

Divisions Affected – N/A

COUNCIL – 7 November 2023

THE USE OF SPECIAL URGENCY FOR A KEY DECISION

Report by Director of Law & Governance and Monitoring Officer

RECOMMENDATION

1. **Council is RECOMMENDED to note the use of Special Urgency for a Key Decision on 17 August 2023.**

Executive Summary

2. The Constitution makes provision for the taking of an urgent decision. Part 8.1 Section 17.3 requires that “the Leader of the Council will submit quarterly reports to the Council on any executive decisions taken in the circumstances set out in Rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken”.
3. In accordance with Rule 16 the following key decision was brought to the attention of the Chair of People Overview and Scrutiny Committee who agreed that the taking of the decision could not be reasonably deferred and could be taken under the Special Urgency Procedure.
 - Former Faringdon Primary School - to approve an Agreement for Lease (AfL) to enable the DfE to build a new SEND school on the former Faringdon Infant School site
4. The item was also exempt from Call-in as any delay likely to be caused by the call in process would seriously have prejudiced the Council’s or the public’s interests and the Chair of the Council agreed that in all the circumstances the decision should be treated as a matter of urgency as required under Part 6.2, Section 20 of the Constitution.

Reasons for Special Urgency

5. The Constitution specifies procedures and timescales that have to be followed where a local authority executive, committee or individual is taking a Key Decision. A Key Decision is defined in the Council’s Constitution (Part 1.3, Section 3 (b)) “as being 25% of the annual revenue budget for the relevant service block (i.e. that part of the Council’s total revenue budget allocated to the

Cabinet Member for the service area concerned) or £500,000, whichever is the lower figure, and £1m in the case of capital expenditure; or 25% of the people living or working in the area affected; or 25% of the capacity, frequency or hours of operation of a service or facility.”

6. Local Authorities are legally required to publicise Key Decisions in their forward plans a minimum of 28 clear days prior to the decision being taken.
7. As is common practice, the Constitution makes provision for decisions to be taken, as a matter of urgency, where it is impracticable to give the requisite notice. The general exception rule allows Key Decisions to be taken within the 28 day period, providing the Chair of the relevant Scrutiny Committee has been informed by notice of the decision to be taken, the Council has made publicly available a copy of that notice and five clear days have elapsed since the publication of that notice.
8. In exceptional cases where a Key Decision is required to be taken even sooner and it is impracticable to wait for the five clear days required under general exception provisions, then the special urgency rules can be applied. In such instances, the decision may only be made if the decision-maker has obtained the agreement of the Chair of the relevant Scrutiny Committee, that the decision is urgent and cannot be reasonably deferred.
9. Furthermore, the Constitution states (Part 6.2, Section 20) that the provision for Call-In “shall not apply where the decision being taken by the Cabinet, Officer or other decision maker is urgent. 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 maker, the decision is an urgent one, and therefore not subject to call in. The Chair of the Council must agree that in all the circumstances the decision should be treated as a matter of urgency. In the absence of the Chair, the Vice-Chair’s agreement shall be required. In the absence of both, the Proper Officer’s agreement shall be required. Decisions taken as a matter of urgency must be reported to the next meeting of the Council, together with the reasons for urgency.”
10. The Supplementary Notice to the Forward Plan that was published in relation to this decision is attached to this report as Annex 1. This notice gives the reason for urgency.

Financial Implications

11. There are none arising from this report which is noting decisions previously taken.

Comments checked by:

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Legal Implications

12. Regulation 19 of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 requires that the executive leader submits a report to the authority at least annually on executive decisions taken in cases of special urgency (Regulation 11), including the particulars of each decision.

This report is fulfilling both the legal and Constitutional duty to inform Council.

Comments checked by:

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Annex: 1: Special Urgency notice published 17 August 2023.

Background papers: None

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