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**ARGYLL AND BUTE COUNCIL**

**SPECIAL COUNCIL**

**CHIEF EXECUTIVE**

**31 MARCH 2020**

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**CORONAVIRUS (COVID-19)**

**COUNCIL DECISION MAKING POWERS**

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**1.0 EXECUTIVE SUMMARY**

- 1.1 This report recognises the need for the Council to take steps to reduce risks for its Members, Staff and citizens arising from Coronavirus (COVID-19), ensuring that the Council is able to continue to exercise its essential functions.
- 1.2 This paper also sets out a process which will deliver business continuity during this extraordinary period.

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**2.0 INTRODUCTION**

- 2.1 Corona virus (Covid-19) started to appear at the end of December 2019 in Wuhan, China. Since then, the virus has spread across the world and the World Health Organisation declared this a pandemic on 11 March 2020. A number of measures have been put in place by various countries to try to contain the spread of the virus, which particularly impacts on older people and those with underlying health conditions. Advice and guidance from the UK and Scottish Governments and Public Health Scotland is updating daily. As the virus makes a wider impact on public life, the Council must consider how to respond, and it must also ensure processes are in place to enable it to continue to make urgent decisions.
- 2.2 This report proposes a 2 pronged approach to decision making while we respond to this pandemic:
- a) Emergency decision making for urgent decision in response to the Covid-19 outbreak; and
  - b) Interim arrangements for the transaction of normal business that would normally be dealt with by the Council or a committee.

**3.0 RECOMMENDATIONS**

Members are asked to:-

- (1) Note the existing emergency powers available to the Chief Executive, and agree the widening of the associated consultation provisions specified in Paragraph 4.1.1;
- (2) Agree the temporary arrangements for conducting Council business set out in section 4.2; and
- (3) Note the position re public access to meetings as per paragraph 4.2.7.

## **4.0 DETAIL**

### **4.1 EMERGENCY DECISION MAKING POWERS**

4.1.1 The Council's constitution gives specific delegations to me as Chief Executive. Section Three Part C paragraph 3 (A)(5) gives the Chief Executive power in an emergency to instruct executive action on any matter after consultation with the Leader or, in his/her absence, Depute Leader of the Council. This provides a basis for taking any urgent decisions which require to be taken in response to COVID-19 and I will use this power as appropriate, subject to the proviso that, for the life of the COVID-19 crisis my consultation will be with the Leader, and Depute Leader and Leader of the Opposition where available. All decisions taken by me in exercise of this power will be communicated to all elected members in regular briefings.

### **4.2 TRANSACTION OF OTHER BUSINESS DURING COVID-19**

4.2.1 In addition to the emergency actions which may be necessary, and which can be taken by virtue of the emergency powers set out in the preceding paragraph, it is also necessary, given that it will not be possible in the short/medium term to transact business through meetings of the Council and Committees, including Area Committees, to put arrangements in place to allow this to happen.

4.2.2 Under local government law almost all functions of Council are exercisable by decisions of full Council. Councils are free subject to certain limitations to decide how best to vary that by delegating matters. That delegation can be either to Officers, or Committees. Where a function is to be exercised by Council, or its Committees, those decisions must be made at a meeting. Schedule 7 of the Local Government (Scotland) Act 1973, governs the meetings and proceedings of Local Authorities. It requires notice of the time and place of an intended meeting be published at the Council's offices at least three clear days before the meeting (increased to seven days in the Council constitution). It provides that Members must be physically present at a meeting. However, Section 43 of the Local Government in Scotland Act 2003 allows a local authority to conduct a meeting with Members in other ways, including remote meetings.

4.2.3 It is proposed the scheduled meetings are not called and that Council agrees to the constitution of a temporary committee, to be known as The Business Continuity Committee (BCC) which will exercise all of the powers of the Council for a finite period of time.

4.2.4 The Committee will have nine members. The Leader and the Leader of the Opposition have been consulted on the membership of the BCC and it is proposed that the membership is as follows:

Aileen Morton (Chair)

Gary Mulvaney (Vice Chair)

Kieron Green

Yvonne McNeilly

Robin Currie

Rory Colville

Sandy Taylor

Dougie Philand

Lorna Douglas

- 4.2.5 The governance team's usual processes regarding putting together agenda for Council and Committee meetings will continue, with the business to be dealt with by the BCC being agreed with the Chair. The purpose of the BCC will be to deal with as much normal council business as is reasonable and appropriate and to ensure that there is continued scrutiny by members.
- 4.2.6 Meetings of the Business Continuity Committee will be called by the responsible Executive Director when there is business to transact, after consultation with the Chair of the Committee. Agenda, reports and minutes will be made available on Mod.gov as per existing arrangements so all members will be able to scrutinise the actions taken by the Business Continuity Committee, and consider relevant information on decisions taken. The 7 day period specified in the Constitution for calling meetings will be used for the Committee, other than when business may necessitate the use of the 3 day statutory notice period.
- 4.2.7 Meetings of the Business Continuity Committee are meetings of a Council committee and as such are required to be open to members of the public, other than when exempt items of business are being considered. This would normally remain the position even when a meeting is called in terms of Section 43 of the Local Government in Scotland Act 2003 – remote meetings. It is also the case, however, that the UK/Scottish Government restrictions on public assemblies are such that it would be impossible for members of the public to be physically present at the venue for a meeting of the Business Continuity Committee, so it is almost certain there will be no public attendance at these meetings.

#### **4.3 REVIEW/TERMINATION OF THESE PROVISIONS**

- 4.3.1 The Coronavirus position will obviously be kept under review on an ongoing basis, and the arrangements put in place by the acceptance of the recommendations in this report will be reviewed no later than by 30<sup>th</sup> June 2020.

## **5.0 CONCLUSION**

- 5.1 This report sets out the provisions for the transaction of normal decision making during the period of restriction due to the COVID-19 crisis.

## **6.0 IMPLICATIONS**

- 6.1 Policy Emergency/urgency provisions put in place, to exist for duration of COVID-19 crisis only.
- 6.2 Financial There are no costs attached to any of the recommendations contained in this report.
- 6.3 Legal Decisions taken will be in line with relevant legislation.
- 6.4 HR None
- 6.5 Fairer Scotland Duty: It is not anticipated that any of the recommendations in this report will have a potential negative impact on any particular group or discriminate on the basis of age, disability, gender, race, sexual orientation, pregnancy and maternity or religion and belief.
- 6.5.1 Equalities - protected characteristics
- 6.5.2 Socio-economic Duty
- 6.5.3 Islands
- 6.6 Risk There is a risk that, should Council and committee meetings continue in their present form that the Coronavirus will spread wider in the community. Council business, including decision-making, must however continue so that there is least impact on service provision. By allowing greater flexibility in the decision-making processes, the Council can be confident that it will be able to carry out its functions in a way that creates least risk to public health.
- 6.7 Customer Service - none

**Chief Executive – Pippa Milne**

**Policy Lead – Councillor Aileen Morton**

25 March 2020

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