



## Council

**24 April 2025**

### **Use of Urgency Provisions**

Report from: Bhupinder Gill, Assistant Director Legal and Governance

Author: Wayne Hemingway, Head of Democratic Services

#### **Summary**

This report provides details of recent usage of urgency provisions contained within the Constitution.

#### **1. Recommendation**

- 1.1. The Council is asked to note the use of urgency provisions as set out in section 4 of the report.

#### **2. Budget and policy framework**

- 2.1. The Council's Constitution provides for a report to be submitted to Council following the usage of urgency provisions contained within the Constitution.

#### **3. Background**

- 3.1. 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.

- 3.2. 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.

- 3.3. 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.

- 3.4. 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 chairperson (or in their absence the vice-chairperson) 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.

- 3.5. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- 3.6. 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 1/10<sup>th</sup> 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.
- 3.7. 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.
- 3.8. A summary of the recent use of these provisions is set out in the following section.

#### 4. Leader/Cabinet (executive decisions)

- 4.1. On 11 February 2025, the Cabinet considered a report on the [Final Funding Formula for Mainstream Schools and Academies 2025/2026](#).
  - 4.1.1. 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 22 January 2025, 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.
  - 4.1.2. The Chairperson 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.

- 4.1.3. The Cabinet instructed officers to implement the 2025/26 Final Funding Formula for mainstream schools and academies, as set out in section 5 of the report.
- 4.1.4. The Cabinet agreed that decision No. 7/2025 [as set out in paragraph 4.1.3 above] be considered urgent and therefore should not be subject to call in.
- 4.2. On 11 February 2025, the Cabinet considered a report on the [Kingsley House Office Lease Renewal](#).
  - 4.2.1. It is noted that the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires 28 clear days' notice of the intention to make a key decision. On this occasion it had not been practicable to provide this 28 clear days' notice. It was not possible to include this report on the Forward Plan with 28 days' notice as the need for the report to be considered at Cabinet 11 February 2025 had not been identified at that point.
  - 4.2.2. The Chairperson of the Regeneration, Culture and Environment Overview and Scrutiny Committee had agreed, in accordance with Section 5 (procedures prior to private meetings) of the above regulations, that this matter was both urgent and could not be reasonably deferred until the next Cabinet meeting on 11 March 2025 as the new lease would need to be agreed before the expiration of the current lease.
  - 4.2.3. The Cabinet agreed to delegate authority to the Director of Place, in consultation with the Portfolio Holder for Business Management, to sign and execute a new lease on the best terms reasonably obtainable as set out in the Exempt Appendix A to the report.
- 4.3. On 11 March 2025, the Cabinet considered a report entitled [Update on Devolution and Local Government Reorganisation](#).
  - 4.3.1. 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 Council to submit an interim plan setting out draft proposals for a single tier of local government in Kent and Medway to the Ministry of Housing, Communities and Local Government was 21 March 2025. On this occasion it was proposed that the call-in period be waived to enable this deadline to be met.
  - 4.3.2. The Chairperson of the Business Support and Digital 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.

- 4.3.3. The Cabinet noted the update on devolution and local government reorganisation in Kent and Medway.
- 4.3.4. The Cabinet agreed to delegate authority to the Chief Executive, in consultation with the Leader of the Council, to submit an interim plan setting out draft proposals for a single tier of local government in Kent and Medway to the Ministry of Housing, Communities and Local Government by 21 March 2025.
- 4.3.5. The Cabinet agreed that decision No. 33/2025 [as set out in paragraph 4.3.4 above] was considered urgent and would therefore not be subject to call in.
- 4.3.6. The Cabinet agreed that the Council would seek to advance the argument for the creation of four unitary authorities for the region of Kent and anticipated that final decision making would be made through an informative meeting of full Council with the final decision, regarding the submission of final proposals to Government, to be made by the Cabinet, in November 2025.

4.4. On 8 April 2025, the Cabinet considered a report relating to a [Direct Award to Deliver the One Public Estates Brownfield Land Release Fund Works.](#)

- 4.4.1. 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 from One Public Estate grant was for the Council to be in contract for the projects that formed Land Release Fund Works by 31 March 2025. The Council had been granted a slight extension to this deadline and it was therefore proposed that the call-in period be waived to prevent further delay.
- 4.4.2. The Chairperson of the Regeneration, Culture and Environment 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.
- 4.4.3. The Cabinet agreed the preferred option of a direct award to Medway Development Company (MDC) for the project management and undertaking of site enabling works at the Upper Mount car park site to facilitate a residential scheme of 21 homes, in order to meet the criteria and timescales of the grant funder.
- 4.4.4. The Cabinet agreed that decision No. 57/2025 [as set out in paragraph 4.4.3 above] was considered urgent and therefore should not be subject to call in.

## Lead officer contact

Wayne Hemingway, Head of Democratic Services, T: 01634 332509,  
E: [wayne.hemingway@medway.gov.uk](mailto:wayne.hemingway@medway.gov.uk)

## Appendices

None

## Background papers

None