

To: Cabinet – 26 January 2022
 Council – 31 January 2022

Report of: Head of Paid Service (Chief Executive)

Title of Report: Decisions taken under Part 9.3(b) of the Constitution

Summary and recommendations	
Purpose of report:	Cabinet and Council are asked to note the decision taken by the Head of Paid Service using the urgency powers delegated in Part 9.3(b) of the Constitution.
Recommendation:	Cabinet is recommended to:
1.	Note the decision taken as set out in the report and recommend to Council to note the decision.

Appendices
None

Introduction and background

1. This report updates Cabinet and Council on a decision taken by the Head of Paid Service (Chief Executive) using the urgency powers delegated in Part 9.3(b) of the Council’s Constitution.
2. Where urgency powers are used the Constitution requires the Head of Paid Service to report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.

9.3 Role of Head of Paid Service

...

(b) The Head of Paid Service is authorised to take any urgent action necessary to protect the Council’s interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.

The Head of Paid Service, in so acting, will be guided by budget and the policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.

Decisions taken using urgency powers

3. The following decision has been taken using urgency powers for which Cabinet and Council would otherwise have been required to give the necessary authority to act. Cabinet is responsible for recommending budget allocations to Council and Council is responsible for agreeing the budget. Cabinet is asked to note the decision and to recommend to Council to note the decision.
4. This report does not include decisions taken using urgency or emergency powers that have previously been reported to Cabinet or Council.

ITEM 1	TO INCREASE THE BUDGET FOR THE PURCHASE OF SHARES IN THE OXWED LIMITED LIABILITY PARTNERSHIP.
To increase the budget for the purchase of shares in the OxWED Limited Liability Partnership from £360,000 (agreed by Council on 29 November 2021) to £750,000.	
Date of decision:	14 December 2021
Decision taker	Head of Paid Service (Chief Executive) Decision taken in consultation with: <ul style="list-style-type: none"> • Councillor Ed Turner, Cabinet Member for Finance and Asset Management • Nigel Kennedy the Head of Financial Services • Susan Sale, Head of Law and Governance • Jane Winfield, Head of Corporate Property
Was the decision taken under emergency or urgency rules?	Constitution 9.3(b): <i>The Head of Paid Service is authorised to take any urgent action necessary to protect the Council's interests and assets where time is of the essence and it is impracticable to secure authority to act where such authority would otherwise be required.</i> <i>The Head of Paid Service, in so acting, will be guided by budget and the policy framework, will consult the other Statutory Officers before acting and will report, in writing, as soon as practicable to the body which would otherwise have been required to give the necessary authority to act.</i>
Is this a Key Decision?	No
Reasons for decision	Cabinet on 10 November resolved to: <ol style="list-style-type: none"> 1. Agree the structure of the transaction in relation to the restructure of the Joint Venture between Oxford City Council and Nuffield College in the University of Oxford; 2. Delegate authority to the Head of Financial Services, in consultation with the Head of Law and Governance and the Cabinet Member for Finance and Asset Management, to agree the final documentation, including whether the tax charge payment is made by way of capital payment or loan, and enter into the transaction to create the Limited Liability Partnership;

	<p>...</p> <p>4. Recommend to Council, for the sale of shares in OxWED for up to £360,000 along with the purchase of shares in the Limited Liability Partnership and allocate a budget of up to £360,000;</p> <p>...</p> <p>The Head of Financial Services exercised the delegated authority to enter into the transaction to create the Limited Liability Partnership on 10 December 2021. The call in period expired on 15 December 2021 meaning the decision was effective from that date.</p> <p>The Council was advised that the member capital required to enter the LLP was anticipated to be up to £750k, an increase of up to £390k since the report to Cabinet on 10 November 2021. As the cost passed through the transaction, it did not represent an increased financial risk for the Council.</p>
Alternative options considered:	Due to the timetable for the transaction to enter into the OxWED LLP there was insufficient time to seek Cabinet and Council approval of the increase budget.
Wards significantly affected	None

Financial issues

- The financial issues arising from the decision are set out in the published decision notice and the report to Cabinet on 10 November 2021.

Legal issues

- The urgency and emergency powers of the Head of Paid Service are set out in Part 9.3 of the Constitution. The responsibilities for budget decisions are set out in Part 18.8 of the Council's Constitution.

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Background Papers: None

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