

## **Details of key decisions taken in 2022-23 under urgency provisions and call-in waivers**

The Constitution specifies procedures and timescales that have to be followed where the Executive, a committee of the Executive, a lead councillor, or an officer is taking a Key Decision. A Key Decision is defined in the Council's Constitution as being an executive decision which is likely to:

- result in expenditure or savings of at least £200,000; or
- have a significant impact on two or more wards within the Borough.

Local authorities are legally required to publicise Key Decisions a minimum of 28 clear days prior to the decision being taken. As is common practice, the Constitution makes provision for decisions to be taken, as a matter of urgency, where it is impracticable to give the requisite notice. The general exception rule (Access to Information Procedure Rule 15) allows Key Decisions to be taken within the 28-day period, provided that the Chairman of the OSC has been informed by notice of the decision to be taken, the Council has made publicly available a copy of that notice and five clear days have elapsed since the publication of that notice.

In cases where a Key Decision is required to be taken even sooner and it is impracticable to wait for the five clear days required under general exception provisions, then the special urgency rule (Access to Information Procedure Rule 16) can be applied. In such instances, the decision may only be made if the decision-maker has obtained the agreement of the Chairman of the OSC, that the decision is urgent and cannot be reasonably deferred.

Furthermore, the Constitution states (in O&S Procedure Rule 16 (h)) that any matter designated by the Joint Chief Executive to be urgent shall not, if the Leader/Executive or individual decision-taker and the chairman of the OSC agree, be subject to the call-in procedure, but shall be determined by the Leader/ Executive, lead councillor or officer immediately. The record of the decision and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The table below sets out details of key decisions taken in 2022-23 under the urgency provisions and call-in waivers.

Executive meeting / decision-taker	Item of business	Decision taken	Reasons for decision	Chairperson of O&S informed under General Exception provision of Access to Information Procedure Rule 15	Chairperson of O&S agreement obtained under Special Urgency provision of Access to Information Procedure Rule 16	Chairperson of O&S agreed to waive call-in
16 May 2022 Director of Resources [decision ratified subsequently by Executive on 25 August 2022, Minute EX27 refers].	Midleton Industrial Estate Redevelopment.	To award the contract for Phase 4 of the project (construction of new industrial units at 3-5 and 9, Midleton Industrial Estate, Guildford).  (Key Decision)	Unfortunately, only realised by officers that specific approval for Phase 4 was required after the contract had been awarded and shortly before the works were to commence. Stopping the contract would have incurred significant costs and disruption.	N/A	Yes	Not requested

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21 July 2022 Director for Service Delivery.	Award of Contract for Cash Collection Services.	To award a new cash collection contract to Provider starting 01/08/22. Contract Value £1,099,241  (Key Decision)	The Cash Collection contract expired on 31 July 2022 and a procurement exercise was undertaken to ensure that the best value provider for the service could be found. This procurement resulted in Pivotal being the preferred provider for this service.	Yes	N/A	Yes

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			<p>This service collects money from parking machines and other Council venues. If the monies were not collected from the machines either they would become full and not usable, or the machines might be vandalised, and monies stolen. Unfortunately,</p>			

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			those officers involved in the procurement overlooked the need to publish the key decision, and this only became apparent at a point when it would not be possible to provide 28 days' notice prior to the commencement of the contract.			

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25 August 2022, Executive, Minute EX29 refers.	Guildford Lido Drainage and Modernisation Project.	That a virement of £600,000 from the capital contingency fund for the Lido Drainage and Modernisation Project be approved to enable the project to start on time and hopefully be completed during the winter period to	Following a procurement exercise in July, the Council conducted an initial evaluation of the tenders received. The works cost of the scheme was expected, based on an external QS estimate updated in April, to be around £900,000 (excluding	Yes	N/A	Not requested

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		<p>ensure the minimum disruption to the potential customers of the venue.</p> <p>(Key Decision)</p>	<p>contingencies). The range of acceptable works tenders received were between £1.7m and £1.9m. The work is essential and is programmed to take place during the winter period commencing 3 October 2022. In order to achieve this, a supplementary</p>			

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			<p>capital estimate of £600,000 would need to be approved and a contract in place by 23 August 2022. The original scheme was to be funded from a reserve specifically for the Leisure Partnership Agreement which has a current available balance of £1.5m. The</p>			

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			<p>works tender mentioned above does not make provision for other project costs such as specialist consultant fees and charges or a contingency against unforeseen circumstances.</p> <p>The entire project is likely to be circa £2.1m allowing for these factors.</p>			

