

By: Roger Gough – Leader of the Council  
Benjamin Watts – General Counsel

To: County Council – 17 June 2020

Subject: **Annual Report on Urgent Decisions taken by the Executive – 2019-2020**

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 12.31 and 12.32, 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 12.36 of the Constitution, this paper serves as the required annual report to Council providing details of when the urgency procedures have been used.
3. Since April 2019, 14 decisions were taken via the urgency procedures allowed under the constitution and the Executive Arrangements Legislation during the timeframe covered by this Annual Report to Council. 2 Decisions in 2019 and 12 in 2020.
4. 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.
5. It should be noted that 10 of the 14 urgent decisions were taken in response to the COVID-19 pandemic, hence the necessity to progress at pace and ensure KCC addressed the challenges of the situation without delay.

## **URGENT EXECUTIVE DECISIONS**

### **20/00070 – Southborough Hub**

Decision by the Cabinet Member for Corporate and Democratic Services on 30 September 2019.

6. Urgency process:  
Statutory urgency – immediate implementation.
  
7. Summary:  
The Southborough Hub Project is a joint project between Kent County Council (KCC), Tunbridge Wells Borough Council (TWBC) and Southborough Town Council (STC) to deliver a Community Hub scheme which has been a long-term aspiration for Southborough Town. Two previous key decisions (15/00041 and 15/00024) were taken authorising the inclusion of the library and the funding/land transactions required to facilitate the project.
  
8. The project involves the construction of a new Community Hub with a total floor area of 2,828m<sup>2</sup>, containing the following accommodation:
  - a library;
  - adjoining kitchen/café;
  - community hall with capacity arrangement for up to 350 people
  - storage and dedicated changing and WC facilities;
  - STC offices and community rooms;
  - a retail unit that can be leased as a shell and is linked to the medical centre in anticipation that it will be taken by a pharmacy;
  - a medical centre leased to St Andrews medical practice.
  
9. Reason for Urgency:  
Following a delay to the start of the of key decision process some months prior to the eventual decision, a delay which was outside of KCC's control, the completion of necessary tendering and contracting was not possible until September 2019. By this time, it was not possible accommodate the normal decision-making timetable as it became necessary to expedite implementation to ensure all key parties could be appropriately committed, protecting the credibility of KCC and the deliverability of the project. A delay could have put the entire project at risk which may have prevent the provision of a range of important community facilities.

### **19/00078 – Review of planned provision of School places within the Thanet area**

Decision by the Leader of the Council (Mr P Carter) on 17 October 2019.

10. Urgency process:  
Statutory urgency – immediate implementation
  
11. Summary:  
The decision was to vary the school place planning in Thanet through an urgent applications being made to the Secretary of State to terminate the Academy Presumption process publishing in November 2017.

12. On the basis of approval from the Secretary of State being forthcoming, the decision also planned for KCC reversing its decision (17/0088) to establish a new secondary school in Thanet and instead; agree to expand Ursuline College, King Ethelbert's School and a temporary expansion of Roya Harbour Academy to meeting additional need up to 2023/24.
13. Reason for Urgency:  
The Department for Education (DfE) indicated that they were only willing to consider proposals when they are formally put before them. Given the urgent timelines, the Leader determined that it was imperative to bring forward the decision urgently and that KCC cannot wait for the conclusion of the normal key decision timetable.
14. The short-term demand on places in Thanet over the following two to three years rises to 5FE in 2021 and reduces to 1FE in 2025. Urgency was therefore required to obtain the DfE's formal support. Note, building a new 6FE school in Margate would not be completed until September 2022, which is predominantly post bulge and therefore an interim solution needs to be found.

### **Urgent Executive Decisions - 2020**

#### **20/00023 – Barton Court Free School – Building Contract**

Decision taken by Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on 12 March 2020.

