

Report of:	Director of Legal and Governance – Charlotte Benjamin
-------------------	---

Submitted to:	Corporate Affairs and Audit Committee – 4 February 2021
----------------------	---

Subject	Update – Council’s Decision Making process.
----------------	---

Summary

Proposed decision(s)

That the information provided with regard to the Council’s decision making process be received and noted.

Report for:	Key decision:	Confidential:	Can be called-in:
Information	No	No	No

Contribution to delivery of the 2018-22 Strategic Plan

Business Imperatives	Physical Regeneration	Social Regeneration
The report provides an update in respect of the Council’s decision making process. It also highlights information in relation to any awareness/training that has been carried out in relation to the Decision Making process.	Not applicable	Not applicable

Ward(s) affected

Not applicable

What is the purpose of this report?

1. To provide members with an update in relation to the Council’s decision making process.

Why is this report necessary?

2. The report is necessary so that members are regularly updated in respect of the decision making process and are assured the appropriate decision making processes are in place.

Proposed decision(s)

3. That the information provided with regard to the Council's decision making process be received and noted.

What decision(s) are being asked for?

4. It is recommended that the information provided with regard to the Council's decision making process be noted.

Why is this being recommended?

5. The Corporate Affairs and Audit Committee previously requested information in relation to:
 - Details of current policies/guidance in place in respect of the Decision Making Process;
 - Information on the number of member delegated decisions and their type (key/non key);
 - Information on the number of officer delegated decisions taken; and
 - Information on the activities of the governance team (communications, training/ awareness raising).

Update

Council Constitution

6. The Council's Constitution sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. Some of these processes are required by the law, while others are a matter for the Council to choose.
7. The Constitution is divided into 18 articles which set out the basic rules governing the Council's business. More detailed procedures and codes of practice are provided in separate rules and protocols at the end of the Constitution.
8. The Council's Constitution is a living document and is currently subject to review. The changes to the Constitution usually fall within three broad areas, which can be described as follows:-
 - Alterations made as a result of decisions of either the Council or the Executive.
 - Alterations made under the delegated powers given to the Monitoring Officer to deal with changes required as a result of legislative changes.
 - Alterations to improve the working of the Council or, to attempt to resolve ambiguities or amend typographical or drafting errors.

9. Any changes to the Constitution, other than those delegated to the Monitoring Officer, are first considered by the Constitution and Members Development Committee prior to being submitted to the full Council meeting for approval
10. Article 12 of the Constitution identifies the decision making principles of the Council and provides information in relation to what is a key decision and circumstances when they are not deemed key.
11. Council Procedure Rules – identify procedures for elected members in conducting meetings
12. Executive Procedure Rules – Identify functions which are the responsibility of the Executive and that may be exercised by the Elected Mayor. The Elected Mayor may also delegate authority to exercise those functions to the extent they wish.
13. The Forward Work plan is the vehicle for ensuring openness and transparency when key decisions are to be taken and for advising members and the public of decisions to be made by the Executive.
14. There is also an Executive decision making action tracker that allows actions arising from Executive decisions to be monitored for completion and assesses any risk associated with actions not being completed within the agreed timescales.
15. Overview and Scrutiny Procedure Rules – Sets out the functions of the Overview and Scrutiny Board and acts as the vehicle for hearing called in decisions.
16. The Officer Scheme of Delegation identifies powers delegated to officers, this is currently being updated.
17. Guidance for recording Officer Delegated decisions is contained on the Council's Intranet and decisions made within these parameters are published on the Council Website and an email notification is sent to all members
18. Financial Procedure Rules – The financial policies of the Council are set out in these regulations. They apply to every member and officer of the Authority and anyone acting on its behalf.
19. Separate financial regulations are to be issued in accordance with the Fair Funding Scheme which will apply to Governing Bodies, Head Teachers and staff of schools with delegated budgets. These will be appended to the Fair Funding Scheme document.
20. These regulations identify the financial responsibilities of:
 - The full Council;
 - The Executive;
 - Scrutiny committees;
 - Members;
 - The Head of Paid Service;
 - Monitoring Officer;
 - Chief Finance Officer; and
 - Executive Directors and Assistant Directors (in these regulations jointly referred to as “Other Chief Officers”).

21. The Council also has an Asset Disposal Policy which provides rules and guidance on the disposal of Council assets.

Training

22. Staff – decision making masterclass was delivered in November 2020 to the Wider Leadership Management team and online materials are available on the intranet and the staff Middlesbrough Learns e-learning training portal.
23. Modern.GOV, the Council's new committee management system which is used for managing meetings, recording decisions, holding records of members' interests and gifts and hospitality and details of members training records was phased in from the week beginning 21st of December 2020. Democratic Services Staff are still working on populating some parts of the system.
24. The new Modern.Gov Committee System has a new function for members in the form of the Modern.Gov App, which will enable Members and the public to view, annotate and download meeting papers. Councillors will also be able to identify the committees that they are interested in and receive automatic updates when new information is published for them. Training on the Modern.Gov App (covering access, registration and use of the App), will be delivered early in 2021 via several possible methods;
 - i. One to One training (delivered by political assistants where available)
 - ii. Virtual via WebEx (no more than 5 participants in each session)
 - iii. Physical training session (no more than 5 participants in each session). Importantly, these sessions will depend on what Tier the town is currently in and will follow existing COVID risk assessments and will require participants to follow COVID secure requirements where instructed. Those Councillors deemed to be vulnerable will be advised not to opt for this method. Whilst the town is in lockdown the face to face training sessions will not be available.
25. The Council's Decision Making Process is currently subject to an audit. The outcome of the audit will be reported to a future meeting of the Committee.

