

# Committee Model Working Group

29 September 2023



**Report of:** Director – Legal and Democratic Services

**Title:** Urgent and emergency decision-making

**Ward:** All

**Officer Presenting Report:** Director – Legal and Democratic Services

## **Recommendations:**

That the Committee Model Working Group considers and makes recommendations in respect of the matters raised in this report.

## **The significant issues in the report are:**

This report considers the different processes that could be used to enable urgent and emergency decision-making under the Committee Model of governance.



## **1. Summary**

As part of the preparations for the Committee Model of governance, there are a number of detailed matters that the Working Group needs to consider, which are part of the Work Programme for the Working Group during 2023.

This report considers how the Council could enable urgent decision making by Policy Committees where items have not been published on the Forward Plan and emergency decision-making by officers. It should be noted that under the current arrangements for urgent decision-making and emergency decision-making by officers, there have been very few instances of these arrangements being used in the last couple of years and it is not anticipated that there will be an increase in decisions being made in this way. Nevertheless, in the interests of the effective management of the Council, good governance and transparency, it is essential that these types of decision-making arrangements are in place.

The Working Group will need to make recommendations about the matters raised in this report. Those recommendations, together with recommendations from other meetings of the Working Group, will be reported to Full Council in due course, where a final decision will be taken regarding the arrangements for the Committee Model of governance.

## **2. Emergency decision-making**

Emergency decision-making by councillors and officers is currently carried out through 2 distinct processes under the Council's procedure rules.

### *Access to Information Procedure Rules*

Under the Access to Information Procedure Rules, the Council publishes a Forward Plan of key decisions, and it is intended that the Council will continue to have similar arrangements under the Committee Model of governance (but with a separate Forward Plan for each Policy Committee). Where an item has not been published on the Forward Plan at least 28 days before the decision is due to be taken, there are two processes that can be followed to enable that item to be considered.

### *APR15 procedure*

Under the current APR 15 rule, the Proper Officer can add an item to the Forward Plan where it is impracticable to defer taking the decision to the next Forward Plan, provided that at least 5 days' notice is given to the relevant Scrutiny Commission Chair.

Under the Committee model of governance, the formal notice from the Proper Officer could be made to the Chair and Vice Chair of the relevant Policy Committee. In addition, it is recommended that all members of the relevant Committee are notified too.

### *APR16 procedure*

Under the current APR16 rule, where it is not possible to comply with APR15 and provide at least 5 days' notice to the relevant Scrutiny Commission Chair, the relevant Scrutiny Commission Chair may agree that it is impracticable to defer the decision to the next Forward Plan and that the decision should be taken as a matter of special urgency. Where the relevant Scrutiny Commission Chair is not

available, the Lord Mayor or the Deputy Lord Mayor may agree that the decision should be taken as a matter of special urgency.

Under the Committee model of governance, the decision to consider an item on less than 5 days' notice could be made by the Chair of the relevant Policy Committee, or, if they are not available by the Vice Chair.

### *Emergency Officer decision-making*

From time to time, it is necessary for an officer to make an emergency decision. The current procedure for this is set out in paragraph 7.4 of the Mayor's Scheme of Delegation as follows:

“Where there is a clear and pressing need for a key decision to be taken and it is not reasonably practicable, for any reason, for that decision to be taken by the Mayor or Cabinet Member then each Executive Director shall have authority to take key decisions within their directorate in conjunction with the Chief Executive. Before exercising such exceptional authority, the Executive Director must, so far as is practicable, consult with the Monitoring Officer, the Chief Finance Officer, the Mayor, the relevant Cabinet Member and the relevant Scrutiny Chair. Any decision taken under this exemption will be reported to all members immediately and be subject of a formal report to the Mayor at the next meeting of Cabinet and of the relevant Scrutiny Committee.”

Under the Committee Model of governance, where an emergency decision needs to be taken by an officer, the following arrangements could be put in place.

- There will need to be a clear and pressing need for a key decision to be taken and it is not reasonably practicable for the decision to be taken by the relevant Policy Committee;
- In these circumstances, the relevant Executive Director shall have the authority to take key decisions within their directorate in conjunction with the Chief Executive;
- Before taking the decision, the Executive Director must, so far as is practicable, consult with the Monitoring Officer, the Chief Finance Officer and the Chair of the relevant Policy Committee;
- Any decision taken will be reported to all members immediately and a formal report will be made to the next meeting of the relevant Policy Committee.

### **3. Legal and Constitutional matters**

The Legal and Constitutional matters raised by this report are as follows.

The Access to Information Procedure Rules are set out in Part 4 of the Council's Constitution. The current APR15 and APR16 rules are derived from legislation and must be in place where a Council is operating executive arrangements. It is not a legal requirement to have equivalent provisions under the Committee model of governance. However, in the interests of transparency and good governance, it is strongly recommended that the Council continues to have similar procedures in place for the consideration of urgent items by Policy Committees.

The current arrangements for emergency decision-making by officers are set out in the Mayor's Scheme of Delegation. It is strongly recommended that equivalent provisions are in place under the Committee Model of governance, and these will be set out in Part 3 of the Council's Constitution.

#### **4. Matters for the Working Group to consider**

The Working Group should consider the following matters as part of the preparation for the Committee Model of governance.

- a. Should the Council replicate the provisions in APR15 and APR16 for the Policy Committees?
- b. Under APR15, who should the Proper Officer give notice to when an item is to be added to the Forward Plan at least 5 working days before the decision will be taken, i.e., formal notification to the Chair and Vice Chair of the relevant Policy Committee and all members of the committee to be notified?
- c. Under APR16, who should be responsible for agreeing that a decision should be taken as a matter of urgency, i.e., the Chair or Vice Chair of the relevant Policy Committee?
- d. Under APR15 and APR16, what role should the Leader of the Council have?
- e. Under APR15 and APR16, what role should the Party Spokespersons for each Policy Committee have?
- f. Are the proposed arrangements for emergency decision-making by officers adequate?

#### **Appendices:**

None

#### **LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

#### **Background Papers:**

None