

Appendices: 0



**NORTHAMPTON**  
BOROUGH COUNCIL

# **COUNCIL**

## **7<sup>th</sup> March 2016**

**Agenda Status: Public**

**Directorate: Borough Secretary**

<b>Report Title</b>	<b>Exemption from call-in and urgent executive decisions.</b>
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### **1. Purpose**

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- 1.1 To report to Council on the use of the special urgency procedure and the power contained in the Constitution to exempt an executive decision from call-in where the decision being taken is urgent.

### **2. Recommendations**

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- 2.1 Council is recommended to note the content of this report.

### **3. Issues and Choices**

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#### **3.1 Report Background**

- 3.1.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 require that a Key Decision is publicised for 28 clear days in advance of it being made.
- 3.1.2 Where the publication of the intention to make a Key Decision in this way is impracticable, that decision may only be made where the proper officer has informed the Chair of the Overview and Scrutiny Committee of the matter about which the decision is to be made. The Key Decision may then only be made after 5 clear days have elapsed following the publication of the notice given to the Chair of Overview and Scrutiny. This is called the general exception process.
- 3.1.3 Where the date by which a Key Decision must be made, makes compliance with the general exception process impracticable, the decision may only be made where the decision maker has obtained agreement from the Chair of the Overview and Scrutiny Committee that the making of the decision is urgent and cannot reasonably be deferred. Where the Chair of Overview

and Scrutiny is unable to act, agreement may be obtained from the Mayor. This is called the special urgency procedure. Use of the special urgency procedure is required to be reported to Full Council.

- 3.1.4 When a decision is made by the Cabinet, that decision is subject to call-in for scrutiny. A decision may be implemented after the call-in period has expired, unless the Overview and Scrutiny Committee exercises the right to call-in within that period.
- 3.1.5 Paragraph 15.10 of the Overview and Scrutiny Procedure Rules in the Constitution sets out that the call-in procedure shall **not** apply where the decision being taken is urgent. A decision is urgent if any delay likely to be caused by the call-in process would seriously prejudice the Council's or the public's interests. It is necessary for the Mayor to agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency.
- 3.1.6 The Overview and Scrutiny Procedure Rules require that decisions taken as a matter of urgency must be reported to the next available meeting of the Council.
- 3.1.7 Council is therefore asked to note that Cabinet made an executive decision on 24<sup>th</sup> November 2015 pursuant to the special urgency provisions, which was exempted from call-in due to its urgency. Details of the decision are set out below.

## **3.2 Decision details**

- 3.2.1 Cabinet made a Key Decision on 24<sup>th</sup> November 2015 pursuant to the special urgency procedure. In the circumstances, the Mayor's consent was obtained (as the Chair of the Overview and Scrutiny Committee was unable to act). The decision was treated as a matter of urgency and was not therefore subject to call-in as the Mayor agreed that the decision was reasonable in all the circumstances and to it being treated as a matter of urgency.
- 3.2.2 A summary of the decision of Cabinet is set out below:
  - a) receipt of an update on progress towards resolving the position with loans made to Northampton Town Football Club (NTFC) by the Council; and
  - b) agreement of a proposed way forward to ensure a sustainable football club in Northampton including the delegation of power to officers to take appropriate actions.
- 3.2.3 The reason for the urgency was that:

The administration petition hearing relating to NTFC was scheduled to take place on the 27<sup>th</sup> November 2015, the winding up petition relating to NTFC had been adjourned to take place on the 30<sup>th</sup> November 2015 and the negotiations between the Borough Council and various parties in relation to the £10.25 million of loan monies owed by NTFC to the

Borough Council had only just reached a point at which a formal decision from Cabinet was required. As the two petition hearings were scheduled to take place imminently, the need for the decision to be made about the way forward, and implemented, was urgent. The decision was therefore taken at a special meeting of Cabinet and was not subject to call-in.

3.2.4 Part of the Cabinet meeting on 24<sup>th</sup> November 2015 was held in private due to the likelihood of disclosure to the public of exempt information as defined in section 100I of the Local Government Act 1972. Part of the Cabinet decision was exempt from publication by virtue of paragraph 2 of Part 1 of Schedule 12A of the Local Government Act 1972.

#### **4. Implications (including financial implications)**

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##### **4.1 Policy**

4.1.1 None.

##### **4.2 Resources and Risk**

4.2.1 None.

##### **4.3 Legal**

4.3.1 Contained within the body of the report.

##### **4.4 Equality**

4.4.1 There are no direct equality and diversity implications arising from this report.

##### **4.5 Other Implications**

4.5.1 None.

#### **5. Background Papers**

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5.1 None

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