

COUNCIL

21 JANUARY 2021

USE OF URGENCY PROVISIONS

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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

2.1. Leader and Cabinet – urgency. 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.

2.2. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

2.3. Council – urgent action. Paragraph 4.1 of the Employee Delegation Scheme states that in relation to Council responsibilities, subject to consultation with the Leaders of all the groups which comprise at least 1/10th 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), 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.

2.4. Following the decision, the decision taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was treated as a matter of urgency.

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

3. Leader/Cabinet (executive decisions)

3.1. On 9 October 2020, the Leader considered an urgent report entitled Test and Trace Isolation Payments Schemes. The report provided details of the latest Government schemes to support residents impacted by Covid-19 through the Test and Trace Isolation Payment Schemes.

3.2. The Chairman of the Business Support Overview and Scrutiny Committee agreed that the taking of these decisions were urgent and could not be reasonably deferred until the next Cabinet meeting on 20 October 2020, in accordance with Section 11 (Cases of special urgency) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 17 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution). This was because it was imperative that the Council took urgent action to support individuals in line with the Government's announcement to implement the schemes by 12 October 2020 in response to the COVID-19 pandemic.

3.3. Additionally, and in line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can 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. The Chairman of the Business Support Overview and Scrutiny Committee has 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.

3.4. The Leader made the following decisions:

3.5. The Leader, using urgency powers, agreed the mandatory and discretionary (option 1) proposals in respect of the Test and Trace Isolation Payments Schemes as set out in section 3 and Appendices 1 and 2 of the report and agreed to delegate authority to the Chief Finance Officer to consider and determine applications made under these schemes (decision no. 120.2020).

3.6. The Leader, using urgency powers, agreed to delegate authority to the Chief Finance Officer, in consultation with the Leader and the Portfolio for Business Management, to make minor amendments to the schemes to enable it to adapt to the economic environment (decision no. 121/2020).

3.7. The Leader, using urgency powers, agreed to delegate authority to the Chief Finance Officer, in consultation with the Leader and the Portfolio Holder for

Business Management, to finalise and implement these proposals where further Government advice is awaited (decision no. 122/2020).

- 3.8. The Leader agreed that decisions 120/2020, 121/2020 and 122/2020 are considered urgent and therefore should not be subject to call-in (decision no. 123/2020).
- 3.9. On 27 November 2020, the Leader considered an urgent report entitled Covid-19 Winter Grant Scheme. The report provided details of the Winter Grant Scheme proposals funded by the Government to respond to the COVID-19 pandemic, to which the Leader's approval, under urgency provisions, was sought.
- 3.10. The Chairman of the Health and Adult Social Care Overview and Scrutiny Committee agreed that the taking of these decisions were urgent and could not be reasonably deferred until the next Cabinet meeting on 15 December 2020, in accordance with Section 11 (Cases of special urgency) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 17 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution). This was because it was imperative that the Council took urgent action to support individuals and families in Medway in line with the Government's announcement to implement the Winter Grant Scheme from early December 2020 in response to the COVID-19 pandemic.
- 3.11. Additionally, and in line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can 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. The Chairman of the Health and Adult Social Care 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.
- 3.12. The Leader made the following decisions:
- 3.13. The Leader, using urgency powers, agreed the proposals set out in section 3 of the report as the Council's approach to delivering the Covid Winter Grant and agreed to delegate authority to the Director of Public Health, in consultation with the Leader and the Portfolio Holder for Adults' Services, to finalise and implement these proposals (decision no. 150/2020).
- 3.14. The Leader, using urgency powers, agreed to delegate authority to the Director of Public Health in consultation with the Leader and the Portfolio Holder for Adults' Services, to make minor amendments to the proposals to enable them to continue to support vulnerable households in Medway, including establishing any discretionary eligibility criteria where discussions remain ongoing and where further Government advice is provided (decision no. 151/2020).

- 3.15. The Leader agreed that decisions 150/2020 and 151/2020 are considered urgent and therefore should not be subject to call-in (decision no. 152/2020).
- 3.16. On 4 December 2020, the Leader considered an urgent report entitled Additional Restrictions Grant. This report set out the latest government schemes to support businesses impacted by Covid-19 through the Additional Restrictions Grant.
- 3.17. The Chairman of the Business Support Overview and Scrutiny Committee agreed that the taking of these decisions were urgent and could not be reasonably deferred until the next Cabinet meeting on 15 December 2020, in accordance with Section 11 (Cases of special urgency) of the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012 and Rule 17 (Special Urgency) of the Access to Information Rules (Part 2 of Chapter 4 in the Constitution). This was because it was imperative that the Council took urgent action to support businesses by implementing the government scheme promptly in response to the COVID-19 pandemic. Following in assessment by the Council's epidemiologists, it was anticipated that the proposed scheme would be most needed support to Medway's businesses during national lockdowns, subject to any further change in national guidance.
- 3.18. Additionally, and in line with rule 15.11 of Chapter 4, Part 5 of the Constitution, call-in can 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. The Chairman of the Business Support 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.
- 3.19. The Leader made the following decisions:
- 3.20. The Leader, using urgency powers, agreed the proposal to use the Additional Restrictions Grant (ARG) to deliver a Discretionary Lockdown Grant Scheme as set out in paragraphs 3.3 to 3.4 and Appendix 1 to this report and agreed to delegate authority to the Chief Finance Officer to consider and determine applications made under this Scheme (decision no. 153/2020).
- 3.21. The Leader, using urgency powers, agreed to delegate authority to the Chief Finance Officer, in consultation with the Leader and the Portfolio for Business Management, to make minor amendments to this Scheme to enable it to adapt to the economic environment (decision no. 154/2020).
- 3.22. The Leader, using urgency powers, agreed to delegate authority to the Chief Finance Officer in consultation with the Portfolio Holders for Business Management and Planning, Economic Development and Regulation to develop proposals for a range of activities and interventions to provide more broad support to Medway's businesses and the economy as set out in paragraph 3.5 of the report, and report back to the Cabinet as appropriate to obtain any necessary further approvals (decision no. 155/2020).

