

Slough Borough Council

Report To:	Council
Date:	30 th November 2023
Subject:	Quarterly Update on Urgent Key Decisions
Chief Officer:	Stephen Taylor, Monitoring Officer
Contact Officer:	Nick Pontone, Principal Democratic Services Officer
Ward(s):	All
Exempt:	No
Appendices:	Appendix 1 – Log of decisions taken under special urgency procedures where call-in waivers granted

1. Summary and Recommendations

- 1.1 This report informs Members of the number of Executive key decisions taken during the last quarter for which urgency provisions were utilised. There are various constitutional reporting requirements for such urgent decisions, including where proper constitutional procedures have not been adhered to and where special urgency procedures are relied upon.

Recommendations:

Council is recommended to note the use of special urgency provisions used for key decisions as set out in Appendix 1.

Reason:

This quarterly update ensures compliance with the various constitutional provisions for the key decision processes. This report contains details key decision made under special urgency procedures, where the agreement of the Chair of the Corporate Improvement Scrutiny Committee has been sought to waive call-in. Whilst the constitutional and statutory requirements were followed for making these decisions, paragraph 17.3 of the Access to Information Rules state that a quarterly report should be taken to Council where decisions are taken in accordance with Rule 16. This report has not been produced in the past and the appendix sets out all decisions made since this rule was introduced.

Commissioner Review

Commissioners have reviewed the report and made no comment.

2. Report

Introductory paragraph

- 2.1 This report details the use of special urgency procedures to waive call-in for key decision made in accordance with the Special Urgency rules as set out in Paragraph 16 of the Access to Information Procedure Rules. This report contains information of decisions made for 2022 and 2023.

Background

- 2.2 Slough Borough Council operates the leader and cabinet model of governance. The Executive (Cabinet) is subject to various legal and constitutional provisions for decision-making. The main legal requirements are contained in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, which have been incorporated into the Council's Constitution, primarily the Executive Procedure Rules and Access to Information Rules.
- 2.3 There are specific constitutional rules that apply to the taking of 'key decisions', the definition of which is:

"A key decision is an Executive decision which:

(a) is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council's budget for the service or function to which the decision relates;

or

(b) is likely to be significant in terms of its effects on communities living or working in an area of two or more wards of the Borough.

A decision is significant for these purposes if it involves expenditure or the making of savings/receipt of income of an amount in excess of £1 million for capital expenditure or £500,000 for revenue expenditure or, where expenditure or savings are less than the amounts specified above, they constitute more than 50% of the budget attributable to the service in question. Revenue expenditure or savings should be calculated by reference to an annual figure, unless the expenditure will bind the Council for multiple years. Capital expenditure and capital receipts should be calculated based on total figures for the duration of the project or contractual term.

A decision taker may only make a key decision in accordance with the requirements of the Executive and Access to Information Procedure Rules set out in this Constitution."

- 2.4 The procedure rules require the Council to give 28-days public notice of the intention to take a key decision. To comply with this requirement the Council publishes a Notification of Key Decisions each month which summarises the key decisions the Cabinet expects to take in the next three months.

- 2.5 Where it has not been possible to comply with this notification process, a key decision may still be taken under General Exception and Special Urgency provisions set out in sections 15 to 17 of the Access to Information Procedure Rules.
- 2.6 The Overview & Scrutiny function is important in enabling non-executive Members to review and scrutinise decisions made by the Cabinet. This includes the power to 'call in' a decision of the Cabinet which has not yet been implemented. Every Cabinet decision which is subject to call-in cannot be implemented until the call-in period expires, which is 5 working days after the publication of the decision. If a decision needs to be implemented urgently the Chair of the Corporate Improvement Scrutiny Committee can agree to waive call-in to enable the decision to be implemented without waiting for the 5 working days to elapse. The Cabinet report and/or minutes will specify if a call-in waiver was granted.
- 2.7 Under Section 17 of the Access to Information Procedure Rules the Corporate Improvement Scrutiny Committee has the power to require the Cabinet to report to Council if it believes a key decision has not been taken in accordance with the relevant procedures. It is confirmed that the Committee has not reported any such non-compliance this quarter or in 2022 or 2023.

Summary of use of special urgency provisions requiring call-in waivers

- 2.8 During the current quarter (October to December 2023, as at 22nd November 2023), there was one decision that utilised urgency provisions:
- Procurement of Replacement Fleet Vehicles
- Decision taken under the Cabinet Urgency Procedure – Leader's Action on 30th October 2023. The reason for urgency was the current contract for most DSO vehicles ends on 30th November 2023 and the award of a new contract by the end of October 2023 was required to ensure continuity of service. A report will be provided to Cabinet in December 2023. Call-in was waived with the agreement of the Chair of the Corporate Improvement Scrutiny Committee.
- 2.9 During the previous quarter (July to September 2023) there were no urgent key decisions or call-in waivers granted during the quarter.
- 2.10 A full list of the use of the use of special urgency procedures requiring call-in waivers in 2022 and 2023 is detailed in Appendix 1. To provide Members with further context, the table below sets out the use of wider urgency procedures, including those where it was not necessary to waive call-in.

