

Key Decision Required:	NO	In the Forward Plan:	NO
-------------------------------	-----------	-----------------------------	-----------

CABINET

26 JUNE 2020

REPORT OF LEADER OF THE COUNCIL

A.1 EXECUTIVE DECISIONS TAKEN AS A MATTER OF URGENCY

(Report prepared by Ian Ford, Committee Services Manager and Lisa Hastings, Assistant Director (Governance) & Monitoring Officer)

PART 1 – KEY INFORMATION

PURPOSE OF THE REPORT

To notify Members of recent urgent Executive Decisions taken by the Leader of the Council on behalf of the Cabinet.

EXECUTIVE SUMMARY

In accordance with the procedures contained in the Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020, this report formally notifies Members of recent urgent Executive Decisions taken by the Leader of the Council on behalf of the Cabinet.

RECOMMENDATIONS

- (a) That the contents of the report be noted; and**
- (b) That the urgent decisions taken by the Leader of the Council on behalf of the Cabinet, as detailed in this report, be formally endorsed.**

PART 2 – SUPPORTING INFORMATION

BACKGROUND

As part of the Council’s response to the COVID-10 public health emergency the Council’s Monitoring Officer produced a formal “Note on Decision Making Business Continuity Arrangements” which set out the ways in which the normal operational business could continue in relation to decisions which would normally be referred to Cabinet, Council or Committees.

In relation to Cabinet decisions the Monitoring Officer’s formal Note contained the following information and advice:-

“The Constitution requires certain matters to be decided by Cabinet collectively. *The Leader of the Council may exercise any of the powers delegated to the Cabinet:*

- a. Following a resolution of the Cabinet (subject to the Constitution), or*
- b. In cases of urgency, in consultation with the Monitoring Officer and/or Section 151*

Officer.

In cases of urgency the decision of the Leader of the Council will be recorded and published in accordance with the Constitution. The Leader of the Council will also be required to make a public statement at the next formal meeting of the Cabinet which will explain why they had taken the decision as a matter of urgency.

Therefore, following consultation with the Leader of the Council, it is recommended that to enable formal decisions to be made on behalf of Cabinet the following procedure should be adopted:

- Reports that would have been considered by Cabinet are emailed to the Group Leaders;
- a period of five working days would be provided for Group Leaders to email any comments/questions etc. to the relevant Portfolio Holder, Leader and officer(s) identified;
- responses to comments/questions would be supplied to the Group Leaders;
- this information will be taken into account by the Leader prior to making his formal decision;
- a formal decision will be published recording the matters taken into account;
- at the first formal meeting of Cabinet a report of the decisions taken by the Leader under urgency powers will be produced; and
- if it was necessary for a key decision to be made under urgency provisions this must be reported to Full Council (in accordance with the Access to Information Procedure Rules 15 & 16.2).

Whilst it is anticipated that decisions taken during urgency provisions would be limited or uncontroversial in nature, with Group Leaders' comments being sought prior to decisions being made, it must be highlighted that the ability of Members to undertake the statutory overview and scrutiny function is not removed."

The Monitoring Officer considered that, in responding to COVID-19, the Council was in exceptional times which therefore satisfied the grounds of urgency.

In making the decisions in question the Leader of the Council exercised his delegated power as set out in the Council's Constitution in Part 3, Schedule 3 (Responsibility for Executive Functions) - Section 3 (General Principles Regarding Decision Making by the Cabinet) – Principle 4b [Part 3.28].

DECISIONS TAKEN AS A MATTER OF URGENCY

The following decisions were referred to at the Group Leaders meeting held on 20th March, through wider discussions with Members and the Statutory Officers. The published Cabinet agenda for the meeting which was due to be held on 20th March 2020 included a number of the reports, supporting many of the decisions referred to below.

(1) Business Rates Covid-19 Grants Scheme [Published 26 March 2020]

Decision: That a delegation of power be given to the Council's Section 151 Officer to put in place the necessary arrangements to deliver the Government's Business Rates COVID 19 Grants scheme.

