

COUNCIL

21 APRIL 2022

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 8 February 2022, the Cabinet considered a report on the [Final Funding Formula for Mainstream Schools and Academies 2022 - 2023](#). 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. In this case, the deadline for the submission of the final funding formula to the Education and Skills Funding Agency (ESFA) was 21 January 2022, it was therefore proposed that call-in be waived to prevent any further delay in confirming the Cabinet's decision to the ESFA and to allow the authority to implement the funding formula changes in accordance with the regulations.
- 3.2. The Chairman of the Children and Young People 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.
- 3.3. The Cabinet instructed officers to implement the Final 2022-23 Funding Formula for mainstream schools and academies, as set out in section 3 of the (Cabinet) report.

- 3.4. The Cabinet agreed that decision number 8/2022 [as set out in paragraph 3.3 above] be considered urgent and therefore should not be subject to call-in.
- 3.5. On 8 March 2022, the Cabinet considered a report in relation to [the Covid-19 Additional Relief Fund, Omicron Hospitality and Leisure Grant and the Energy Bills Rebate](#). The Chairman of the Business Support Overview and Scrutiny Committee had agreed that the taking of these decisions was urgent and could not be reasonably deferred until the next Cabinet meeting on 5 April 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 support businesses by implementing the government scheme promptly in response to the Covid-19 pandemic and to award the funding before the 31 March 2022. The Cabinet accepted the report as urgent.
- 3.6. 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 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.
- 3.7. The Cabinet agreed the draft Covid-19 Additional Relief Fund (CARF) scheme and eligibility as set out at Appendix 1 and Appendix 2 to the (Cabinet) report, subject to the final amendments being made, as set out in section 3 of the (Cabinet) report.
- 3.8. The Cabinet agreed the proposed Omicron Hospitality and Leisure Grant (OHLG) scheme and eligibility, as set out in section 4 and the policy set out at Appendix 3 to the (Cabinet) report.
- 3.9. The Cabinet agreed to delegate authority to the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, to finalise and implement these proposals and to consider and determine applications made under these schemes.
- 3.10. The Cabinet agreed to delegate authority to the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, to make minor amendments to the CARF and OHLG schemes to enable them to be adapted to the economic environment.
- 3.11. The Cabinet agreed to delegate authority to the Chief Operating Officer to make any further technical amendments to the CARF, OHLG and Energy Bills Rebate schemes in consultation with the Portfolio Holder for Business Management where further government advice is issued.

- 3.12. The Cabinet agreed to delegate authority to the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, to develop a discretionary Council Tax Rebate scheme and associated policy, and to make the necessary arrangements to assess eligibility and determine award of funding to eligible households.
- 3.13. The Cabinet noted that the Chief Operating Officer, in consultation with the Leader and the Portfolio Holder for Business Management, would exercise his existing delegation to add the additional funds to the revenue budget, as set out in paragraph 6.1 in the (Cabinet) report.
- 3.14. The Cabinet agreed that decision numbers 46/2022 to 51/2022 [as set out in paragraphs 3.7 to 3.12 above] be considered urgent and therefore should not be subject to call-in.
- 3.15. On 5 April 2022, the Cabinet considered a report in relation to a [Legal Claim Against Medway Council](#). 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, it was proposed that call-in be waived for the reasons set out in paragraph 1.3 of the Exempt report.
- 3.16. The Vice-Chairman of the Children and Young People 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.
- 3.17. The Cabinet agreed the recommendations as set out in section 6 of the Exempt (Cabinet) report.
- 3.18. The Cabinet agreed that decision number 59/2022 [as set out in paragraph 3.17 above] be considered urgent and therefore should not be subject to call-in.

4. Financial, legal and risk management implications

- 4.1. 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 report.

5. Recommendation

- 5.1. That the report be noted.

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Appendices

None.

Background papers

None.