 1 to the report. (decision no. 77/2017). The Leader also agreed that this decision was considered urgent and therefore should not be subject to call-in (decision no. 78/2017).
- 3.2 The report was presented to the Leader as an urgent item because investment in property funds requires a 'trade' for the Council to purchase units in the fund; having identified and vetted the funds in which the Council would like to invest, the Council had learned that one of the funds only trades once each month and as such, unless the Council placed the £5m intended with this fund on Monday 31 July 2017, the Council would not have been able to place the funds until September and would have lost 1 month's investment income on this £5m as a result. Therefore, it was not possible for this report to be submitted to Cabinet on 8 August 2017.
- 3.3 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 15.11 of Chapter 4, Part 5 of the Constitution and rule 17 of Chapter 4, Part 2 of the Constitution.

4. Legal Claim Against Medway Council

- 4.1 On 21 August 2017, the Leader considered an urgent exempt report in respect of a legal claim against the Council. The Leader agreed to authorise the Chief Executive in consultation with himself to take the necessary steps to settle the litigation and to take any other necessary steps to mitigate the Council's financial exposure in this matter (decision no. 86/2017). The Leader also agreed that this decision was considered urgent and therefore should not be subject to call-in (decision no. 87/2017).
- 4.2 The report was presented to the Leader as an urgent item because there was a deadline for responding to the court papers prior to the next Cabinet meeting, therefore, it was not possible to defer consideration until the next Cabinet meeting which was due to be held on 5 September 2017.
- 4.3 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 the Overview and Scrutiny rules in the Constitution and rule 17.1 of Chapter 4, Part 2 of the Constitution.

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 within the relevant reports.

6. Recommendation

- 6.1 That the report be noted.

Lead officer contact

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Appendices

None

Background papers

Revision to Treasury Management Practices – 28 July 2017

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=3911&Ver=4>

Legal Claim Against Medway Council – 21 August 2017

<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=3928&Ver=4>