(2) CAROS Scheme – Waiver of Rents [Published 26 March 2020]

Decisions:

- (a) To waive rent payable under the CAROS scheme for a period of 3 months for all organisations eligible for CAROS support.
- (b) That the Council's Monitoring Officer has delegated authority to undertake the necessary steps to implement this decision.

(3) Council Tax Hardship Scheme [Published 26 March 2020]

Decision:

That a delegation of power be given to the Council's Section 151 Officer to put in place the necessary arrangements to deliver the Government's Council Tax Hardship Scheme.

(4) Tendring Community Fund – Allocation of £1,000 to Members [Published 26 March 2020]

Decisions:

- (a) Allocation of £1,000 to each ward Member from the Tendring Community Fund to support local communities during the current coronavirus disruption; and
- (b) That the Council's Section 151 Officer has delegated authority to undertake the necessary steps to implement this decision.

(5) Write-Off of Leisure Facilities Income for April 2020 [Published 26 March 2020]

Decision: To write-off Leisure Facilities Memberships Income for April 2020.

(6) Annual Capital and Treasury Strategy 2020/21 [Published 24 April 2020]

Decisions:

- (a) That the outcome from the meeting of the Resources and Services Overview & Scrutiny Committee held on 17 February 2020 be noted; and
- (b) That the Annual Capital and Treasury Strategy for 2020/21 (including Prudential and Treasury Indicators) be submitted to Council for approval in accordance with the procedures contained the Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020.

(7) Annual Review of the Council's Constitution [Published 24 April 2020]

Decisions:

1. That Cabinet RECOMMENDS TO COUNCIL:
 - (a) that the Council's Constitution be amended to reflect the proposed changes as set out in this report and the appendices attached hereto (with the exception of Appendix S which relates to executive functions);
 - (b) that all changes come into effect from the date on which they are approved by Full Council;
 - (c) that Group Leaders be commended to strongly urge that all Members attend planning and licensing training events which would both increase the number of named substitutes that Group Leaders would have at their disposal as well as providing Members with greater knowledge of the workings of the Council that will prove useful to them in their Ward and wider representational roles; and
 - (d) that the Monitoring Officer be requested to undertake a review of the public speaking scheme for the Planning Committee in accordance with Council Procedure Rule 40, as amended.
2. That Cabinet resolves:
 - (a) that the proposed changes to the Scheme of Delegation (Schedule 3 – Responsibility for Executive Functions), as set out in Appendix S, be approved;
 - (b) that the Head of Democratic Services & Elections and the Head of Legal and Governance Services & Monitoring Officer, in consultation with the Deputy Leader of the Council, the Chairmen of the overview and scrutiny committees, the Chairman of the Audit Committee and one other Portfolio Holder (to be decided by the Deputy Leader), be authorised to draft a formal Executive-Scrutiny Protocol for this Council and to submit this to the Overview and Scrutiny Committees and Cabinet for adoption;
 - (c) that the Head of Legal and Governance Services & Monitoring Officer, in conjunction with the Head of People, Performance and Projects, be requested to review the Council's Whistleblowing Policy in order to make sure that it is robust and report any necessary amendments to the Human Resources and Council Tax Committee; and
 - (e) that the Head of Democratic Services & Elections be requested to incorporate within the Member Development Scheme regular training on overview and scrutiny matters (including, for example, on the clear division of responsibilities between the Council's scrutiny function and its audit function).

(8) Creative and Cultural Strategy for Tendring [Published 24 April 2020]

Decisions:

- (a) That the Creative and Cultural Strategy for Tendring be formally adopted and implemented;
- (b) That the establishment of a Tendring Creative and Cultural Board to be chaired by the Portfolio Holder for Leisure and Tourism and to include the participation of the Portfolio Holder for Business and Economic Growth be approved;
- (c) That it is noted that the actions needed to deliver the Creative and Cultural Strategy will be developed as part of annual Departmental Service Plans across the Council; and
- (d) That the allocation of £100,000 from the Council's Business Investment and Growth Budget to support delivery of the Strategy be approved.

(9) Education, Economy and Skills [Published 24 April 2020]

Decision:

That the Community Leadership Overview and Scrutiny Committee's recommendation be noted and that the Partnerships Portfolio Holder's response thereto (as set out below) be endorsed:

"I thank the Community Leadership Overview and Scrutiny Committee for their recommendation.

