

By: Roger Gough – Leader of the Council
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To: County Council – 14 July 2022

Subject: **Annual Report on Urgent Decisions taken by the Executive – 2021-22**

Classification: Unrestricted

Summary: The Constitution requires that the Leader of the Council reports urgent Executive Decisions to County Council on an annual basis.

Recommendation: The Council is asked to note the report.

INTRODUCTION

1. The Constitution makes provision, under sections 12.32 and 12.33, for the use of urgency procedures as part of Executive decision-making, complying with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.
2. In accordance with section 12.37 of the Constitution, this paper serves as the required annual report to Council providing details of when urgency procedures have been used. The purpose of this report is provide a collated list of urgent decisions and draw Members' attention to those instances when urgency has been necessary. The period covered by the report is 15 July 2021 to 1 July 2022.
3. Detailed consideration of these decisions and the related areas of Council business is the responsibility of the Cabinet Committees and the Scrutiny Committee. The relevant Cabinet Committee will have considered these urgent decisions following their implementation, including receiving reports on the urgency and reasons why pre-decision consideration was not possible when applicable. Should further consideration of any of these issues be desired, Members are asked to liaise with Democratic Services and the relevant Committee Chairs to explore adding them to their work programmes.
4. Since 15 July 2021, **14** decisions were taken via the urgency procedures detailed in the Constitution and the Executive Arrangements Legislation during the timeframe covered by this Annual Report to Council. **8** of these decisions were semi-urgent, with the remainder progressed via the full statutory urgency process allowing for immediate implementation.

5. This report sets out the key information of each of these decisions; the decision-maker; the date of decision; a brief summary of the decision; the type of urgency process used and the reason for urgency.
6. The Executive, when required, uses two types of urgent decision permitted under the relevant legislation and detailed in the Constitution. These are;
 - the General Exception route, which is referred to in KCC documentation as 'semi-urgent' because they involve compliance with all normal decision-making processes but the notice of the proposed decision will have been published on the list of Forthcoming Executive Decisions (FED) for more than 5 but fewer than 28 days; and
 - Cases of Special Urgency, referred to as Statutory Urgency Process or 'full urgency' in KCC. These decisions are subject to a process of requiring agreement by the decision-maker, the relevant senior officer and the Chair of the Scrutiny Committee that urgency is necessary, followed by consultation with relevant non-Executive Members where possible. Such decisions may be implemented immediately, without advance notice on the FED and they are not subject to call-in.
7. To clarify the terminology further, urgency relates to the adherence to the lengthy timeframes set out in the relevant Executive Arrangements regulations. From a practical perspective, implementation of a decision with fewer than six weeks notice requires some form of urgency process and a decision requiring implementation with fewer than two weeks notice requires a fully urgent decision. While efforts are always made to provide long term notice of all substantive Executive activity through effective planning and governance arrangements, it is vital that the Council has the capacity and agility to respond to changing circumstances and fast-paced situations when necessary.
8. It should be noted that a number of the urgent decisions were taken in response to the COVID-19 pandemic (e.g. Temporary Place of Rest decision) and to the war in Ukraine (e.g. Homes for Ukraine Scheme decision). The urgency process was required, in some cases, to ensure that the appropriate infrastructure would be in place to support the delivery of vital assistance. In addition, there continue to be some challenges in managing the acceptance and deployment of significant grant funding from Government within the normal local authority decision-making timescales. While the Council welcomes the additional funding when it has been made available, this has repeatedly involved having to make binding commitments within timescales that do not accord with the normal local authority governance timetable; as outlined above, anything less than six weeks' notice from government is likely to require an urgent decision in some form.
9. The list provided below for Members' information has been separated out into urgent decisions (Full Statutory Urgency) followed by semi-urgent decisions.

Urgent Executive Decisions – 15 July 2021 to 1 July 2022

21/00078 - Princess Christian's Farm

Decision by the Cabinet Member for Adult Social Care and Public Health on 1 September 2021.

1. Urgency process:
Statutory urgency – immediate implementation.

2. Summary:
The Cabinet Member for Adult Social Care and Public Health agreed to the procurement of a replacement provider, using the Urgent Procurement processes, to deliver services at the Princess Christian's Farm. The service at Princess Christian's Farm was attended by those living with a learning disability and or autism; any decisions related to the service provision would affect those individuals and or their families/carers.