15. Urgency Process:  
Semi-urgent (fewer than 28 days on the FED)
16. Summary:  
Agreement to award the Main Construction Contract for the Barton Court School project. KCC is delivering the construction of the new Barton Court Free School on the former Chaucer School site in Canterbury. The DfE has appointed KCC to act as the Local Delivery Agent (Responsible Body). As the Responsible Body, KCC will be the contracting authority for the purpose of delivering the scheme. The new school will be located on part of the former Chaucer School site, with the remainder allocated to the land disposal programme. The school's places are identified in the Kent Commissioning Plan to meet school demand in the area.
17. The previous Record of Decision, 19/00077 which was taken on 30 December 2019, related to entering into a JCT Minor Works building contract with Kier Construction for the enabling works. This decision related to the Main Contract works for this project.
18. Reason for Urgency:  
An urgent decision was required prior to the completion of the 28 day FED publication period and before the next available P&R Cabinet Committee meeting on 20 March 2020. This was in order to avoid further delay to the delivery programme, which would have extended the period of time the school would have to spend in temporary accommodation after opening in September 2021. Delay would also have caused the contractor to vacate the site at the end of the enabling works, causing KCC to incur demobilisation and remobilisation costs together with

security costs for holding the vacated site. Further delay would also have seen the expiration of the Contractor's tender offer allowing them to claim increased inflation costs in accordance with the terms of the DfE framework. Delay to the current programme was also preventing the DfE from making payment to the Academy Trust of start-up funding grant, to offset the costs that they have invested to date.

**20/00024 – Local Growth Fund Round 3b Third Party Scheme – Kent and Medway Medical School**

Decision taken by Cabinet Member for Highways and Transport on 23 March 2020.

19. Urgency Process:  
Semi-urgent (fewer than 28 days on the FED)
20. Summary:  
Approval of the progression of the Kent and Medway Medical School project via KCC's Local Growth Fund arrangements.
21. The decision enabled a legal agreement to be signed by between the County Council and the Universities delivering the scheme as external funding partners.
22. Reason for Urgency:  
KCC's position as Accountable body for LGF projects in Kent is confirmed in KCC decision 16/00050 and the approval to release funds was a decision made by SELEP. To ensure an appropriate audit trail for KCC's involvement in the transfer of funding and project management responsibility, a key decision was necessary. However, in view of KCC's intermediary status in this transaction, the Key Decision requirement was identified later in the process – to ensure funding could still be drawn down, it was still necessary to take this decision prior to it having been published on the FED for 28 days.

**COVID-19 Related Urgent Decisions (April 2020 to 9 June 2020)**

**20/00035 – Emergency bulk purchase of Personal Protective Equipment (PPE)**

Decision taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on 1 April 2020.

23. Urgency Process:  
Statutory urgency process (fewer than 5 days on the FED)
24. Summary:  
£2m funding allocation to support the bulk purchase of PPE.
25. The PPE was for use by KCC and for mutual aid to KCC's suppliers where they were unable to source supplies. KCC will pay for the additional cost and usage of PPE during the outbreak from the additional funds (£39m) provided by central

Government. Where KCC provides mutual aid, the provider will be charged the full cost, recognising that any cost increases they incur will be reflected in the contract price KCC pays for service delivery, so also drawn from the additional funds KCC receives.

26. The Council has a legal obligation and duty of care to provide appropriate PPE to relevant employees. Whilst it does not have an obligation to supply it to providers, the outbreak has caused PPE to be in very short supply and the means of placing bulk orders to be beyond many of them, particularly the smaller and voluntary sector organisation. In order for them to continue to provide essential services e.g. care home placements, care in the community etc., KCC has to provide mutual aid through these bulk orders.
27. Reason for Urgency:  
The Council's stocks of PPE were exhausted and needed to be replenished as soon as possible given the unprecedented demand both internally and for mutual aid to its providers (particularly social care). Many buyers worldwide were chasing supplies with demand exceeding supply. Suppliers required buyers to place and confirm bulk orders at very short notice (almost immediately) when stock is identified. Otherwise, the stock was passed to the next buyer. It was therefore necessary to ensure orders could be placed immediately to avoid losing access to required stock.

#### **20/00034 – Temporary Morgue Facilities**

Decision taken by the Leader of the Council on 6 April 2020.

