

Article 15 – Covid-19 Response Period Decision Making Arrangements

1. Introduction

- 1.1. This Article shall apply until 7 May 2021 or such earlier time as the Council shall consider is necessary.
- 1.2. The arrangements within this Article are made pursuant to 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 Regulations”) made by the Secretary of State on 1 April 2020 and which came into force on 4 April 2020 and any other Covid-19 related legislation that may be in force throughout the Covid-19 Response Period.
- 1.3. In the event that further legislation or guidance is issued, Council will review this Article immediately in order to be compliant with such legislation.

2. Definitions

- 2.1. In this Article:
 - (a) “Clear working days” shall not include the day of the meeting, the day of the notice, weekends, public holidays, or any other days the Council determines to be non-working days.
 - (b) “Covid-19 Response Period” is the period during which time this Article remains in place.

3. Covid-19 Response Period Arrangements

- 3.1. During the Covid-19 Response Period the other provisions of this Constitution will be modified by the arrangements in this Article to the extent that they are not disapplied by the Regulations.
- 3.2. If there is any uncertainty about the interpretation or application of this Article, the decision of the Monitoring Officer shall be final.
- 3.3. Detailed procedures setting out a protocol in respect of the establishment and running of virtual meetings during the Covid-19 Response Period will be set out as an Appendix to Procedure Rule 40 of Part 4 Procedure Rules in the Constitution and shall be read in conjunction with the requirements of this Article.

4. Meetings in Public

- 4.1. During the Covid-19 Response Period, it will not be possible to convene physical meetings of the Council and comply with requirements on social distancing, the Council’s guidance on working in council buildings and related

public health measures. Consequently, this Article seeks to put in place alternative and appropriate measures to safeguard the Council's underlying principles of open and transparent decision making, whilst balancing this with the interests of public health protection.

- 4.2. The Regulations require the live streaming of meetings to the extent necessary to enable the public to view and/or hear the proceedings as they take place. These services will be made available using appropriate video conferencing and live streaming technologies.
- 4.3. During this period, the provisions of Appendix 7 will apply allowing the Council, its committees and Sub-Committees to hold meetings using remote technology.
- 4.4. During this period that Appendix 7 applies, the BCP Council Constitution, including these procedure Rules, is to be interpreted in a manner which gives effect to Appendix 7.
- 4.5. On 7 May 2021, or such other time as the Regulations cease to apply or are amended, the provision of Appendix 7 will either cease to apply or be so amended as to comply with the new legislation.

5. Access to Information Provisions

- 5.1. Subject to the general provisions of this Article, the Council's Access to Information provisions as set out in the Constitution shall continue to apply, with the exception of the following specific provisions during this Covid-19 Response Period :-
 - Any references to copies of documents being made available for public inspection at the offices of the Council shall not apply. All such documents shall be published online for public inspection or sent electronically upon request.
 - Any references and required provisions relating to meetings of the Cabinet in private shall not apply to ordinary meetings of the Cabinet which cannot be held in public during this interim period.
 - Notices of meetings shall only be served electronically to members of the relevant meeting. Councillors requiring a printed copy will do so using their own personal facilities and at their own cost.

6. Voting Arrangements

- 6.1. Unless secure arrangements are in place to capture electronic votes and subject to paragraph 6.2 below, voting at all virtual meetings shall be by rollcall where each voting member present is requested by the Chairman to indicate whether they are for or against the motion, or if they wish to abstain.
- 6.2. Where, in the opinion of the person presiding, there is consensus for the motion during a debate, the person presiding may seek to secure such agreement whilst providing an opportunity for any dissenting or abstaining members to be heard.

