

COUNCIL

10 NOVEMBER 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 16 September 2022, the Leader considered an urgent report entitled [Future Hoo Progress Report](#). This report requested the Leader to agree to extend the consultation period on the draft Hoo Development Framework document, specified in decision no. 89/2022 from 7 weeks to 9 weeks, in light of discussions at the Special Council meeting on 8 September 2022 (which was adjourned and then reconvened on 15 September 2022) which considered the call-in by the Regeneration, Culture and Environment Overview and Scrutiny Committee on 11 August 2022, in relation to Cabinet decisions (89-91/2022).
- 3.2. The report set out the original decisions made by Cabinet in relation to Future Hoo, at its meeting on 26 July 2022, which were subsequently called in by eight Members of the Council from the Conservative Group and after consideration by the Regeneration, Culture and Environment Overview and Scrutiny Committee, were referred to full Council for consideration.
- 3.3. At its special meeting, which concluded on 15 September 2022, Full Council agreed to take no further action, meaning the original Cabinet decisions 89/2022, 90/2022 and 91/2022 as set out in paragraph 2.2 of the report, could be implemented.

- 3.4. During the special Council meeting, the Leader of the Council undertook to extend the period of consultation specified in decision no. 89/2002 from 7 weeks to 9 weeks, which would mean the consultation would start on 23 September 2022 for a period of 9 weeks, ending on 25 November 2022.
- 3.5. The Chairman of the Regeneration, Culture and Environment 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 18 October 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 Full Council had agreed to take no further action on this matter, which meant that Cabinet decisions 89-91/2022 therefore had taken effect and it was critical that the consultation period commence at the earliest opportunity (i.e. 23 September 2022).
- 3.6. The Leader made the following decisions:
- 3.7. 107/2022 – The Leader agreed, using urgency powers, to extend the consultation period on the draft Hoo Development Framework document, specified in decision no. 89/2022 from 7 weeks to 9 weeks.
- 3.8. 108/2022 - The Leader agreed, using urgency powers, for the consultation period to commence on 23 September 2022.
- 3.9. On 18 October 2022, the Cabinet considered a report entitled [Household Support Grant: 2022/23 Q3/4 Allocation and Free School Meals](#). This report set out a proposal to use the latest round of funding allocated to the Council through the Household Support Fund for the period 1 September 2022 to 31 March 2023.
- 3.10. The report set out that it had not been practicable to provide 5 clear days' notice in the Cabinet Forward Plan. 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 15 November 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 individuals and families in Medway in line with the Government's announcement to implement the Household Support Grant.
- 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 Business Support Overview and Scrutiny Committee had agreed that the decisions proposed were reasonable in all the circumstances and to waive call-in.

3.12. The Cabinet made the following decisions:

129/2022 - The Cabinet agreed the proposals set out in section 3 of the report as the Council's approach to delivering the Household Support Fund and agreed to delegate authority to the Chief Operating Officer, in consultation with the Leader of the Council and the Portfolio Holder for Business Management, to finalise and implement these proposals.

130/2022 - 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 proposals to enable them to continue to support vulnerable households in Medway, including amending any discretionary eligibility criteria where discussions remained ongoing and where further Government advice was provided.

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 reports.

5. Recommendations

- 5.1. 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