

COVID 19 RELATED DECISION MAKING

This note explains how Covid 19 related decisions made in accordance with '**Making decisions during the Covid-19 crisis: Sheffield City Council schema**' are made lawful through amendments and delegations from the Constitution and Leaders Scheme of Delegation

For the purposes of the Constitution and Leaders Scheme of Delegation all such decisions will always be categorised as emergency or urgent decisions.

1. Executive decisions

Executive decisions will be made in accordance with the provisions for cases of "Extreme Urgency" in the **Leader's Scheme of Delegation of Executive Functions**

The Leader may make any decision herself (Article 1.7 of the Scheme).

In order for officers within the IMG to take decisions that are normally reserved to the Chief executive in extreme urgency, the Interim Chief Executive is required to nominate the Directors within the IMG to act as her deputy for that purpose. (The following paragraphs explain the interpretation and actions required and will serve as an audit trail for the decision making process)

"Extreme Urgency" is defined at Article 2 as "a situation where a decision-maker reasonably believes that a failure to deal with a matter immediately would be likely to result in an appreciable risk of significant administrative, financial or other detriment to the Council and/or another individual or organisation". The current situation of COVID19 is interpreted as such a situation.

If the decision would otherwise be delegated to an officer then paragraph 1.4 of Schedule 6 provides that the Chief Executive, or in the Chief Executive's absence his/her designated deputy, has the power to act in cases of Extreme Urgency to discharge any executive function delegated to another **Officer** by any person or Councillor body.

In order to enable the Council's Incident Management Group (IMG) to operate as per the Schema referred to above, the Interim Chief Executive has designated the following officers who are members of the IMG to each individually act as her deputy:

- Director of Legal and Governance
- Director of Policy Performance and Communications
- Director of Operations
- Director of Finance and Commercial Services

If the decision is a **Reserved Executive Function**, reserved to the Cabinet in Schedule 2 or an Individual Cabinet Member in Schedule 3, then the decision will be made by an officer in

accordance with the Urgency Provisions for Reserved Executive Functions contained in Schedule 7.

The officers who may exercise any Reserved Executive Functions are the Chief Executive, Executive Directors, the Chief Legal Officer and the Director of Finance and Commercial Services. There are provisos:

- except for the Chief Executive the matter must fall within the officer's service or budget or other corporate area of responsibility;
- prior consultation must take place with the Executive Director, Resources or Head of Strategic Finance where the matter requires expenditure which has not been budgeted for (does not apply to Executive Director, Resources or Director of Finance and Commercial Services);
- the action taken and reasons for it must be reported as soon as possible to the Chief Executive (if she is not the decision maker) and appropriate portfolio holding Cabinet Member.

Pursuant to paragraph 1.5 of Schedule 6 the Interim Chief Executive has authorised the following Directors to take such decisions on her behalf to the extent that the function is not already delegated to them within Schedule 7:

- Director of Legal and Governance
- Director of Policy Performance and Communications
- Director of Operations
- Director of Finance and Commercial Services

The decision should still comply with Financial Regulations and Contracts Standing Orders, statutory and Constitutional requirements about making, recoding and publishing executive decisions including expediting urgent decisions and rules relating to call in or exemption from call in.

Procedurally, the necessary officer consultation can take place through IMG.

Urgent coronavirus decisions may be expedited through the blanket Regulation 11 notice attached to this note at Appendix 1 (so the report does not have to be published before the decision is made) and the blanket fast track notice at Appendix 2 (to exempt the decision from call in).

NOTE: decisions contrary to the Budget & Policy framework will require the additional consent of the Lord Mayor

Financial Regulations refer to the urgency provisions of **Budget and Policy Framework Procedure Rules** (Rule 4):

“Urgent decisions contrary to the Policy Framework, or contrary to or not wholly in accordance with the approved Budget

A decision which is contrary to the Policy Framework, or contrary to or not wholly in accordance with the approved Budget but which is a matter of urgency may be taken other than by the City Council only if:

- (i) it is not practical to convene a quorate meeting of the City Council; and
- (ii) if the Chair of the relevant Scrutiny and Policy Development Committee or in their absence, the Lord Mayor or the Deputy Lord Mayor agrees that the decision is a matter of urgency.

The reasons why it is not practical to convene a quorate meeting of the City Council and the consent of the Chair of the relevant Scrutiny and Policy Development Committee to the decision being taken as a matter of urgency must be noted on the record of the decision. In the absence of the Chair of the relevant Scrutiny and Policy Development Committee, the consent of the Lord Mayor or the Deputy Lord Mayor will be sufficient.

