



## Urgency Committee

27 April 2020

<b>Title</b>	<b>Approval of Emergency Decisions and Delegation to Chief Officers</b>
<b>Report of</b>	Chief Executive
<b>Wards</b>	All Wards
<b>Status</b>	Public
<b>Urgent</b>	Yes
<b>Key</b>	Yes
<b>Enclosures</b>	<p>Appendix A – Policy &amp; Resources Committee Decisions</p> <p>Appendix B – Adults &amp; Safeguarding Committee Decisions</p> <p>Appendix C – Children, Education &amp; Safeguarding Committee Decisions</p> <p>Appendix D – Environment Committee Decisions</p> <p>Appendix E – Housing &amp; Growth Committee Decisions</p> <p>Appendix F – Community Leadership &amp; Libraries Committee Decisions</p> <p>Appendix G – Constitution &amp; General Purposes Committee</p> <p>Appendix H – Director of Public Health</p> <p>Appendix I – Hermitage Lane Proposed Site Plan</p>
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### Summary

During the Coronavirus pandemic, the Council have taken several decisions in response to the preparedness and response to the pandemic, announcements by the Government, directions from the London Strategic Coordination Group, London Local Authority Gold and legislative changes. The Urgency Committee are requested to ratify the emergency decisions taken by officers since the onset of the Coronavirus pandemic and provide a delegation to

Chief Officers (in consultation with the Committee Chairmen) to take decisions on business-critical matters normally reserved to theme committees.

## **Officers Recommendations**

- 1. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix A in relation to Policy and Resources Committee.**
- 2. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix B in relation to Adults & Safeguarding Committee.**
- 3. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix C in relation to Children, Education & Safeguarding Committee.**
- 4. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix D in relation to Environment Committee.**
- 5. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix E in relation to Housing & Growth Committee.**
- 6. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix F in relation to Community Leadership & Libraries Committee.**
- 7. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix G in relation to Constitution & General Purposes Committee.**
- 8. That the Committee ratify the decisions taken by Chief Officers during the emergency period as set out in Appendix H in relation to the Health & Wellbeing Board.**
- 9. That the Committee delegate authority to Chief Executive in consultation with the Chairman of the Policy & Resources Committee any decisions within the remit of that committee that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Committee Vice-Chairman shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**
- 10. That the Committee delegate authority to Executive Director of Adults & Health and/or Director of Public Health in consultation with the Chairman of the Adults & Safeguarding Committee any decisions within the remit of that committee and public health related matters that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Committee**

**Vice-Chairman and Leader shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**

- 11. That the Committee delegate authority to Executive Director of Children & Young People in consultation with the Chairman of the Children, Education & Safeguarding Committee any decisions within the remit of that committee that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Committee Vice-Chairman and Leader shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**
- 12. That the Committee delegate authority to Executive Director of Environment or Director of Assurance in consultation with the Chairman of the Environment Committee any decisions within the remit of that committee that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Committee Vice-Chairman and Leader shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**
- 13. That the Committee delegate authority to Deputy Chief Executive in consultation with the Chairman of the Housing & Growth Committee any decisions within the remit of that committee that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Committee Vice-Chairman and Leader shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**
- 14. That the Committee delegate authority to Director of Assurance, Deputy Chief Executive or Executive Director for Children's Services in consultation with the Chairman of the Community Leadership & Libraries Committee any decisions within the remit of that committee that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Committee Vice-Chairman and Leader shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**
- 15. That the Committee delegate authority to Director of Public Health in consultation with the Chairman of the Health & Wellbeing Board any matters within the remit of the Board and public health related matters that need to be taken in response to the Coronavirus pandemic or other related matters, or in response to directions given by HM Government, London Strategic Coordination Group and London Local Authority Gold. In the event of the Chairman's absence, the Board Vice-Chairman and Leader shall be consulted. Any and all such decisions shall be reported back to Committee for post-decision scrutiny.**
- 16. That the Committee delegate authority to the Section 151 Officer (Director of Finance) approval of any virements required directly in response to the Coronavirus pandemic or other related matters.**

