



Audit and Standards Advisory Committee

29 July 2020

Report from the Chief Executive

Update on Emergency decisions taken in response to COVID-19

Wards Affected:	All
Key or Non-Key Decision:	Non-Key
Open or Part/Fully Exempt: (If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)	Open
No. of Appendices:	Three Appendix 1 Schedule of Service Changes/decisions Appendix 2 Schedule of Service Changes/decisions (June 2020) Appendix 3 List of Decision taken under the Chief Executives delegated emergency decision making powers
Background Papers:	0
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1.0 Purpose of the Report

- 1.1 To provide the Audit and Standards Advisory Committee with an update on the Urgent Decisions made since the last meeting.

2.0 Recommendation(s)

- 2.1 That the Audit and Standards Advisory Committee consider the urgent decisions taken, assure themselves that the governance is appropriate and that the decisions that have been made are sufficiently responsive.

3.0 Detail

- 3.1 The Council stood up its GOLD emergency planning response on 16 March 2020. This is covered under the Civil Contingencies Act 2004 and effectively means that emergency decisions can be made by the Chief Executive pursuant to the following provisions in Part 3 Paragraph 9.3.2. of the Constitution:

“Exceptionally,.....notwithstanding anything in this Constitution, the Chief Executive shall be authorised to exercise either executive or non-executive functions where the matter is urgent unless this is prohibited by law.”

- 3.2 The situation in respect of the Coronavirus: COVID 19 remains an exceptional circumstance. Whilst the lockdown is gradually being eased, there is still the occasional need to take urgent decisions. These concern actions taken during the current crisis due to extreme urgency and often in response to specific Government direction and guidance.
- 3.3 Following direction from the Strategic Coordination Group (SCG), the Council stood up its BECC and GOLD arrangements. GOLD meetings were originally held daily but have now reduced to once a week, on Tuesdays. The meetings are attended by all members of the Council Management Team (CMT) the Director of Public Health, the Head of Communications, Emergency Planning representatives, the Director of Customer Access and Head of Transformation. It is chaired by the Chief Executive or her deputy if she is unable to attend. Directors produce Situation Reports for consideration and provide updates within their area, raise any issues and/or decisions to be considered. Until 30 June we were also joined by a member of the Metropolitan Police to ensure joined up task forcing. This is supported by daily calls with the Metropolitan Police and the council's Community Safety Manager which continue.
- 3.4 Once an Emergency is declared the powers are automatically available to the Chief Executive to make urgent decisions. Officers continue to make decisions under their delegated powers but in view of the urgency of the situation, some of these decisions have to be taken at speed and sometimes without the degree of consultation and debate that is usually considered desirable, because it is not currently practicable. On 22 April 2020, the Chief Executive reported decisions to the Audit and Standards Advisory Committee. No concerns were raised. These are set out in Appendix 1. A further decision was made by the Chief Executive on 30 June 2020 in respect of the decisions set out in Appendix 2.
- 3.5 Attached as Appendix 3 is a list of the specific decisions also taken by the Chief Executive during this period under the emergency process. These have already been published.

4.0 Financial Implications

- 4.1 As reported to Cabinet in April 2020, the initial estimate of the financial impact of the COVID-19 outbreak was c£35m. This was inclusive of additional expenditure pressures as a result of the outbreak (e.g. personal protective

equipment for carers and front line staff, emergency accommodation for rough sleepers, overflow mortuary, support for residents that are shielding, etc.), loss of income (fees, charges and other commercial income from planning and building control, parking, rents, venue hires, etc.) and slippage of 2020/21 savings plans. Since then, these estimates have been further refined and are now estimated at £47.6m. This is made up of £42.7m of additional income and expenditure pressures and £4.9m of slippage in savings plans. In addition to this, it is estimated that there may be recurring pressures of between £11m and £29m from 2021/22, which will significantly affect future budget setting.

- 4.2 These estimates, including the funding received from government to date, as well as the council's approach to dealing with these issues were set out for Full Council on 13 July 2020.