7. Decision Making

- 7.1. This Article draws together the existing decision-making procedures available to the Council with necessary adjustments. *Inclusion of each procedure does not require or imply that the decision method will be exercised.*
- 7.2. Article 12 of the Constitution sets out the Principles of Decision Making. These principles shall continue to apply requiring that when the Council takes a decision it will do so in accordance with the following:-
- (a) Be clear about what the Council wants to happen and how it will be achieved;
 - (b) Ensure that the decision and the decision-making processes are lawful;
 - (c) Consider the Public Sector Equality Duty and its obligations under the Human Rights Act;
 - (d) Consult properly and take professional advice from Officers;
 - (e) Have due regard to appropriate national, strategic, local policy and guidance;
 - (f) Ensure the action is proportionate to what the Council wants to happen;
 - (g) Ensure the decisions are not unreasonably delayed;
 - (h) Explain what options were considered and give the reasons for the decision;
 - (i) Make the decision public unless there are good reasons for it not to be.
- 7.3. This Article shall further:-
- (a) Enable decisions to be taken transparently, efficiently and effectively.
 - (b) Provide appropriate opportunities for an effective overview and scrutiny function to continue.
 - (c) Ensure that a decision will not be reviewed or scrutinised by anyone who was directly involved in making a decision.
 - (d) Ensure that those responsible for decision making can be clearly identified and that they can explain the reasons for their decisions.

Key Decisions

- 7.4. A Key Decision, which must be included in the Leader's Forward Plan, is a Cabinet or Leader decision which is likely to meet one or more of the following criteria:-
- (a) It will result in the Council on its own or in partnership with other organisations spending or saving £500,000 or more, with the exception of operational expenditure or savings identified within the agreed Service Plan and Budget;
 - (b) It is likely to have a significant impact or effect on two or more electoral wards.

7.5. Subject to the general provisions of this Article, a Key Decision shall continue to be made in accordance with the Cabinet Procedure Rules, with the exception of the following specific provisions during this Covid-19 Response Period:-

- The forward plan shall only be made available online. Any reference to copies of documents being made available to the public at the offices of the council shall not apply.

Individual Cabinet Member Decisions

7.6. Subject to the general provisions of this Article, individual Cabinet Member Decisions will be made in accordance with the Procedures set out in the Constitution, with the exception of the following specific provisions during this Covid-19 Response Period:-

- Individual cabinet member decisions shall be published on the web site at least five clear working days before the intended date of the decision. This period shall allow relevant members of the council, ward members and other interested parties to make representations to the cabinet member.

Major Operational Decisions taken by Officers

7.7. A Major Operational Decision is an officer decision which is not a Key Decision and which is likely to meet one of the following criteria:

- (a) It will result in the Council incurring expenditure - including the loss of income – in excess of £100,000, with the exception of operational expenditure identified within the agreed Service Plan and Service Budget
- (b) It is a decision which has been specifically delegated to Officers – for example to conclude an agreement or contract within the outline terms agreed by the Cabinet
- (c) It is a decision which is controversial and/or politically sensitive in nature or is, in the opinion of the Director, of such significance that a published record of the decision would ensure transparency and accountability in relation to decision making within the Council.

7.8. Subject to the general provisions of this Article, major operational decisions taken by officers will be made in accordance with the Procedures set out in the Constitution.

Day to day Operational Decisions taken by Officers

7.9. A day to day operational decision is an Officer decision which is not a Key or Major Operational Decision and meets all of the following criteria:

- (a) It is within an agreed Service Plan and Service Budget
- (b) It is not in conflict with the Budget and Policy Framework or other approved policies of the Council
- (c) It does not raise new issues of policy.

- 7.10. Subject to the general provisions of this Article, day to day operational decisions taken by officers will be made in accordance with the Procedures set out in the Constitution.

