

COUNCIL

10 OCTOBER 2019

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 recent usage of 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 Council following the usage of urgency provisions contained within the Constitution.

2. Background

Cabinet – special urgency

2.1 Rule 17 (special urgency) of the Council's Access to Information rules, as set out in the Constitution, permits the Cabinet to make decisions when compliance with Rule 15 (The Forward Plan of Key Decisions) and Rule 16 (General Exception) is not possible.

2.2 On such occasions, a report to Council on the Cabinet decisions taken in the circumstances set out in Rule 17 (Special Urgency) will be submitted, in accordance with paragraph 18.3 of the Access to Information rules.

Cabinet – call-in and urgency

2.3 Paragraph 15.11 (call-in and urgency) of the Overview and Scrutiny rules, as set out in the Council's Constitution, states that a decision will be urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision making person or body, the decision is an urgent one, and therefore not subject to call-in. The chair (or in their absence the vice-chair) of the relevant Overview and Scrutiny

Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.

- 2.4 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 2.5 A summary of the recent use of these provisions is set out in the following section.

3. Ofsted Inspection of Medway's Children's Services

- 3.1 On 3 September 2019, the Cabinet considered the above report (item 5 refers):
<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MIId=4378&Ver=4>
- 3.2 This report provided details of the outcome of the Ofsted Inspection of Local Authority Children's Services (ILACS) which took place in Medway from 15 to 26 July 2019, provided information relating to the statutory direction issued by the Department for Education and gave an overview of the completed and planned actions.
- 3.3 On this occasion it had neither been practicable to provide 28 clear days' notice, nor provide 5 clear days' notice of this report coming forward to Cabinet, therefore, Rule 17 (Special Urgency) of the Access to Information Rules, as set out in the Council's Constitution, had been complied with. The Chairman of the Children and Young People Overview and Scrutiny Committee had agreed that consideration of this report was urgent and could not be reasonably deferred until the next Cabinet meeting on 24 September 2019 to enable the Cabinet to formally receive and consider the outcome of the inspection and the statutory direction at the earliest opportunity. An update to the Forward Plan was published on 28 August 2019 in accordance with this requirement and the report was published in a Supplementary Agenda for Cabinet on 30 August 2019.
- 3.4 The Cabinet, at its meeting on 3 September 2019, agreed to accept this item as urgent to enable it to formally receive and consider the outcome of the inspection and the statutory direction at the earliest opportunity.
- 3.5 The Cabinet noted the content of this report and improvement steps taken so far.
- 3.6 The Cabinet noted that a further report will be submitted to the Cabinet in December 2019 subject to the receipt of the feedback from the Children's Services Commissioner to the Secretary of State.

4. Council Response to Draft Further Report from the Local Government and Social Care Ombudsman (LGO) Re: Mainstream Home to School Transport Decision and Policy

- 4.1 On 3 September 2019, the Cabinet considered the above exempt report (item 7 refers):
<https://democracy.medway.gov.uk/ieListDocuments.aspx?CId=115&MId=4378&Ver=4>
- 4.2 This exempt report provided details of a draft further report submitted by the LGO in response to the decisions of the Cabinet on 11 June 2019 to approve the continued use and application of the Council's current Education Travel Assistance Policy.
- 4.3 It was noted that in line with rule 15.11 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. In this case, the deadline for the submission of the Council's response to the LGO was 12 September 2019. The Chairman of the Children and Young People Overview and Scrutiny Committee 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.
- 4.4 The Cabinet reviewed the draft further report from the Local Government and Social Care Ombudsman and approved the proposed response, as set out in Appendix 6 to the exempt report (decision no. 100/2019).
- 4.5 The Cabinet agreed that decision no.100/2019 is considered urgent and therefore should not be subject to call in (decision no. 101/2019).

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.

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Background papers

None

Appendices

None