3. Reason for Urgency:
The provider's license to run the service was due to expire on 31st October 2021. Urgent procedures were required to ensure enough time was allowed to award a contract and allow TUPE transfer negotiations before the new provider could take over the running of the service. There was uncertainty on the state of the farm buildings and whether this could have an impact on interested providers. Therefore, the results of the survey were required before KCC would be in a position to take an informed decision, with procurement viability having been successfully confirmed. It was unclear of market interest in taking over the provision/farm. Going to market without gauging interest from the market would have been high risk, especially on the potential impact of those attending the farm, should a new provider not be found.

21/00107 - Household Support Grant

Decision by the Leader of the Council on 22 November 2021.

4. Urgency process:
Statutory urgency – immediate implementation.

5. Summary:
The Government announced in October 2021 the Household Support Grant, which was in line with previous grants issued (Covid Winter Grant and Covid Local Support Grant). While previous acceptance and management of related grants was possible via delegated authority arising from previous decisions, it was appropriate and necessary for these previous arrangements to be noted, and the ongoing acceptance and deployment of the Grant to be subject to Executive Member decision-making.

This decision was necessary to confirm KCC's acceptance of the additional grant monies and clearly set out the approved use through to the grant spend end-date of 31 March 2022. The Household Support Grant provides the Council about £11m

to support the most vulnerable residents in the County over the winter period, without a direct impact on the Council's budget.

6. Reason for Urgency:

Final formal confirmation of the full funding scale, total spend deadline and activity timelines were not received from Government with sufficient notice to allow for appropriate KCC Governance processes to commence at an earlier stage. It was therefore not possible to comply with normal Executive Decision governance timescales while meeting government deadlines and the need to deliver the relevant funding support to residents.

There was an urgent need to allocate and distribute the grant funding as quickly as possible to reach those residents and households most in need of financial support over the winter months. It was also important that schools were advised as early as possible that free school meal provision in school holidays would continue and include the Easter holidays. The grant was strictly time limited and needed to be spent in full by the end of March 2022 to avoid any unspent grant being clawed back by Government.

22/0006 - Temporary Place of Rest Arrangements

Decision by the Leader of the Council on 6 January 2022.

7. Urgency process:

Statutory urgency – immediate implementation.

8. Summary:

KCC has a statutory responsibility under the Civil Contingency Act 2004 to take the lead on behalf of the Kent Resilience Forum in responding to humanitarian impacts that result from an emergency. As part of the continued response to the COVID-19 pandemic - and in light of the new Omicron Variant, latest modelling, the rising absenteeism of frontline hospital staff and other routine winter pressures - the multi-agency partners of the Kent Resilience Forum (KRF) of which KCC has a lead role, have decided to initiate preparations to set up the Aylesford Temporary Place of Rest, in case it was needed in 2022 to support the county's existing mortuary space.

The initial estimate was that funding up to £1m would be required to set up and operate a Temporary Place of Rest. The Emergency Covid reserve would be used to fund the costs incurred.

9. Reason for Urgency:

Because setting up the site would take time, a proactive move was taken to plan ahead, to allow for putting the necessary statutory and logistical plans in place at minimum cost to ensure that the county would be prepared for any potential winter pressures on death management and services across in the new year.

22/00029 - Solar Farm

Decision by the Cabinet Member for Environment on 28 March 2022.

10. Urgency process:

Statutory urgency – immediate implementation.

11. Summary:

The acquisition of the Solar Farm would reduce KCC's electricity costs either directly via a discount or via the dividend and, crucially, reduce carbon creation.

12. Reason for Urgency:

To benefit from the £14.415m Salix PSDS grant, the project had to be delivered by 30th June 2022. The solar park SPV had to be purchased before 3 April 2022, otherwise the letter of intent signed between the parties would expire.

22/00037 - Implementation of Homes for Ukraine Scheme in Kent

Decision by the Leader of the Council on 5 April 2022.

13. Urgency process:

Statutory urgency – immediate implementation.