8. Overview and Scrutiny Function

- 8.1. During the Covid-19 Response Period, the Council will continue to operate with the three Overview and Scrutiny Boards and Committees and the Chairmen of the three Committees will liaise with each other with a view to ensuring effective and efficient methods of undertaking Scrutiny during the Interim Period. This will take into account the need for effective and focused scrutiny during the emergency period and impact on officer resource.
- 8.2. The Overview and Scrutiny Board as the body responsible for overall co-ordination of the Council's scrutiny function will co-ordinate the scrutiny of the Council's response to Covid-19 to ensure that this is done in a way that takes account of issues that may be cross-cutting across both the Overview and Scrutiny Committees and the Overview and Scrutiny Board. This will be done in full consultation with the Chairmen of the other two Committees and does not prevent the other Committees exercising their statutory functions as set out in the Constitution should this be necessary during the Covid-19 Response Interim Period.
- 8.3. To ensure scrutiny engagement in decision making is timely, the Overview and Scrutiny Board may consider any matter within the remit of other Overview and Scrutiny Committees where there is an urgent need for scrutiny and/or to ensure efficiency and avoid duplication where there are cross-cutting issues arising from the current situation. Where an item will be included on an Overview and Scrutiny Board agenda that would ordinarily be within the remit of another Overview and Scrutiny Committee, the Chairman of that Committee will be invited to attend the meeting and participate in debate.
- 8.4. The Chairman of the relevant meeting shall permit other parties to address a virtual meeting if they consider it necessary and conducive to effective decision-making. The decision of the Chairman shall be final.
- 8.5. Subject to the general provisions of this article, the Overview and Scrutiny procedure rules as set out in the Constitution shall continue to apply, with the exception of the following specific provisions during this Covid-19 Response Period:-
- Where it is not conducive to convene a meeting of the relevant Overview and Scrutiny Board or Committee, the Chairman or Vice-Chairman of the relevant Board or Committee shall seek the views of the members and present these to Cabinet in place of recommendations from a formal meeting. Views submitted to Cabinet in this way may be varied and do not have to be based on consensus.

9. Other Committees

- 9.1. During the Covid-19 Response Period, other committees and sub-committee appointed by the Council shall continue to be convened. When a Committee or

sub-committee is convened in accordance with this provision it shall continue to operate in accordance with the Constitution, subject to the general provisions of this Article.

10. Public Participation

10.1. Subject to the general provisions of this Article, the Public Questions, Statements and Petitions Meeting Procedure Rules, and the Protocols for Licensing Committee/Sub-Committee and the Appeals Committee, shall continue to apply, with the exception of the following specific provisions during this Covid-19 Response Period:-

- (a) Any references to requiring attendance at a meeting shall not apply.
- (b) Questions, Statements, Petitions and representations validly made in accordance with the provisions of the Constitution will be published on the Council's website the day before the date of the relevant meeting. A link to the Question/Statement/Petition will be sent by email to all members of the relevant Committee.
- (c) Where a response to a question is available before the meeting this shall also be published on the Council's website before the meeting commences. If this is not possible the response shall be read out at the meeting.
- (d) The Chairman will make a statement at the relevant part of the meeting referring to the submissions received, that they have been published on the website and, where appropriate, what action is to be taken.
- (e) The reference in paragraph 12 of the Protocol for Public Speaking at Licensing Committee and Sub-Committees shall be amended for this interim period by the removal of the words "*and that decision delivered by the Chair to all parties at the conclusion of the hearing as appropriate*". Participants will be notified in writing following the decision.

10.2. The Planning Committee Protocol for Public Speaking shall not apply during the Covid-19 Response Period and the provisions of this Article shall apply to statements and representations to be made at Planning Committee. It is recognised that due to its quasi-judicial role in determining planning applications the Planning Committee will need to have particular regard to representations made by members of the public, applicants and ward councillors. The Planning Committee, at the meeting held on 21 May 2020, approved an interim protocol for public statements at virtual meetings of the Committee. The Committee shall have authority to agree further specific procedures in due course to supplement those provided for in this Article. For the avoidance of doubt the deadline for submission of statements and representations in respect of matters before the Planning Committee is 12:00 noon the day before the meeting. This deadline may be changed should the Planning Committee agree further specific procedures as referenced in this paragraph.