Decisions made

26. A report containing details of Officer Delegated Decisions taken during the period 1 January 2020 - 31 December 2020 is attached at **Appendix A**.
27. A report containing details of Executive decisions taken during the period 1 January 2020 - 31 December 2020 is attached at **Appendix B**.

Gold Command Decisions

28. Under the Civil Contingencies Act 2004 the Council has a legal duty (alongside other local partners) to plan for and deliver both a response to an emergency incident and the recovery from it. The Coronavirus Act 2020 created a number of new, and revised other, local authority powers and duties (principally regarding education, social care, volunteering, and death management) in order to better enable the response to the COVID-19 pandemic

29. On 16 March, as a result of the Covid-19 pandemic, the Council invoked its Major Incident Plan with the response structure of the Gold, Silver and Bronze Command. Due to the nature of the event, the Council's business continuity decision structure was aligned with this structure.
30. The purpose of the Gold Command is to set strategy for the response and controls resources. The Chief Executive is Gold Commander and the group is comprised of the Leadership Team and the Head of Marketing and Communications, alongside the Mayor and Deputy Mayor of Middlesbrough.
31. The Council's Scheme of Delegation gives the Executive collective responsibility for corporate strategic performance and financial management / monitoring, together with associated action. Gold command provide a quarterly update to the Executive and regular updates to the Overview and Scrutiny Board.

Scrutiny and challenge

32. From 1 January 2020 – 31 December 2020 there have 108 Executive decisions. In the corresponding period, the Council received 4 requests for call-in, in respect of the following:
- 20 November 2020 - Call In - Future Accommodation - Decision was to refer back to Executive. Executive reconsidered the decision on 24 November 2020 and it was agreed as follows: (i) that the recommendations proposed by the Overview and Scrutiny Board be noted, but not agreed. (ii) that the recommendations agreed at the Executive meeting, held on 27 October 2020, be implemented with immediate effect.
 - 18 December 2020 – 2 Call Ins Residual Waste Collections – Decision to change to fortnightly bin collections was reversed at the Executive held on 22 December 2020 due to additional funding being identified.
 - 18 December 2020 – Call In – Nunthorpe Grange Farm: Disposal - Church Lane - OSB was deferred pending clarification on number of issues from the Monitoring Officer and the Section 151 Officer. OSB was rearranged for 27 January 2021

Decisions made

33. **SPECIAL URGENT DECISIONS TAKEN IN THE PERIOD 1 JANUARY 2020 – 31 DECEMBER 2020**

Date:	14/07/2020
Decision Maker	Executive
Decision	Tees Advanced Manufacturing Park – Relocation of Option Site
Reason for Urgency	The prospective inward investor was required to determine whether or not to give notice on current lease by 15th July 2020.
Date:	12/10/20

Decision	Test and Trace Support Discretionary Payment Scheme
Reason for Urgency	Response to Covid-19. Test and Trace Support Payment Scheme announced by Central Government end of September 2020. Scheme to be in place by 12 October 2020.
Date:	22/12/2020
Decision	That alternate weekly collections would not be introduced
Reason for Urgency	Decision to retain weekly bin collections would affect the Budget consultation process as if agreed it would need to be removed from the Budget consultation document.

34. URGENT DECISIONS TAKEN IN THE PERIOD 1 JANUARY 2020 – 31 DECEMBER 2020

The following urgent decisions, with the agreement of the Chair of Overview and Scrutiny Board, were taken:

Date:	18.05.2020
Decision Maker	The Mayor
Decision	Amendment to Section 13a Discretionary Hardship Policy
Reason for Urgency	COVID-19 response – financial support to those customers of working age in receipt of council tax reduction. <i>Hardship funding to those considered financially vulnerable.</i> The funding will mean, to many Middlesbrough residents, a significant reduction in the amount of Council Tax payable and in many instances the awarding of £155.00 will reduce council tax bills to zero.
Date:	03.06.2020
Decision Maker	The Mayor
Decision	Approval of the discretionary grant policy and report.
Reason for Urgency	In response to COVID-19, extension of the business grant to allow local authorities the discretion to provide financial support to businesses through Central Government Funding.
Date:	01/07/2020
Decision Maker	The Mayor
Decision	Discretionary Grant Fund Phase 2.
Reason for Urgency	In response to COVID-19, extension of the business grant to allow local authorities the discretion to provide financial support to businesses through Central Government Funding – extension to the original scheme.

Date:	14/10/2020
Decision Maker	Executive Member for Finance and Governance
Decision	Tees Advanced Manufacturing Park – Plot 9 Yard Extension
Reason for Urgency	Property decision required by 16th October 2020 in order to be operational by mid-February 2021, creating 40 jobs.

Other potential decisions and why these have not been recommended

35. No other options were considered.

Impact(s) of recommended decision(s)

Legal

36. Failure to adhere to the 2014 Regulations may result in criminal liability.

Financial

37. Not applicable

The Mayor's Priorities for Middlesbrough

38. Open and transparent decision making supports all elements of the Mayor's Priorities.

Policy Framework

39. The report does not impact on the overall budget and policy framework.

Wards

40. The report impacts on all wards equally.

Equality and Diversity

41. The report impacts on all groups equally.

Risk

42. If the Council does not have adequate governance processes in place to ensure that it complies with all relevant legislation. This could result in a breach in governance requirements leading to (depending on the seriousness of the breach) fines, reputational damage, government intervention alongside failure to deliver organisational priorities

Actions to be taken to implement the decision(s)

43. None.

Appendices

Appendix A - Copy of report containing details of Officer Delegated Decisions taken during the period 1 January 2020 - 31 December 2020

Appendix B - Copy of report containing details of Executive decisions taken during the period 1 January 2020 - 31 December 2020

Background papers

COVID-19 governance and decision-making update - Executive, 27 October 2020