

Matter which the Chairman has decided is urgent by reason of the need to ensure that Council business is progressed in light of the current COVID-19 pandemic

Meeting of:	Cabinet
Date of Meeting:	Monday, 23 March 2020
Relevant Scrutiny Committee:	Corporate Performance and Resources
Report Title:	Coronavirus Preparations, Officer Delegations and Council Working / Business Continuity
Purpose of Report:	To outline to Cabinet and seek approval for temporary emergency Governance arrangements to be implemented to ensure business continuity within the Council as a result of the implications of COVID-19 pandemic
Report Owner:	Executive Leader and Cabinet Member for Performance and Resources
Responsible Officer:	Rob Thomas, Managing Director
Elected Member and Officer Consultation:	Monitoring Officer / Head of Legal and Democratic Services Principal Democratic and Scrutiny Services Officer Head of Regeneration and Planning
Policy Framework:	This is a matter for decision by Cabinet
<p>Executive Summary:</p> <ul style="list-style-type: none"> • Following the decision to cancel all Council meetings as a result of the implications of the COVID-19 pandemic, Cabinet approval is sought in respect of emergency measures required to be put in place to (i) ensure business continuity within the Council (ii) ensure appropriate governance arrangements are in place and (iii) allow decisions affecting the Council to be made in a timely manner. • The report expands upon the existing Managing Director’s delegated emergency powers as set out in the Council’s Constitution to deal with matters deemed requiring immediate action. • The report advises of Central and Welsh Governments’ proposed emergency legislation in respect of certain Local Authority functions. 	

Recommendations

1. THAT Cabinet notes the contents of the report.
2. THAT Cabinet approval be sought for:
 - (a) the payment of Senior and Civic allowances / salaries to continue in line with current arrangements until the Council's Annual Meeting takes place.
 - (b) the manner in which the Managing Director intends to use his delegated powers as outlined in paragraphs 2.2.3 to 2.2.6 including that all matters approved under the use of the Managing Director's delegated emergency powers be reported by Democratic Services on a fortnightly basis by email, to all Members of the Council and made available on the Vale of Glamorgan Council's website.
 - (c) extending the appointment of Local Authority appointed School Governor positions to existing Governors that agree to extend their terms of office, until 31st October 2020.
3. THAT items on the Cabinet's Forward Work Programme be held in abeyance for the foreseeable future unless matters require immediate action and are progressed using the Managing Director's delegated emergency powers.
4. THAT pending or in the event of emergency legislation in relation to School Admission Appeals and Exclusions, Licensing applications and Special Education Needs Tribunals not being made, that internal procedures for dealing with the same be established pursuant to the Managing Director's delegated emergency powers.
5. THAT the use of Article 14.4.2(ii) of the Council's Constitution (Urgent Decision Procedure) be authorised in respect of the above recommendations in order that the Council's business can be maintained as outlined above in light of COVID-19.

Reasons for Recommendations

1. Having regard to the contents contained therein and to keep Members informed of pending legislation.
2. In order to ensure business continuity is maintained in light of the implications of COVID-19 and to approve Governor appointments for business continuity.
3. In light of the implications of COVID-19.
4. In order to ensure business continuity.
5. In order that matters can be dealt with immediately.

1. Background

- 1.1** The UK action plan published on 3rd March, 2020 sets out what the UK has already done and plans to do to tackle the COVID-19 Pandemic. Indications are that the majority of people who become infected will experience a mild self-limiting illness, like seasonal flu. Some will show no symptoms at all. A proportion of those infected will develop complications and require hospital treatment, most often pneumonia. In a small proportion of these cases, the illness may be severe enough to lead to death.
- 1.2** The risk of death increases in older people and people with an underlying health risk condition or those who are immuno-compromised. Illness is less common and usually less severe in young people. Children can be affected but illness is rare in people under 20 years of age.
- 1.3** As a result of the implications of COVID-19, the Leader and Chairmen of Council Committees on 16th March, 2020 agreed that all meetings of the Council except for Cabinet on 23rd March, 2020 be cancelled for the foreseeable future.
- 1.4** In light of the COVID-19 Pandemic, Parliament published the Coronavirus Bill <https://services.parliament.uk/Bills/2019-21/coronavirus.html> on 19th March, 2020 which it is anticipated will receive Royal Assent by 27th March and addresses provisions (in part) in respect of the areas referred to in Appendix A of this report.
- 1.5** Further, consultations between Monitoring Officers across Wales have taken place which led to a telephone conference with Welsh Government Officials on 18th March, 2020 in respect of matters referred to in Appendix B of this report.

