



Public Document Pack

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8 February 2021

CABINET

A virtual meeting of the Cabinet will be held on **Monday 8 February 2021 at 5.00 pm** and you are requested to attend.

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

PLEASE NOTE: *This meeting will be a 'virtual meeting' and any member of the press and public may listen-in and view the proceedings via a weblink which will be publicised on the Council website at least 24 hours before the meeting.*

Different meeting arrangements are in place for the period running from 4 April 2020 to 7 May 2021 from the provisions of the Coronavirus Act 2020 and the meeting regulations 2020, to allow formal 'virtual meetings'.

This Council's revised Rules of Procedures for 'virtual meetings' can be found by clicking on this link: <https://www.arun.gov.uk/constitution>

*Any members of the public wishing to address the Cabinet meeting during Public Question Time, will need to email Committees@arun.gov.uk by 5.15 pm on **Friday, 5 February 2021** in line with current Procedure Rules. It will be at the Chief Executive's/Chairman's discretion if any questions received after this deadline are considered.*

For further information on the items to be discussed, please contact: committees@arun.gov.uk

A G E N D A – SUPPLEMENT – URGENT ITEM

4. **URGENT BUSINESS – OFFICER DECISION TAKEN DURING CORONAVIRUS EMERGENCY - DEFERRAL OF RENT FROM QUALIFYING BUSINESS TENANTS** (Pages 1 - 6)

In accordance with the provisions of the Officer Scheme of Delegation in the Council's Constitution, this report updates the Cabinet on a decision taken by Officers to incur expenditure or take urgent action in response to the Coronavirus emergency.

This has been included as an urgent item as the report was not prepared ahead of the agenda preparation timetable and this is the first opportunity to report the decision taken in line with the Council's Constitution.

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 Policy](#)

ARUN DISTRICT COUNCIL

URGENT REPORT TO AND DECISION OF CABINET ON 08 FEBURAY 2021

SUBJECT: Officer Decision Taken During Coronavirus Emergency

REPORT AUTHOR: Nigel Lynn, Chief Executive

DATE: 05 February 2021

EXTN: 01903 737600

PORTFOLIO AREA: Corporate Support

EXECUTIVE SUMMARY:

In accordance with the provisions of the Officer Scheme of Delegation in the Council's Constitution, this report updates the Cabinet on a decision taken by Officers to incur expenditure or take urgent action in response to the Coronavirus emergency.

This has been included as an urgent item as the report was not prepared ahead of the agenda preparation timetable and this is the first opportunity to report the decision taken in line with the Council's Constitution.

RECOMMENDATIONS:

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

1. BACKGROUND:

1.1 Responding to the Coronavirus pandemic is the first peacetime national emergency that the Council has had to face. It has brought unprecedented challenges that officers have been responding to, on behalf of the Council, since early March. The latest national lockdown led to the need for an urgent decision to be taken to ensure that the Council could support its commercial tenants who were impacted by restrictions imposed by Central Government.

1.2 The Council had prepared for such a situation with the emergency provisions included within the Officer Scheme of Delegation in its Constitution. The two key provisions are:

- Group Heads and above have the power, in an emergency, to take such action as is necessary within the law to protect life, health and safety, the economic, social or environmental well-being of the District and to preserve property belonging to the Council or others (Part 4, Section 1, paragraph 1.9); and
- The Chief Executive, Director of Services and Director of Place have authority to incur expenditure for meeting the purposes of Local Government Act 1972, S.138 in connection with peacetime emergencies and disasters, subject to reporting their actions to the first subsequent meeting of Cabinet (Part 4, Section 2,