	Urgent Key Decisions (all decisions not included on 28 day notice of key decisions)	Leader's Urgent Action	Chief Executive's Urgent Action	Call-in waivers granted
Q1 2022	0	0	0	0
Q2 2022	0	0	0	0
Q3 2022	2	1	0	1
Q4 2022	2	0	0	2
Q1 2023	2	2	0	1
Q2 2023	2	0	1	2
Q3 2023	0	0	0	0
Q4 2023	1	1	0	1
Total 2022	4	1	0	3
Total 2023	5	3	1	4

NB: some decisions were subject to more than one of the above provisions.

- 2.11 In future, quarterly reports informing Members of these provisions will be provided to Council in January, April, July and November each year.

3. Implications of the Recommendation

3.1 Financial implications

- 3.1.1 There are no direct financial implications arising from this report.

3.2 Legal implications

- 3.2.1 The key legal provisions are summarised in the report. The primary legal requirements are contained in The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, which have been incorporated into the Council's Constitution.

- 3.2.2 The Centre for Governance & Scrutiny has produced guidance on the use of call in to assist local authorities in drafting their constitutional rules. In relation to exceptions which should apply to call-in procedures, it recommends that these should be used where for reasons that it would be prejudicial to the interests of the Council, for safety reasons or because it is in the wider public interest. The Council has followed this guidance by incorporating rules for general and special urgency and emergency arrangements for decisions of different degrees of immediacy with different processes affecting call-in and member oversight. The guidance states that this may appear potentially complicated, but does mean that the right to call a decision in is wholly absent only in the most extreme of circumstances. The guidance refers to decisions to remove call-in and the reasons for this being reported to Full Council either on a decision by decision basis or via an annual report.

- 3.2.3 The draft best value guidance refers to an indicator of potential failure being scrutiny functions being undermined and a lack of pre-decision scrutiny, plus a culture of secrecy and overuse of urgency arrangements, confidential or delegated action reports and a failure for such reports to be reported in a form which allows scrutiny.

3.3 *Risk management implications*

3.3.1 There are no risks directly associated with this report.

3.4 *Environmental implications*

3.4.1 There are no environmental implications arising from this report.

3.5 *Equality implications*

3.5.1 There are no equality implications arising from this report. Decisions taken by the Cabinet are subject to equality impact assessments where appropriate.

4. Background Papers

None.

Appendix 1: Log of decisions taken under special urgency procedures where call-in waivers granted in accordance with Rule 16 of the Access to Information Rules

	Decision taker	Report Title	'Urgent' key decision	Call-in waived	Reason for urgency and other comments
			<i>Decision taken under General Exception (para 15 of Access to Information Rules) i.e. less than 28 days notice of key decision given.</i>	<i>Call-in waiver request granted by the chair of scrutiny.</i>	
Quarter 1 2022 Jan to Mar 2022	<i>No urgent key decisions or call-in waivers granted during the quarter</i>				
Quarter 2 2022 Apr to Jun 2022	<i>No urgent key decisions or call-in waivers granted during the quarter</i>				
Quarter 3 2022 Jul to Sep 2022	Leader's Action 27 th July 2022	Corporate Energy Purchase Contracts (August 2022 to March 2025)	Yes	Yes	In view of the extraordinary state of the wholesale energy market, urgent approval was sought to change to the Council's energy purchasing strategy to manage the risk of price volatility. Delay would expose the Council to significant further risks from rising energy prices.
Quarter 4 2022 Oct to Dec 2022	Cabinet 2 nd November 2022	Montem Site Appropriation	Yes	Yes	A decision on appropriation was required by 4 th November 2022 to enable exchange of contracts for the disposal of the site. A report was provided to Council on 22/11/22.
	Cabinet 2 nd November 2022	Disposal of Council Asset – Former Akzo Nobel site	Yes	Yes	The grounds for urgency in agreeing the disposal was to avoid any delay to the completion date and ensure the capital receipt from the asset sale was achieved to support the Council's financial recovery.

Quarter 1 2023 Jan to Mar 2023	Leader's Action 16 th February 2023	Disposal of Council Asset at Montem Lane	Yes	Yes	To agree a revised purchase price offer for the Montem Lane asset from the sum approved by Cabinet on 17 th October 2022. The contract for sale was due to exchange on 17 th February 2023 and an urgent decision was required. Any delay risked losing the sale and subjecting the Council to additional costs.
Quarter 2 2023 Apr to Jun 2023	Cabinet 17 th April 2023	Disposal of 380 Bath Road	Yes	Yes	To ensure the disposal was completed with the purchaser by the end of April 2023 it was necessary to implement the decision urgently to minimise the risk of the purchaser withdrawing or seeking to amend the terms of the deal.
	Chief Executive – Urgency Procedures 12 th May 2023	Disposal of 233-249 High Street	Yes	Yes	The approval being sought to dispose of the asset was time critical and so, to protect the Council's commercial interests, the 'urgency' procedures were applied.
Quarter 3 2023 Jul to Sep 2023	<i>No urgent key decisions or call-in waivers granted during the quarter</i>				
Quarter 4 2024 Oct to Dec 2023 (as at 13 th November 2023)	Leader's Action 30 th October 2023	Procurement of Replacement Fleet Vehicles	Yes	Yes	The decision is urgent and to wait for call in would be prejudicial to the Council's interests as contract needs to be awarded by end of October 2023 to ensure vehicles are available from 1 December 2023. A report would be provided to Cabinet in December 2023.