



**SOUTH
KESTEVEN
DISTRICT
COUNCIL**

Council

16 July 2020

Report of: Councillor Kelham Cooke
The Leader of the Council



Decisions taken as part of the Council's COVID-19 response, together with decisions made under General Exception and Special Urgency arrangements

This report summarises Key Decisions that have been made under General Exception and Special Urgency provisions and officer delegated decisions taken by the Chief Executive as part of the Council's response to the COVID-19 pandemic.

Report Author

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Corporate Priority:	Decision type:	Wards:
Administrative	Administrative	All Wards

Reviewed by:	Julie Edwards, Electoral Services Team Leader	24 June 2020
Approved by:	Shahin Ismail, Director of law and Governance	25 June 2020
Signed off by:	Councillor Kelham Cooke, The Leader of the Council	7 July 2020

Recommendation (s) to the decision maker (s)

1. That Council notes the content of the report.

1 The Background to the Report

- 1.1 At the Cabinet meeting held on 17 March 2020 when COVID-19 restrictions were heightening, the Leader of the Council announced the suspension of all Council and Committee meetings, including meetings of the Cabinet.
- 1.2 So that Executive decision-making could continue while meetings were suspended, the Leader revised his scheme of delegation. The revisions saw him take responsibility for any Key Decisions that needed to be made during the response period. Other Cabinet Members retained their existing remits and responsibility for making any Non-Key Decisions.
- 1.3 Where decisions need to be made and it is not possible to give the statutory notice that would ordinarily be required, the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 has alternative procedures that the Council can follow. Those procedures are General Exception and Special Urgency.
- 1.4 All the decisions that have been made under these arrangements or relating to the Council's COVID-19 response, have been published on the Council's website. To make it easier to find those decisions, they are listed on a new webpage, which incorporates links to the detail of the decision.
- 1.5 Each sub-heading within this report setting out the name of the decision is a hyperlink to the relevant published documents.

2 General Exception

- 2.1 The General Exception procedure is used where a matter is likely to be a Key Decision that has not been included on the Forward Plan and where it is impracticable to defer the decision until it has been included in the next Forward Plan and 28 days have elapsed.
- 2.2 Before a decision is made under the General Exception Rule, the Chairman of the relevant Overview and Scrutiny Committee must be informed in writing (if there is no such person then each member of the Committee must be notified in writing). The Monitoring Officer must publish that notice. Five days after that notice has been served on the Chairman (or Committee members in the Chairman's absence) and its publication, the decision may be made. Decisions made under the General Exception rule are eligible for call-in.
- 2.3 Since the last report was presented to Council on 14 May 2020, two decisions have been taken under the General Exception procedure.

Award of Insurance Contract (Appendix 1)

- 2.4 A Key Decision was made by the Leader of the Council on 27 May 2020 in consultation with the Cabinet Member for Finance and Resources to award the Council's insurance contract to Zurich Municipal. The decision came into effect on 4 June 2020. The decision was made under the General Exception procedure because, by the time 28 days had passed, the Council would be left without insurance cover if any of the bidders challenged the selection of the appointed provider.

Financial Impact of COVID-19 on the Leisure Service (Appendix 2)

- 2.5 A Key Decision was made by the Cabinet on 7 July 2020. The decision relates to the financial impact of COVID-19 on the leisure service. The report to Cabinet was exempt under paragraph 3 of Schedule 12A of the Local Government Act 1972 (as amended)

because it contained information relating to the financial or business affairs of an individual or organisation.

- 2.6 Details of the issue are covered in the exempt report to Council, which is included in this agenda. A copy of the General Exception notice is attached at Appendix 2 to the report. This matter was determined by Cabinet using the General Exception provisions because, to wait for the next plan to be published and the passing of 28 days would mean deadlines would not have been met in order to get the Cabinet's recommendations to Council for its consideration on 16 July 2020. Failure to make a decision at this time would have implications on the provision of leisure services, in anticipation of the COVID-19 recover phase.

3 Special Urgency

- 3.1 Where a decision is urgent and the General Exception Rule cannot be followed because of the date by which a decision must be taken, the Special Urgency procedure is available. By using Special Urgency provisions, a decision may be made and implemented on the same day as it removes the requirement to give five working days' notice in advance of the decision being made and the five working day call-in period following the publication of the decision.
- 3.2 To enable the decision to be made using Special Urgency arrangements, agreement must be sought in writing from the Chairman of the relevant Overview and Scrutiny Committee. The communication must set out why the decision cannot reasonably be deferred. In the absence of the Chairman of the relevant Overview and Scrutiny Committee, agreement should be sought from the Chairman of the Council, or in their absence, the Vice-Chairman of the Council.
- 3.3 Permission is also sought from the Chairman of the Council to suspend call-in for urgent decisions where the call-in process would prejudice the Council's or the public's interest. In the absence of the Chairman of the Council, consent is sought from the Vice-Chairman and in her absence from the Head of Paid Service or, in her absence, her nominee.
- 3.4 Once written agreement has been received confirming that the decision may be made under these provisions, the decision-maker may proceed. A notice must be published setting out why the decision is urgent and cannot reasonably be delayed. Where decisions are taken under these arrangements, they must be reported to Council.
- 3.5 Since the decisions made under Special Urgency provisions were last reported to Council on 14 May 2020, two further decisions have been made.

