

Report of Head of Democratic Services

Report to City Solicitor

Date: 30th March 2020

Subject: Recording of Decisions During Coronavirus Pandemic

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- This report recommends simplified arrangements for publication and recording of urgent key decisions taken by officers during the Coronavirus pandemic.

2. Best Council Plan Implications (see the [latest version of the Best Council Plan](#)) **and Resource Implications**

- The recommendations set out in this report will ensure best use of officer resources available during the pandemic to meet urgent service delivery needs, whilst ensuring that decision making remains transparent and open to democratic oversight and scrutiny.

Recommendations

- a) City Solicitor is asked to note the contents of this report and approve the form attached at Appendix A for recording of urgent key officer decisions during the Coronavirus pandemic.

1. Purpose of this report

- 1.1 This report recommends simplified arrangements for publication and recording of urgent officer decision making during the Coronavirus pandemic.

2. Background information

- 2.1 The Executive and Decision Making Procedure Rules set out the procedure to follow to ensure that executive decisions are taken in accordance with statutory requirements in relation to publicity and recording of decisions. In particular:

- Rules 2.4 – 2.6 require that key decisions are published to the List of Forthcoming key Decisions not less than 28 clear calendar days before a decision is taken unless:-
 - a. It is impracticable to do so by virtue of the date by which the decision must be taken in which case the General Exception permits the decision to be taken on advising the relevant scrutiny chair and giving five clear working days' notice of the decision; or
 - b. If the date by which the decision must be taken is such that the General Exception cannot be used, Special Urgency permits the decision to be taken with the approval of the relevant scrutiny chair that the matter is urgent and cannot reasonably be deferred.
- Rule 4.3 requires the recording of key and significant operational decisions taken by officers.

- 2.2 The Executive and Decision Making Procedure Rules require officers who take decisions to prepare and publish a written record, together with a report in relation to a decision taken by an officer. The intention in this is to ensure that together the two documents (record and report) include the prescribed information. The rules require the record to include:

- record of the decision including the date it was made,
- a statement of the reasons for it,
- details of any alternative options considered and rejected by the officer at the time of making the decision, and
- a record of any interest declared by any Executive Member consulted by the officer who made the decision together with a note of any dispensation granted in respect of that interest.

- 2.3 In addition Executive and Decision Making Procedure Rule 3.1 sets out the local (non-statutory) requirement that reports relating to key delegated decisions to be taken by Directors are published not less than five working days in advance of a decision being taken.

3. Main issues

- 3.1 Taking into account the legislative requirements and the provisions of the Constitution the Head of Democratic Services has prepared the attached template for recording urgent key decisions taken by officers. The notice provides a simplified format for reporting key considerations in decision making and capturing arrangements for transparency and political oversight in one clear document.

- 3.2 The City Solicitor is asked to approve use of the proposed form to record all urgent key taken by officers in accordance with authority set out in the officer delegation scheme, and the sub-delegation arrangements that flow from it.
- 3.3 The City Solicitor will note that the form provides for the approval of the relevant Scrutiny Chair to the use of special urgency, and for the consideration of exemption from call in.
- 3.4 Where special urgency does not apply the decision maker must ensure that arrangements in respect of prior publicity for key decisions via the List of Forthcoming Key Decisions, or through publication of a report under the General Exception must continue to be met.
- 3.5 Similarly key decisions taken by officers will continue to be eligible for Call In unless exempted by the decision maker on the grounds of urgency.

4. Corporate considerations

4.1 Consultation and engagement

- 4.1.1 The Executive Member for Resources, Chair of the Corporate Governance and Audit Committee and the Chair of the Scrutiny Board Resources and Strategy have all been consulted on this approach are supportive of the proposals.

4.2 Equality and diversity / cohesion and integration

- 4.2.1 There are no implications for this report.

4.3 Council policies and the Best Council Plan

- 4.3.1 The recommendations set out in this report seek to balance the requirements of transparent decision making and democratic oversight with the need to ensure that arrangements do not create an undue administrative burden when council resources are under significant pressure due to the Coronavirus pandemic.

4.4 Resources, procurement and value for money

- 4.4.1 Decisions taken by officers will continue to fulfil usual requirements in relation to Contracts Procedure Rules and financial regulations.

4.5 Legal implications, access to information, and call-in

- 4.5.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012/2089 make provision in respect of executive decision making. In particular
- Regulations 9-11 set out requirements in relation to publicity in connection with key decisions
 - Regulation 13(4) sets out requirements for recording executive decisions taken by officers. The regulation requires that a written statement is prepared as soon as practicable after a decision is taken setting out
 - (a) a record of the decision including the date it was made;

- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected by the officer when making the decision;
- (d) a record of any conflict of interest declared by any executive member who is consulted by the officer which relates to the decision; and
- (e) in respect of any declared conflict of interest, a note of dispensation granted by the relevant local authority's head of paid service.

4.5.2 The provisions set out in the Executive and Decision Making Procedure Rules, and the short form recording recommended by this report are compliant with these requirements.

4.6 Risk management

4.6.1 There are no implications for this report.

5. Recommendations

5.1 City Solicitor is asked to note the contents of this report and approve the form attached at Appendix A for recording of urgent key officer decisions during the Coronavirus pandemic.

6. Background documents¹

6.1 None.

¹ The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.