

# **Record of Cabinet decisions Leader using urgency powers**

## **Wednesday, 28 June 2023**

**Date of publication: 28 June 2023**

### **Potential VAT Shortfall at the Healthy Living Centre, Chatham**

#### **Background:**

This report sought the Leader's approval, under urgency provisions, for the Council to give a formal undertaking to the NHS that it will make up the potential shortfall of £2,015,933, should the HM Revenue and Customs (HMRC) declare that the payments made, via the Integrated Care Board (ICB) of the NHS to Medway Council (MC) for the capital works to construct the Healthy Living Centre (HLC) include non-recoverable VAT.

The report noted that the urgency provisions were set out in the Constitution (paragraph 3.2 of Part 3 (Responsibility for Cabinet functions) of Chapter 3 (Responsibility for Functions) of the Constitution).

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 11 July 2023, 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).

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.

The report noted that furthermore, it was proposed that the Chief Executive used the urgency provisions as set out in paragraph 4.1 of the Employee Delegation Scheme (including consultation with the Leader of the Council and the Leader of the

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Conservative Group) to agree to vire £2,015,933 from the Disabled Facilities Grant to fund any potential shortfall, as a consequence of the recommendation set out at 10.1 of the report. The use of these urgency provisions would be reported to Full Council on 20 July 2023 for information.

**Decision number:**      **Decision:**

**88/2023**      **The Leader, using urgency powers, agreed an undertaking to the Integrated Care Board that the Council will underwrite any VAT shortfall not exceeding £2,015,933 (as set out at paragraph 3.3 of the report) on the proviso that the total NHS build cost remains at £14,099,266.**

**89/2023**      **The Leader agreed that decision 88/2023 be considered urgent and therefore should not be subject to call in.**

**Reasons:**

The Council considers it imperative that a substantial HLC is secured for Chatham city centre and this will facilitate the submission of the Open Business Case in a timely manner to meet the HLC delivery deadline of 31 March 2025.

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**Leader of the Council**

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**Date**

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