

Thurrock Council, Civic Offices  
New Road, Grays  
RM17 6SL

To: the Leader & Cabinet  
All councillors

publicly available

## **MONITORING OFFICER ADVICE**

### **CABINET MEETING AND DECISION 13 JANUARY 2026**

#### **Purpose**

1. I write this advice as the Council's monitoring officer and also as the accountable executive director for democratic services in the Council.
2. This advice responds to the question raised by Cllr Anderson at the Cabinet and Council meetings held last week (13 and 14 January respectively) in respect of the publication of the Urgency Notice on the Council's website for the Cabinet meeting.
3. I thank Cllr Anderson for raising this issue. After review, through a human error the website urgency notice was not published on 5<sup>th</sup> January as was intended and as required by regulations and the Council's constitution.
4. In light of this omission, I have reviewed the evidence and legal issues raised and set out my advice below on the impact of the omission on the Cabinet's decision making at the meeting and if any further action is required.
5. As monitoring officer, I have a duty to report to full Council under s.5 of the Local Government & Housing Act 1989 where in my opinion, amongst other things, an omission by the Council has given rise to or is likely to or would give rise the contravention of a legal rule.
6. It is my view in this matter this duty does not arise but for transparency I have set out my advice with the intention that it is shared with all councillors and is available to the public.

#### **Summary of Advice**

7. Having reviewed the evidence available to me and for the reasons set out below, it is my opinion that, whilst there has been a breach of the regulations and the constitution, the omission is not likely to affect the legality of the Cabinet's decision.
8. Consequently, no further action is required except that this advice should be shared with all councillors and publicised in the interests of transparency and a copy sent to the Secretary of State so he can consider whether it is relevant

to his decision making under s.87 of the Local Government Act 2000 as to whether the date of the Council elections should be changed.

9. A review of the internal governance processes for the publication of urgency has commenced and any necessary remedial actions will be put in place.
10. Of course, others may take a different view and / or may raise other matters they consider relevant and the Council will respond to those issues as they are raised.

### **The statutory framework**

11. This is a summary only of the relevant provisions as (a) a single omission has been identified and (b) to enhance the “readability” of the advice.
12. All Cabinet decisions are subject to a statutory framework that requires the Council to take various steps to ensure there is press and public access to prescribed information and meetings. These are collectively called the access to information rules.
13. The relevant regulations are the *Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012*. References below are to the Regulations. The requirements in the regulations are reflected in the Council’s Constitution, Part 3.2 Access to Information Rules.
14. Where a decision is identified as a “key decision” (reg 8), then at least 28 days public notice of specific information about the decision must be given, including the date when the decision is to be made (reg. 9). This is normally done by the publication of the Council’s Forward Plan of key decisions. Further, there then must be five clear days (i.e. not weekends or public holidays) between the publication of the meeting agenda and report pack and the date of the meeting when the decision is made.
15. As in this matter, if a council needs to make a decision but does not have time to give 28 days notice, Regulation 10 provides for an exception if certain conditions are met in addition to other requirements except publication on the forward plan. These conditions are in summary:
  - 15.1 Informing the chair of the relevant overview and scrutiny committee
  - 15.2 Publishing a notice at the council offices
  - 15.3 Publishing the same notice on the council’s website
16. The Council sought to use this exception and it is evident from the appendix that all statutory requirements except for 15.3 were followed.

### **The legal impact of the omission**

17. The risk of any breach of the statutory requirements is whether it makes the affected council decision unlawful. Having reviewed the facts, it is my view that this is unlikely because:

17.1 There has been substantive compliance with the access to information rules, except for the publication of the website notice. Therefore, the Council took significant steps to achieve the purpose of the legislation, which is to make the councillors, public, press and other relevant stakeholders aware of key decisions that are not published on the forward plan and with a view to their understanding, involvement and participation in the decision making process.

17.2 As part of 1 above, the requirement to publish the agenda and report for consideration at the meeting was published on the Council's website on 5<sup>th</sup> January, five clear days before the meeting on 13<sup>th</sup> January. A table of the actions taken is attached at **Appendix A**.

