

Slough Borough Council

Report To:	Council
Date:	25 th January 2024
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 – October to December 2023

1. Summary and Recommendations

- 1.1 This report informs Members 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.
- 1.2 This report covers the quarter between October to December 2023. One decision taken during this quarter that utilised urgency provisions was contained in the previous report to Council on 30th November 2023 (Procurement of Replacement Fleet Vehicles). Members are notified that there have been no further decisions taken under the special urgency procedures during the quarter. The next report to Council will be in April 2024 covering the period January to March 2024.

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. The Council will receive these updates quarterly as meetings in January, April, July and November each year. Even if no decisions utilising urgency procedures have been taken during the preceding quarter a report will be provided to duly notify Council.

Commissioner Review

No further comments from Commissioners.

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 October to December 2023. A full history of the use of such provisions in 2022 and 2023 was provided to Council on 30th November 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 October to December 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 This decision was reported to Council in November 2023. No further use of urgency provisions has been made since during the quarter.
- 2.10 A list of the use of the use of special urgency procedures requiring call-in waivers in during October to December 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.

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 – October to December 2023

	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 4 2024 Oct to Dec 2023	Leader's Action 30 th October 2023	Procurement of Replacement Fleet Vehicles	Yes	Yes	<p>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.</p> <p><i>Note – details of the above decision were reported to Council on 30th November 2023. No further decisions using special urgency procedures were taken during the rest of the quarter.</i></p>