

From: Ben Watts, General Counsel
To: Selection and Member Services Committee, 24 February 2022
Subject: Constitution Amendment: Urgent Executive Decisions
Status: Unrestricted

1. Introduction

- a) This paper is brought forward following work by the Strategic Governance Manager reviewing the Constitution and is part of our ongoing programme of Governance review.
- b) Section 12.32 of the Constitution sets out the procedure for taking a Key decision when it is not possible for the proposed decision to appear on the FED prior to being taken.
- c) Before the decision can be taken, “the Chair of the Scrutiny Committee and relevant Senior Manager have agreed that the decision cannot reasonably be deferred.” The Constitution makes no allowance for the possibility of the Chair of the Scrutiny Committee being unavailable when their agreement is required, or for the position of Scrutiny Committee Chair being vacant.

2. Proposed Amendment

- a) This possibility was considered in The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 that underpin the Executive Member decision-making process. In these regulations it is set out that:
 - I. “the decision may only be made where the decision maker has obtained agreement from — (a) the chairman of the relevant overview and scrutiny committee; or (b) if there is no such person, or if the chairman of the relevant overview and scrutiny committee is unable to act, the chairman of the relevant local authority; or (c) where there is no chairman of either the relevant overview and scrutiny committee or of the relevant local authority, the vice-chairman of the relevant local authority, that the making of the decision is urgent and cannot reasonably be deferred.”
- b) For business continuity purposes, it is important that it is clear in the Constitution what would have to happen in the event of the Chair of the Scrutiny Committee being unable to act in connection with urgent decisions.
- c) The appendix shows the suggested additions to section 12.32 of the Constitution, with the new wording shown in bold and underlined.

3. Recommendation

The Selection and Member Services Committee is asked to recommend to County Council that the Constitution be amended to allow the Chairman of the Council to act with regards urgent key decisions where the Chair of the Scrutiny Committee cannot, or the Vice-Chairman of the Council where the Chairman cannot.

4. Background Documents

None.

5. Report Author and Relevant Director

Ben Watts, General Counsel
03000 416814
benjamin.watts@kent.gov.uk

Tristan Godfrey, Strategic Governance Manager
03000 411704
tristan.godfrey@kent.gov.uk