<p>paragraphs 2.11).</p> <p>1.3 The Officer Scheme of Delegation also gives the Chief Executive, Directors and Group Heads operational decision-making authority to maintain Council services as much as possible (Part 4, Sections 1 to 3).</p> <p>1.4 Transparency in decision making has been maintained through consultation with the Leader of the Council and the Cabinet Member for Technical Services.</p>		
<p>2. PROPOSAL(S):</p> <p>2.1 This meeting is the first opportunity for Officers to report the recorded emergency decision taken in line with their delegated authority at Part 4, Section 2, Paragraphs 2.11 of the Officer Scheme of Delegation.</p> <p>2.2 Cabinet is asked to note and support the action taken by officers.</p>		
<p>3. OPTIONS:</p> <p>None, as the officers have responded to this national peacetime emergency in line with the delegated authority given to them by the Council.</p>		
<p>4. CONSULTATION:</p>		
<p>Has consultation been undertaken with: All Political Group Leaders on 8 February 2021</p> <p>The Chairman of the Overview Select Committee was also informed.</p>	YES	NO
Relevant Town/Parish Council		X
Relevant District Ward Councillors		X
<p>Other groups/persons (please specify)</p> <p>Leader of the Council and Cabinet Member for Technical Services</p>	X	
<p>5. ARE THERE ANY IMPLICATIONS IN RELATION TO THE FOLLOWING COUNCIL POLICIES:</p> <p>(Explain in more detail at 6 below)</p>	YES	NO
Financial	X	
Legal	X	
Human Rights/Equality Impact Assessment		X
Community Safety including Section 17 of Crime & Disorder Act		X
Sustainability		X
Asset Management/Property/Land	X	
Technology		X
Other (please explain)		X
<p>6. IMPLICATIONS:</p>		

Financial Implications

These are set out in the appended decision record.

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. REASON FOR THE DECISION:

To meet the requirements of the Council's Constitution.

8. EFFECTIVE DATE OF THE DECISION: 8 February 2021 as an urgent decision, it is to Call-In.

9. BACKGROUND PAPERS:

Appendix 1: Delegated Decision Record taken by Nigel Lynn, CEO, 11 January 2021
Council's Constitution - [Constitution](#)

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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.

DATE DECISION TAKEN	11 January 2021
SUBJECT	Deferral of rent from qualifying business tenants
DECISION TAKEN	<p>To make available upon request a rent deferral scheme, in line with my delegated authority in connection with the peacetime emergency of the Covid 19 pandemic.</p> <p>For SMEs* within the retail, leisure and hospitality sectors that rent premises from Arun District Council, we will upon request make available a facility to defer the payments of rent invoiced during January, February and March 2021. Acceptance of the offer would entail agreeing to a repayment plan with repayments at quarterly intervals between July 2021 and March 2022.</p> <p>* We are to use a definition of small and medium-sized enterprises, (SMEs) for this purpose are defined as enterprises which: have fewer than 250 employees, and have either, an annual turnover not exceeding EUR 40 million, or an annual balance-sheet total not exceeding EUR 27 million (reference COMMISSION REGULATION (EC) No 70/2001 (Annex I)).</p> <p>It does not extend to invoices sent in or prior to December 2020. The scope of this decision does not extend to collection of service charges which will continue as normal.</p> <p>If all eligible businesses were to exercise the facility it would delay income of approx. £120K.</p> <p>There is a risk of businesses failing before they are able to make the repayments. The risk of businesses failing would also exist, and may be increased, if no rent deferral facility were made available.</p>
REASON FOR THE DECISION	<p>Section 138(1) of the Local Government Act 1972 confirms that: "Where an emergency or disaster 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</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>their area or among its inhabitants the effects or potential effects of the event;”</p> <p>I have exercised my delegated authority at Part 4, Section 2, paragraph 4.8 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>As my authority confirms, this action will be reported to the first subsequent meeting of Cabinet.</p>
ALTERNATIVE OPTIONS CONSIDERED OR REJECTED	<p>Not providing a deferral facility. This was considered more likely to cause businesses cashflow problems, but the government has also stated that landlords of businesses should not undertake evictions, which would undermine efforts to collect rent during this period.</p> <p>Different qualifying criteria were considered. The business sectors, and smaller businesses were considered to be at highest risk of failing as a result of the covid-19 measures taken by the government. Targeting the deferral facility was considered to strike the balance between providing support where it is most needed, without unnecessarily foregoing timely income from tenants in a better position to pay.</p> <p>Restricting assistance to commercial tenants to that which is consistent with exempt ICM decision reference ICM151/24092020. This would restrict access by commercial tenants to rent deferral.</p>
ANY CONFLICT OF INTEREST DECLARED BY ANY MEMBER OF THE COUNCIL <i>Only needed if the decision is under an express authorisation</i>	None
NAME OF THE DECISION TAKER	Nigel Lynn, Chief Executive
SIGNATURE	
Background Papers:	

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with the relevant subject file*