

COUNTY COUNCIL

Meeting date: 9 September 2020

From: Leader of the Council

URGENCY PROVISIONS

1.0 EXECUTIVE SUMMARY

1.1 *This report notifies members of the circumstances in which urgent decisions have been taken in line with the Council's Constitution since the last meeting of the Council.*

2.0 STRATEGIC PLANNING AND EQUALITY IMPLICATIONS

2.1 *The report contributes to the vision in the Council Plan that the Council works with residents, businesses, communities and other organisations to deliver the best services possible within the available resources and contributes to the Council Plan outcome, that people in Cumbria are healthy and safe.*

3.0 RECOMMENDATION

3.1 *That members note the report.*

4.0 BACKGROUND

4.1 This report deals only with decisions that must be reported to Council under the Constitution. More general information in respect of decisions taken during the period March to May 2020 was provided to members by the Chief Legal Officer on 5 June 2020.

4.2 Key Decisions to be taken by Cabinet or an Executive Director must be advertised for at least 28 working days prior to the decision being taken. When this rule cannot be complied with, owing to the urgency of the decision, The County Council's Constitution permits Key Decisions to be taken in the following circumstances:

- Access to Information Procedure Rule 15 – Notice is sent to the Chair of the relevant Scrutiny Advisory Board and is published on the Council's website and at the Council's offices and five working days elapse before the decision is taken and

- Access to Information Procedure Rule 16 – when it is not possible to give five working days’ notice the approval of the Chair of the relevant Scrutiny Advisory Board is sought and the Notice is published on the website and at the Council offices.
- 4.3 The Chief Executive is empowered under the Scheme of Delegation to Officers (Part 3 – Delegation to Officers, Chief Executive, 6.1 (h)) to take Urgent decisions where delay would seriously prejudice the Council’s or the public interest to the extent that it is appropriate to use emergency powers.
- 4.4 Decisions of the Cabinet, Officer Key Decisions and certain decisions of Local Committees are subject to the rules of Call In. The Call In procedure does not apply where the decision being taken is urgent. There is a process in the Overview and Scrutiny Procedure Rules for exempting decisions from Call In.
- 4.5 Urgent decisions must be reported to the next available meeting of the Council, with the reasons for urgency identified.
- 4.6 Since the meeting of Council held on 13 February 2020, there have been a number of urgent decision taken by the Chief Executive and Executive Directors, most in response to the Covid 19 Pandemic. All of these decisions are set out in Appendix 1 of this report.

5.0 RESOURCE AND VALUE FOR MONEY IMPLICATIONS

- 5.1 Decisions 1-7 set out in Appendix 1 were in response to the Covid 19 Pandemic and the resource and value for money implications were considered when the decisions were made. The Council is in receipt of general unringfenced COVID emergency funding of £28.512m to support the Councils response to COVID-19. An update on the application of this grant and wider forecast financial implications of COVID-19 will be reported to Cabinet at its meeting in September.
- 5.2 In respect of Decision 8, the exclusion of the Carlisle Southern Link Road Housing Infrastructure Grant Determination Agreement from call in. This enabled the Council to meet the Homes England deadline of 31st July 2020 and secure funding for the CSLR scheme in the form of £134m HIF Grant Funding and £10m total contribution from Cumbria County Council and Carlisle City Council.
- 5.3 In respect of Decision 9, the award of a 1 year contact for the purchase of Rock Salt, the estimated expenditure of c£1m would be funded by the existing Winter Maintenance Budget.

5.4 LEGAL IMPLICATIONS

- 5.5 There are no legal implications arising from this report.

6.0 CONCLUSION

6.1 Members are asked to note the report.

Iolanda Puzio
Chief Legal Officer and Monitoring Officer
September 2020

APPENDICES

Appendix 1 – Schedule of decisions

Electoral Division(s): All

Executive Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
Key Decision	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
If a Key Decision, is the proposal published in the current Forward Plan?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Is the decision exempt from call-in on grounds of urgency?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
If exempt from call-in, has the agreement of the Chair of the relevant Overview and Scrutiny Committee been sought or obtained?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Has this matter been considered by Overview and Scrutiny? If so, give details below.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	No*
Has an environmental or sustainability impact assessment been undertaken?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A*
Has an equality impact assessment been undertaken?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	N/A*

PREVIOUS RELEVANT COUNCIL OR EXECUTIVE DECISIONS *[including Local Committees]*

None

CONSIDERATION BY OVERVIEW AND SCRUTINY

Not considered by Overview and Scrutiny

BACKGROUND PAPERS

No background papers

RESPONSIBLE CABINET MEMBER

Stewart Young, Leader of the Council

REPORT AUTHOR

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Appendix 1 – Schedule of decisions taken