28. Urgency Process:  
Statutory urgency process (fewer than 5 days on the FED)
29. Summary:  
Funding allocation of £10m to facilitate the securing and development of additional mortuary capacity to cope with increased mortality rates as a result of COVID-19 (Based on UK Government modelling).
30. To support the COVID-19 response and the statutory obligation for KCC to provide mortuary space in an excess death scenario a site within KCC's ownership has been identified to support the initial requirement. However, it may not be possible to provide all of the required capacity within this site and a number of alternative sites are currently being investigated to provide additional capacity should it be required.
31. Reason for Urgency:  
Kent was not alone in the need to make appropriate preparations for increased mortuary demand and supplies of the relevant equipment, land and ancillaries are limited. It was therefore crucial that KCC took necessary steps to secure the additional capacity immediately while it was still available. Failure to take immediate action could have limited KCC's ability to meet its statutory obligations to provide sufficient mortuary capacity.

32. The decision was required urgently to ensure appropriate authority was in place to support ongoing retention and use of the additional capacity which had already been identified and to provide necessary flexibility to allow for swift significant Officer decisions on this project should further capacity and facilities be required in response to the fast-moving situation. Should additional facilities be required, officers would inform the Leader in writing at the time.

#### **20/00041 – Support for Community Based Wellbeing Providers**

Decision taken by the Cabinet Member for Adult Social Care and Public Health on 7 April 2020.

33. Urgency Process:  
Statutory urgency process (fewer than 5 days on the FED)
34. Summary:  
In order to protect and maintain a community response and support for elderly and vulnerable people, these providers needed to be secure in their financial footing and be able to pay their staff and run their vital services. Government financial support packages were not appropriate or available for these providers.
35. The COVID-19 outbreak significantly impacted on the providers' incomes, due to all their centre closures, while demand for support had increased since the lockdown was declared.
36. Reason for Urgency:  
The decision had to be taken urgently to ensure the survival of key community-based providers, that would be key to supporting the most vulnerable and isolated residents through the COVID-19 crisis. If this package of support was not put in place, within 3 months, the majority of these organisations would have had to close or cease to exist through a lack of income or support from the Government. If the latter were to happen the majority of the support would then fall to Adult Social Care to cope with.

#### **20/00042 – Integrated Digital Assistive Technology Solution**

Decision taken by the Cabinet Member for Adult Social Care and Public Health on 7 April 2020.

37. Urgency Process:  
Statutory urgency process (fewer than 5 days on the FED)
38. Summary:  
The early introduction of integrated digital assistive technology would reduce the potential spread of the disease whilst providing a range of supportive solutions and links to services to maintain independence and mitigate the negative impact of social isolation of service users and their carers.
39. The use of assistive technology can support long term independence and maximises opportunities for self-determined support. In turn, this can reduce demand on key services across both the local authority and provider network.

Thus, there are economic efficiencies for both the local authority and KCC's key partners. During the COVID-19 pandemic, visits will be achievable via the technology and feedback from this can be utilised to inform future practice changes, balancing the need for the human relationship at particular points of the service user need against time and service efficiency.

40. Reason for Urgency:

Whilst the current Government guidelines relating to self-isolating and the shielded cohort are seeking to positively impact the rate and intensity of the progression of the disease, rapid deployment of a virtual care delivery model will have a significant beneficial impact for vulnerable people in Kent who are currently in receipt of care services in the home. The delivery of this option will significantly enhance the effectiveness of disease / infection prevention measures – particularly in the light of PPE shortages.

41. The provision of this equipment into people's homes will save lives by strengthening compliance with all public health guidance related to minimising the spread of COVID-19. In particular, by targeting this solution at COVID-19 high risk cohorts (over 70 and / or with underlying health conditions) and, for some, removing the need for any hands-on care delivery / anyone entering their home we are protecting some of the most vulnerable members of the local community.

**20/00043 – Community Based Wellbeing Services Procurement**

Decision taken by the Cabinet Member for Adult Social Care and Public Health on 7 April 2020.

42. Urgency Process:

Statutory urgency process (fewer than 5 days on the FED)

43. Summary:

The decision provided for the award of temporary rolling three month contracts to all those currently grant aided through the Community Wellbeing Service Officer, with the option to extend a further three months on a rolling basis as required depending the position and longevity of the COVID-19 crisis.