Following the decision, the Decision Taker will provide a full report to the next available Council meeting explaining the decision, the reasons for it and why the decision was a matter of urgency.”

2. Non executive decisions

In order for officers within the IMG to take decisions that are normally reserved to the Chief executive by the Constitution for Emergency and Urgency, the Interim Chief Executive is required to nominate the Directors within the IMG to act as her deputy for that purpose. (The following paragraphs explain the interpretation and actions required and will serve as an audit trail for the decision making process)

Decisions will be taken in accordance with the Emergency and Urgency Powers at paragraph 3.5.3 in Part 3 of the Constitution, as amended by the Director of Legal and Governance in accordance with powers delegated to her by Full Council:

The Chief Executive, or in the Chief Executive’s absence his/her designated deputy, has the power to act in cases of emergency or urgency to discharge all the non-executive functions in consultation, where possible, with the Leader, or in the Leader’s absence his/her designated deputy.

The Interim Chief Executive has designated the following officers who are members of the IMG to each individually act as her deputy:

- Director of Legal and Governance
- Director of Policy Performance and Communications
- Director of Operations
- Director of Finance and Commercial Services

Note that this does not extend to decisions on any functions discharged by the Licensing Committee as section 10 of the Licensing Act 2003 provides that only the Licensing Committee can sub-delegate to officers but Covid 19 related licensing issues must still be considered by IMG before a decision is made in accordance with Licensing Committee delegations.

The Interim Chief Executive hereby confirms that the following officers are authorised or designated to make decisions as described in this note:

- **Director of Legal and Governance**
- **Director of Policy Performance and Communications**
- **Director of Operations**
- **Director of Finance and Commercial Services**

Signed: C. Adan

(Interim Chief Executive)

Date: 30th March 2020

Appendix 1

Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

Notice under Regulation 11: Key Decisions taken in cases of Special Urgency

Pursuant to Regulation 11 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 ('the Regulations'), **I hereby give Notice** that:-

The Leader of the Council and the Chief Executive (or officers authorised by each of them) intend to make Key Decisions on behalf of the Sheffield City Council about actions to be taken in response to the Coronavirus (as defined in the Coronavirus Act 2020).

Such decisions will be urgent and cannot reasonably be deferred. Consequently it is not possible to give 5 clear days' notice of the intention to make the Key Decision, as required by Regulation 10 of the Regulations.

The reasons why the making of any such decision is urgent and cannot reasonably be deferred are as follows:-

It is necessary to be able to respond urgently to issues connected with the coronavirus crisis.

Gillian Duckworth
Director of Legal and Governance
Sheffield City Council

30th March 2020

Appendix 2

SHEFFIELD CITY COUNCIL

Removal from Call-in Process ("fast track")

Scrutiny Procedure Rule 17

Subject:

Decisions on behalf of the Sheffield City Council about actions to be taken in response to the Coronavirus (as defined in the Coronavirus Act 2020).

Decision Maker:

Leader of the Council and the Chief Executive (or officers authorised by each of them)

Date of Decisions:

Throughout the period of the Covid-19 Crisis

Decision to be removed from Call-in process:-

Any decision made as an urgent response to issues connected with the coronavirus crisis.

Reasons for Urgency

It is necessary to be able to respond urgently and immediately to issues connected with the coronavirus crisis.

We certify that the above item of business is urgent and that its delay for scrutiny would consequently significantly prejudice the interests of the Council or a third party. (To be signed by the Interim Chief Executive one other Statutory Officers)

Signed C. Adan Date 30th March 2020
Interim Chief Executive

Plus any one of the following Statutory Officers:-

Signed Date
Chief Finance Officer (Executive Director, Resources)

Signed G. Duckworth Date 30th March 2020
Monitoring Officer (Director of Legal & Governance)

Consultation with the Chair of the Cabinet

I confirm that I have been consulted about and support the removal of this item of business from the call-in process.

Signed J. Dore Date 2nd April 2020

Councillor Julie Dore, Leader of the Council

Chief Executive to Complete

As Lead Officer I confirm that I have notified the Chair of the Overview and Scrutiny Management Committee OR Lord Mayor / Deputy Lord Mayor that the decision is urgent and they are aware that the decision is being removed from the call-in process.

Signature C. Adan Date 30th March 2020

Print Name: Charlie Adan, Interim Chief Executive