14. Summary:

The Russian invasion of Ukraine has seen the largest humanitarian crisis since the Second World War, with approximately 4 million Ukrainian refugees leaving Ukraine to neighbouring countries to flee the conflict. The UK Government responded, amongst other things, with the development of two key schemes to enable Ukrainian refugees to enter the UK; the 'Extended Family Scheme' - where refugees can join family members already living in the UK - and the 'Homes for Ukraine Scheme' - where Ukrainian refugees are sponsored to come to the UK by a host family or individual.

As part of the Homes for Ukraine Scheme, the government required local government to undertake a number of checks and provide support to both the Ukrainian guests and their sponsors. Under the Homes for Ukraine scheme, the government confirmed that it would provide funding at a rate of £10,500 per guest to Councils to enable them to provide support to refugee families, rebuild their lives and fully integrate into communities.

15. Reason for Urgency:

The Homes for Ukraine scheme was launched by the government following the Russian invasion of Ukraine and the subsequent humanitarian crisis, as those in Ukraine sought to flee the conflict. An urgent decision was needed to enable the Council to implement the scheme and ensure that the appropriate infrastructure would be in place to support the delivery of the scheme in the County. Compliance with the standard Executive Decision timeframes would have delayed significantly the delivery of vital support to Ukrainian refugees coming to Kent.

22/00054 - Adjustments to 2022-23 Secondary Mainstream Transport Assessment

Decision by the Cabinet Member for Education and Skills on 16 June 2022.

16. Urgency process:
Statutory urgency – immediate implementation.
17. Summary:
The Cabinet Member for Education and Skills agreed to alter the secondary school transport assessment process by removing the need for pupils transferring to secondary mainstream to apply for free school transport and, instead, proactively contact parents to inform them of their child's eligibility status.
18. Reason for Urgency:
The proposed decision highlighted that the adjustments to 2022-23 secondary Mainstream Transport Assessment needed to take place as quickly as possible. Following the publication of the FED, application numbers had increased more rapidly than anticipated, which meant that the proposed change needed to be implemented as quickly as possible to ensure that the benefits from the change could be realised.

Semi-Urgent Executive Decisions - 15 July 2021 to 1 July 2022

21/00109 - Kings Hill Solar Park

Decision by the Cabinet Member for Environment on 10 December 2021.

19. Urgency:
Semi-urgent decision.
20. Summary:
Kent County Council was awarded via a Section 31 agreement some time-limited grant funding from Salix towards the delivery of a number of low-carbon energy projects, including two solar parks. This decision entailed the delivery of a c2.98MW solar park in Kings Hill within close proximity to the Kent Scientific Services building. The funding was initially allocated to the North Farm waste site, which KCC own. However, over a year's worth of environmental improvements were required on the site before the solar park project could start. Instead of losing the funds, officers sought to develop the Kings Hill site instead, which is owned by the Liberty-KCC joint venture.
21. Reason for the urgency:
Effective use of the Decarbonisation Funding to deliver carbon reduction initiatives. The scheme seeks to offset over 633 tonnes of carbon a year from

KCC's energy requirement, and will contribute significantly to the de-carbonisation of KCC energy supplies and in meeting its carbon neutrality 2030 target.

A decision was necessary outside of the Cabinet Committee process because of the complexity of the project and associated risks in several areas, including rapidly changing market conditions. When the project's risks were satisfactorily mitigated, the decision needed to be implemented rapidly so that the time-limited grant funding from BEIS would be secured.

21/00125 - Country Parks Play Areas Improvement Programme

Decision by the Cabinet Member for Community and Regulatory Services on 7 January 2022.

22. Urgency:

Semi-urgent decision.

23. Summary:

Kent County Council secured funding to enlarge or install new playpark equipment and outdoor seating/picnic areas. The equipment would be funded via the Contain Outbreak Management Fund (COMF) to provide further outdoor provision to help reduce the spread of COVID-19. The budget was about £1.2m. The playgrounds would be DDA compliant in terms of their accessibility and inclusive design. The surfacing had to adhere to standards EN1176 and EN1177.

The procurement could be awarded to multiple contractors on a site-by-site basis. Each site would be awarded based on design, appropriateness of site requirements, quality, and value for money. The improvements over winter would ensure continued outdoor activities that are accessible and safe.

