

By: Roger Gough – Leader of the Council
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To: County Council – 13 July 2023

Subject: **Annual Report on Urgent Decisions taken by the Executive – 2022-23**

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 to supply 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 14 July 2022 to 6 July 2023.
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 14 July 2022, **10 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. **7 of these decisions were semi-urgent**, with the remainder progressed via the full statutory urgency process allowing for immediate implementation. These figures represent a 50% reduction

in the number of decisions progressed via full statutory urgency compared to the previous year.

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 responsibility for determining whether urgency procedures are appropriate sits with the Decision-maker (Cabinet or Cabinet Member), providing that that relevant Senior Officer (commonly the Corporate Director for the relevant Directorate) confirms that the decision cannot be reasonably deferred, taking account of any relevant professional advice. The urgency legislation and constitutional arrangements also require urgency procedure use to be agreed by the Chair of the Scrutiny Committee – such agreement relates only to the urgency requirement, not the merits or otherwise of any decision. Taking account of the Officer and Non-Executive views noted above, the Decision-maker must be satisfied themselves that the use of urgency is correct at the point they make the decision.
7. In line with previous years, a common reason for the urgency relates to limited timeframes between either direction or grant award from central government and the deadline set for KCC to respond. These externally determined deadlines do not take account of the lengthy public notice periods required for normal Executive Decision-making. As noted in the reasons for urgency and the detailed reports associated with the various decisions, some cases presented a choice for the Executive between using urgency procedures to facilitate a decision or rejecting significant funding opportunities on the basis that insufficient notice had been given.
8. Some decisions were progressed via urgency in view of significant financial or legal risks associated with delays to implementation, for example where costs may increase greatly between normal public notice release and eventual decision on the standard six to seven week decision timetable.
9. On occasion, the requirement for the full Executive Member decision process (as per s12 of the Constitution) is identified late in the course of a project or programme. Deferral of implementation should be the starting point but where this is not viable or has significant negative consequences, the Executive may opt to use urgency to ensure progression.
10. 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.

11. 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.
12. The list provided below for Members' information has been organised into urgent decisions (Full Statutory Urgency) followed by semi-urgent decisions.

Urgent Executive Decisions – 14 July 2022 to 6 July 2023

22/00094 - Family Hubs Transformation

Decision by the Cabinet Member for Integrated Children's Services on 14 October 2022.

Urgency process:

Statutory urgency – immediate implementation.

1. Summary:
KCC applied for Family Hubs Transformation Funding to support the exploration, development and the design of the Family Hubs Model in Kent. Activities included: support project team resource costs, engagement and coproduction activity costs, partnerships and coproduction, and building development and refurbishment costs. The Authority was successful in obtaining the funding. Access to national grants of up to £10m over 3 years would be dependent on the specific proposals being developed.
2. Reason for Urgency:
A Strategic Policy decision to adopt the principle of developing a Family Hub Model for Kent was required to adhere to relevant deadlines from the Department for Education (DfE).

23/00029 - Fee Uplifts for Adult Social Care Providers for 2023/2024

Decision by the Cabinet Member for Adult Social Care and Public Health on 6 March 2023.

Urgency process:

Statutory urgency – immediate implementation.

3. Summary:

In previous years, practice had been to increase provider fees across services at a standard, blanket, percentage rate, in accordance with stipulations in the contracts - either relating to average changes in the CPI (Consumer Price Index) or other review clauses. Constraints in available funding, coupled with both the cost-of-living crisis and recent increasing inflationary pressures, had a material impact on the profitability and, in some cases, the viability of care providers in the light of the fees paid by local authorities. The proposed allocations were those which were affordable in the Council's recently agreed budget. Due to various market pressures facing the sector, it was proposed that the percentage fee increase paid to framework providers varied according to the service provision, in line with the budget availability and the Adult Social Care's Making a Difference Every Day approach.

4. Reason for Urgency:

The fee uplifts needed to be finalised by 3 March 2023 in order to be applied to the Council's Adult Social Care system in time for providers to be able to submit invoices for the revised rates from April 2023. The decision could not reasonably be deferred to the Adult Social Care Cabinet Committee, as this meeting was on 15 March 2023.