5.0 Legal Implications

- 5.1 The Civil Contingencies Act establishes a new legislative framework for civil protection in the United Kingdom. It imposes a clear set of roles and responsibilities on those organisations with a role to play in preparing for and responding to emergencies. Local authorities are a Category 1 responder under the Act, and have a key role to play in respect in discharging their duties in the legislation.
- 5.2 The Act, and accompanying Regulations and guidance, delivers a single framework for civil protection in the United Kingdom capable of meeting the challenges of the twenty first century. The Act is separated into two parts: local arrangements for civil protection (Part 1) and emergency powers (Part 2).
- 5.3 Part 1 of the Act, the supporting Regulations and statutory guidance *Emergency Preparedness*, establish a clear set of roles and responsibilities for those involved in emergency preparation and response at the local level. Local responders are divided into two categories, with a different set of duties applying to each.
- 5.4 Category 1 responders are those organisations at the core of emergency response (e.g. emergency services, local authorities, NHS bodies). Category 1 responders are subject to the full set of civil protection duties. These include:
- assessing the risk of emergencies occurring and use this to inform contingency planning in the form of a Community Risk Register;
 - Put in place emergency plans;
 - Create business continuity plans to ensure that they can continue to exercise critical functions in the event of an emergency;
 - Make information available to the public about civil protection matters, and maintain arrangements to warn, inform and advise the public in the event of an emergency;
 - Share information with other local responders to enhance co-ordination
 - Co-operate with other local responders to enhance coordination and efficiency;

- Provide advice and assistance to businesses and voluntary organisations about business continuity management (Local Authorities only).

5.5 Category 2 responders are required to co-operate and share information with other Category 1 and 2 responders to ensure that they are well integrated within wider emergency planning frameworks, and contribute their expertise on risks and essential services in the form of the Local Resilience Forums.

5.6 As indicated in the body of the report, the Chief Executive can exercise urgent powers pursuant to the following provisions in Part 3 Paragraph 9.3.2. of the Constitution in an emergency such as the current crisis’.

6.0 Equality Implications

6.1 The public sector equality duty, as set out in section 149 of the Equality Act 2010, requires the Council, when exercising its functions, to have “due regard” to the need to eliminate discrimination, harassment and victimisation and other conduct prohibited under the Act, to advance equality of opportunity and foster good relations between those who have a “protected characteristic” and those who do not share that protected characteristic. The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

6.2 Having due regard involves the need to enquire into whether and how a proposed decision disproportionately affects people with a protected characteristic and the need to consider taking steps to meet the needs of persons who share a protected characteristic that are different from the needs of persons who do not share it. This includes removing or minimising disadvantages suffered by persons who share a protected characteristic that are connected to that characteristic.

6.3 There is no prescribed manner in which the council must exercise its public sector equality duty but having an adequate evidence base for its decision is necessary.

6.4 Due to the urgency of the situation, formal assessments were not undertaken, in respect of the decisions in Appendix 1 and 2. Such formal assessments are not a requirement of the duty. Importantly, an underlying purpose of the decisions was regard to the protection of those with protected characteristics, i.e. those over 70 and those with underlying health issues by restricting the potential spread of the virus.

6.5 Where possible services have identified actions to mitigate the impact of the decisions, e.g. moving to an online service where possible. The equalities impact of the decisions will be kept under review.

7.0 Consultation with Ward Members and Stakeholders

7.1 There may conceivably be exceptional cases where public consultation becomes possible notwithstanding the COVID-19 crisis. However, it is not considered in the circumstances that non-statutory public consultation is a

viable or reasonable option for the Council in taking the decisions which are the subject of this report, even if at other times it would have considered consultation with the public and / or stakeholders affected by the decision.

- 7.2 The Council continues to communicate with and take on board the views of service users affected by decisions and informing residents and stakeholders about decisions as quickly as possible about any changes to service provision. Where appropriate and reasonably practicable, changes to the Council's decisions will be made following responses from service users and others.

8.0 Human Resources/Property/Environmental Sustainability Implications (if appropriate)

- 8.1 None arising directly from this report.

Report sign off:

CAROLYN DOWNS
Chief Executive