44. Reason for Urgency:

To support the security of the social care provider market in Kent during the COVID-19 crisis and while the procurement programme for the Community Based Wellbeing Services Offer is paused, to enable providers to maintain delivery of essential services to the vulnerable people of Kent.

**20/00044 – COVID-19 Block Beds for Older Persons Residential Nursing**

Decision taken by the Cabinet Member for Adult Social Care and Public Health on 9 April 2020.

45. Urgency Process:

Statutory urgency process (fewer than 5 days on the FED)

46. Summary:

Purchase of a number of block bed capacity across all need types within the Older Persons Residential and Nursing service to support the discharge of clients from hospital with the increase caused by COVID-19 with a review planned within 6 months.

47. Reason for Urgency:

Public Health England modelling indicated that there was going to be a surge in COVID-19 cases. In order to relieve pressure and free capacity within an already overburdened hospital system there was an urgent need to procure additional bed capacity from the current Older Persons Residential & Nursing market. These beds were short term (6 months) and will be used to assist with timely discharge from a hospital setting and as stated relieve pressure and create additional capacity within the hospital system.

**20/00049 – Social Providers – Additional Payments**

Decision taken by the Cabinet Member for Adult Social Care and Public Health on 24 April 2020.

48. Urgency Process:

Statutory urgency process (fewer than 5 days on the FED)

49. Summary:

Providers are seeing an immediate impact on their cashflow, with a significant increase in costs for items PPE, Agency staff, food and taxis. The most efficient way to inject funding in the sector is to provide an additional payment to help cover these costs and to ensure they have sufficient capacity to continue to deliver key services.

50. Social care providers are a key part of the emergency response to the COVID-19 pandemic. The social care provider market has been significantly affected by rising costs associated with the COVID-19 pandemic, this could impact on their ability to continue delivering the services commissioned by Kent County Council and on the ability to support the NHS and social care to discharge their statutory responsibilities.

51. Guidance was published jointly from the Local Government Association (LGA) and Directors of Adult Social Services (ADASS) on providing temporary funding to assist social care providers during the period of COVID19.

52. In line with the guidance Kent supported the security of the social care provider market in Kent during the COVID-19 crisis to enable providers to maintain delivery of essential services to the vulnerable people of Kent. KCC awarded additional payments to Adult Social Care Providers in Kent, the equivalent of 2 weeks provision of care, in recognition of the additional costs that providers are incurring during the COVID-19 pandemic.

53. Advance payments equivalent to one week's provision of care (approx. £6.5m) were previously made to providers on the basis that this would be recovered, however, this payment will not be recovered, and will form one of the 2 weeks' payment identified above.



54. Reason for Urgency:  
The relevant providers required additional payment to manage the additional costs in relation to pandemic immediately. The system for processing payments and banking rules meant that this would take approximately a week to implement and any further delay would have meant that some providers would struggle to continue delivering services because of cash flow implications.

**20/00050 – PPE funding increase**

Decision taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on 29 April 2020.

55. Urgency Process:  
Statutory urgency process (fewer than 5 days on the FED)
56. Summary:  
Agreement to increase the funding allocation for PPE purchase from £2m to £5m.
57. Decision 20/00035 was made to facilitate the bulk purchase of PPE to a value of £2m. This decision allowed for additional expenditure of £3m bringing total expenditure to £5m.
58. KCC's role in the supply of PPE is to provide it to its own staff and, working with the Kent Resilience Forum (KRF), provide mutual aid to those outside of the NHS acute and ambulance services where their supply chains have failed such as care homes. Mutual aid is for those who currently have close, unavoidable contact with confirmed or suspected COVID-19 cases, including highly vulnerable "shielded" groups, that can outline their needs in line with the latest clinical guidance. Furthermore, it is only for those in urgent need in vital services, where service providers have explored their usual routes for PPE and there remains an urgent need for additional stock.
59. Reason for Urgency:  
The demand for PPE had increased significantly and been far greater than was envisaged when Record of Decision 20/00035 was made to facilitate the initial bulk purchase of PPE. Further orders had to be placed immediately to secure continuity of supplies.

**20/00048 - COVID-19 Rent Management Policy**

Decision taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on 4 May 2020.

