



Public Document Pack

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22 June 2020

CABINET

A virtual meeting of the Cabinet will be held on **Monday 22 June 2020 at 5.00 pm** and you are requested to attend.

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

AGENDA

4. URGENT BUSINESS – FURTHER OFFICER DECISION TAKEN DURING THE CORONAVIRUS EMERGENCY (Pages 1 - 6)

In accordance with the provisions of the Officer Scheme of Delegation in the Council's Constitution, this report provides a further update to Cabinet on decisions taken by Officers to take urgent action in response to the Coronavirus emergency.

This item relates to a change in the Council's Virtual Meeting Procedure Rules.

Note : Members are reminded that if they have any detailed questions would they please inform the Chairman and/or relevant Director in advance of the meeting.

Note : Filming, Photography and Recording at Council Meetings - The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. This meeting may therefore be recorded, filmed or broadcast by video or audio, by third parties. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and as available via the following link – Filming Policy [The Filming Policy](#)

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ARUN DISTRICT COUNCIL

REPORT TO CABINET ON 22 JUNE 2020

SUBJECT: Further Officer Decisions taken during Coronavirus Emergency

REPORT AUTHOR: Nigel Lynn, Chief Executive
DATE: 22 June 2020
EXTN: 01903 737600
PORTFOLIO AREA: Leader of the Council, Residential Services, Neighbourhood Services

EXECUTIVE SUMMARY:

In accordance with the provisions of the Officer Scheme of Delegation in the Council's Constitution, this report provides a further update to the Cabinet on decisions taken by officers to take urgent action in response to the Coronavirus emergency.

RECOMMENDATION:

The Cabinet is asked to note and support the actions taken by Officers.

1.0 BACKGROUND

- 1.1 As was reported to the Cabinet at previous meetings on 29 April and 1 June 2020, responding to the Coronavirus pandemic is the first peacetime national emergency that the Council has had to face since its inception. The majority of urgent decisions taken by officers have already been reported to the Cabinet, however, a further decision has needed to be taken to protect the Council's interests. This has been taken in line with the Officer Scheme of Delegation, confirmed at Part 4 of the Constitution.
- 1.2 Transparency in this decision making has been maintained through regular consultation and briefings with the Leader of the Council and other Group Leaders, and with the relevant Cabinet Member.

2.0 PROPOSALS

- 2.1 The further officer decision to be reported is attached as Appendix 1:
 - i. Changes to Constitution re Virtual Meeting Procedure Rules
- 2.2 Cabinet is asked to note and support the action taken by officers.

3.0 OPTIONS:
None, as the officers have responded to this national peacetime emergency in line with the delegated authority given to them by the Council.

4.0 CONSULTATION:

Has consultation been undertaken with:	YES	NO
Relevant Town/Parish Council		✓
Relevant District Ward Councillors		✓
Other groups/persons (please specify) <ul style="list-style-type: none"> • Leader of the Council • Group Leaders • Relevant Cabinet Member 	✓	

5.0 ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES: (Explain in more detail below)	YES	NO
Financial		✓
Legal	✓	
Human Rights/Equality Impact Assessment		✓
Community Safety including Section 17 of Crime & Disorder Act		✓
Sustainability		✓
Asset Management/Property/Land		✓
Technology		✓
Other (please explain)		✓

6.0 IMPLICATIONS:

Legal Implications
Decisions taken by officers have followed the provisions of the Council’s Constitution and any direction or law issued by Central Government

7.0 REASON FOR THE DECISION:
To meet the requirements of the Council’s Constitution.

8.0 EFFECTIVE DATE OF THE DECISION: No decision made – this is a noting report

8.0 BACKGROUND PAPERS:
Council’s Constitution - [Constitution](#)

ARUN DISTRICT COUNCIL
DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION

DATE DECISION TAKEN	19 June 2020
SUBJECT	Change to the Constitution - Part 5 Section 5 Virtual Meeting Procedure Rules
DECISION TAKEN	<p>In consultation with the Chief Executive, who in turn consulted the Group Leaders on 18 June 2020; and in consultation with the Chairman and Vice Chairman of the Constitution Working Party, and the Portfolio Holder being notified, I have exercised my delegated authority at Part 4, Section 3, Paragraph 2.3.5 to make consequential changes to the Constitution today, given the matter was urgent.</p> <p>This is as a result of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (“2020 Regulations”).</p> <p>In order to conduct remote hearings in accordance with relevant legislation, an addition to the Virtual Meeting Procedure Rules is required:</p> <p>“14 Licensing Sub-Committees 14.1 Licensing Sub-Committees will hold hearings in accordance with relevant legislation to ensure a fair hearing.</p> <p>14.2 Where there is a conflict between these rules and the relevant legislation, the legislation shall take precedence”.</p> <p>*Note Cllr Mrs Yeates was notified</p>
REASON FOR THE DECISION	<p>Part 5 Section 5 - The Virtual Meeting Procedure Rules were introduced as a result of the 2020 Regulations. The 2020 Regulations defines “local authority meetings” to include a Committee or Sub-Committee of a local authority.</p> <p>Article 5(6) of the 2020 Regulations provides a local authority can make standing orders about remote attendance including access of public and press to attend <u>and participate</u> in that meeting.</p>

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ARUN DISTRICT COUNCIL
DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION

	<p>The rules therefore apply to Licensing Sub-Committee.</p> <p>There are no provisions in the rules for conducting hearings in accordance with relevant legislation that prescribes how these hearings at Licensing Sub-Committee are to be conducted.</p> <p>For example: the Licensing Sub-Committee is governed by the Licensing Act 2003 (Hearings) Regulations 2005 and the Licensing Act 2003 (Hearings) (Amendment) Regulations 2004. These regulations prescribe who can speak at the hearing of the Licensing Sub-Committee, including: the applicant, witnesses and interested parties.</p> <p>An addition to the rules is therefore required to provide for this level of participation by those other parties.</p> <p>The change to the Constitution is urgently required, because a Licensing Sub-Committee is due to be held on 26 June 2020.</p> <p>Explanation of Exercise of the Delegation by the Interim Monitoring Officer</p> <p>Part 4 Section 1 paragraph 4.4 of the Constitution provides where an officer with specific delegations is absent or otherwise unavailable, that function or activity shall not be exercised by another officer without the consent of the Chief Executive.</p> <p>The Chief Executive made the Legal Services Manager the Interim Monitoring Officer from 1 June 2020, with authority for part of the post, of Group Head of Council Advice and Monitoring Officer.</p>
<p>ALTERNATIVE OPTIONS CONSIDERED OR REJECTED</p>	<p>To cancel the Licensing Hearing until the change to the Constitution has been made by Full Council.</p> <p>Cancellation rejected as the statutory deadline to hold the hearing has already been surpassed. There has been considerable delay in hearing this application due to COVID-19. The applicant could appeal if this matter is further delayed which will involve a cost to the Council and resource. There is potential for reputational damage to the Council</p>

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DECISION TAKEN UNDER OFFICER SCHEME OF DELEGATION

	and a potential impact on business opportunity for the applicant. It is in the interests of fairness and natural justice that the hearing should proceed on 26 June 2020.
ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER OF THE COUNCIL <i>Only needed if the decision is under an express authorisation</i>	
NAME OF THE DECISION TAKER	Louise Greene – Interim Monitoring Officer
SIGNATURE	

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