2. Key Issues for Consideration

- 2.1** As a result of the need to suspend Council meetings until the foreseeable future it is necessary to ensure that the Council has robust governance arrangements in place to ensure where possible business continuity at the same time as being mindful of emerging emergency legislation from Central Government and Regulations from Welsh Government and the circumstances within which the Council is functioning.
- 2.2** Annual General Meeting – Pending the Annual General Meeting (AGM) which has been postponed from 4th May, 2020, the following working practices relating to governance are proposed:
 - 2.2.1** Senior and Civic positions and allowances / salaries – That following consultation with Group Leaders, all Chairmanships continue in line with current arrangements and Senior Member and Civic allowances / salaries be extended until the Council's AGM takes place.

- 2.2.2** Monitoring Officers from Wales have requested Welsh Government to pass emergency legislation to permit Council's to postpone their Annual Meetings beyond May 2020 and to ask that the Independent Remuneration Panel for Wales (IRPW) extend the Senior and Civic allowances / salaries for the intervening period.
- 2.2.3** The Council's Constitution (page 271) provides that the Managing Director or in his absence the nominated Deputy has the delegated power to act, after consulting the appropriate Cabinet Member and in the case only of matters involving the Council in financial commitments, the Leader, Section 151 Officer and the appropriate Chief Officer, in respect of any matter which, in his opinion:
- a) requires immediate action, and
 - b) does not justify holding a special meeting of the body which would ordinarily consider the matter or is of such urgency or emergency as not to allow for such a meeting, use of such delegated powers to be subsequently reported back to the Cabinet or Council as appropriate.
- 2.2.4** For information and clarity, the Managing Director has determined that the current nominated Deputy for the purposes of the Managing Director's Emergency Powers will be the relevant Service Director or another Director in the absence of the relevant Service Director; and in respect of matters relating to the Resources Directorate, the Director of Environment and Housing. As will be appreciated, it will be a matter for the Managing Director to nominate at any given time another Deputy or Deputies, details of which will be communicated to Members to ensure clarity in decision making.
- 2.2.5** For information and to aid business continuity, it is proposed that:
- a) in the event of the relevant portfolio Cabinet Member being unable to be consulted on the use of Emergency Powers, the Leader and Deputy Leader be consulted in their absence;
 - b) in exercising the Managing Director's Emergency Powers he will endeavour to consult with the relevant Chairmen of Planning Committee, Licensing Committee and the Welsh Church Act Estate Committee should matters within the remit of those Committees require immediate action to be taken and on matters of Policy the relevant Scrutiny Committee Chairmen.
- 2.2.6** To assist transparency, all decisions approved under the use of the Managing Director's Emergency Powers will be maintained by and reported by Democratic Services on a fortnightly basis by email to all Members of the Council and made available to the public for inspection on the Vale of Glamorgan Council website.

2.3 Officer Delegations

- 2.3.1** For information, the current officer delegations in operation are set out at pages 271 - 326 of the Council's Constitution (https://www.valeofglamorgan.gov.uk/en/our_council/Council-Constitution.aspx)

2.4 Other Matters for Consideration

2.4.1 Under the legislation Planning / Licensing Committees and the Welsh Church Act Estates Committee have separate delegated responsibilities conferred by Full Council.

