



Report Reference Number: C/20/5

To: Council
Date: 22 September 2020
Ward(s) Affected: All
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Title: Constitution Updates and other Decisions taken since 23rd March 2020 during Coronavirus Pandemic

Summary:

As a result of the Coronavirus crisis and national lockdown imposed on 23 March 2020 by the UK Government, all Selby District Council committee meetings were cancelled, and decisions taken using urgency procedures. This report gives details of the urgent decisions taken by the Leader of the Council and senior Officers between 23 March and 14 July 2020. An urgent decision taken since 14 July 2020 regarding Pavement Café Licences is also formally reported. This matter has since been considered by the Licensing Committee.

Additionally, there were some updates made to the Constitution by the Monitoring Officer using delegated powers during the recent period and information on the updates is also outlined in the report.

Recommendations:

- i) To note the urgent decisions made at Appendix A and the additional decision outlined in the report relating to Pavement Café Licences.**
- ii) To note the Constitution amendments made by the Monitoring Officer as outlined at Appendix B.**
- iii) To note the Licensing Committee recommendation to reduce Pavement Café Licences application fees to £0 and the additional delegation to the Solicitor to the Council to suspend licences under the Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018**

Reasons for recommendation

To ensure the Council maintains the highest standards of Governance in line with the Constitution and legislation.

1. Introduction and background

- 1.1 On 23 March 2020 the Leader of the Council took a decision using his urgency powers to cancel all meetings so that the Council could adhere to Government Guidance regarding social distancing during the Coronavirus crisis. Until 4 April 2020, the Local Government Act 1972 required Members to be present in the room to vote at a meeting. It was therefore not possible to undertake lawful decision making other than through delegation and the urgency process.
- 1.2 There were also updates made to the Constitution during this period and these are now being reported back to Council for completeness having already been considered by the Audit and Governance Committee. A minute extract from the Audit and Governance Committee meeting on 29 July is attached at Appendix C.

2. Decisions Made Through Urgency

- 2.1 The governance structure at Selby District Council is a Leader and Executive model which gives the Leader of the Council reserved individual powers to take Executive decisions under urgency. The Local Authorities (Functions and Responsibilities) Regulations define whether a decision is an Executive or non-Executive function. Operating under urgency means that Executive decisions that would have been decided at Executive meetings (both key and non-key) were being made by the Leader following consultation with the necessary officers.
- 2.2 Urgent decisions do not appear on the Council's Forward Plan, and instead require the Chair of Scrutiny Committee to formally agree that a decision is needed urgently. Urgent decisions outside of the Budget and Policy Framework require the agreement of the Chair of Policy Review Committee that a decision is needed urgently. Urgent key and non-key decisions taken between 23 March 2020 and 14 July 2020 are set out in Appendix A to this report.
- 2.3 The usual call-in procedures do not apply to urgent decisions. The Chairman of Council, or in his absence the Chief Executive, must be satisfied that the decision is reasonable and urgently needed. During the pandemic the Chief Executive has considered in each case whether the decision is reasonable and urgently needed and her decision has been noted on the delegated Decision Record and published. Urgent decisions must be reported to the next available meeting of Council in line with the Council's Constitution.
- 2.4 Planning decisions are non-Executive functions, and delegated powers to determine applications that would otherwise have been decided by Planning

Committee lie with the Chief Executive. During the lockdown period, a process was put in place to enable the Chief Executive to take decisions on planning applications on a weekly basis, having regard to views of the Planning Committee following consultation. Planning decisions taken by the Chief Executive and Head of Planning between 23 March 2020 and 14 July 2020 are also set out in Appendix A to this report.

2.5 Licensing decisions are also non-Executive functions. Delegated power to determine matters that would otherwise have been determined by the Licensing Committee again lays with the Chief Executive. Only one urgent licensing decision was required, relating to Pavement Café Licences. This was taken following consultation with the Chair of the Licensing Committee, and subsequently reported to and considered by the Licensing Committee. It is summarised at 2.7 below.

2.6 Any urgent decisions undertaken by officers are also outlined in Appendix A.

2.7 In addition to the decisions outlined at Appendix A, the following decisions were also made under the urgency process:

Report/Decision Title	Date Decision Made	Key?	Decision	Made by
To implement the requirements in the Business and Planning Act 2020 relating to Pavement Licences	24 July 2020	No	i) To approve the application process outlined in the attached report including the standard conditions and the fee of £100 to enable temporary pavement café licence applications to be determined by the Council. All licences to terminate on 30 September 2021. ii) To delegate authority to the Solicitor to the Council to determine all applications (approval, refusal and revocations).	Chief Executive in consultation with the Leader of the Council and the Chairman of the Licensing Committee
To amend the fee from £100 to £50 for Pavement Licences	31 July 2020	No	i) To amend the fee from £100 to £50 relating to Pavement Licences.	Chief Executive in consultation with the Leader of the Council and the Chairman of the Licensing Committee

2.8 With regard to the fee for Pavement Licences, following this decision and discussion at the Licensing Committee, the Committee at their meeting on 20th August proposed to waive all fees relating to future Pavement Café Licence applications. A recommendation is included in this report for noting and the minute extract from the Committee is attached at Appendix D.

3. Constitution

3.1 The Constitution is a key document in the Corporate Governance Framework of the Council. The two overarching principles of good governance as set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) code are:

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law; and
- Ensuring openness and comprehensive stakeholder engagement.

3.2 Under Article 15 of the Constitution the Monitoring Officer has a duty to monitor and review the Constitution. The changes made following this review are either administrative, as a result of legislative changes, or as approved by the Audit and Governance Committee on 10 April 2019 in relation to standards arrangements, and therefore fall within delegation under the existing Constitution.

3.3 The review has been undertaken by the Monitoring Officer. The review has considered changes to legislation concerning Remote Meetings, and recommendations of the Audit and Governance Committee in relation to Standards arrangements.

3.4 The table at Appendix B sets out the proposed changes in the different sections of the Constitution. The changes were considered by the Audit and Governance Committee at their meeting on 29 July 2020.

3.5 As the changes relating to remote meetings fall within delegation and are as a result of legislative changes, they became operative in June 2020. Present legislation allows Remote meetings until May 2021.

3. Implications

3.1 Legal Implications

Officers were advised to seek legal advice from the Monitoring Officer and be clear in evidencing that a clear and transparent decision-making process had been followed.

A local authority is under a duty to prepare and keep up to date its constitution under the Local Government Act 2000 as amended. If the Constitution is not up to date, there is a risk that decisions will not be made on a lawful basis.

3.2 Financial Implications

Any financial implications relating to the decisions taken under urgency will have been set out in the report accompanying the decision record, or in the decision record itself.

4. Conclusion

- 4.1** Council is asked to note the decision made through the urgency process and the amendments to the Constitution undertaken by the Monitoring Officer.

5. Background Documents

Selby District Council Constitution

7. Appendices

Appendix A – Decisions made through the urgency process

Appendix B – Amendments to the Constitution

Appendix C – Minute Extract from the Audit and Governance Committee on 29 July 2020

Appendix D – Minute Extract from the Licensing Committee on 20 August 2020

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