Food Waste Collection Service (Appendix 3)

- 3.6 On 29 May 2020, the Leader of the Council made a decision to extend the food waste collection scheme within the existing area of South Kesteven until 31 March 2021. The decision, which was taken in consultation with the Cabinet Member for Commercial and Operations, also delegated authority to the Chief Executive (in consultation with the Cabinet Member for Commercial and Operations) to carry out an interim review of the arrangements and cost of the scheme by 30 September 2020 and implement any related findings at which point withdrawing the scheme would remain an option.
- 3.7 The timing of the notification from Lincolnshire County Council on behalf of the Lincolnshire Waste Partnership and the discussions that were required with the County Council about arrangements for the transfer and treatment of food waste in the event that South Kesteven

District Council wished to continue to deliver the scheme in the pilot area, meant that it was not possible to give 28-days' prior notification of the decision. The time that the call-in period would have taken has also been considered prejudicial to the interests of the Council and the public because it would result in the disruption of service. This would lead to a backlog, which residents would be required to store, and members of the street scene team would need to collect at a time when the service was under pressure because of the COVID-19 response.

Planning and Business Bill - Pavement Licences (Appendix 4)

- 3.8 At its meeting on 7 July 2020, the Cabinet made a decision which related to the Planning and Business Bill – Pavement Licences. This decision was taken under the Special Urgency provisions because new legislation was rapidly passing through Parliament, which would come into immediate effect. The legislation was expected to be made within two weeks of the meeting and the Council needed to make preparation in advance of this to ensure that the legislation could be implemented.
- 3.9 The decision that was made by the Cabinet delegated authority to the Chief Executive, in consultation with the Cabinet Member for Commercial and Operations, to consider the final proposal from Lincolnshire County Council in respect of processing and determining applications under this legislation, and agree any delegations/similar that may be necessary to ensure that pavement licences may be determined.

4 Officer Delegated Decisions

- 4.1 The Chief Executive is able to take action regarding operational procedures to ensure the continued delivery of service. There are also specific decisions that are delegated to the Chief Executive.
- 4.2 Since the last report to Council on 14 May 2020, two decisions have been made by the Chief Executive as part of the Council's response to the COVID-19 pandemic.

Coronavirus Job Retention Scheme: Furlough of Arts and Culture Staff (Appendix 5)

- 4.3 Following the closure of the Council's arts venues from 23 March 2020, the Chief Executive made a decision to furlough 58 staff from Stamford Arts Centre and the Grantham Guildhall, backdating the claim to 23 March 2020. The furloughed staff were identified following an assessment of knowledge, skills and experience. The decision was taken in consultation with the Cabinet Member for Culture and Visitor Economy.

Public conveniences (Appendix 6)

- 4.4 On 12 June 2020, the Chief Executive made a decision in consultation with the Cabinet Member for Commercial and Operations, to re-open South Kesteven District Council's public conveniences from 15 June 2020 to coincide with the 're-opening' of the district's town centres.

Virtual Council Meeting Procedures during COVID-19 restriction period (Appendix 7)

- 4.5 On 7 July 2020 the Chief Executive made an Officer Delegated Decision to update the procedures that would be used for Virtual Council meetings and how the provisions within the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local

Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The decision was taken in consultation with the Chairman of the Council and the Leader of the Council.

- 4.6 The updated procedures allowed for the restoration of the public open forum, Members' open questions and motions on notice to be re-added to the agenda for ordinary meetings of the Council.

5 Reasons for the Recommendation (s)

- 5.1 Where decisions are taken under urgency procedures, there is a requirement to report these decisions to Council. At the outset of the response period, the Leader also committed to reporting any decisions made by the Chief Executive, to ensure transparency.

6 Financial Implications

- 6.1 There are no financial implications arising as a result of this covering report. The specific financial implications will be referenced in each individual report as appropriate. There will be a requirement for Council to consider an amended Budget Framework in September of this financial year that incorporates the financial impact of these decisions and other budget areas affected by the current situation.

Financial Implications reviewed by: Richard Wyles, Interim Director of Finance

7 Legal and Governance Implications

- 7.1 Legal and Governance implications are captured within the report.

Legal Implications reviewed by: Shahin Ismail, Director of Law and Governance

8 Equality and Safeguarding Implications

- 8.1 There are no equality and safeguarding implications arising as a result of this report. Where relevant, an equality analysis has been completed in conjunction with a decision report.

9 Risk and Mitigation

- 9.1 Risk was considered in the preparation of this report and no significant risks were identified.

10 Community Safety Implications

- 10.1 There are no community safety implications arising as a result of this report.

11 How will the recommendations support South Kesteven District Council's declaration of a climate emergency?

- 11.1 This report has no climate impact. The climate impact of each decision referred to here is examined in their respective reports.

12 Background Papers

- 12.1 The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012: <http://www.legislation.gov.uk/ukxi/2012/2089/contents/made>

13 Appendices

- 13.1 Appendix 1: Award of insurance contract (report, bids and evaluation document, decision notice and General Exception notice)
- 13.2 Appendix 2: Financial Impact of COVID-19 on the leisure service (General Exception notice)

- 13.3 Appendix 3: Food Waste Collection Service (report and Special Urgency notice)
- 13.4 Appendix 4: Planning and Business Bill – Pavement Licences (report and Special Urgency notice)
- 13.5 Appendix 5: Coronavirus Job Retention Scheme: furlough of Arts and Culture staff (decision notice)
- 13.6 Appendix 6: Public conveniences (decision notice)
- 13.7 Appendix 7: Virtual Council Meeting Procedures during COVID-19 restriction period (decision notice)

Report Timeline:	Date of Publication on Forward Plan (if required)	Not applicable
	Previously Considered by: Council	14 May 2020
	Final Decision date	16 July 2020