

NORTH YORKSHIRE COUNTY COUNCIL

NOTICE OF URGENT ITEM AND CALL IN EXEMPTION

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

Enablement of Continuity of Service following contract failure by Domiciliary Care Provider

To the Chairman of the Care and Independence 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 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 15 June 2021, a report regarding a decision to enable continuity of service following market failure by a Domiciliary Care Provider which is due to cease trading at 2 pm on 15 June 2021 will be considered by the Corporate Director Health and Adult Services in consultation with the relevant Executive Member.

The report will concern the approval of arrangements to continue with domiciliary care in the Selby area of North Yorkshire by employing staff directly, following notification of the intention to liquidate an existing domiciliary care provider.

The issue has arisen urgently and needs to be addressed as a matter of urgency. The detail of the required decision-making is still being considered at the time of issuing this notice but is likely to include the approval of taking all necessary action to employ the relevant staff of the Domiciliary Care Provider to provide domiciliary care within the relevant North Yorkshire area; and involve a mixture of non-executive and executive functions, the latter likely to be key decisions.

As the matter has arisen so urgently, the intention to make any key decision(s) has not been published on the Forward Plan for the requisite 28 clear day period.

This matter requires an urgent decision(s) by the Corporate Director on 15 June 2021 and cannot reasonably be deferred, to enable the timely consideration of this matter and the continuity of domiciliary care service provision for, and protection of, North Yorkshire residents. The decision needs to be taken and implemented immediately. As a consequence of the urgency of the timescales, the matter cannot therefore 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, which it is believed would be the case here.

To the Chairman of the Care and Independence 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 Health and Adult Services on 15 June 2021 and I am seeking your agreement that the meeting and the making of the decision(s) is urgent and cannot reasonably be deferred beyond this timeframe. If you agree that the meeting and the making of the decision(s) is urgent and cannot reasonably be deferred and that this item should be considered on 15 June 2021, 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 15 June 2021, will you please confirm by email as soon as possible.

BARRY KHAN
Assistant Chief Executive (Legal and Democratic Services)

Dated: 15 June 2021

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 15 June 2021.

Signed County Councillor Karin Sedgwick

Date 15 June 2021

Chairman of the Care and Independence 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 15 June 2021.

Signed County Councillor Stuart Martin

Date 15 June 2021

Chairman of North Yorkshire County Council