24. Reason for urgency:

COMF funding was awarded on 15th November 2021. Clarity of the funding restrictions were detailed in early December 2021. There was a risk that, should the work not be completed by 31st March 2022, the funding would not be rolled over in financial year 22/23.

Due to the lead times to order, manufacture and deliver the playpark equipment required in early January at the latest, this would not have the required time to be presented at the appropriate Cabinet Committee.

22/00018 - Highway Rural Swathe Contract -Maintenance Frequencies

Decision by the Cabinet Member for Highways and Transport on 25 February 2022.

25. Urgency:

Semi-urgent decision.

26. Summary:

The Council has a legal duty to keep roads and pavements clear of vegetation for safe passage of highway users. The main service areas comprise: rural grass

cutting (swathe); visibility cutting at road junctions; maintenance of rural hedges owned by KCC; and the managed maintenance of Conservation verges. Three swathe contracts were going to expire in March 2022 and, as a statutory requirement, they had to be re-tendered to continue service provision. The Council implemented Plan Bee as part of its environmental strategy to improve the biodiversity across its assets. There was an opportunity to change the service policy of the Rural Swathe, Visibility and Hedge Maintenance Contracts to address this strategy and improve the biodiversity of its road verges.

27. Reason for urgency:

A decision needed to be taken before the Environment and Transport Cabinet Committee meeting on the 17th of March 2022 in order to allow contractors to mobilise in time to provide the service (set out in Option 3). The main works of Option 3 were planned to commence on the 1st of May 2022. A failure to provide a decision within 8 weeks (early March) of the main works associated with Option 3 would have meant no implementation until 2023.

22/00021 - Rights, Representation and Advocacy Service

Decision by the Cabinet Member for Integrated Children's Services on 21 March 2022.

28. Urgency:

Semi-urgent decision.

29. Summary:

The Cabinet Member agreed to award a new contract, under the same terms and conditions to the Young Lives Foundation, for a period of six-months from 1 April 2022 to 30 September 2022.

30. Reason for urgency:

The Representation, Rights and Advocacy (RRA) Service Contract expired on the 31 March 2022, and there was no option to extend within the contract. Initial contracting and decision timetables had to be amended to respond to new information and requests for specific service updates made by the Office of the Police and Crime Commissioner and KCC Adult Social Care. These requests were in part prompted by Her Majesty's Inspectorate of Constabulary and Fire and Rescue Services findings. Due to the timescales involved in reviewing and amending initial commissioning arrangements, it was necessary to progress via urgency arrangements to deliver the contract prior to the 31 March 2022 deadline.

22/00041 - Supplementary Substance Misuse Treatment and Recovery Grants 2022/23 to 2024/25

Decision by the Cabinet Member for Adult Social Care and Public Health on 28 April 2022.

31. Urgency:

Semi-urgent decision.

32. Summary:
The Cabinet Member for Adult Social Care and Public Health agreed to accept the Supplementary Substance Misuse Treatment and Recovery Grants 2022/23 to 2024/25, and the Inpatient Detoxification Grant (£7,421,560) under the Office for Health Inequalities and Disparities' (OHID) terms and conditions.

33. Reason for urgency:
Dame Carol Black was commissioned by the Home Office and the Department of Health and Social care to undertake an independent review of drugs to inform additional interventions to tackle the harm that drugs cause. Following the review, a three-year funding package was announced in the National Drug Strategy to implement the recommendations outlined in the review through additional funding outside of the Public Health Grant to local authorities. Due to the short timescale for the OHID paperwork return, it was necessary to progress this as a semi-urgent decision.

22/00050 - Inflationary Pressures on Capital Construction Programmes

Decision by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on 6 May 2022.