60. Urgency Process:  
Semi-urgent (fewer than 28 days on the FED)
61. Summary:  
COVID-19 has had a considerable impact on businesses. Whilst the Government was offering a level of support, many tenants would still be impacted. Whilst arrangements may be contractual, responsible landlords are maintaining a spirit of

partnership with their tenants and doing what they can to mitigate the extraordinary circumstances they find themselves in. The decision adopted a policy that would:

- Support tenants during their most critical time of vulnerability.
- As a landlord, support Kent's economy and particularly SMEs against the considerable impact during this time.
- Mitigate some of the impact KCC as landlord is likely to experience to its investment portfolios and ensure that voids and bad debt are minimised.
- Ensure it has a ready to go solution to offer tenants with minimal resource deployment.
- Many of the tenants provide community, social and policy benefit to the County and this policy will, together with support offered by Government, go some way to preserve these valued services.

62. Reason for Urgency:

The decision was required urgently, following the extension of lockdown period by Government, to support businesses that may have already been struggling and mitigate against some having to cease trading. If this policy was not implemented quickly, the effects and reasons for the decision would have been lessened.

**20/00056 – Capital Construction Programme (delay costs to projects as a result of COVID-19)**

Decision taken by the Deputy Leader and Cabinet Member for Finance, Corporate and Traded Services on 1 June 2020

63. Urgency Process:

Statutory urgency process (fewer than 5 days on the FED)

64. Summary:

KCC has a significant capital construction programme that has and will be, adversely impacted by COVID-19 pandemic. A review has identified over 30 capital projects, which are at risk due to contractors having stopped work or reported delays due to reduced labour and material supply issues. Under the terms of existing contractual arrangements, contractors are able to claim for additional costs. There are also additional costs to KCC, associated with the implementation of the Government's Procurement Policy Note (PPN) 02/20 guidance for construction contracts. Additionally, there is a risk that KCC will be unable to meet its statutory responsibility to deliver sufficient school places in 2020, 2021 and 2022 were these mitigation measures not put in place by this decision.

65. Reason for Urgency:

The assessment of the impact on the capital programme had been undertaken as quickly as possible working with Schools, Stakeholders and Contractors. KCC are contractually obligated to agree the relief claims where these are provided for under the contracts and there are increasing requests from contractors for KCC to apply the Cabinet Office PPN guidance to assist with financial pressures that are

being experienced by the contractors. These measures were needed urgently applied to support the supply chain.

66. The most significant initial impact for KCC was the delivery of the Basic Need programme and ensuring that KCC would be able to meet its statutory duties to provide school places for September 2020. In order to achieve this and secure the temporary accommodation and any temporary works, orders had to be placed on 1 June 2020.

## **RECOMMENDATION**

The Council is asked to note the report.

## **Background Documents**

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

19/00070 – Southborough Hub

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2281>

19/00078 – Review of planned provision of School places within the Thanet area

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2288>

20/00023 – Barton Court Free School – Building Contract

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2324>

20/00024 – Local Growth Fund 3b Third Party Scheme – K & M Medical School

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2327>

20/00035 – Emergency bulk purchase of Personal Protective Equipment (PPE)

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2332>

20/00034 – Procurement of Temporary Body Storage Facilities

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2334>

20/00041 – Support for Community Based Wellbeing Providers

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2335>

20/00042 – Integrated Digital Assistive Technology Solution

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2336>

20/00043 – Community Based Wellbeing Services Procurement and Grants

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2337>

20/00044 – COVID-19 Block Beds for Older Persons Residential and Nursing

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2338>

20/00049 – Additional Payments to Adult Social Care Providers  
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2339>

20/00050 – Continued bulk purchase of Personal Protective Equipment  
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2342>

20/00048 – COVID-19 Rent Management Policy  
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2343>

20/00056 – Capital Construction Programme – Delay costs to projects as a result of COVID-19  
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2352>

### **Report Authors and Relevant Director**

Ben Watts, General Counsel  
03000 416814  
[benjamin.watts@kent.gov.uk](mailto:benjamin.watts@kent.gov.uk)

Joel Cook, Scrutiny Research Officer  
03000 416892  
[joel.cook@kent.gov.uk](mailto:joel.cook@kent.gov.uk)