- 17. That the Committee notes the advice of the Director of Finance in respect of the estimated additional operating cost arising from the Coronavirus pandemic emergency response period (assumed to be April – June 2020) and net cost to the council arising from this (set out in section 5.2).**
- 18. That the Committee delegate authority to Deputy Chief Executive in consultation with the Chairman of the Housing & Growth Committee to approve the outline business case for the Little Strand and Broadfields Estate sites, two development sites on the GLA 87 funded programme.**
- 19. That the Committee delegate authority to Deputy Chief Executive in consultation with the Chairman of the Housing & Growth Committee to approve the recommended land transfer and appropriation/CPO routes for the Fosters estate project.**
- 20. That the Committee delegate authority to Deputy Chief Executive in consultation with the Chairman of the Housing & Growth Committee to approve the recommended land transfer route for the Hermitage Lane project.**
- 21. That the Committee delegate authority to the Director of Assurance in consultation with the Chairman or Vice-Chairman of the Environment Committee to amend the Enforcement Policy.**
- 22. That the Committee delegate authority to Head of Parking, Assistant Director Highways or Director of Environment in consultation with the Chairman or Vice-Chairman of the Environment Committee to temporarily revise the Parking Enforcement Policy.**

## **1. WHY THIS REPORT IS NEEDED**

- 1.1 During the Coronavirus pandemic, the Council has taken several decisions to advance preparedness and response to the pandemic, to respond to announcements by the Government, directions from the London Strategic Coordination Group, London Local Authority Gold and legislative changes. The Urgency Committee is asked to ratify the emergency decisions taken by officers since the onset of the Coronavirus pandemic and provide a delegation to Chief Officers (in consultation with the Committee Chairmen) to take decisions on business-critical matters related to the pandemic normally reserved to theme committees and Director of Public Health.
- 1.2 In accordance with government guidance on social distancing, the Council have taken several decisions to comply with the guidelines to protect staff and the public including: staff moving to home working; and closing several services such as libraries, leisure centres, day centres, face-to-face contact centres. In addition, a number of new services to support residents and support the NHS through this period have been set-up including: a Help Hub which is distributing food to residents and foodbanks; the Integrated Hospital Discharge Team; and creating additional enforcement capacity. To support delivery of these new services, a number of staff have been redeployed into different roles to support delivery.
- 1.3 Government restrictions on social distancing have resulted in all Council committees being suspended from 16 March 2020 onwards. It has not therefore been possible to convene a meeting of the Full Council or committees to deal with urgent decisions required to be taken in response to the Coronavirus pandemic. The regulations needed

to hold virtual meetings did not come into force until 4<sup>th</sup> April 2020 so it has not been possible to hold virtual meetings. Following consultation with the Leader and/or relevant theme committee chairmen, officers have made several decisions which need to be ratified via committee decision. These are detailed in the attached appendices. Additionally, a delegation is being sought to enable officers to take further decisions in response to the pandemic, in consultation with the Leader and/or relevant theme committee chairmen, until face-to-face meetings can resume.

- 1.4 A meeting of the Urgency Committee was not scheduled earlier than this meeting to allow officers to focus on responding to fast changing circumstances. Also, an Urgency Committee which had taken place in mid/late March would not have been able to foresee the necessary decisions as the local and national situation progressed.
- 1.5 Chief Officers and the Senior Management Team have taken several strategic and operational decisions to prioritise services and resources in response to the pandemic. These decisions will be recorded via a Delegated Powers Report or Chief Officer Decision in accordance with constitutional requirements and are before the committee for noting.
- 1.6 The Coronavirus Act 2020 includes the power to hold virtual meetings and the enabling regulations were brought into force on 4<sup>th</sup> April 2020. The Urgency Committee will be held as a virtual meeting.
- 1.7 It is anticipated that during the pandemic other Council meetings will resume to a limited extent (i.e. where there is a statutory requirement to hold a meeting or make a decision within a specific timeframe) and that those meetings will be held as virtual meetings. It is expected that other meetings will resume face-to-face as and when restrictions are eased. There will still be a requirement for officers to make urgent decisions as virtual meetings will still require 5 clear working days before they can be convened.

## **2. REASONS FOR RECOMMENDATIONS**

- 2.1 The council has had to comply with announcements and guidance by the Government, directions from the London Strategic Coordination Group, London Local Authority Gold and legislative changes in this public health emergency.

