

EMERGENCY POWERS – COVID19

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Portfolio: Leader and External Affairs

Ward(s) Affected: All

Purpose of the Report:

Owing to the current situation with COVID19 the Managing Director, in line with the terms of reference for the Emergency Committee, has decided to convene this Committee.

This report sets out the first item of business for the meeting which is to address the Terms of Reference as outlined in the report and will ensure that Council business and decision making can continue in these unprecedented times.

The meeting will also consider the suspension of the six-month rule in relation to Members attending meetings.

Recommendations:

1. To agree the revised Terms of Reference for the Emergency Committee.
2. To agree to suspend the six-month rule in relation to Members attending meetings of the Council and the Committees on which they serve, pursuant to Section 85 (1) of the Local Government Act 1972. This will be reviewed by the Monitoring Officer on a monthly basis.

1 SUMMARY

- 1.1 Owing to the current situation with COVID19 the Managing Director, in line with the terms of reference for the Emergency Committee, has decided to convene this Committee. This report sets out the first item of business for the meeting which is to address the Terms of Reference as outlined in the report and will ensure that Council business and decision making can continue in these unprecedented times. The meeting will also consider the suspension of the six-month rule in relation to Members attending meetings.

2 EMERGENCY COMMITTEE

- 2.1 In light of the announcement by the Prime Minister on the 23rd March 2020 the Managing Director has decided to convene the Emergency Committee.
- 2.2 The first action of the Committee is to review and update the Terms of Reference in relation to the following points:
- Ensure that the standing down of the Committee is decided by the Managing Director once normal business can resume;
 - To make clear that the Committee take on the powers of the decision-making Committee's in full or in part, for clarity this is: Full Council, Cabinet, Development Management and Licensing; and
 - To ensure that the officer delegations are passed back to officers as per the Constitution to enable day-to-day business to continue in these unprecedented times.
- 2.3 For clarity the following delegations are made clear:
- Should the Leader be unable to conduct his role, this will be delegated to the Deputy Leader.
 - Should the Deputy Leader be unable to conduct her role, this will be delegated to a Portfolio Holder.

All such delegations shall be confirmed in writing to the Managing Director and the Monitoring Officer.

- 2.4 For clarity the following officer delegations are made clear:
- Should the Managing Director be unable to conduct his role, this will be delegated to a nominated Director.
 - Should the Director be unable to conduct their role, this will be delegated to a nominated Assistant Director.
 - Any Assistant Director delegations can also be delegated to a Director.

All such delegations shall be confirmed in writing to the officer who has received the delegation.

- 2.5 The Monitoring Officer also has an important role to undertake at this time, to ensure that the decisions to convene and / or stand down the Committee are taken at the right time and to also ensure that the Members of the Committee undertake their role following the Member Code of Conduct. The Monitoring Officer will be

involved in all meetings of the Committee and liaise with the Managing Director when decisions are made.

- 2.6 Should a statutory officer be unable to conduct their role there are already Deputy Monitoring Officers and Deputy Section 151 Officers nominated to undertake these statutory roles in their absence. For the avoidance of doubt these will be formally recorded in writing to the officer that has received the delegation.
- 2.7 It is important to note that the scrutiny role in the local authority is an important one, with the focus of this Committee being undertaken at the right time. The time for scrutiny in such unprecedented times will be to review the process after the COVID19 impact has reduced and enable a lessons learnt to be undertaken. The Managing Director and the Monitoring Officer will also ensure that the Committee operates within its remit and that decisions made are appropriate.
- 2.8 The Emergency Committee will take on the decisions of the Committees that are suspended and follow the calendar of meetings in this regard. The reports coming to this Committee will be assessed by the Monitoring Officer to ensure that the reports and decisions are undertaken at the appropriate time and to ensure that decision making and the operation of the Council continues.
- 2.9 The Emergency Committee will meet formally as-and-when needed but will meet informally at least on a weekly basis if possible.
- 2.10 Meetings will be convened remotely with the public able to listen.

3 COUNCILLOR ABSENCE

- 3.1 Section 85(1) of the Local Government Act 1972 states: "...if a member of a local authority fails throughout a period of six consecutive months from the date of his last attendance to attend any meeting of the authority he shall, unless the failure was due to some reason approved by the authority before the expiry of that period, cease to be a member of the authority."
- 3.2 These unprecedented times mean that Councillors may not be able to be physically attend meetings, or participate "remotely" for more than six months, either because they have already been absent due to illness or another reason, or because they will be unwell going forward, must self-isolate or undertake social distancing. For the local authority to be able to continue to function it is therefore proposed that the six-month rule is suspended and that this will be reviewed by the Monitoring Officer on a monthly basis and lifted at the correct time.

