

NORTH YORKSHIRE COUNTY COUNCIL

22 February 2023

Report on Special Urgency and Call-in Exemption decisions under Access to Information Procedure Rule 16 and Overview and Scrutiny Procedure Rule 16

Report of the Leader of the Council

1.0 PURPOSE OF REPORT

- 1.1 To provide the Council with a report on the use of the special urgency and call-in exemption procedures under Access to Information Procedure Rule 16 and Overview and Scrutiny Procedure Rule 16 in respect of decisions taken since the Council's last meeting.

2.0 BACKGROUND

- 2.1 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.
- 2.2 The Access to Information Procedure Rules in the Constitution set out two urgency procedures, depending on the time available before the decision needs to be taken: the Rule 15 General Exception Urgency procedure and the Rule 16 Special Urgency procedure for use in more urgent cases. Use of the latter procedure is required to be reported back to full Council.
- 2.3 The Overview and Scrutiny Procedure Rules in the Constitution set out a call-in exemption process, use of which is also reported back to Council.

3.0 SPECIAL URGENCY AND CALL IN EXEMPTION PROCEDURES

- 3.1 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.

- 3.2 Access to Information Procedure Rule 17 then includes provision for the reporting back to full Council on the use of the Rule 16 special urgency procedure:

17.3 Reports on special urgency decisions

17.3.1 The Leader will submit to the next meeting of the Council, a report on any executive decisions taken in the circumstances set out in Rule 16 (special urgency). The report must include particulars of the decision, a summary of the matters in respect of which the decision was made, the reasons for it and the reasons for use of the special urgency procedure.

17.3.2 The Leader must submit at least one report under 17.3.1 annually to Council.

3.3 Under Overview and Scrutiny Procedure Rule 16(h):

(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.

3.4 This report therefore provides the report back to full Council on the use of the special urgency and call-in exemption procedures since the Council's last meeting.

4.0 USE OF SPECIAL URGENCY AND CALL IN EXEMPTION PROCEDURES

4.1 At the time of writing this report, the use of special urgency and call-in exemption procedures in relation to decisions taken since the last meeting of the County Council on 16 November 2022, is as summarised below. Full details of the decisions taken under the procedures and the reasons for them along with the reasons for using the special urgency and/or call in exemption procedures can be accessed via the hyperlinks:

i. Supported Internship Grant - Department for Education

General urgency and call in exemption

[Issue details - Supported Internship Grant - Department for Education | North Yorkshire County Council](#)

On 15 November 2022, the Executive Member for Education and Skills was to consider a report seeking approval to accept Grant funding which was to be awarded to NYCC by DfE for the purposes of supporting an employment forum and development of additional Supported Internships for young people with SEND. Supported Internships are an important stepping stone for young people with SEND to transition from education into employment. The grant is aimed at establishing, or further developing, a SEND employment forum to increase the availability and quality of Supported Internships that lead to permanent employment. The intention to make the key decision had been published on the Forward Plan but not for the full, requisite 28 clear day period. The matter required a decision on 15 November 2022 and could not reasonably be deferred as the deadline for accepting the Grant funding was 17 November 2022.

ii. Electricity Energy tariff for the new council for the period 1 April 2023 – 31 March 2024

Call in exemption

[Decision - Electricity Energy tariff for the new council for the period 1 April 2023 – 31 March 2024 | North Yorkshire County Council](#)

On 17 November 2022 a report seeking agreement on the Electricity energy tariff for the new council for the period 1 April 2023 – 31 March 2024, i.e. whether the new council has a 100% renewable energy tariff or a mixed tariff, was to be considered by the Corporate Director of Strategic Resources. The intention to make this key decision had been published on the Forward Plan for more than the requisite 28 clear day period. The Electricity Framework provider had unexpectedly brought forward the timescale for a decision on the tariff to 18 November 2022, which therefore required the date of the decision to be brought forward to 17 November 2022 and for it to be implemented immediately, without allowing for the usual call-in period. The markets supply / demand constraints and the continuing uncertainty generally across the electricity commodity market were all factors which pushed this requirement forward.

iii. **Contract for Water Retailer to commence from 1 April 2023**

Call in exemption

[Issue details - Contract for Water Retailer to commence from the 1st April 2023 | North Yorkshire County Council](#)

On 18 November 2022 a report seeking permission to procure a retailer for the supply of water, waste water for the corporate, including traded school & academy portfolios for the new council from 01 April 2023 was considered by the Assistant Director Strategic Resources. The replacement contract would include the existing NYCC water meter points and the water meter points from the seven boroughs and districts which will be brought into the new supply contract as their existing contracts end. The intention to make this key decision had been published on the Forward Plan for longer than required, however it had come to light that the County Council needed to submit its data into the procurement exercise by no later than 25 November 2022. The matter therefore required an urgent decision by the Assistant Director Strategic Resources on 18 November 2022 which would be required to be implemented immediately.

iv. **A59 Kex Gill Spend Profile Adjustment**

Special urgency and call in exemption

[Issue details - A59 Kex Gill - Full Business Case Update | North Yorkshire County Council](#)

On 21 December 2022, the Executive Member for Highways & Transportation was to consider a report seeking approval for increased capital funding from 2022/23 NYCC Kex Gill allocation by up to £1.4m, reduce the 2023/24 NYCC contribution by the same and accepting the expenditure at risk pending receipt of the Department for Transport (DfT) grant. The intention to make the key decision had been published on the Forward Plan but not for the requisite 28 clear day period. This matter required an urgent decision to enable the timely consideration and progress of this matter, in lieu of a delayed DfT Full Business Case decision due to recent Ministerial changes and settling in period, which in turn had led to a request to reprofile NYCC capital spend. The matter therefore required an urgent decision which would be required to be implemented immediately.

