

TRAFFORD COUNCIL

Report to: Council
Date: 18 March 2020
Report for: Decision
Report of: Monitoring Officer

Report Title

Proposed Emergency Amendments to the Council's Constitution

Summary

The Council's constitution details the objectives which underpin the delivery of services, the performance of all of the Council's duties and supports Members and Officers in making decisions to ensure that these are efficient, transparent and accountable to local people.

The Coronavirus has created unprecedented circumstances within which the Council is required to operate more flexibly and expediently. Central government, local authorities and other public bodies are adopting emergency decision-making powers as the coronavirus pandemic continues to disrupt civic life across Europe.

The Constitution does not currently provide members and officers with a mechanism by which emergency decisions can be made in various scenarios.

This report proposes a number of changes to the Constitution which are temporary, proportionate to the threat, will only be used when strictly necessary and will be in place for as long as required to respond to the current situation.

Recommendations

That the Council approve the addition of new emergency provisions to the Council's Constitution as detailed in the report.

Contact person for further information:

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Implications:

Relationship to Policy Framework/Corporate Priorities	The Constitution supports the ability of the Council to function lawfully, transparently and accountably to deliver services in accordance with the Policy Framework and the wider Corporate Priorities
Relationship to GM Policy or Strategy Framework	None
Financial	None
Legal Implications:	The legal framework and associated implications are detailed in the report.
Equality/Diversity Implications	None
Sustainability Implications	None
Resource Implications e.g. Staffing / ICT / Assets	None
Risk Management Implications	None
Health & Wellbeing Implications	None
Health and Safety Implications	None

1. Introduction

1.1. The Council's constitution details the objectives which underpin the delivery of services and performance of all of the Council's duties. Those objectives are intended to support Members and Officers in making decisions and adhering to procedures to ensure that these are lawful, efficient, transparent and accountable to local people.

1.2 Article 1 of the Constitution sets out the purpose of the Constitution, which is to:

1. enable the Council to provide clear leadership to the community in partnership with residents, businesses and other organisations;
2. support the active involvement of the community in the process of the Council's decision-making;
3. help councillors represent their constituents more effectively;
4. enable decisions to be taken efficiently and effectively;
5. create a powerful and effective means of holding decision-makers to public account;
6. ensure that no one will review or scrutinise a decision in which they were directly involved;

7. ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions; and
 8. provide a means of improving the delivery of services to the community.
- 1.3 The spread of coronavirus has been declared a global public health emergency.
 - 1.4 The coronavirus has created unprecedented circumstances within which the Council is required to operate more flexibly and expediently. Central government, local authorities and other public bodies are adopting emergency decision-making powers as the coronavirus pandemic continues to disrupt civic life across Europe.
 - 1.5 The main roles of a Local Authority in an emergency are to support the activities of the emergency services, care for people affected by the emergency, maintain day to day services and coordinate the recovery aspects of the emergency.
 - 1.6 The Constitution does not currently provide members and officers with a mechanism by which emergency decisions can be made in various scenarios.
 - 1.5 This report proposes a number of changes to the Constitution which are temporary, proportionate to the threat, will only be used when strictly necessary and will be in place for as long as required to respond to the current situation.

2.0 Legislative Basis and Changes

- 2.1 The Government has introduced emergency regulations to prevent the further spread of coronavirus. The Health Protection (Coronavirus) Regulations 2020 were laid before Parliament on 10 February 2020. They give health professionals the power to detain patients with Covid-19 for the specific purposes of screening and assessment, or to isolate them for a period of time. The regulations also empower police constables to detain people suspected of having the virus
- 2.2 It also envisaged that further changes to legislation might be necessary in order to give public bodies across the UK the tools and powers they need to carry out an effective response to this emergency.
- 2.3 The Government has a range of additional powers to deal with civil emergencies. Part 2 of the Civil Contingencies Act 2004 allows the Government to make regulations to deal with an emergency that “threatens serious damage to human welfare”. The definition of an emergency includes events that may involve or cause human illness, loss of life, or disruption to health services or food supplies.

2.4 The Civil Contingencies Act 2004, 'the Act', is the legal framework that sets out roles and responsibilities of emergency responders in England and Wales. It delivers a single framework for civil protection in the United Kingdom and is separated into two parts:

- Part 1 - Local arrangements for civil protection
- Part 2 - Emergency powers for Government

2.5 All principal local authorities are category 1 responders under the Act. As such, they are, alongside the emergency services, some health bodies and the Environment Agency, subject to the full set of civil protection duties in the Act.

2.6 The Act provides a basic framework defining what tasks must be performed and how organisations can co-operate. Local responders work to a common national framework, and make their own decisions according to local circumstances and priorities. This allows local responders to develop plans and make arrangements that are appropriate in their areas to deliver their duties under the Act.