2.5 Planning Committee Matters -

2.5.1 Planning Committee has delegated powers granted by Council and terms of reference, with delegated powers

(1) to deal with all matters relating to development control, including planning applications;

(2) To deal with all matters relating to building control, including dangerous and dilapidated buildings and structures, and trees;

(3) to consider and determine applications for modification of the Definitive Map and Statement made under Section 53 of the Wildlife and Countryside Act 1981 and any statutory modifications made thereunder.

Delegated powers for some matters have been given to the Head of Regeneration and Planning and Operational Manager for Planning and Building Control as set out in current Officer Delegations referred to above.

2.5.2 Delegations cover all functions subject to caveats which require determination by the Planning Committee and matters called in by Elected Members.

2.5.3 As Planning Committee meetings are currently suspended, it is proposed that:

2.5.4 Use of the Managing Director's Emergency Powers be used where the matter requires immediate action due to Planning Committee not being held. Immediate action in this context occurs when the Council has a statutory duty to determine planning matters by a certain date which cannot be extended either due to its nature or because the applicant is unwilling to agree an extension. It is however, expected that reasonable attempts are made to secure extensions of time. Where a matter has been called in by an elected Member using the call-in process that the Member calling it in is consulted to see whether they wish for the matter to remain called in to Committee.

2.5.6 It is both the Monitoring Officer / Head of Legal and Democratic Services and Head of Regeneration and Planning's view that the most sensible way to proceed is to adopt arrangements as set out in paragraph 2.5.4.

2.6 Licensing Committee Applications / Matters -

2.6.1 Following discussions with Legal Services, whilst there are statutory timescales within which a hearing is to take place to consider an application and associated objections it is considered reasonable, in the current circumstances, for Officers to endeavour to seek the agreement of the applicant to delay the consideration of the relevant application until a mutually convenient hearing date; should the applicant choose not to agree to a postponement, it is recommended that the Managing Director's delegated emergency powers be utilised to approve a revised procedure to be adopted in such instances. It is envisaged that this will

build on the existing arrangements for the submission of written representations.

- 2.6.2** Discussions are ongoing with Shared Regulatory Services' colleagues and consideration is also being given to expert legal guidance, emerging legislation and approaches adopted by other Local Authorities to inform such a procedure, so that the Council is prepared if an applicant is not agreeable to a postponement.

2.7 Welsh Church Act Estate Committee –

That where matters require immediate action the use of the Managing Director's delegated emergency powers be utilised.

2.8 School Admission Appeals and Exclusions -

- 2.8.1** It will be noted that the deadline for the receipt of Admission Appeal applications is 30 March 2020 for Secondary Schools and 14 May 2020 for Primary Schools. The current legislation does not provide for exceptional circumstances; however, Welsh Government are considering introducing emergency legislation particularly to address remote attendance to provide flexibility relating to the School Admissions Appeals process. In the event that emergency legislation is not forthcoming, it is proposed that a process for dealing with School Admission Appeals be prepared, enabled by the use of the Managing Director's delegated emergency powers.

2.9 Appointment of Local Authority Governors Panel -

- 2.9.1** Appointments to Local Authority Governor positions are normally considered by the Panel with recommendations submitted to Cabinet for consideration. In light of the suspension of all Council meetings, it is proposed that Cabinet consider extending the appointment of those existing Governors who are seeking reappointment until 31st October, 2020. For vacancies where there is no incumbent Governor, it is recommended that these positions remain vacant and be considered at the next available Local Authority Governor's Panel meeting.

2.10 Forward Work Programme –

Items on the Cabinet's Forward Work Programme are suggested to be held in abeyance until the foreseeable future unless requiring immediate action, and in such circumstances the Managing Director be requested to exercise his delegated emergency powers.