4 PROPOSED ACTION

- 4.1 Based on the current position above, the Emergency Committee needs to be convened to enable decision making to continue in these unprecedented times.

5 OTHER OPTIONS

- 5.1 Not applicable to this report.

6 ISSUES AND RISKS

- 6.1 **Resource Implications** – not applicable to this report at this time.
- 6.2 **Legal Implications** – the Committee can be convened in line with the Council's Constitution to enable business to continue in these unprecedented times. As the revised Coronavirus Bill is enacted the legal implications will be assessed and necessary steps taken.
- 6.3 **Equality Implications** – not applicable to this report at this time.
- 6.4 **Environmental Impact** – not applicable to this report at this time.
- 6.5 **Crime and Disorder** – not applicable to this report at this time.
- 6.6 **Risks** – risks and issues are being monitored and managed on a daily basis and this will continue as the current situation evolves.

7 CONCLUSION

- 7.1 The Emergency Committee is needed to be convened, with the revised Terms of Reference to enable the Council to continue to operate in these unprecedented times.

8 RECOMMENDATIONS

- 7.1 To agree the revised Terms of Reference for the Emergency Committee.
- 7.2 To agree to suspend the six-month rule in relation to Members attending meetings of the Council and the Committees on which they serve, pursuant to Section 85 (1) of the Local Government Act 1972. This will be reviewed by the Monitoring Officer on a monthly basis.

16 EMERGENCY COMMITTEE

16.1 Terms of Reference

- 16.1.1 The Committee will be convened, as required, as part of the District Council's major emergency and Emergency Planning process, ~~during the recovery phase of an emergency.~~
- 16.1.2 The decision to convene the Committee will be made by the Managing Director. **Equally the decision to stand down the Committee will be made by the Managing Director.**
- 16.1.3 ~~The Committee will assume all the powers of the District Council.~~ **Once the Committee is convened it will draw to itself the power of the designated Committees and these Committees will be suspended. The Committee can take on the role of the delegations afforded to; Full Council, Cabinet and any other Committee as appropriate. These powers can be in full or in part and as determined by the Managing Director.**
- 16.1.4 The Committee will meet as required and consider the immediate strategic issues for the District Council arising from the particular incident, having received reports from the Managing Director and/or the Chairman of the District Council Tactical Response Team.
- 16.1.5 The Committee may authorise action affecting any of the District Council's functions, if the urgency of the situation demands this, subject to such action being reported, together with the Committee's reasons for acting, to the next meeting of the Council. The Committee must ensure that steps are being taken to provide, to members of the public and the press, regular information bulletins on the incident and the action being taken.
- 16.1.6 Members of the Committee are to be suitably briefed and prepared to make appropriate statements to the media.
- 16.1.7 The Committee should consider the longer-term implications arising from the incident and the impact these may have on the District Council.

16.2 Membership

- 16.2.1 The Committee shall consist of ~~five~~ **six** named Members of the District Council, to include:
- Chairman of the Cabinet
 - Vice-Chairman of the Cabinet
 - Leader of the main Opposition Group, **or their appointed representative**
 - **Another appropriate Member of Cabinet** ~~The Portfolio Holder whose portfolio includes Emergency Planning~~
 - **Two** ~~One~~ other named Members to achieve a political balance
- 16.2.2 If there is a change of political balance on the Council, this composition will be recalculated by the Proper Officer and amended accordingly.
- 16.2.3 Succession arrangements are key and for clarity it is confirmed that formal delegations between Councillors will ensure continuity of the Committee.**

16.3 Quorum

16.3.1 The minimum number of members to transact any business shall be 3.

16.4 Procedures, protocols and public speaking

16.4.1 Except as provided below, the Chairman shall be responsible for maintaining order and the effective conduct of business at meetings.

16.4.2 Meetings may be conducted in person or remotely

16.4.3 Any member of the Council can attend and may speak on any issue once, **in line with the legislation in force at the time.** [For the purposes of this clause, members unable to be present in person may submit questions or comments to the Chairman]

16.4.4 Members of the press and public may attend. General arrangements for public speaking as set out in G1 of the “Rights of the Public at Meetings” apply, **in line with the legislation in force at the time.**

16.5 Voting

16.5.1 Voting at meetings is by show of hands.

16.5.2 Voting members may request that their votes are recorded.

16.5.3 In the event of an equality of votes, the Chairman shall have a second or casting vote.

16.6 Training

16.6.1 **All training requirements for the Committee will be ensured to enable them to undertake the delegations afforded to them when undertaking the role of another Committee.**