

Eden District Council  
Council

28 January 2021

**Local Government Reorganisation – Key Principles of the  
Final Submission: Notice of Key Executive Decision and  
Actions Taken under Special Urgency Rules**

<b>Portfolio:</b>	Leader
<b>Report from:</b>	Assistant Director Governance/Monitoring Officer
<b>Wards:</b>	All Wards
<b>OPEN PUBLIC ITEM</b>	

**1 Purpose**

1.1 To apprise the Council of:

- a) insufficient notice in the Council's Forward Plan in relation to the decision made by the Executive at its meeting on 24 November 2020, in respect of Local Government Reorganisation – Key Principles of the Final Submission; and;
- b) the procedures followed after the insufficient notice had been identified which enabled the Executive to proceed with making the decision on 24 November whilst remaining compliant with the Constitution and the law.

**2 Recommendation**

It is recommended that the report be noted.

**3 Report Details**

3.1 At its meeting on 24 November 2020, the Executive considered a report entitled 'Local government Reorganisation – Key Principles of the Final Submission' (report reference PP45/20).

3.2 The Executive used the information in the report as the basis for identifying its preferred option for the configuration of Local Government Reorganisation in Cumbria, in response to Central Government's invitation to submit proposals for unitary local government. Members resolved the following:

'that the Executive approves Eden District Council's preferred option for the configuration of Local Government Reorganisation in Cumbria as being the creation of two unitary authorities with a North-South configuration that would see Eden, Allerdale, and Carlisle forming one unitary authority, and Barrow, Copeland and South Lakeland the other; and

This option is referred to a special meeting of Council on 2 December 2020 for consideration and endorsement, and that this forms the basis of the submission to Government on or before 9 December 2020' (Draft Minute E/64/11/20 refers).

- 3.3 At its meeting on 2 December 2020, Council duly considered and endorsed the Executive's decision to approve the North-South configuration (Draft Minute CI/68/12/20 refers).
- 3.4 The Executive's decision made on 24 November 2020 qualifies as a Key Executive Decision. Key Executive Decisions are those which are legally within the power of the Executive to make and which also:
- result in Eden District Council incurring expenditure or savings which are significant (i.e. more than £60,000); or
  - are significant in terms of their effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority.
- 3.5 The decision made by the Executive on 24 November satisfies the second criterion in qualifying as a Key Executive Decision: that it is significant in its effect on two or more wards.
- 3.6 In accordance with Rule 7.1 of the Constitution (pages 174-175), a Key Executive Decision cannot be taken if 28 clear days' notice has not been given prior to the decision being taken. It was the case that the decision had not been subject to the required notice period. There is an exception to Rule 7.1, however: Rules 6.3 (page 174) and 7.4.1 (page 176) provide for Key Executive Decisions to be taken with fewer than 28 clear days' notice if the decision is a matter of special urgency.
- 3.7 The report was considered to be a matter of special urgency (Draft Minute E/64/11/20 refers) by virtue of the fact that a submission on the Council's preferred option had to be made to central government by 9 December 2020. The imminence of this deadline meant that there was insufficient time to re-advertise the decision for 28 clear days as a Key Executive Decision, and that there was no alternative other than to consider it at the Executive meeting on 24 November and then at Council on 2 December.
- 3.8 Given that the requirement for special urgency had been established, the Chairman of the Overview and Scrutiny Committee, Councillor D Banks was contacted prior to the Executive meeting and, being satisfied that the making of the decision was urgent and could not reasonably be deferred, gave his consent for the decision to be made at the Executive meeting on 24 November 2020.
- 3.9 Because the insufficient notice period was identified prior to the Executive meeting, and the Chairman of the Overview and Scrutiny Committee was then duly consulted and gave his consent for the decision to be made, it is to be noted that the process followed under special urgency rules and the subsequent decision made by the Executive on 24 November 2020 were compliant with the law and with the Council's constitution.

## **4 Policy Framework**

4.1 The Council has four corporate priorities which are:

- Sustainable;
- Healthy, safe and secure;
- Connected; and
- Creative

This report meets the sustainable corporate priority.

## **5 Consultation**

5.1 Councillor D Banks, the Chairman of the Overview and Scrutiny Committee was consulted on 24 November 2020 about the insufficient notice of the Executive Key Decision on the Forward Plan, and the need for special urgency in relation to the Executive report. He gave consent for the item to be considered by the Executive at its meeting on 24 November 2020 under special urgency rules (6.3 and 7.4.1 of the Constitution).

## **6 Implications**

### **6.1 Financial and Resources**

6.1.1 Any decision to reduce or increase resources or alternatively increase income must be made within the context of the Council's stated priorities, as set out in its Council Plan 2019-2023 as agreed at Council on 7 November 2019.

6.1.2 There are no proposals in this report that would reduce or increase resources.

### **6.2 Legal**

6.2.1 The requirement for a Council to produce a Key Executive Decision Notice is set out in paragraph 9 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

6.2.2 The relevant Rules of the Constitution in this matter are 7.1 (pages 174-175), 6.3 (page 174) and 7.4.1 (page 176).

6.2.3 The Council is required to act in accordance with its Constitution at all times.

6.2.4 It is demonstrated that by following Rules 6.3 and 7.4.1 in relation to special urgency procedures, the appropriate measures were taken to ensure that the Executive acted in accordance with the Constitution and the law.

### **6.3 Human Resources**

6.3.1 There are no Human Resources implications arising from this report.

### **6.4 Statutory Considerations**

There are no Statutory Considerations arising from this report.

## 6.5 Risk Management

Risk	Consequence	Controls Required
Not adhering to the Council's constitution / reputational risk to Council.	Possibility of making decisions without following correct legal process.	The Forward Plan will be published monthly and it is also now a standing item on the Executive meeting agenda. More robust procedures in relation to the vetting of key decisions have been implemented as an administrative function.

## 7 Other Options Considered

- 7.1 There were no alternatives to the course of action taken as outlined in the report.

## 8 Reasons for the Decision/Recommendation

- 8.1 To draw the Council's attention to the matter, to provide assurance that the correct processes were followed under the circumstances and that additional measures have been taken to ensure that the Forward Plan is published monthly and due notice of Key Executive Decisions is given wherever possible.

**Background Papers:** None

**Appendices:** None

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