I fully endorse the idea of Members considering School Governorship in support of local schools and to that end, I provide below, the link to Essex County Council's School Governors web page for any member that may be interested in pursuing this."

<https://www.essex.gov.uk/school-governors>

(10) Performance Report Quarter 3: October – December 2019 [Published 24 April 2020]

Decision:

That the Resources and Services Overview and Scrutiny Committee's recommendation be noted; that the Corporate Finance and Governance Portfolio Holder's response thereto (as set out below) be endorsed; and that the recommendation contained therein be adopted:

"I would like to thank the Resources and Services Committee for their recommendation.

I understand that at the meeting, members of the Committee proposed that the Manningtree Underpass Project Performance Target Indicator fits better with the Community Leadership Overview & Scrutiny Committee's work programme as Tendring's role is that of 'influence only'.

I further understand that following discussion with Officers, it was determined that the indicator should be submitted to the Council's Community Leadership Overview and Scrutiny Committee; in addition to the Resources and Services Overview and Scrutiny Committee.

However, in accordance with the Committee's initial request, I am recommending to Cabinet that future Performance Reports be amended so this indicator is reported to the Community Leadership Overview & Scrutiny Committee only".

(11) Scrutiny of the new Waste and Recycling Collection Service [Published 24 April 2020]

Decision:

That the Resources and Services Overview and Scrutiny Committee's recommendations be noted and that the Environment and Public Space Portfolio Holder's responses thereto (as set out below) be endorsed:

"(a) I would like to thank the Committee for a thorough and robust review of the roll out of the new Contract. I do think that it is unfortunate that whilst the Committee acknowledges the hard work of officers the actions of a small number of Councillors, and their inappropriate communications with officers has unnecessarily added to the workload faced by officers in rolling out the new contract.

(b) I will certainly pick this up with my Officers and make sure that our concerns are addressed with ECC and request that action is taken to deal with the issue.

(c) I do not recognise this issue, other than as an opportunity to criticise me as portfolio holder for information, I was not asked to provide except in an 'off the cuff' fashion at the Meeting, bearing in mind the subject of the agenda item which was to review the implementation of the new waste and recycling service. I will bring forward in due course an options paper to consider what further measures can be put in place to increase recycling rates, within our Budget parameters.

(d) As has been outlined to the Committee previously comparable statistics are only useful as a guide as there are different arrangements in place and different costs associated with those different arrangements in other Districts and of course Tendring residents are still getting used to the new arrangements. Revised performance indicators will of course be put in place in due course.

(e) This matter is already in hand and on Tuesday 25 February Damian Williams spoke to me about the requested tour of a Veolia recycling facility. He said it is currently being arranged and invited me to write the invitation to Members when final details are known.

(f) I will be discussing these suggestions with officers."

(12) Tendring Heritage Strategy [Published 24 April 2020]

Decisions:

(a) That the outcomes of the Heritage Strategy public consultation be noted;

(b) That the changes to the Heritage Strategy suggested in the Portfolio Holder's report be approved;

(c) That the Tendring Heritage Strategy be now adopted and implemented; and

(d) That it is noted that the actions to deliver the Heritage Strategy will be developed as part of annual Departmental Service Plans across the Council.

(13) Write-off Leisure Facilities Memberships Income for May 2020 [Published 29 April 2020]

Decision: To write-off Leisure Facilities Memberships Income for May 2020.

(14) Discretionary Business Grants Scheme [Published 2 June 2020]

Decisions:

- a) That the Discretionary Business Grants Scheme 2020/21 be approved; and
- b) That the Leader of the Council delegates authority to the Chief Executive to implement and administer the scheme and amend the policy in line with any emerging Government guidance.

BACKGROUND PAPERS

Note on Decision Making Business Continuity Arrangements issued by the Monitoring Officer (Lisa Hastings) on Friday 20 March 2020.

Published Executive Decisions taken by the Leader of the Council in the period 26 March to 5 June 2020.

APPENDICES

None.