2.11 Members' Attendance at Meetings –

Having regard to Members' attendance at Committees and the six month rule (Section 99 and Schedule 12 of the Local Government Act 1972 refers) the Welsh Local Government Association are indicating at this stage that no changes will be made to the rule but Welsh Government emergency legislation / regulations will allow attendance by phone. Further clarification is being sought in this regard and Members will be updated. Indications are that Welsh Government will be approaching this issue from the perspective of enabling Members to meet their

attendance criteria in a different way from physically attending a Council meeting in person during the current period.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1** Officer Delegations directly contribute to the long term future by ensuring that the Council's services continue to function during these challenging times albeit it will be appreciated that resources will be reallocated to ensure that key services such as Social Services, Registrar and Waste Collection are prioritised.
- 3.2** The Council is required to ensure and put in place effective governance arrangements where necessary to effectively respond to the potential impacts of COVID-19, continue to deliver essential services and protect local communities, elected Members and employees.

4. Resources and Legal Considerations

Financial

- 4.1** As outlined within the report

Employment

- 4.2** There are none directly as a result of this report.

Legal (Including Equalities)

- 4.3** The Council is required to comply with the Local Government Act 2000 and subordinate legislation, various statutory provisions referred to in this report, the pending Coronavirus Act (when it becomes enacted) and emergency legislation / regulations from Welsh Government, in the operation of the Council's functions.

5. Background Papers

Council's Constitution

**CORONAVIRUS BILL
MAKES PROVISION (IN PART) AS FOLLOWS**

- Emergency registration of health professionals
- Temporary registration of social workers
- Emergency volunteers
- Mental health and mental capacity
- Health service indemnification
- NHS and Local Authority care and support
- Registration of deaths and still-births etc.
- Investigatory powers
- Food supply
- Inquests
- Disclosure: Wales
- Schools, childcare providers, etc.
- Statutory sick pay
- Pensions
- Protection of public health
- Powers to direct suspension of port operations
- Powers relating to potentially infectious persons
- Powers relating to events, gatherings and premises
- Courts and Tribunals: use of video and audio technology
- Powers in relation to bodies
- Postponement of elections, referendums, recall petitions and canvass
- Postponement of elections: Wales
- National Insurance contributions

**DISCUSSIONS BETWEEN WELSH GOVERNMENT OFFICIALS AND
MONITORING OFFICERS COVERED (IN PART):**

- The holding of Annual Meetings beyond the end of May 2020 – Section 99 and Schedule 12 of the Local Government Act 1972 refers
- Extensions of time limits for:
 - Deadlines for the preparation, audit and approval of annual accounts
 - Senior Responsibility Allowances by the Independent Remuneration Panel for Wales
 - School appeals e.g. exclusion appeals or admission appeals
 - Determining planning applications before an appeal for non-determination
 - Approval of plans for building control applications
 - Spending / claiming grant funding
 - Responding to the Local Democracy and Boundary Commission for Wales in respect of electoral arrangements reviews
 - Registration of deaths
 - FOI / DPA requests.
- Consideration / review of various statutory provisions including (in part):
 - S.85 Local Government Act 1972 – the six month rule relating to Members' attendance at a meeting of the Council
 - S.4 Local Government Measure 2011 – conditions on remote attendance e.g. ability to see and be seen
 - Licensing Act 2006 – delegation of licensing functions reserved to Committees
 - The size and composition of Local Planning Authority Committees (Wales) Regulations 2017 – membership of the Planning Committee and in particular relaxing the quorum and “no substitution” rules
 - Various – Service of notices by or on the Council by post
 - Various – Right to suspend inspection of registers, documents and Committee papers

- Various – Suspending the right for public to be heard in person at appeals or hearing procedures relating to quasi judicial hearings or appeals
- S.7 Public Libraries and Museums Act 1964 – suspending duty to provide comprehensive library service
- Mental Capacity Act 2005 – Deprivation of Liberty Safeguarding Standards
- Welsh Language (Wales) Measure 2011 – relaxing of dual language requirements
- Various – Relaxation of ports and harbours duties.