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15 September 2022, Executive Head: Assets and Property.	Grant a Protected Lease and a licence to alter of The Rock, 2 Thornberry Way, Slyfield Industrial Estate.	To approve the grant of a lease of The Rock, 2 Thornberry Way, Slyfield Industrial Estate in line with the following terms and conditions:  Terms: Lease Length = 15 years Rent = £400,000 PA	When terms were agreed with this tenant, the letting was subject to a planning application by the proposed new tenant, which we were not confident would be approved. Once the application was approved it did not allow enough time for	N/A	Yes	Not requested

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		<p>Deposit = £200,000 – after the 3rd year 50% of the deposit may be returned provided the tenant has a satisfactory credit score and has paid all of their rent on time.</p> <p>Rent Free = 6 months full rent free and 12</p>	<p>the key decision to be published.</p>			

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		<p>months half rent.</p> <p>Break = Tenant break after year 10 of the lease. 6 months' notice required.</p> <p>Rent review = upward only every 5 years, capped at 15% increase over the 5 years.</p> <p>Rent payable quarterly in advance.</p>				

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		Licence to Alter: - New mezzanine at 1st floor level - Additional mezzanine on the 2nd floor level - Toilets on the ground floor.  (Key Decision)				
30 September 2022, Joint Chief Executive.	Investment of Equity Shares in Guildford Borough Council	To approve the investment of a further £900,000 in equity shares	The Council needed to take an urgent decision to avoid harm to	N/A	Yes	Not requested

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	Holdings Limited.	in Guildford Borough Council Holdings, bringing the Council's total shares to a maximum of £10.12million. Funding is already available for the additional investment as part of the Approved	residents who were due to complete house sales on Friday 30 September 2022 and to enable North Downs Housing to purchase two properties.			

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		Capital Programme.  (Key Decision)				
12 December 2022, Executive, Minute EX64 refers.	Guildford Park Road Redevelopment – Action to Secure Electrical Connections and Capacity for the New Development.	(1) To authorise immediate payment of £70,106.89 to UK Power Networks (UKPN) to establish the capacity for, and cost of, the electrical	Under normal circumstances, a payment of this nature would be made to UKPN following the grant of planning permission and the movement of the scheme to its delivery phase.	Yes	N/A	Yes

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		<p>connections that will be required for the Guildford Park Road Redevelopment scheme.</p> <p>(2) To authorise the Strategic Director: Place, in consultation with the Lead Councillor for Resources, to enter into such agreements as</p>	<p>However, the Council has recently been informed that another party has also submitted a request to UKPN for new connections. These new connections would be served by the same part of UKPN's distribution network as the Council's site.</p>			

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		<p>are necessary with UKPN.</p> <p>(3) To agree that funding for this payment be brought forward into this financial year from the approved HRA capital programme budget for 2023/24 in respect of this project.</p>	<p>UKPN has confirmed that the existing distribution network does not have sufficient capacity to serve both requests, meaning that off-site infrastructure would require to be upgraded to increase capacity.</p> <p>In the scenario where two</p>			

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		(Key Decision)	applicants request connections that will be served by the same distribution network, and capacity issues are identified, UKPN's protocol dictates that the first application is given priority to utilise the existing capacity and avoid the cost and programme risk			

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			<p>associated with providing additional capacity. The Council's application was received first meaning that we have an opportunity to secure the capacity now by accepting the quote and paying UKPN circa £360,000.</p>			

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			<p>However, UKPN protocol also dictates that we have only 30 days to do this, otherwise the second applicant will be able to pay and take the capacity instead. To secure the connections, the Council must pay UKPN by 21 December 2022.</p>			

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			Although officers had been authorised to take all steps necessary for the submission of the planning application, they did not have authority to take the decision to bring forward monies from the 2023-24 HRA capital programme			

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			budget to make this payment.			
Call-in of future decisions on ARB tender process was waived by O&S Chair on 8 March 2023.	Ash Road Bridge Project tender processes.	Chairman of Overview and Scrutiny requested to waive possible call-in for ASB tender processes to enable entering into contract as early as possible, to be able to continue to meet the Homes England	To maximise funding opportunities (£23.9 million of central government funding towards the Ash Road Bridge Scheme to deliver an alternative road crossing of the North Downs railway line in	N/A	N/A	Yes

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		timelines for expenditure of the £23.9m grant, ahead of the Executive recommendation and the Council decision to approve a new budget and funding strategy for Ash Road Bridge [Council Minute CO143 refers].	close proximity to the Ash level crossing).			

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		(Key Decision)				