



REPORT TO: SPECIAL MEETING OF MORAY COUNCIL ON 25 MARCH 2020

SUBJECT: EMERGENCY DECISION MAKING ARRANGEMENTS

BY: CHIEF EXECUTIVE

1. REASON FOR REPORT

- 1.1 To seek approval for temporary decision making arrangements to reduce the need for face to face meetings during the current coronavirus (Covid 19) outbreak.
- 1.2 This report is submitted to Council in terms of Section II (19) of the Council's Scheme of Administration relating to emergency planning.

2. RECOMMENDATION

It is recommended that the Council:

- (i) note the emergency powers delegated to the Chief Executive in terms of paragraph 4.1 (i) of Council's Scheme of Delegation detailed in paragraph 3.3 below;**
- (ii) agree to suspend, on a temporary basis, all delegations to committees;**
- (iii) agree to form a temporary Emergency Cabinet of 7 Councillors, reflecting political balance and allowing substitutes;**
- (iv) nominate the Convener as Chair of the Emergency Cabinet and the Leader as Vice Chair;**
- (v) nominate 5 other councillors to sit on the Emergency Cabinet, reflecting political balance as outlined in para 4.1 below;**
- (vi) authorise the Emergency Cabinet to take any decisions which the Full Council are empowered to take;**
- (vii) authorise the Chief Executive, for lower risk business as outlined in paragraph 4.5 below, to exercise the delegated authority given to him in paragraph 5(7) of the Council's Scheme of Delegation (to take such executive actions as may be deemed necessary in the discharge of the Authority's functions) without the requirement**

for homologation;

- (viii) note that the Emergency Cabinet will need to approve further temporary arrangements in relation to quasi-judicial decisions and regulated processes as outlined in paragraph 4.6 below;**
- (ix) note that it will not be possible to continue normal public access to meetings and that, where possible, live streaming will be maintained, failing which, agendas and minutes for meetings of the Emergency Cabinet will be made publicly available, subject to confidentiality provisions;**
- (x) agree to review these arrangements (without the need to suspend standing orders) on or before 17 June 2020.**

3. BACKGROUND

- 3.1 The Covid 19 outbreak has been declared by the World Health Organisation as a pandemic.
- 3.2 Both the UK and Scottish Governments have introduced measures to limit contact people have with each other, being referred to as social distancing, self-isolation and household isolation. These measures are likely to become more stringent over the next few weeks and will have a significant impact on Councillors, the Council workforce and the way the Council delivers services.
- 3.3 The Council's Scheme of Delegation makes provision at 4(1) for dealing with emergency situations through powers granted to the Chief Executive "to take such executive action as may be considered necessary to protect the community and the Council's property and to assist the emergency services and other partners in the response to and recovery from an emergency".
- 3.4 The Chief Executive also has powers within paragraph 5(7) of the Scheme of Delegation to authorise such executive action as may be deemed necessary in the discharge of the Authority's functions subject to homologation.
- 3.5 Due to the long term nature of the pandemic restrictions, special Council decision making arrangements will need to be put into place to cope with the rapidly changing situation and to reduce the need for committee and other meetings.

4. PROPOSED ARRANGEMENTS

- 4.1 It is proposed that all Council and committee meetings are suspended on a temporary basis and that all decisions required (subject to paragraph 4.5 and 4.6 below) are taken by an Emergency Cabinet.
 - The Emergency Cabinet shall comprise 7 Councillors and shall reflect political balance.
 - Substitute members shall be allowed.
 - The Emergency Cabinet shall meet weekly or at such other times as they determine.

- If necessary meetings can be held by telephone or video conference to reduce the need for face to face meetings.
- 4.2 Advance public notice of meeting times and agenda items for the Emergency Cabinet will be given where possible in terms of Schedule 7 (2) of the Local Government Scotland Act 1973. Due however to the rapidly changing national situation, and the likely need for decisions to be made at short notice, it is recognised that advance public notice may not always be possible.
- 4.3 It is proposed that measures are put in place to keep Councillors who do not sit on the Emergency Cabinet fully up to date with developments. These measures could include distribution of information through political groups and use the Council's Committee Management Information System (CMIS).
- 4.4 Due to the restrictions on public movements, it will not be possible to continue normal public access to meetings. Where possible live streaming of meetings will be maintained, failing which agendas and minutes for meetings of the Emergency Cabinet will be made publicly available, subject to statutory confidentiality provisions.
- 4.5 It is proposed that the powers of the Chief Executive to take executive action described at paragraph 3.4 above shall be exercisable, in relation to lower risk business, without the need for homologation. He shall use the following considerations to judge this risk: strategic importance, legal, financial, reputational and political considerations.
- 4.6 Further consideration will need to be given to quasi-judicial decisions and regulated processes (such as the Local Review Body, Appeals, Hearings, Licences, Permissions, and Grants) where, for legal reasons there is a prescribed process or timescale. It is proposed that the Emergency Cabinet make arrangements to progress these using the following principles:
- delegation to officers where possible
 - allowing written submissions/decisions where possible
 - negotiation/relaxation of timescales
 - holding meetings by telephone or video conference
- 4.7 Similar arrangements will require to be considered by the Licensing Board.
- 4.8 It is proposed that these emergency arrangements are reviewed on or before 17 July 2020.

5. **SUMMARY OF IMPLICATIONS**

(a) Corporate Plan and 10 Year Plan (Local Outcomes Improvement Plan (LOIP))

It is important for the Council to maintain an effective decision making process to continue to deliver vital services to vulnerable people in Moray.

(b) Policy and Legal

These proposals will temporarily amend the Council's Scheme of Administration and Scheme of Delegation. Statutory timescales and

procedures for meetings (and for other processes throughout council) may require to be breached however this is considered to be a proportionate response to the evolving national situation.

Paragraph 8.8.2 of the council's Emergency Planning Policy and Procedures states that best practice guidance suggests that consideration should be given to formalising delegation to senior managers or making arrangements to establish a small "emergency committee" to deal with the immediate and urgent needs of an emergency.

(c) Financial implications

None

(d) Risk Implications

Streamlining the Council's decision making could compromise transparency and the involvement of Councillors and the Public in the decision making process. It is proposed to mitigate this risk by providing timely information dissemination of decisions, as outlined in paragraph 4.3 above. The proposals are considered to be a reasonable and proportionate response.

In addition, these arrangements will be reviewed by 17 July 2020.

(e) Staffing Implications

The revised arrangements will free up senior officer time to respond to the pandemic.

(f) Property

None

(g) Equalities/Socio Economic Impact

No direct implications

(h) Consultations

The Corporate Management Team and Group Leaders have been consulted.

6. CONCLUSION

6.1 Restrictions on the movement of people as a result of the Covid 19 pandemic require the Council to review its decision making processes.

6.2 This report seeks approval for suspension of all Council committees and the creation of a temporary Emergency Cabinet.

6.3 The position will be reviewed on or by 17 July 2020.

Author of Report: Alasdair McEachan, Head of Governance, Strategy and Performance

Background Papers:

Ref: