



# Public Document Pack

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Committee Manager Jane Fulton (Ext 37611)

27 April 2020

## CABINET

A meeting of the Cabinet will be held in **Virtual Meeting - link to be provided at least 24 hours prior to the meeting** on **Wednesday 29 April 2020 at 5.00 pm** and you are requested to attend.

Members: Councillors Dr Walsh (Chairman), Oppler (Vice-Chair), Mrs Gregory, Lury, Purchase, Stanley and Mrs Yeates

## AGENDA

7. OFFICER DECISIONS TAKEN DURING THE (Pages 1 - 10)  
CORONAVIRUS PANDEMIC

Please see the attached supplementary papers:

- Revised Appendix A – Log of Officer Records of Decision [the figure for the distribution of Business Support Grants to read correctly as £39 m not £29 m
- The outstanding Officer Decision – Financial Support to Freedom Leisure
- A revised Officer Decision – Contract with Butlins
- A Waiving of Standing Order form in connection with the contract with Butlins

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**Cabinet – 29 April 2020**  
**Log of Officer Records of Decisions**  
**Covid 19 Response 2020**

<b>Nigel Lynn, Chief Executive</b>				
Date of Decision	Decision	S138 decision Yes/No	SMT lead	Record of Decision attached
31.03.20	Treasury Management Investment decisions as a result of Covid 19 and the level of MHCLG grants to be received	No	Alan Peach	Yes
01.04.20	Payment of Suppliers on receipt on invoice	No	Alan Peach	Yes
TBC	Financial support to Freedom Leisure	Yes	Robin Wickham	To follow

<b>Philippa Dart, Director of Services</b>				
Date of Decision	Decision	S138 decision Yes/No	SMT lead	Record of Decision attached
20.03.20	Installation of portable showers at the Flaxmean sheltered housing scheme	Yes	Satnam Kaur	Yes
27.03.20	Contract with Butlins Bognor Regis for providing accommodation to rough sleepers	Yes	Satnam Kaur	Yes
01.04.20	Suspension of car parking charges for ADC car parks	Yes	Joe Russell-Wells	Yes
07.04.20	Distribution of the £945K Covid 19 Hardship Fund 2020-21 s31 grant to claimants of the Local Council Tax Support Scheme (LCTS)	Yes	Satnam Kaur	Yes
07.04.20	Waiver of part of Risk Based Verification Policy in relation to the processing of High Risk Housing Benefit and Council Tax Benefit Claims	No	Satnam Kaur	Yes
07.04.20	Distribution of the £39 million Business Support Grant as a result of Covid 19	Yes	Satnam Kaur	Yes

<b>Karl Roberts, Director of Place</b>				
Date of Decision	Decision	S138 decision Yes/No	SMT lead	Record of Decision attached
17.03.20	Construction of temporary reception partitions at Arun Civic Centre and Bognor Regis Town Hall	Yes	Nat Slade	Yes
24.03.20	Deferral of income from Pest Control Service	Yes	Nat Slade	Yes

**Cabinet – 29 April 2020  
Log of Officer Records of Decisions  
Covid 19 Response 2020**

30.03.20 & 09.04.20	Deferral of rent from qualifying business tenants	Yes	Karl Roberts	Yes
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**ARUN DISTRICT COUNCIL**  
**DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION**

*To be completed for decisions taken in accordance with Part 4, Officer Scheme of Delegation, Section 1, paragraph 5.2.*

<b>DATE DECISION TAKEN</b>	16 April 2020
<b>SUBJECT</b>	Financial Support to Freedom Leisure
<b>DECISION TAKEN</b>	<p>To allow Freedom Leisure:</p> <ol style="list-style-type: none"> <li>1. to defer payment of the management fees of £64,000 per month for three months applicable under the terms of their contract during the Covid 19 pandemic and agree an alternative payment plan to repay these fees;</li> <li>2. to be reimbursed £45,436 subject to open book accounting (as per Policy Procurement advice 02/20 issued by the Cabinet Office); and</li> <li>3. to be paid an interest free loan of £180,800 to cover 80% of the furloughed employee costs whilst the Job Retention Scheme is in operation; to be repaid when Freedom Leisure in is receipt of payments from Government</li> </ol>
<b>REASON FOR THE DECISION</b>	<p>Freedom Leisure have responded to the Government direction to close their leisure centres within the Arun District with a consequential significant impact on their income and the future viability of their contract with the Council. Their request to defer payment of their management fees in their current circumstances is considered reasonable.</p> <p>I have exercised my delegated authority in taking this decision as confirmed at Part 4, Section 2 of the Officer Scheme of Delegation in the Council's Constitution at:</p> <ol style="list-style-type: none"> <li>1. paragraph 2.22 to authorise settlement of any potential dispute to safeguard the Council's interests; and</li> <li>2. paragraph 2.11 which confirms that I can incur this expenditure for meeting the purposes of the Local Government Act 1972, S.138 when it is in connection with peacetime emergencies and disasters.</li> </ol> <p>In relation to (1), in my opinion, to delay settlement to obtain instructions from the Cabinet would prejudice the Council's position and could lead to a legal dispute between the Council and its contractor, Freedom Leisure</p> <p>In relation to (2), Section 138(1) of the Local Government Act 1972 confirms that: "Where an emergency or disaster</p>