v. **Harmonisation of Garden Waste Collection Charging for 2023-2024**

General urgency and call in exemption

[Issue details - Harmonisation of Garden Waste Collection Charging for 2023-2024 | North Yorkshire County Council](#)

On 10 January 2023, the Executive was to consider a report seeking a decision to harmonise garden waste collection charging across North Yorkshire from April 2023 (excluding Selby District area which is currently free of charge). The intention to make the key decision had been published on the Forward Plan but not for the full, requisite 28 clear day period. The matter required an urgent decision, to be implemented immediately, to enable District and Borough Councils to issue a letter to residents/subscribers of the garden waste collection service ahead of the new season.

- vi. **Active Travel England Update**
Special urgency and call in exemption
[Issue details - Active Travel England Update | North Yorkshire County Council](#)
On 10 January 2023 a report seeking authorisation to accept the offer of £220,780 of revenue from the Capability and Ambition Fund 2022/23 from Active Travel England, was to be considered by the Executive Member for Highways & Transportation. The intention to make this key decision had not been published on the Forward Plan for the requisite 28 clear day period. The matter required an urgent decision, to be implemented immediately, as Active Travel England required the grant acceptance to be signed by the section 151 officer and returned by 13 January 2023.

- vii. **Local Investment in Natural Capital (LINC) Programme - approval for submission of Expression of Interest**
General Urgency and call in exemption
[Issue details - Local Investment in Natural Capital \(LINC\) Programme - approval for submission of Expression of Interest | North Yorkshire County Council](#)
On 26 January 2023, the Executive Member for Working in Localities was to consider a report seeking authorisation for North Yorkshire County Council (through the York and North Yorkshire Local Enterprise Partnership) to submit an Expression of Interest to access up to £650,000 of Revenue funding and £350,000 Capital funding from Defra. The intention to make the key decision had been published on the Forward Plan but not for the full, requisite 28 clear day period. The matter required an urgent decision, to be implemented immediately, as the invitation to submit an Expression of Interest to the LINC programme was only received by the LEP immediately before the Christmas/New Year break, and Expressions of Interest needed to be received by Defra by noon on Monday, 6 February 2023.

- viii. **Procurement of a Natural Language IVR solution**
Special urgency and call in exemption
[Issue details - Procurement of a Natural Language IVR solution | North Yorkshire County Council](#)
On 10 February 2023 a report seeking approval for the procurement of a natural language Interactive Voice Response (IVR) solution, will be considered by the Head of Delivery: Digital Transformation. The intention to make this key decision has not been published on the Forward Plan for the requisite 28 clear day period. This matter requires an urgent decision, to be implemented immediately, as the contract needs to start on 27th February 2023 to ensure that the solution is implemented ahead of 1 April 2023. To enable the service to be safe and legal ahead of the first day of the new Authority, the contract needs to be signed prior to that date.

- ix. **Approval to submit a bid to Innovate UK: Net Zero Living Fund**
General urgency and call in exemption
[Issue details - Approval to submit a bid to Innovate UK: Net Zero Living Fund | North Yorkshire County Council](#)
It is anticipated that on the 21 February 2023 a report seeking approval to submit a bid to Innovate UK: Net Zero Living Fund – Fast Followers, and to delegate authority to the Corporate Directors of Business and Environmental Services and Strategic Resources to approve the final submission by 1st March 2023, will be considered by the Executive Member for Open to Business. The intention to make this key decision has not been published on the Forward Plan for the requisite 28 clear day period. The matter requires an urgent decision, to be implemented immediately, as the fund was only announced on 18 January 2023 and in order to

make a decision on whether to apply, attendance was required at a clarification webinar on 26 January 2023. The deadline for submissions is 1 March 2023.

x. Active Travel Fund 4 - Submission of Bid

General urgency and call in exemption

[Issue details - Active Travel Fund 4 - Submission of Bid | North Yorkshire County Council](#)

It is anticipated that on 21 February 2023 a report seeking authorisation from the Executive Member for Highways and Transportation to submit an Active Travel Fund 4 bid to Active Travel England will be considered. The intention to make this key decision has not been published on the Forward Plan for the requisite 28 clear day period. The matter requires an urgent decision, to be implemented immediately, due to the short timescale allocated for submission of bids to Active Travel England, with a deadline of 24 February 2023. Previously information was under embargo.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no significant financial implications arising from this report.

6.0 LEGAL IMPLICATIONS

6.1 There are no significant legal implications arising from this report.

7.0 CLIMATE CHANGE IMPLICATIONS

7.1 There are no significant climate change implications arising from this report.

8.0 CONSULTATION

8.1 Consultation has been undertaken with relevant officers and Members prior to the use of the special urgency and/or call-in exemption procedures.

9.0 REASONS FOR RECOMMENDATIONS

9.1 To report back to full Council on the use of the special urgency and call-in exemption procedures in compliance with the Access to Information Procedure Rules and Overview and Scrutiny Procedure Rules.

10.0 RECOMMENDATION

10.1 That full Council receives and notes this report.

COUNTY COUNCILLOR CARL LES
Leader of the Council

Background Papers: None

10 February 2023