

COUNCIL

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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. 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.

2.3. Paragraph 3.2 of the Responsibility for Cabinet Functions permits the Leader of the Council to make urgent decisions (which would ordinarily be a matter for Cabinet) subject to compliance with the Council's Access to Information rules, as referenced in paragraph 2.2 above. As such, all reports (unless exempt) and decisions (as well as an entry on the Forward Plan) are published on the Council's website on the day any urgency decision is made.

2.4. 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.

- 2.5. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 2.6. 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.
- 2.7. 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.
- 2.8. A summary of the recent use of these provisions is set out in the following section.

3. Leader/Cabinet (executive decisions)

- 3.1. On 21 October 2021, the Leader considered an urgent report entitled [COVID-19 Local Support Grant Scheme](#). This report provided details of proposals to use the Household Support Fund (HSG) allocation for Medway Council to support families with children, other vulnerable households and individuals from 6 October 2021 to 31 March 2022.
- 3.2. The report explained that this programme was funded by the Department for Work and Pensions and was ring-fenced. The expectation was that it should primarily be used to support households most in need with food, energy and water bills. It could also be used to support households with essential costs related to those items and with wider essential costs. In exceptional cases of genuine emergency, it could additionally be used to support housing costs where existing housing support schemes did not meet this exceptional need.
- 3.3. The Chairman of the Business Support Overview and Scrutiny Committee agreed that the taking of these decisions was urgent and could not be reasonably deferred until the next Cabinet meeting on 16 November 2021, 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 Household Support Grant.

- 3.4. Additionally, and 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. 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.
- 3.5. The Leader made the following decisions:
- 3.6. 120/2021 - The Leader, using urgency powers, agreed the proposals set out in section 3 of this report as the Council's approach to delivering the Household Support Grant and agreed to delegate authority to the Chief Finance Officer, in consultation with the Leader of the Council and the Portfolio Holder for Business Management, to finalise and implement these proposals.
- 3.7. 121/2021 - The Leader, using urgency powers, agreed to delegate authority to the Chief Finance Officer, in consultation with the Leader of the Council and the Portfolio Holder for Business Management, to make minor amendments to the proposals to enable them to continue to support vulnerable households in Medway, including amending any discretionary eligibility criteria where discussions remain ongoing and where further Government advice is provided.
- 3.8. 122/2021 - The Leader agreed that decisions 120/2021 and 121/2021 are considered urgent and therefore should not be subject to call in.
- 3.9. On 22 December 2021, the Leader considered an urgent report entitled [Maritime Academy Temporary Accommodation 2023/24](#). This report set out that the Maritime Academy free school was due to open in temporary accommodation in September 2022. The Department for Education (DfE) required confirmation that Medway Council would underwrite the cost of providing temporary accommodation in the 2023/24 academic year in the event that the permanent accommodation was not available for September 2023. The DfE would not move forward with providing temporary accommodation for 2022 without a commitment from the Council to underwrite the cost for the 2023/24 academic year.
- 3.10. The report set out that the preferred option for providing the temporary accommodation in 2023 was as follows:
- 3.11. Option 1 - Make partial use of the permanent building. However, it would depend upon the building being ready for partial occupation, which would not be known until much closer to the target date of September 2023, and therefore could not be relied upon as a solution at this time. Officers would continue to work closely with the DfE to press for this option if the building was

not fully completed. The report advised that this was the preferred option, but that it was unlikely that the building would be sufficiently ready in time.

- 3.12. In the likely event that Option 1 was not achieved, the report set out that the next preferred option was as follows:
- 3.13. Option 2 - A second year at the Stoke Primary School site, which would require temporary capacity to be provided at the site as well as transport provided for a second year. This would keep the school together rather than having two year groups taught in two separate sites. The estimated cost of this was £1.6 million.
- 3.14. The Chairman of the Children and Young People Overview and Scrutiny Committee agreed that the taking of these decisions was urgent and could not be reasonably deferred until the next Cabinet meeting on 11 January 2022, 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 ensure that the DfE could continue to provide and prepare temporary accommodation for the 2022/23 academic year.
- 3.15. Additionally, and 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. 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.
- 3.16. The Leader made the following decisions:

148/2021 - The Leader agreed, using urgency powers, agreed that the Council commit to underwrite the funding of the temporary accommodation for the Maritime Academy, if required in the academic year 2023/24, as set out in paragraph 3.5.2 and to note that the proposed addition of £87,500 would be incorporated into the Council's Revenue Budget 2022/23 report to Cabinet (8 February 2022) to fund the transport costs for the 2022/23 academic year.

149/2021 - The Leader agreed that decision 148/2021 was considered urgent and therefore should not be subject to call-in.

4. Council (non-executive decisions)

- 4.1. The Director of People - Children and Adults Services considered an urgent report on 22 December 2021 entitled Maritime Academy Temporary Accommodation 2023/24 (paragraph 3.9 above refers).

- 4.2. The Leader of the Council and the Leader of the Labour and Co-operative Group were consulted on the proposals and the Director of People - Children and Adults Services made the following decision on 22 December 2021:
 - 4.3. The Director of People - Children and Adults Services agreed, using urgency powers, to add £1.6 million to the capital programme, to be funded from new prudential borrowing.
 - 4.4. Members will note that this urgent decision was referenced within the report referred to at paragraph 3.9 above.
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. Recommendations
- 6.1. The Council is asked to note the report with regards to the use of urgency provisions set out in the report.

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Appendices

None

Background papers

None