## **3. ALTERNATIVE OPTIONS CONSIDERED AND NOT RECOMMENDED**

- 3.1 None. Not to have taken the decisions detailed in the appendices would have led to additional pressure on the NHS and social care services and resulted in loss of life and would have meant the council going against government guidance and announcements.

## **4. POST DECISION IMPLEMENTATION**

- 4.1 Officers making decisions using the delegations approved via this report will need to record all decisions via a Delegated Powers Report. Decisions should record that consultation has taken place with the relevant Chairman with a copy of the report

published to the Council's website and circulated to members of the relevant committee for information.

## **5. IMPLICATIONS OF DECISION**

### **5.1 Corporate Priorities and Performance**

5.1.1 During the emergency period where the Council have moved to delivering critical services only and undertake additional responsibilities required by Government, the Council will aim to continue to deliver as many elements of the Corporate Plan (Barnet 2024) as possible.

### **5.2 Resources (Finance & Value for Money, Procurement, Staffing, IT, Property, Sustainability)**

5.2.1 The Covid-19 crisis will have a detrimental financial impact on many of the Council's services and this will be significant across a number of these. The scale of the financial challenge is unprecedented in complexity, scale of the crisis and the number of uncertainties in play. It is affecting all local authorities and is not bound by geographical boundaries. It is going to test physical, mental and financial resilience intensely in not only managing, responding to the crisis but also in moving on to the recovery phase.

5.2.2 Officers have been and continue to assess the financial impact of the crisis as the council takes a range of decisions to stop and delay certain work and to increase expenditure in other areas in order to support local residents and businesses through the crisis. This section sets out provisional and broad-brush estimates of the financial implications on Council services over the first 3 months of 2020/21 as a result of Covid-19 and consolidates this into an indicative overall impact.

5.2.3 Additional costs can be identified in two different ways. First, and the subject of this report, emergency decisions have needed to be taken which have financial implications. These are set out below and in more detail in the appendices to this report. Second, and as also set out below (but not arising from emergency decisions) there are significant variations to existing budgets.

5.2.4 For example, overall costs are expected to go up significantly in the area of adult social care, due to a combination of a c10% increase in supply chain costs and a c35% increase in expected activity. These costs are variations on existing council policies and budgets and therefore have not required emergency decisions. However, they create cost pressures which will have an important impact on the financial position of the council during the MTFS period. Similarly, the loss of significant car parking revenues is not a change in policy but a change in activity levels. Costs are not included in the appendices where no change to previous policy has taken place, but all costs arising are set out in the table below. Where emergency decisions do result in additional costs, these are noted in the appendices.

5.2.5 Current estimates of the impact of the COVID 19 emergency response period (April-June 2020) on council finances is an anticipated increase in gross costs of £35.2m for those months. However, this will be offset by some increased income (due to costs recoverable from the NHS for patients diverted from hospital or patients discharged from hospital) of

£4.6m, leaving net estimated costs of £30.5m. (Estimates are aligned to the values submitted to MHCLG on 15 April.)

- 5.2.6 In addition to the 2020/21 estimate, the impact in 2019/20 is estimated to be in the region of £1m. This takes the total impact to £31.5m.

## Funding

- 5.2.7 The table below shows confirmed funding, to date, from Government to support services, businesses and residents.

Confirmed Funding	Barnet allocation (£'m)	Usage
£5bn Covid Fund	£9.418	Funding for local authorities: to help LAs respond to COVID-19 pressures across all their services. This includes increasing support for the adult social care workforce and for services helping the most vulnerable, including homeless people. Un-ringfenced grant for local authorities to use as they see fit in responding to demands of Covid-19.
£500m Hardship Fund	£4.133	Funding for residents: Mainly to provide all recipients of working age local council tax support ('LCTS') with a further reduction in their council tax bill. Any remaining grant not used to fund additional LCTS can be used to assist those in need using own local approach. Barnet will use if to bolster Crisis Fund and CT Discretionary Relief.
Homelessness Support	£0.018	Funding to support rough sleepers or those at risk who need to self-isolate. Estimate based on 24 rough sleepers in the Autumn 19 snapshot.
<b>Government Funding (General services support)</b>	<b>£13.569</b>	