Date of Decision	Subject	Decision	Reason	Approval
24 March 2020	Temporary Closure to the public of all County Council premises except residential homes (in specific circumstances), children’s centres at Morton and Shadygrove Road (midwife appointments only), family centres for supervised contact, HWRCs,	<p>Agree to temporarily close to the public all County Council premises except for the following;</p> <ul style="list-style-type: none"> • Residential Homes (in specific circumstances); • Children’s Centres at Morton and Shadygrove Road Carlisle but only for midwife appointments; • Family Centres for supervised contact; • Household Waste Recycling Centres; • Registration services for births and deaths at Kendal County Offices; Nan Tait Barrow; Lady Gillford’s Carlisle; Penrith Library; and Whitehaven Library and • Fairfield, Station Road, Cockermouth, CA13 9PT for access to the Coroners Service. <p>The closure is effective from 5pm 24 March 2020 until further notice (to be reviewed following any changes in Government restrictions and or advice.)</p>	Following the announcement by the Government on 23 March 2020 about new measures introduced to stop the spread of the COVID19, the County Council will temporarily close its premises to the public in order to minimise the public health risk to staff, customers and communities.	Rule 16 Notice approved by relevant Scrutiny Chair on 24 March 2020
25 March 2020		<p>Agree to temporarily close Family Centres to the public.</p> <p>The closure is effective from 5pm 25 March 2020 until further notice (to be reviewed following any changes in Government restrictions and or advice.)</p>	Following the announcement by the Government on 23 March 2020 about new measures introduced to stop the spread of the COVID19, the County Council will temporarily close its premises to the public in order to	Rule 16 Notice approved by relevant Scrutiny Chair on 25 March 2020

			minimise the public health risk to staff, customers and communities.	
25 March 2020	Temporary Closure of Household Waste Recycling Centres	To agree to close the 14 HWRCs.	Following the announcement by the Government on 23 March 2020 about new measures introduced to stop the spread of the COVID19, the County Council will temporarily close its premises to the public in order to minimise the public health risk to staff, customers and communities.	Rule 16 Notice approved by relevant Scrutiny Chair on 25 March 2020
27 March 2020	Temporary Suspension of the majority of the Council's Construction Sites	<p>To temporarily suspend construction activity at the all of the Councils "live" construction sites except for those identified that are critical to support NHS, emergency works or flood protection until the 13 April 2020.</p> <p>The Council communicates to the contractors delivering all over live construction sites that the sites are to close in a safe manner with immediate effect.</p> <p>Any contractual penalties associated with delay will be set aside and that the Council work with its suppliers to minimise costs associated with temporary suspension of works and their subsequent re-mobilising.</p>	Following the announcement by the Government on 23 March 2020 about new measures introduced to stop the spread of the COVID19, the County Council will temporarily close its premises to the public in order to minimise the public health risk to staff, customers and communities.	Rule 16 Notice approved by relevant Scrutiny Chair on 27 March 2020
16 April 2020	Review of Temporary Suspension of works at the majority of the Council's Construction Sites	Agree to continue the temporary suspension of construction activity within the Council's Capital Programme except for those set out below.	The recommended approach will continue to focus on the health, safety and wellbeing of staff, contractors and the wider public advised by Central	Rule 16 Notice approved by relevant Scrutiny Chair on 15 April 2020

		<p>To recommence construction activity on the sites which have been assessed by officers and are able to meet the criteria in the guidance for changes to site operating procedures as set down by the Construction Leadership Council in response to the Secretary of State for Business, Energy and Industrial Strategy call for a continuation of construction related activities.</p> <p>To continue with the requisite site surveys for capital programme projects.</p> <p>To carry out a review of the decision by the Executive Director Economy and Infrastructure in consultation with the Leader, Deputy Leader and Portfolio Holder after 3 weeks or sooner if social distancing measures are changed.</p>	<p>Government whilst aiming to also enable the Council to deliver its strategically important projects and to continue to support the economy where it is deemed safe to do so and in line with the objectives agreed through the Cumbria Resilience Forum Strategic Co-ordinating Group.</p> <p>The Council is clear that in making this recommendation that any construction sites operating during the Coronavirus (COVID-19) pandemic need to ensure they are protecting their workforce and minimising the risk of spread of infection</p>	
1 May 2020	Resume Council Construction Projects and Award of Contracts associated with Capital Programme	<p>To recommence construction activity on all construction sites which have been assessed by officers and are able to meet the criteria in the guidance for changes to site operating procedures as set down by the Construction Leadership Council in response to the Secretary of State for Business, Energy and Industrial Strategy call for a continuation of construction related activities.</p> <p>To recommence all contract awards and procurement associated with construction or the development and delivery of the capital programme</p>	<p>The recommended approach will continue to focus on the health, safety and wellbeing of staff, contractors and the wider public advised by Central Government whilst aiming to also enable the Council to deliver its construction projects and to continue to support the economy where it is deemed safe to do so and in line with the objectives agreed through the Cumbria Resilience Forum Strategic Co-ordinating Group.</p> <p>The Council is clear that in</p>	Rule 16 Notice approved by relevant Scrutiny Chair on 1 May 2020