3.23. The Leader agreed that recommendations 7.1, 7.2 and 7.3 are considered urgent and therefore should not be subject to call in (decision no. 156/2020).

4. Council (non-executive decisions)

4.1. The Chief Executive considered an urgent report on 9 October 2020 entitled report entitled Test and Trace Isolation Payments Schemes (paragraph 3.1 above refers). The report provided details of the latest Government schemes to support residents impacted by Covid-19 through the Test and Trace Isolation Payment Schemes (Appendix 1).

4.2. The Leader of the Council and the Leader of the Labour and Co-operative Group were consulted on the proposals and the Chief Executive made the following decision on 9 October 2020:

4.3. The Chief Executive agreed, using urgency powers, to add the funding to the Council's Revenue Budget as set in paragraph 6.1 of the report.

4.4. The Chief Executive considered an urgent report on 9 October 2020 entitled Additions to the Revenue Budget. The report sought the addition of further Covid-19 government grant funding to the Council's revenue budget (Appendix 2).

4.5. The Leader of the Council and the Leader of the Labour and Co-operative Group were consulted on the proposals and the Chief Executive made the following decision on 9 October 2020:

4.6. The Chief Executive agreed, using urgency powers, to add the following sums:

4.7. £241,824 added to the Council's revenue budget in respect of the Additional Dedicated Home to School and College Transport Grant, as set out in paragraph 2.1 of the report.

4.8. £36,594 added to the Council's revenue budget in respect of the Return to Education Grant, as set out in paragraph 2.2 of the report.

4.9. £233,959 added to the Council's revenue budget in respect of the Next Steps Accommodation Programme, as set out in paragraph 2.3 of the report.

4.10. £153,367 added to the Council's revenue budget in respect of the Compliance and Enforcement Grant, as set out in paragraph 2.4 of the report.

4.11. £2,194,649 added to the Council's revenue budget in respect of the Infection Control Fund extension, as set out in paragraph 2.5 of the report.

4.12. On 23 October 2020, the Chief Executive considered an urgent report entitled Additions to the Revenue Budget. The report sought the addition of further Covid-19 government grant funding to the Council's revenue budget (Appendix 3).

- 4.13. The Leader of the Council and the Leader of the Labour and Co-operative Group were consulted on the proposals and the Chief Executive made the following decision on 23 October 2020:
- 4.14. The Chief Executive agreed, using urgency powers, to add the following sums:
- 4.15. £58,176 added to the Council's revenue budget in respect of the second tranche of the Additional Dedicated Home to School and College Transport Grant, as set out in paragraph 2.1 of the report.
- 4.16. £6,286,075 added to the Council's revenue budget in respect of Covid-19 Emergency Funding for Local Government, as set out in paragraph 2.2 of the report.
- 4.17. On 23 November 2020, the Chief Executive considered an urgent report entitled Additions to the Revenue Budget. The report sought the addition of further Covid-19 government grant funding to the Council's revenue budget (Appendix 4).
- 4.18. The Leader of the Council and the Leader of the Labour and Co-operative Group were consulted on the proposals and the Chief Executive made the following decision on 23 November 2020.
- 4.19. The Chief Executive agreed, using urgency powers, to add the following sums:
- 4.20. £3,562,020 be added to the Council's revenue budget in respect of the Local Restrictions Support Grant mandatory scheme, as set out in paragraph 2.1 of the report.
- 4.21. £5,571,120 be added to the Council's revenue budget in respect of the Additional Restrictions Grant discretionary scheme, as set out in paragraph 2.1 of the report.
- 4.22. £145,000 be added to the Council's revenue budget in respect of Supporting Clinically Extremely Vulnerable Individuals, as set out in paragraph 2.2 of the report.
- 4.23. £2,228,448 be added to the Council's revenue budget in respect of the Contain Outbreak Management Fund, as set out in paragraph 2.3 of the report.
- 4.24. £908,596 be added to the Council's revenue budget in respect of the Winter Grant Scheme, as set out in paragraph 2.4 of the report.

5. Financial, legal and risk management 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 reports.

6. Recommendation

- 6.1. That the report be noted.

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Appendices

Appendix 1 – Chief Executive urgent decision 9 October 2020

Appendix 2 – Chief Executive urgent decision 9 October 2020

Appendix 3 – Chief Executive urgent decision 23 October 2020

Appendix 4 – Chief Executive urgent decision 23 November 2020

Background papers

None