## Statutory Responsibilities

- 5.2.8 All Councils are experiencing significant, unplanned financial pressure and if there is no further support from Government, and the estimates are correct, a significant risk of failure will emerge towards the end of the three-month period for the sector.
- 5.2.9 The Section 151 officer is in the process of reviewing all earmarked reserves, planned investments and other opportunities to identify the potential to free up resources. The Council maintains balances and reserves in order to deal with unexpected fiscal events however it is important to note that the Covid-19 response is unprecedented in scale. Additionally, the sector has just emerged from a financially challenging period of austerity and it is unlikely significant resources will be able to be freed up.
- 5.2.10 Under s114 of the Local Government Finance Act 1988, the S151 officer has an obligation to ensure that revenues and expenditure for the General Fund are retained in balance, and, should there be a risk that total expenditure in the year (or a future period) cannot be fully funded from within approved budgets, government grants, and available reserves, then they are under a legal obligation to declare this to Councillors.

5.2.11 This duty to declare exists when all other avenues to balance the budget have been exhausted. At present, it is the professional judgement of the S151 officer that the anticipated costs of a 3-month disruption remain within the available resources of the council, however without additional levels of funding, the council will move into significant risk of being unable to remain in balance should the period of disruption sustain.

5.2.12 Work will continue to ensure the costs of Covid-19 are forecast on a robust basis, we continue to engage with MHCLG proactively and keep Councillors abreast of the emerging financial picture.

### **Business Support**

5.2.13 Significant funding has been afforded to the council by the government to support local businesses. This is summarised in the table below, and totals £69.8m. This is intended to be fully utilised providing support to the local economy, with no net gain or loss arising for the council.

<b>Confirmed Funding</b>	<b>Barnet allocation (£'m)</b>	<b>Usage</b>
Grants to Businesses	£65.756	Funding for businesses: £10k and £25k grants to support businesses that meet eligibility set out by Government. Any balance not spent is to be returned to Government.
Business Rates Relief	£4.093	Funding for businesses: Retail business rates relief to those eligible.
<b>Government Funding (Business support)</b>	<b>£69.849</b>	

### **5.3 Social Value**

5.3.1 N/A.

### **5.4 Legal and Constitutional References**

5.4.1 Civil Contingency Act 2004 – a London borough is a Category 1 responder and has duties including to assess risk and to maintain plans for emergencies.

5.4.2 Under section 138 of the Local Government Act 1972 – Powers of principal councils with respect to emergencies or disasters:

(1) Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and a principal council are of opinion that it is likely to affect the whole or part of their area of all or some of its inhabitants, the council may

- (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; and
- b) make grants or loans to other persons or bodies on conditions determined by the council in respect of any such action taken by those persons or bodies.

5.4.3 To ensure appropriate performance of local authorities' public health duties, the Health and Social Care Act 2012 requires the appointment of a director of public health (DPH)

for each authority. The director has responsibility for all of the local authorities' public health duties under the HSCA 2012 and other legislation. The statutory responsibilities of the Director of Public Health are provided by Section 73A(1) of the NHS Act 2006, inserted by section 30 of the Health and Social Care Act 2012, which gives the DPH responsibility for:

- all of their local authority's duties to take steps to improve the health of the people in its area;
- exercising their local authority's functions in planning for, and responding to, emergencies that present a risk to the public's health

5.4.4 The Coronavirus Act 2020 covers a variety of powers for local authorities such as provisions for volunteering, amending the existing regime for mental health and capacity, suspending parts of the Care Act 2014 and allowing registration of deaths by telephone and including the power to hold virtual meetings. The Local Authorities and Police and Crime Panels (Coronavirus) Flexibility of Local Authority and Police and Crime Panel Meetings (England and Wales) Regulations 2020 were brought into force on 4<sup>th</sup> April 2020. Specific regulations and guidance relied on in relation to particular decisions are referred to in the appendices to this report.

5.4.5 Other references to legislation and guidance are included in the attached appendices

5.4.6 Council Constitution, Article 7 (Committees, Forums, Working Groups and Partnerships) – Urgency Committee is able “To consider any item of business which needs a decision as a matter of urgency and where a meeting of the relevant committee is not scheduled to take place within the time period within which the decision is required.”

5.4.7 Council Constitution, Article 9, Chief Officers:

#### 9.1 Management Structure

(a) General. The Council may engage such staff (referred to as officers) as it considers necessary to carry out its functions. Apart from those officers referred to in (b) immediately below, all officers are appointed by the Chief Executive.