		<p>which have been assessed by officers and are able to meet the criteria in the guidance for changes to site operating procedures as set down by the Construction Leadership Council in response to the Secretary of State for Business, Energy and Industrial Strategy call for a continuation of construction related activities.</p>	<p>making this recommendation that any construction sites operating during the Coronavirus (COVID-19) pandemic need to ensure they are adequately protecting their workforce and minimising the risk of spread of infection</p>	
24 June 2020	<p>The Future Procurement and Distribution of Personal Protective Equipment (PPE) in Response to Covid-19 Pandemic</p>	<p>To approve procurement of PPE up to a value of £300,000 per month for the period of June, July and August 2020 to a cumulative total maximum value of up to £900,000.</p> <p>To approve that the PPE procured by the Council can, if circumstances require and acting as a provider of “last resort”, be supplied to independent third party organisations in the social care sector, upon whose services the Council relies to discharge its statutory duties.</p> <p>Approve that the PPE procured by the Council will be provided to the schools in Cumbria, both local authority maintained and Academy / Free Schools and the schools will reimburse the Council for the PPE provided to them at cost.</p>	<p>In order for the Council to meet it’s legal and moral obligations to its workforce to ensure they have the correct PPE available to them to protect both themselves and service users procurement of the required items at a value of up to circa £300,000 per month for a period of 3 months is estimated to be required. The estimated monthly value is based upon the levels of use that have been experienced over the period of May and early June along with an initial estimate of the level of demand that could be required from schools and other council services returning to operation. However PPE stock levels will be closely monitored and adjusted downward in line with demand if this is possible and prudent. Should demand increase above the estimated level further approvals of expenditure will be requested.</p>	<p>Rule 16 Notice approved by relevant Scrutiny Chair on 19 June 2020</p>

			<p>The Council relies on the activities of independent providers to discharge a number of its statutory duties. It is essential that these independent providers, in the social care and education sectors, have access to the PPE required by national guidance. PPE procured by the Council should be viewed as the provision of last resort with these organisations undertaking their own efforts to procure PPE first and then seeking support from the LRF. However if both independent procurement and recourse to the LRF are not successful it is essential that the Council retains the ability to provide essential supplies of PPE to these organisations in order to discharge the relevant duties.</p>	
23 July 2020	Carlisle Southern Link Road – Housing Infrastructure Grant Determination	<p>On Thursday 23 July Cabinet considered a report from the Executive Director – Economy and Infrastructure on the Carlisle Southern Link Road – Housing Infrastructure Fund Grant Determination Agreement.</p> <p>The decision had been in the Forward Plan for the relevant number of days, and was already on the agenda for Cabinet this week, albeit as a ‘to follow’ report. The request to the relevant Scrutiny Chair was for permission to exclude the decision from call in.</p>	<p>The reason for the need to exclude the decision is that on Monday 13 July 2020, Homes England confirmed to the Council that it would receive an extra £32m on top of the original grant funding of £102m (£134m in total). This was strictly on the proviso that the Council could complete (sign and date) the Funding Agreement by 31 July 2020. Cabinet will decide whether or not to enter the Funding Agreement during its meeting</p>	<p>Rule 16 Notice (exemption from call in) approved by relevant Scrutiny Chair on 20 July 2020</p>

			on 23 July 2020. If Cabinet decides to enter into the Funding Agreement and the decision is called in, it will be impossible to meet the 31 July 2020 deadline, and the £134m funding will be lost.	
1 August 2020	Award of Contract – Rock Salt	To award a contract for 1 year from 1 August 2020 to 31 July 2021 to Compass Minerals UK Limited for the supply of rock salt for winter maintenance services through YPO framework for winter maintenance services. The estimated annual spend is circa £1m per year, based on a fixed price per tonne but subject to the amount required in response to the actual weather conditions	A contract for the supply of rock salt is required to facilitate delivery of winter maintenance service. The early award of the contract will allow early purchase of the supply at lower rates. The prices are considered to be realistic in relation to current market conditions.	Rule 15 Notice – Scrutiny Chair notified 20 July 2020