***This record to be maintained for six years or such period as statute requires with the relevant subject file***

**ARUN DISTRICT COUNCIL**  
**DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION**

	<p>involving destruction or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and a principle council are of the opinion that it is likely to affect the whole or part of their area or all or some of its inhabitants, the council may .... (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their area or elsewhere in or outside the UK) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; ....”</p> <p>My decision has been based on advice released by the Cabinet Office in “Procurement Policy Note – Supplier Relief due to Covid-19” (March 2020) and the importance of working with the Council’s partner, Freedom Leisure to ensure the leisure contract can continue post the pandemic to meet the medium/long term welfare and social needs of the community.</p> <p>The payment plan will be subject to ongoing review should the Government’s direction to maintain social distancing during the pandemic continue for the longer term.</p> <p>My decision has been taken in consultation with the S151 Officer.</p> <p>In line with my delegated authority, I was able to brief the Leader of the Council and other Group Leaders ahead of taking my decision, which they supported. The action set out in this Record of Decision will be reported to the Cabinet on 29 April 2020 and to the Council when it is able to next meet.</p>
<p><b>ALTERNATIVE OPTIONS CONSIDERED OR REJECTED</b></p>	<p>To not allow deferral of payment of the management fees which would lead to a potential legal dispute and significant impact on the future management of the leisure contract.</p>
<p><b>ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER OF THE COUNCIL</b>  <i>Only needed if the decision is under an express authorisation</i></p>	<p>None</p>
<p><b>NAME OF THE DECISION TAKER</b></p>	<p><b>Nigel Lynn, Chief Executive</b></p>
<p><b>SIGNATURE</b></p>	

**ARUN DISTRICT COUNCIL  
DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION**

<b>I support this decision</b>	<b>Group Head of Corporate Support and S151 Officer</b>
<b>SIGNATURE</b>	

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**ARUN DISTRICT COUNCIL**  
**DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION**

*To be completed for decisions taken in accordance with Part 4, Officer Scheme of Delegation, Section 1, paragraph 5.2.*

<b>DATE DECISION TAKEN</b>	27 March 2020 and 24 April 2020
<b>SUBJECT</b>	Contract with Bourne Leisure for providing accommodation to rough sleepers at Butlins, Bognor Regis S138 CMT Record of Decision
<b>DECISION TAKEN</b>	<p>To incur expenditure in line with my delegated authority to enter into this contract to secure emergency accommodation to protect the lives of rough sleepers and those who find themselves homeless in the Arun District during the current Covid 19 pandemic. This decision has been taken in response to a directive of the Government during the current nationwide lockdown.</p> <p>The contract will run from 27 March to 31 July at a cost of £315,000.</p>
<b>REASON FOR THE DECISION</b>	<p>The Council is awarding this contract on the basis of extreme urgency brought about by the Covid-19 outbreak in accordance with Regulation 32(2)(c) of the Public Contract Regulations 2015. The Council is satisfied that the requirements of this provision are met as follows:</p> <ol style="list-style-type: none"> <li>1. Genuine reason for extreme urgency – The rapid spread and significant impact of COVID-19 is unprecedented on a global scale and the impact on Arun residents is immediate. Furthermore, the Council was directed with extreme short notice by Central Government to ensure all homeless individuals were provided with accommodation to assist in preventing the spread of Covid-19.</li> <li>2. Events leading up to the need for extreme urgency are unforeseeable - The unprecedented nature of this crisis is such that it is impossible to foresee what will happen even on a day to day basis. Furthermore, it is not possible to make realistic predictions based on the experiences of other European countries as these are also evolving and changing on a daily basis.</li> <li>3. It is impossible to comply with the usual timescales and procurement routes – the Council was provided with only days’ notice by Central Government of the requirement to secure accommodation for homeless individuals. The Council would not have been able to meet this requirement had a full tender process been undertaken.</li> <li>4. The situation is not attributable to the Council - COVID-19 emerged and spread from China. The Council has not done anything which may be said to have contributed to its spread.</li> </ol>