(i) Chief Officers (Deputy Chief Executive, Executive Directors for Adults, Children and Environment, Director of Finance and Director of Assurance) have the following delegated powers in respect of all matters which are not key decisions (as defined in Article 2) and not reserved for decision by the Council or by a Committee of the Council:

(a) to make decisions and approve expenditure relating to their functions and the functions of their Department, where necessary in accordance with (b) and (c) below, and providing (1) that the sum expended is within the approved budget for the Department and/or relevant portfolio, and (2) the amount in relation to any single matter does not exceed £189,330.

(b) to determine employment matters relating to staff including all changes to staffing structures. This power will not include changes to terms and conditions of employment or additional payments to any individual member of staff above £100K.

(c) to approve tender strategies and award contracts in accordance with the Council's

Contract Procedure Rules within Part 2 of the Constitution.

(d) the Chief Executive has all the above delegated authority and as may be necessary, determine which Department discharges any particular Council function if this is not clear.

Discretion to Refer Matters to Members: Where a Chief Officer believes that a matter that is within their delegated authority is significant or sensitive they have the discretion to refer it to Members for decision.

(ii) These powers may be delegated further under a Scheme of Delegation and powers are also delegated to all officers in accordance with their job description and department budget.

(iii) Officers should ensure that delegated powers are exercised in accordance with relevant Council policies and procedures and all decisions with a value of £50,000 or more made by officers under delegated powers should be listed in writing and a copy of the list for each Department produced to the Chief Executive and the Leader on the 30th September and 31st March of each year.

5.4.8 Council Constitution, Article 10.4 – provides that Chief Officers in consultation with Theme Committee Chairmen have delegated authority to make decisions which are not key decisions and which have a value between £189,330 and £500,000. A written report will be prepared for each decision.

5.4.9 Council Constitution, Article 9, Chief Officers, Section 9.7 Functions of the Director of Public Health (DPH)

(b) The DPH is responsible for all of the local authority's duties to take steps to improve public health.

(c) The DPH is responsible for exercising the local authority's functions in planning for, and responding to, emergencies that present a risk to public health.

(e) The DPH is responsible for the local authority's public health response as a responsible authority under the Licensing Act 2003, such as making representations about licensing applications.

(f) The DPH is responsible for exercising the local authority's duties to ensure plans are in place to protect their population including through screening and immunisation.

## 5.5 Risk Management

5.5.1 Failure to comply with announcements and guidance by the Government, directions from the London Strategic Coordination Group, London Local Authority Gold and legislative changes would result in an increased risk to public health in the borough and wider community and/or result in significant reputational damage to the authority. Regularising emergency decisions taken and providing a delegation to officers to decide matters normally reserved to committees enables the business of the Council to continue whilst maintain the appropriate level of Member oversight and decision recording.

## 5.6 Equalities and Diversity

5.6.1 In making these decisions officers have had regard to the public-sector equality duty. Decision makers should have due regard to the public-sector equality duty in making their decisions. The equalities duties are continuing duties they are not duties to secure a particular outcome. The equalities impact will be revisited on each of the proposals as they are developed. Consideration of the duties should precede the decision. It is important that decision makers have regard to the statutory grounds in the light of all available material.

5.6.2 The statutory grounds of the public-sector equality duty are found at section 149 of the Equality Act 2010 and are as follows:

5.6.3 A public authority must, in the exercise of its functions, have due regard to the need to:

- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
- b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

5.6.4 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic;
- b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it;
- c) Encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

5.6.5 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.

5.6.6 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:

- a) Tackle prejudice, and
- b) Promote understanding.

5.6.7 Compliance with the duties in this section may involve treating some persons more favourably than others; but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

5.6.8 The relevant protected characteristics are:

- Age
- Disability

- Gender reassignment
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation
- Marriage and Civil partnership

## **5.7 Corporate Parenting**

5.7.1 As detailed in decisions taken in relation to the Executive Director of Children & Young People.

## **5.8 Consultation and Engagement**

5.8.1 The Leader and committee chairmen have been consulted on decisions taken during the emergency period and have confirmed their agreement where necessary. All Members have been briefed via a weekly conference call with Chief Officers.

## **5.9 Insight**

5.9.1 N/A

## **6. BACKGROUND PAPERS**

6.1 N/A