

NORTH YORKSHIRE COUNTY COUNCIL

NOTICE OF URGENT PRIVATE ITEM AND CALL IN EXEMPTION

Access to Information Procedure Rules 4 and 16 Overview and Scrutiny Procedure Rule 16

Extension of multiple contracts for SEN Home to School Transport

To the Chairman of the Children & Young People's Overview and Scrutiny Committee and the Chairman of North Yorkshire County Council

The County Council's Constitution provides that if a matter which is likely to be a key decision has not been included on the Council's Forward Plan for the requisite period, the decision may still be taken if an urgency procedure is followed.

Under Access to Information Procedure Rule 16:

- 16.1 *Where the date by which a decision must be made makes compliance with Rule 15 (general exception) impracticable, then the decision can only be made if the decision maker (if an individual) or the Chairman of the body making the decision, obtains the written agreement of the Chairman of a relevant overview and scrutiny committee that the making of the decision is urgent and cannot reasonably be deferred. If there is no Chairman of a relevant overview and scrutiny committee, or if the Chairman of the relevant overview and scrutiny committee is unable to act, then the agreement of the Chairman of the Council, or in his/her absence the Vice-Chairman will suffice.*
- 16.2 *As soon as reasonably practicable after the decision maker has obtained agreement under Rule 16.1 above, s/he must make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish the notice on the Council's website.*

The County Council's Constitution further provides that, under Access to Information Procedure Rule 4, at least 28 clear days' notice must be given of a private meeting (or meeting, or part of a meeting, during which the public are excluded) and, at least five clear days before the meeting, a further notice must be given of the intention to hold the meeting in private. The Access to Information Procedure Rules further provide that these provisions shall not apply where the decision being taken is urgent, if an urgency procedure is followed:

- 4.5 *Where the date by which a meeting must be held makes compliance with Rules 4.3 and 4.4 impracticable, the meeting may only be held in private where the executive decision making body has obtained agreement that the meeting is urgent and cannot reasonably be deferred from the chairman of the relevant overview and scrutiny committee; or, if there is no such person, or if s/he is unable to act, the chairman of the Authority; or where there is no chairman of either, the vice-chairman of the Authority.*
- 4.6 *As soon as reasonably practicable after agreement is given under Rule 4.5 to hold a private meeting, the executive decision making body must give notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred by making the notice available at County Hall and at the venue for the meeting (if different) and publishing it on the Council's website.*

In addition, The County Council's Constitution provides that where the call-in procedure would otherwise apply to an executive decision, it shall not apply where the decision being taken is urgent, if an urgency procedure is followed.

Under Overview and Scrutiny Procedure Rule 16:

(h) The call-in procedure set out above shall not apply where the decision being taken by the Executive 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 interest. The Chairman of the council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairman, the Vice-Chairman's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

It is anticipated that on 5 April 2022 a report seeking approval for the extension of contracts for SEN Home to School transports for a number of schools, will be considered by Corporate Director of Children and Young People's Services.

The intention to make this key decision has not been published on the Forward Plan for the requisite 28 clear day period.

The report on this matter is likely to contain exempt information as described in Paragraph 1,3 & 5 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) (i.e. Information relating to any individual, Information relating to the financial or business affairs of any particular person (including the authority holding that information, and Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings). It is considered that the public interest in maintaining the exemption outweighs the public interest in disclosing the information. The requisite notices of private meetings under Access to Information Procedure Rules 4.3 and 4.4 have not therefore been published.

This matter requires an urgent decision by the Corporate Director of Children and Young People's Services on 5 April 2022, and cannot reasonably be deferred, to enable the timely consideration and progress of this matter as the contracts are required to be extended for a further year and did not go through an initial Key decision when they were awarded four years ago. The Council needs to progress this matter within a short timeframe as the current contracts expire on 8 April 2022. As a consequence of the urgency of the timescales, the matter cannot be subject to the call in period. Overview and Scrutiny Procedure Rule 16 enables matters to be determined on an urgency basis and be exempt from call-in, where any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public interest.

To the Chairman of the Children & Young People's Overview and Scrutiny Committee:

In accordance with the provisions in the Access to Information Procedure Rules, I am, therefore, informing you as the Chairman of the relevant Overview and Scrutiny Committee, that it is intended that this matter be considered by the Corporate Director of Children and Young People's Services on 5 April 2022 and I am seeking your agreement that the meeting and the making of the decision is urgent and cannot reasonably be deferred beyond this timeframe. If you agree that the meeting and the making of the decision is urgent and cannot reasonably be deferred and that this item should be considered on 5 April 2022, will you please confirm by email as soon as possible.

To the Chairman of North Yorkshire County Council:

In accordance with the provisions in Overview and Scrutiny Procedure Rule 16(h), I am seeking your agreement that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency (where any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interest) and that the call-in procedure should

therefore not apply to the decision. If you agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency and the call-in process not applying, and that this item should be considered on 5 April 2022, will you please confirm by email as soon as possible.

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services)

Dated:

I agree, for the reasons stated in this notice, that the meeting and the making of this decision is urgent and cannot reasonably be deferred and that this item should be considered on 5 Apr 2022.

Signed Cllr Janet Jefferson **Date:** 4 April 2022
Chairman of the Children & Young People's Overview and Scrutiny Committee

I agree, for the reasons stated in this notice, that the decision proposed is reasonable in all the circumstances, to it being treated as a matter of urgency and exempt from call-in and that this item should be considered on 5 Apr 2022.

Signed Cllr Stuart Martin **Date** 4 April 2022
Chairman of North Yorkshire County Council