



DECISION MAKING AND USE OF URGENCY PROVISIONS

March 2020

Due to the Covid-19 pandemic, and the emergency situation, no committee meetings will take place until at least 11th May 2020. Further exceptional measures may be required after that date. Officers and councillors will be provided with regular updates.

This document sets out the process and procedure for decision making until further notice.

Decisions Made Under the Scheme of Delegation

There is no change to the process of decision making under the Scheme of Delegation.

[Link to Part 3B - Scheme of Delegation](#)

Where a decision falls under an officer's normal delegated powers they can be taken by the relevant officer in the usual way. In some circumstances a report summarising the decision and the reasons for it must be submitted to Democratic Services and will be published on the council's website.

Decisions Usually Made by a Committee

Only urgent decisions will be taken during this time. Authorisation to make a decision will only be given if the decision must be taken prior to a subsequent committee date.

There are two forms of urgent decision during the period of the Covid-19 emergency:

- Urgent Action Route A - Decisions If they were to follow the timescales and processes in Urgent Action Route B it would prejudice the interests of the Council and/or residents of the Borough.
- Urgent Action Route B - Decisions that must be taken before the resumption of normal business, but are not immediate. If they were to be delayed until the next meeting of the relevant Committee it would prejudice the interests of the Council and/or residents of the Borough.

Both decision routes are consistent with the urgency provisions set out in the Constitution

[Link to Part 4A - Procedure Rules \(see Procedure Rule 30\)](#)

Decisions that would meet the normal thresholds for decision by Strategic Committee:

[Link to Part 3A - Responsibility for Functions](#)

- A contract award or variation over £1 million in total over the life of the contract
- A capital or revenue virement over £500,000
- A new capital scheme, or amendments to an existing capital scheme, over £500,000
- The write off of debts over £100,000
- A change to one of the documents which formally comprise the Council's policy and budget framework
- An appointment to an outside body

- The acquisition and disposal of land and property where the value is in excess of £1million
- The making of a Compulsory Purchase Order
- Any decision which the relevant Executive Director deems to be significant

Process and Procedure

1. Request in writing to be sent to the Monitoring Officer (Urgent Action Routes A and B)

Any request for a decision to be taken under the urgency provision must be made to the Monitoring Officer in writing by the Chief Executive or Executive Director. The chairs/co-chairs of the committee should be consulted before authorisation is sought.

2. Authorisation granted by the Monitoring Officer (Urgent Action Routes A and B)

For authorisation to be granted there must be evidence that the decision taken cannot wait for the resumption of normal business, as set out above. Please ensure that any request for authorisation clearly sets out why it must be taken. Upon the grant of authorisation to proceed the Communications team should be notified of the intention to take urgent action.

3. Submit notification to the Forward Plan (Urgency Route B only)

If the forthcoming decision does not already appear on the Forward Plan it should be added. A report to the committee must be prepared in the usual report format - a template will be provided by Democratic Services upon receipt of the request for inclusion on the Forward Plan. The report should include details of the proposals and set out the reasons why the decision cannot be delayed until the resumption of normal business. The report will be published on the Council's website.

4. Consultation by the Chief Executive/Executive Director

Urgent Action Route A - the Chief Executive/Executive Director must consult in whatever format is appropriate and practicable with the co-chairs of the committee, the Leader of the Council and the Leader of the Opposition. The Chief Executive/Executive Director must take the decision themselves, and cannot fetter their discretion entirely, but they can take into account the views provided.

Urgent Action Route B - The officer report will be shared with the members of the relevant committee, the Leader of the Council and the Leader of the Opposition and published on the website by Democratic Services. The committee members will have five clear working days to provide their views to the Chief Executive/Executive Director. This will either be dealt with remotely by video or conference call, or in writing from the councillor's Kingston.gov.uk email address. The Chief Executive/Executive Director must take the decision themselves, and cannot fetter their discretion entirely, but they can take into account the views provided.

5. Recording the Decision (Urgent Action Routes A and B)

A note setting out the decision and the reasons for it will be published on the council's website (alongside any report in respect of Urgent Action Route B)

The decision can be implemented immediately - call-in arrangements do not apply.

A summary of the decision taken will be reported to the first meeting of the relevant Strategic Committee for information following the resumption of normal business.

Matters Reserved to Council

Some decisions can only be taken by full Council. If there are decisions of this type that cannot be delayed until the resumption of normal business then the decision will be taken by the Chief Executive, or in his absence, any Executive Director. Such decisions are only to be taken in an **emergency**.

[Link to Part 3A Responsibility of Functions - Part 1](#)

[Link to Part 3B Scheme of Delegation - Part 9](#)

Regulatory Committees

Planning Decisions

Decisions delegated to officers

The majority of planning decisions are currently delegated to Planning Officers. Many of the usual decision making processes will therefore continue and officers will exercise their delegations as provided for in the constitution.

The following decisions are delegated to officers and are business as usual:

- **Major planning applications** (over 10 new dwellings or more than 1,000 sqm of non residential floorspace) contrary to council policy where the decision is to refuse (and the relevant Assistant Director has not taken the view it would be in the public interest for the matter to be determined at committee)
- **Minor planning applications** (up to 10 new dwellings or under 1,000 sqm of non-residential floorspace) where:
 - It is contrary to council policy and it is intended to refuse the application
 - Five or more objections have been received and the application is to be refused or the Chair/Vice Chair has not called the application in for consideration at Committee.
 - Fewer than five objections have been received and no request to call the application in to be considered at Committee has been received from either the Chair of the relevant Neighbourhood Committee or each of the relevant ward Members
 - The application has been submitted by or on behalf of the Council or the Council has an interest in the land and either no objections have been received or the relevant Chair has not called the application in to be considered at Committee
 - The application falls within a conservation area and either it is intended to refuse the application or no objections have been received from the relevant Conservation Area Advisory Committee
 - The relevant AD has not taken the view that it would be in the public interest for the matter to be determined at Committee

Planning applications that fall outside of the officer delegation will be dealt with in accordance with the urgency provisions as set out in this guidance (at paragraphs 1 - 5) with some additional requirements.

Decisions reserved to Development Control Committee

- Major applications must be considered within 13 weeks of application. This is a statutory requirement. Only those decisions that **must** be taken prior to the resumption of normal business will be determined.
- Decisions in respect of major applications will be taken by the **Chief Executive only**
- The decision must be taken in consultation with the members of the Development Control Committee
- The Chief Executive must have regard to the recommendations of the council's planning officers and representations received by members of the public.
- No application will be determined until notice of the forthcoming decision has been published on the Forward Plan.

Decisions reserved to Neighbourhood Committees

- Decisions in respect of minor applications which fall outside of Officers normal delegated powers will be taken by the Assistant Director of Planning and Infrastructure (Interim Planning Transformation Lead)
- The decision must be taken in consultation with the members of the relevant Neighbourhood Committee.
- There must be regard for representations received by members of the public.
- No application shall be determined until notice of the forthcoming decision has been published on the Forward Plan

Licensing Applications

The presumption is that Licensing applications which fall outside of Officers delegated powers will not be determined prior to the resumption of Committee meetings and normal Council business. However, in the event that a Licensing application which falls outside of Officers usual delegated powers must be determined during this period the Monitoring Officer will consider the practicality of convening a virtual meeting of the Licensing Sub-Committee.

Routine Reporting

The unprecedented circumstances we are working in mean that business as usual may be difficult to achieve. However, if routine updating reports that are scheduled on the Forward Plan for submission to Strategic, Neighbourhood or other Committees are available, they will be circulated to councillors for information via email and published on the council's website.

Lauren McCann
General Counsel