23/00057 - Chilmington School Works

Decision by the Cabinet Member for Education and Skills on 17 May 2023.

Urgency process:

Statutory urgency – immediate implementation.

5. Summary:

A new secondary school is due to be opened at Chilmington Green on land provided to KCC via a developer contribution. The DfE is taking responsibility for building the school. Two issues needed to be resolved in order to ensure that the new school building could be built and open as soon as possible. The legal responsibility for funding the resolution to these issues was a matter of contention and potential legal dispute. The Cabinet Member for Education and Skills agreed to allocate £2m of the Children's, Young People and Education capital budget to address the issues covered in the privileged legal advice considered.

6. Reason for Urgency:

To make provision to respond to contractual dispute and continue to support the opening of essential secondary school provision.

Semi-Urgent Executive Decisions - 14 July 2022 to 6 July 2023

22/00077 - Whitfield Aspen Primary School (Dover) sports field

Decision by the Cabinet Member for Education and Skills on 18 August 2022.

Urgency:

Semi-urgent decision.

7. Summary:

The expansion of Whitfield Aspen Primary School from 2Form Entry (2FE) to 3FE on a satellite site was agreed by the Cabinet Member in 2016. The expansion of the school was necessary to support primary school places required within the Whitfield Urban Expansion (WUE).

The sports field was not included in the handover, as a revised design was mandatory, which required the contractor to complete a Section 73 planning application amendment.

Whitfield Aspen is a Primary School across two sites; it is unique in the way that mainstream and SEN pupils are fully integrated. It was essential for service delivery that adequate hard, soft and grassed play areas were provided.

Due to the level of work required to ensure that the sports field was fit for purpose, specialist sports field contractors were engaged to tender for the works. It was expected that the work needed to complete the sports field would cost about £450,000.

8. Reason for the urgency:

The landscaping work had to commence from the beginning of September 2022 to take advantage of optimal seasonal conditions. Delaying the contract until the end of September 2022 would have meant that the works would be deferred until April 2023, and the school would have been without a sports field until Summer 2024 due to the required growing period.

23/00001 - Proposal to establish a new 2FE Primary School in Thanington, Canterbury for September 2025.

Decision by the Cabinet Member for Education and Skills on 22 February 2023.

Urgency:

Semi-urgent decision.

9. Summary:

Canterbury City Council's current Local Plan, adopted on 13 July 2017, proposed a total of just over 16,000 new homes during the Plan period up to 2031. The Canterbury Infrastructure Delivery Plan (2019) included the provision of a 2FE Primary School within the strategic site allocation at Cockering Farm, Thanington. This new school was included in the Kent Commissioning Plan.

In order to establish the new 2FE Primary School in Thanington, KCC was required to run a Free School Presumptive competition to secure an Academy Sponsor.

The predicted cost for building the school at Thanington was £9.9m. Developer contributions of £6.4m were requested and agreed towards the new 2FE Thanington Primary School. KCC was asked to provide the residual funding from the CYPE capital budget.

10. Reason for urgency:
Administrative issues resulted in delayed publication of the Forthcoming Executive Decision (FED).

23/00008 - Gypsy and Traveller Service Improvement Project

Decision by the Cabinet Member for Community and Regulatory Services on 30 January 2023.

Urgency:

Semi-urgent decision.

11. Summary:
KCC secured funding to carry out essential refurbishment on the 7 KCC-owned Gypsy and Traveller Sites. The works would be funded by the Department for Levelling Up, Housing and Communities' (DLUHC) Traveller Site Fund, with the KCC match contribution coming from the Modernisation of Assets capital budget.
12. Reason for urgency:
Due to the numerous changes in central government the previous year, the decision around the award of the DLUHC's Traveller Site Fund was delayed. KCC was advised only on 23 December 2022 that its application had been successful, and that it had been awarded £3.8million in capital grant. Consequently, the timeframe for accepting the funding was very short (13th January 2023).