17.3 The statutory publication was supplemented by additional publicity and information about the meeting to members and also publicly including:

i) A council press statement to local media was issued on 5<sup>th</sup> January and also sent to all councillors. The statement including the following wording:

*On Tuesday 13 January, Thurrock's Cabinet will meet to consider a report*, written by officers, which sets out the implications of the planned elections on Thurrock's ability to deliver its best value requirements under intervention alongside local government reorganisation and devolution. The considerations set out in the report include the impact on the democratic process; the political capacity to deliver best value and local government reorganisation; the impact on partnership working across Greater Essex to deliver LGR; and the value for money of holding elections for a time-limited council.

*It recommends that Cabinet agrees that the issues and implications set out in the report are shared with the Government, to help inform their decision about whether local elections should take place in Thurrock in 2026.*

ii) The statement was put on the News section of the Council's website on 5<sup>th</sup> January.

iii) In respect of councillors, there was further communication about the meeting including about their rights to submit and ask questions and that the Leader would allow all members to speak if they wished to. Details are included in the Appendix.

iv) A residents' newsletter on 9<sup>th</sup> January to approximately 80,000 resident email addresses with a link to the public statement at a. above.

v) The staff newsletter included the same information. A significant percentage of the Council's staff live in the borough.

- 17.4 There is limited evidence that the omission caused any prejudice to councillor or public participation at the meeting. The Leader and all Cabinet members attended the meeting. Three councillors submitted questions in advance, a considerable proportion of non-executive councillors attended the meeting of which nine non-executive councillors (out of 41 in total) spoke, and 15/20 members of the public were in the public gallery. This included all three opposition group leaders, albeit one leader said that he was not speaking on behalf of his group. There was press attendance and coverage.
- 17.5 The meeting, which only considered this single item of business, lasted approximately one hour 38 minutes, primarily taken up by councillor submissions, questions, answers and the Cabinet's consideration of the matters raised in the meeting before making their decision.
- 17.6 The Cabinet decision was informed by the representations made by councillors and reflected in the letter submitted to the Secretary of State.

### **Conclusion**

18. The error is deeply regrettable and, as the accountable director, I take full and sole responsibility for this. However, having taken advice and reviewed the evidence in my role as monitoring officer, I consider the legality of Cabinet's decision is unaffected by the omission in itself and if the decision were challenged by legal proceedings, I believe that it is unlikely that a court would quash it because of this omission.
19. Therefore, no further action is needed. A copy of this advice will be shared with all councillors, the Secretary of State and made publicly available.
20. Appropriate actions to ensure similar omissions do not happen again have been considered and are being put in place. I am also grateful to my team and across other teams in the Council for their work in the preparation for holding the meeting and ensuring the levels of councillor and public attendance and participation that was evident on Tuesday.

**Dan Fenwick**

**Executive Director, Corporate Services & Monitoring Officer**

**Thurrock Council**

**19 January 2026**

## Appendix A

### **Communications on Extraordinary Cabinet: Timeline of Democratic Services**

The decision to schedule the Cabinet meeting for 13 January was made on the morning of 5 January. Self-evidently below the omission was the publication of the notice on the website.

5 January	Cllr B Maney emailed as Chair of Corporate O & S, in line with General Exception Rules
5 January	Public notice of meeting attached to noticeboard at civic offices.
5 January	Agenda for meeting published on ModGov software (c.8.30pm). Anyone registered for notifications (public or Member) receives a direct message when published
5 January	Electronic Invite sent to all Members inviting them to the meeting and right to speak. Link to the agenda included.
7 January	Addendum to the report is published on ModGov (correcting factual errors on dates of past elections)
8 January	All Members emailed to remind them deadline for submitting questions under the Cabinet Procedure Rules is 12pm on 9 January
9 January	Email to all councillors that the Leader's invitation to speak outside the formal question rules was in addition to the right under the Cabinet Procedure Rules.
9 January	12pm – deadline for members questions (four questions received from three members)
13 January	meeting held