**ARUN DISTRICT COUNCIL**  
**DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION**

	<p>I have exercised my delegated authority at Part 4, Section 2, paragraph 3.9 of the Officer Scheme of Delegation which confirms that I can incur this expenditure for meeting the purposes of the Local Government Act 1972, S.138 when it is in connection with peacetime emergencies and disasters.</p> <p>A waiver to Part 6, Section 6, paragraphs 4.2 and 5.2 of the Purchasing, Procurement, Contracts &amp; Disposals Procedure Rules has also been approved on the basis that this is a matter of extreme urgency given the very short notice given by Central Government. I am satisfied that these circumstances fulfil the criteria for extreme urgency set out in regulation 32(2)(c) of the Public Contracts Regulations 2015. Therefore, I have been unable to follow the normal procurement processes and I have entered into a contract above my authorisation level of £50,000.</p> <p>As my authority confirms, this action will be reported to the first subsequent meeting of Cabinet.</p>
<p><b>ALTERNATIVE OPTIONS CONSIDERED OR REJECTED</b></p>	<p>To not follow the Government directive and endanger the lives of this vulnerable group.</p> <p>To procure the accommodation through a formal contract process. This was not feasible in view of the emergency situation and the timescale set by the Government directive.</p>
<p><b>ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER OF THE COUNCIL</b> <i>Only needed if the decision is under an express authorisation</i></p>	<p>None</p>
<p><b>NAME OF THE DECISION TAKER</b></p>	<p>Philippa Dart, Director of Services</p>
<p><b>SIGNATURE</b></p>	

**ARUN DISTRICT COUNCIL**  
**AUTHORISATION TO WAIVE STANDING ORDERS RELATING TO CONTRACTS**  
**TOTAL CONTRACT VALUE EXCEEDS £50,000**

**To be completed in advance for all Contracts or other purchases, where total value exceeds (or is likely to exceed) £50,000 and Standing Orders relating to Contracts are not fully applied.**

In accordance with the Constitution Part 6 Section 6 Paragraphs 5.3 and 6.2 unless this waiver is for consent to waive the pre-procurement decision process and/or to waive the requirement for an ICM after the evaluation of tenders, the ICM reports and decisions required by paragraph 5.3 must accompany the waiver. A copy of the Council Resolution allocating the budget provision for this contract or the Council Resolution agreeing a supplementary estimate for the contract to be procured, must accompany this waiver.

Goods/services required:	<b>Contract for providing accommodation to rough sleepers</b>
Proposed supplier:	Bourne Leisure Group - Butlins Bognor Regis
Value of proposal:	Up to £315,000
<p>Justification for need to waive Standing Orders Relating to Contracts:</p> <p>The reasons for the waiver must explain why it is not possible or appropriate to follow standing orders. e.g. a delay until the next signing date for the Cabinet Member or meeting of the Cabinet and waiting for the call-in period to expire, would not be in the interests of the Council because xxx.</p>	<p>The Council is awarding this contract on the basis of extreme urgency brought about by the Covid-19 outbreak in accordance with Regulation 32(2)(c) of the Public Contract Regulations 2015. The Council is satisfied that the requirements of this provision are met as follows:</p> <ol style="list-style-type: none"> <li>1. Genuine reason for extreme urgency – The rapid spread and significant impact of COVID-19 is unprecedented on a global scale and the impact on Arun residents is immediate. Furthermore, the Council was directed with extreme short notice by Central Government to ensure all homeless individuals were provided with accommodation to assist in preventing the spread of Covid-19.</li> <li>2. Events leading up to the need for extreme urgency are unforeseeable - The unprecedented nature of this crisis is such that it is impossible to foresee what will happen even on a day to day basis. Furthermore, it is not possible to make realistic predictions based on the experiences of other European countries as these are also evolving and changing on a daily basis.</li> <li>3. It is impossible to comply with the usual timescales and procurement routes – the Council was provided with only days’ notice by Central Government of the requirement to secure accommodation for homeless individuals. The Council would not have been able to meet this requirement had a full tender process been undertaken.</li> <li>4. The situation is not attributable to the Council - COVID-19 emerged and spread from China. The Council has not done anything which may be said to have contributed to its spread.</li> </ol>

**ARUN DISTRICT COUNCIL**  
**AUTHORISATION TO WAIVE STANDING ORDERS RELATING TO CONTRACTS**  
**TOTAL CONTRACT VALUE EXCEEDS £50,000**

	The contract will run from 27 March to 31 July 2020.
Justification that a delay until the next meeting of the Cabinet would not be in the interests of the Council:	Permission is further sought on the same basis to waive the normal decision making process set out at Contract Standing Orders paragraph 5.2 in relation to this contract and permit additional 3 week periods to be agreed with the supplier by way of officer's decisions. This is necessary to ensure the Council is able to continue to be flexible and agile in its response to the Covid-19 outbreak and the needs of homeless individuals.
Originating Director / Head of Service	  24 April 2020
Comments of Procurement Manager	I am in agreement that the urgent nature of this requirement warrants a waiver of standing orders.    Signed: 24 April 2020
Comments of Head of Finance & Property/ Financial Services Manager / Chief Internal Auditor	  Signed: 24 April 2020
Cabinet Member's Certificate of Consultation  (where urgent decision is required)	In accordance with the provisions of Standing Order Relating to Contracts, I have been consulted on the proposed action and agree that a delay until the next Cabinet meeting would not be in the interests of the Council.  <b>Agreed by Email</b> Signed: Cllr Pauline Gregory Date: 24 April 2020  Decision ref: N/A
To be referred to Cabinet	At next subsequent meeting