34. Urgency:
Semi-urgent decision.

35. Summary:
The Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services agreed, amongst other things, t

1. Note the £28.8 million estimated impact on capital budget spend in the Medium-Term Financial Plan of £339.3 million across the capital programme for 2022-23, were already approved via key decision or covered by appropriate delegated authority to be funded from the options identified.
2. Consider the use of Fluctuation clauses when deemed necessary to control costs to KCC and alleviate adverse effects to the main contractor supplier of the rise in material costs;

36. Reason for urgency:
The national fiscal and economic context was an important consideration for the Council in setting and managing its revenue and capital budgets. The budget report to County Council on 10 February 2022 referred to the extraordinary and unexpected challenge to the UK economy and economies across the world arising from the COVID-19 pandemic. KCC had a significant Capital Construction Programme, which was adversely impacted by the inflationary pressures facing the UK construction industry. This decision was necessary to ensure that KCC had sufficient capital allocated and effective contractual management arrangements in place to deliver the projects, with anticipated additional costs as set out in the

Medium-Term Financial Plan. A decision was required to implement these in the time available to avoid disruption to frontline services, and to secure the contractual arrangements for the provision of key infrastructure projects - including the provision of school places to meet KCC's statutory duties.

22/00040 - Domestic Abuse Duty: 2022 to 2023 funding

Decision by the Leader of the Council on 13 May 2022.

37. Urgency:
Semi-urgent decision.
38. Summary:
The Leader of the Council was asked to consider taking the decision to accept £3,112,501 domestic abuse funding (2022/23) for the delivery of domestic abuse support in safe accommodation duties, as defined by the Domestic Abuse Act.
39. Reason for urgency:
In April 2021 the Domestic Abuse Act was passed. Part 4 of the Act gave upper-tier authorities duties to support victims of domestic abuse within safe accommodation services. The definition of safe accommodation included refuge, sanctuary (where security measures were applied within existing homes) and move on accommodation (as people moved out of refuge or other safe accommodation into longer-term homes). The Council was also required, via statutory guidance, to monitor any impact of the new duties on community-based services (those who accessed support in their own home and communities). To support the Act and the delivery of the new duties, £3.1 million was allocated to the Council in 2021/22, with the same amount allocated for 2022/2023. A decision was needed to accept the funding, including confirmation of agreement to deploy the funding in accordance with the relevant terms from Government, within a brief time window. Accepting the available funds from the Department of Levelling Up Housing and Communities allowed KCC to continue to develop and expand this important work.

22/00045 - Procurement of an E-Voucher Distribution Provider

Decision by the Cabinet on 17 May 2022.

40. Urgency:
Semi-urgent decision.
41. Summary:
KCC provides a range of support to the residents of Kent who are on low incomes or in financial crisis. Through the pandemic period the need for such support has been significantly higher than pre-pandemic. Previously, separate KCC services made their own arrangements for procuring and distributing vouchers to individuals and families, despite the basic requirements being very similar.

The Cabinet agreed that the Council procured a single service provider of e-vouchers, using the Crown Commercial Framework RM6255, to meet the needs of

the County Council, with an expected 3-year contract term and the potential for two 1-year extensions.

42. Reason for urgency:

The timetable for procurement was driven to ensure that, if a decision had to be made to issue free school meals during summer 2022, the Council had a provider in place to implement this.

RECOMMENDATION

The Council is asked to note the report.

Background Documents (listed in date order)

Urgent Executive Decisions – FED entries Records of Decision and published Reports:

21/00078 - Princess Christian's Farm

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2514>

21/00107 - Household Support Grant

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2532>

22/0006 - Temporary Place of Rest Arrangements

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2547>

22/00029 - Solar Farm

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2582>

22/00037 - Implementation of Homes for Ukraine Scheme in Kent

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2584>

22/00054 - Adjustments to 2022-23 Secondary Mainstream Transport Assessment

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2612>

Semi-Urgent Executive Decisions – FED entries Records of Decision and published Reports:

21/00109 - Kings Hill Solar Park

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2537>

21/00125 - Country Parks Play Areas Improvement Programme
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2549>

22/00018 - Highway Rural Swathe Contract -Maintenance Frequencies
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2567>

22/00021 - Rights, Representation and Advocacy Service
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2579>

22/00040 - Domestic Abuse Duty: 2022 to 2023 funding
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2601>

22/00041 - Supplementary Substance Misuse Treatment and Recovery Grants 2022/23 to 2024/25
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2597>

22/00045 - Procurement of an E-Voucher Distribution Provider
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2602>

22/00050 - Inflationary Pressures on Capital Construction Programmes
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2598>

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