2.7 Under the terms of the Act, Trafford Council is required to:

- assess the risk of emergencies occurring and use this to inform contingency planning
- put in place emergency plans
- put in place business continuity management arrangements
- put in place arrangements to make information available to the public about civil
- protection and maintaining 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 co-ordination and efficiency
- (local authorities only) provide advice and assistance to businesses and voluntary organisations about business continuity management

2.8 As a category 1 responder, a local authority must perform its duties under the Act where the emergency is likely to seriously obstruct its ability to perform its functions, or where it considers it necessary or desirable to act to prevent, reduce, control, or mitigate the emergency's effects, or otherwise take action, and would be unable to act without changing the deployment of its resources or acquiring additional resources

3.0 Rationale for Proposed Changes

- 3.1 When emergencies occur the rules governing normal decision making change. Consequently it is essential that members and officers have a planned response in such circumstances. Under crisis conditions normal decision making processes can be too slow; routine channels of information and communication may be disrupted or be inadequate.
- 3.2 Currently the constitution only provides an emergency provision with regard to situations which arise between Committee or Executive meetings and which require emergency action which cannot reasonably await the next meeting. In those circumstances the Chief Executive, Corporate Director of Governance and Community Strategy or relevant Corporate Director has authority to take such action in consultation with the Chair, Vice-Chair and Opposition Spokesperson of the Committee concerned (or with such of the latter as are available for consultation) or with the relevant Executive Portfolio Holder and subject to a subsequent report to the next meeting of the Committee or the Executive.
- 3.3 The Constitution does not currently provide members and officers with a mechanism by which emergency decisions can be made in other scenarios. It does not provide emergency provisions in respect of decisions that would ordinarily be reserved to Council and it does not make any provisions in respect of meetings that are not quorate.
- 3.4 This means that under current circumstances the Council is unable to fulfil the objectives of the constitution itself nor is it able to meet its legislative requirements.
- 3.5 The aim of the proposed amendments is to provide a basis on which Trafford Council can respond effectively to, and lead the recovery from, emergencies.
- 3.6 The objectives of the proposed amendments to the constitution are to enable prompt decision making which will enable the Council to:
- provide assistance to the emergency services;
 - provide professional and technical advice, labour, transport, equipment, use of premises and any other material or resources which might be required during an emergency;
 - lead the recovery phase of any emergency;
 - continue to deliver appropriate services during any emergency response;
 - comply with the requirements of the Civil Contingencies Act (2004) and its accompanying Regulations.

3.7 The proposed amendments are:

- not designed to be used to meet the needs of day to day incidents which could be managed via the normal functions of the Council;
- temporary, proportionate to the threat, will only be used when strictly necessary; and
- will be in place for as long as required to respond to the current situation.

4.0 Proposed Constitutional Amendments

4.1 The constitution currently only provides emergency provisions with regard to situations: which arise between Committee or Executive meetings; which require emergency action; and which cannot reasonably await the next meeting. In those circumstances the Chief Executive, Corporate Director of Governance and Community Strategy or relevant Corporate Director has authority to take such action in consultation with the Chair, Vice-Chair and Opposition Spokesperson of the Committee concerned (or with such of the latter as are available for consultation) or with the relevant Executive Portfolio Holder and subject to a subsequent report to the next meeting of the Committee or the Executive. Furthermore, it does not allow decision making by committees to proceed in the event that the Committee is not quorate.

4.2 It is recommended that Council approve the amendment of the Council's constitution to incorporate the following new provisions (the relevant committees/officers in relation to the first proposed change are detailed below):

- In the event that a scheduled meeting of the (named Committee) is inquorate the functions of that Committee shall be delegated to the (relevant Senior Officer), to the extent necessary for the (relevant senior officer) to, in consultation (where possible) with the Chair of the Committee, complete the business set out on the Agenda for that meeting;
- In the event that a scheduled meeting of the Executive is inquorate the functions of the Executive shall be reserved to the Leader of the Council in consultation with the Chief Executive, Corporate Director of Governance and Community Strategy or relevant Corporate Director (where possible), to complete the business set out on the Agenda for that meeting.
- In the event that a scheduled meeting of the Council is inquorate the functions of Council shall be delegated to the Chief Executive, to enable the Chief Executive to, in consultation (where possible) with the Mayor or Chair of the meeting, complete the business set out on the Agenda for that meeting
- With regard to situations which arise between Council meetings and require emergency action which cannot reasonably await the next Council meeting, the Chief Executive, Corporate Director of Governance and Community Strategy or relevant Corporate Director has authority to take such action in consultation with the

Leader of the Council and the Leaders of the other groups of the Council (or with such of the latter as are available for consultation) and subject to a subsequent report to the next meeting of the Council meeting.

- 4.3 The Council approves the new provisions as set out at paragraph 4.2 above, on the basis that, unless the provisions are renewed or cancelled, they will become inoperable and shall cease to have effect one year from the date of this decision.

5. Consultation

- 5.1 No Applicable

6. Reasons for Recommendation

- 6.1 New urgent provisions are necessary to enable the Council to continue to operate speedily and effectively during the current emergency

Committee	Responsible Person
Accounts & Audit Committee	Corporate Director of Finance & Systems
Children & Young People's Scrutiny Committee	Corporate Director Children's Services
Employment Committee	Corporate Director of People
Health & Wellbeing Board	Corporate Director of Adult Services
Health Scrutiny Committee	Corporate Director of Adult Services
Licensing Committee	Corporate Director of Place
Licensing Sub-Committee	Corporate Director of Place
Planning & Development Management Committee	Corporate Director of Place
Public Protection Sub-Committee	Corporate Director of Place
Safety at Sports Grounds Sub-Committee	Corporate Director of Place
Scrutiny Committee	Corporate Director of Governance and Community Strategy
Standards Committee	Corporate Director of Governance and Community Strategy
STAR Joint Committee	Corporate Director of Finance & Systems
Town/Village Green Sub-Committee	Corporate Director of Place