23/00009 - Holiday Activity and Food Programme

Decision by the Cabinet Member for Education and Skills on 1 February 2023.

Urgency:

Semi-urgent decision.

13. Summary:
The Holiday Activities and Food Programme (HAF) was successfully delivered in Kent for the previous two years, under the wider Reconnect: Kent Children and Young People Programme. It grew in popularity with eligible families, and provided an invaluable form of support during school holidays to children and young people who ordinarily received benefits-related free school meals.

14. Reason for urgency:

The grant determination letter was received from the DfE on 20 December 2022, setting out the Authority's funding allocation and the grant terms and conditions. The grant for 2023-24 (£5.56m) needed to be accepted swiftly, and authority had to be delegated to enable the necessary arrangements to be made to deliver HAF provision during the Easter holidays, which commenced on 3 April 2023.

23/00017 - Revisions of Rates Payable by Kent County Council for Children's Social Care Services in 2023-24

Decision by the Cabinet Member for Integrated Children's Services on 23 March 2023.

Urgency:

Semi-urgent decision.

15. Summary:

The rates payable by Children's Services are reviewed annually, with any revisions normally introduced from the start of the new financial year. Some of the increases are directly linked to the published DfE fostering rates, which are reviewed by the Department annually.

16. Reason for urgency:

The increase in payments and income was reflected in the Council's budget plans presented to County Council on 10 February 2023, under the heading "Inflation - Children's Social Care" at just over £7.0m. This calculation included an assumed uplift for all in-house fostering and associated payments. It was estimated the cost of these proposals would be £0.6m more than provided in the budget, as the DfE annual uplift to the National Minimal Allowance was greater than estimated.

23/00027 - Bus Service Improvement Plan (BSIP) - Grant Funding

Decision by the Cabinet Member for Highways and Transport on 23 March 2023.

Urgency:

Semi-urgent decision.

17. Summary:

Following negotiations with the Department for Transport (DfT) in respect to the Bus Service Improvement Plan (BSIP) indicative funding, the DfT confirmed that they could provide years 1 and 2 of this indicative funding, on the proviso that it was delivered in 2023/24. Following submission of revised initiatives that could be delivered in a 12-month period, the DfT confirmed a funding offer of £18,985,735, which was split as £12,454,840 capital and £6,530,895 revenue. The decision was

to enable the acceptance of this offer, and for the funds to be released by the DfT to KCC.

18. Reason for urgency:

The notification of the award confirmation was issued on 3 March 2023. KCC had to accept the funding by 31 March 2023.

23/00033 - Acceptance of Additional Government Pothole Funding

Decision by Cabinet Member for Highways and Transport on 18 April 2023.

Urgency:

Semi-urgent decision.

19. Summary:

To seek approval to accept and deploy an additional Government Pothole Funding award (£6,054,800), according to the KCC's agreed Asset Management Approach for pothole and patching activity.

20. Reason for urgency:

By accepting and deploying the funding urgently, officers were able to use the Highways Term Maintenance contract to operate swiftly and help address the high-demand levels for repairs and patching, following severe weather.

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:

22/00094 - Family Hubs Transformation

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2651>

23/00029 - Fee Uplifts for Adult Social Care Providers for 2023/2024

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2687>

23/00057 - Chilmington School Works

<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2711>

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

22/00077 - Whitfield Aspen Primary School (Dover) sports field
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2634>

23/00008 - Gypsy and Traveller Service Improvement Project
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2675>

23/00009 - Holiday Activity and Food Programme
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2676>

23/00001 - Proposal to establish a new 2FE Primary School in Thanington Canterbury for September 2025.
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2682>

23/00017 - Revisions of Rates Payable by Kent County Council for Children's Social Care Services in 2023-24
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2694>

23/00027 - Bus Service Improvement Plan (BSIP) - Grant Funding
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2692>

23/00033 - Acceptance of Additional Government Pothole Funding
<https://democracy.kent.gov.uk/ieDecisionDetails.aspx?ID=2703>

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