

Report to:	EXECUTIVE
Relevant Officer:	Neil Jack, Chief Executive Mark Towers, Monitoring Officer Steve Thompson, Statutory Finance Officer
Relevant Cabinet Member:	Councillor Simon Blackburn, Leader of the Council
Date of Meeting:	23 March 2020

EMERGENCY DELEGATION OF POWERS DUE TO CORONAVIRUS PANDEMIC

1.0 Purpose of the report:

1.1 The Chief Executive has agreed that a major incident should be declared for Blackpool Council under the Civil Contingencies Act 2004. The Executive is therefore asked to consider steps for the potential emergency delegation of powers to officers due to the developing Coronavirus pandemic. All executive power vests in the Leader as ‘senior executive member’ under section 9E Local Government Act 1972 and the Leader can authorise any executive member or officer to take decisions at any time. The Leader (or the Executive) can therefore delegate to the Chief Executive any decision – in an emergency or that is urgent or that would be necessary or expedient, or which would otherwise protect the Council’s interests that is an executive function.

2.0 Recommendation(s):

- 2.1 To note, and support on behalf of the Council, that the Chief Executive has agreed that a major incident should be declared for Blackpool Council on the grounds that the definition of a major incident as laid out in the ‘Joint Emergency Services Interoperability Principles’ (JESIP) has been met along with the definition of an ‘Emergency’ as laid out under the Civil Contingencies Act 2004.
- 2.2 Further to 2.1 to agree, as an emergency measure, to delegate all urgent Executive decision making to the Chief Executive or, in his absence or unavailability, the Director of Resources or in his absence or unavailability, any of the Council’s Directors, in relation to their areas of responsibility. This decision making to be in response to issues caused directly or indirectly from the Coronavirus pandemic and would protect citizens in regard to public safety. This delegation to be reviewed at the next formal Executive meeting, or if necessary by the Leader of the Council prior to the next Executive meeting (e.g. if a number of Chief Officers are indisposed).

- 2.3 In relation to 2.2 above that (should the need arise) exemptions apply to contract procedure rules, access to information procedure rules, exemption from the forward plan and call in. Such exemptions to be recorded in a suitable and proportionate manner.
- 2.4 To note that the Chief Executive and Leader of the Council (or if they are indisposed their senior representatives) will hold a weekly conference call with the three Opposition Group Leaders (Cllr Mrs Callow will have a dual role in this as Lead Scrutiny Member), to brief them on the current situation affecting the Council and any decisions taken or likely to be taken, seeking their views as appropriate.
- 2.5 To agree that delegated authority is given to the Director of Governance and Partnerships and Head of Democratic Governance to authorise applications for ward funding.

3.0 Reasons for recommendation(s):

3.1 In light of the declaration of a major incident by the Council’s Chief Executive. It is considered that while these powers are exceptional and may not need to be used on a regular basis, as there is currently a wide scope in Executive decision-making delegations but due to the Coronavirus and in relation to public safety, there will no doubt be a stage when such powers are necessary. The delegated authority will be temporary, proportionate to the threat, will only be used when strictly necessary and will be in place for as long as required to respond to the situation.

3.2	Is the recommendation contrary to a plan or strategy adopted or approved by the Council?	Yes – possibly if the powers are used which would be at odds to a plan or strategy.
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3.3	Is the recommendation in accordance with the Council’s approved budget?	Yes – unless a decision is taken in the circumstances set out, in the interests of public safety or the Council’s interests which is out with the approved budget.
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4.0 Other alternative options to be considered:

4.1 There are no alternatives that would enable such flexibility, which is envisaged.

5.0 Council priority:

- 5.1 The relevant Council priority is
- “The economy: Maximising growth and opportunity across Blackpool”
 - “Communities: Creating stronger communities and increasing resilience”

6.0 Background information

- 6.1 It is becoming difficult for organisations in all sectors to meet their regulatory requirements whilst also fulfilling their legal duties to ensure their staff, service users and wider members of the public remain safe. There are a range of ways in which the Council makes decisions. In normal circumstances, the established Executive key decisions are made by the Executive together at a meeting where members have to be physically present, having had 28 days notice of the decision given by entry on the Forward Plan. Such decisions are normally subject to the
- 6.2 The Council also has established procedures for making those decisions in unusual circumstances, either by Individual Cabinet Members including the Leader of the Council or by a Chief Officer. Such decisions are generally included on the Forward Plan with the intention to make the decision being published five clear working days before the decision is made (i.e. the same timeframe required for publishing agendas). Such decisions are also subject to call in. In cases of urgency, the approval of the Chairman of the relevant scrutiny committee is normally required if necessary to exempt the decisions from the requirement to have been included on the forward plan, from the five clear working days notice period and the call in period.
- 6.3 It is hoped that these constitutional arrangements will remain sufficient for the Council to make decisions during the Coronavirus pandemic. It is however intended that no meetings will take place after tonight's Executive meeting, whilst the pandemic is at such a level. There remains the possibility that the decision making arrangements outlined in 6.1 and 6.2 would prove counterproductive and limit the Council's ability to react in the interests of public safety to a developing pandemic situation.
- 6.4 It is therefore recommended that the Executive approve such emergency steps which the Council would take when it became impossible for urgent decisions to be taken in the normal manner. Normal Executive business will be suspended if the normal decision making processes cannot be used.
- 6.5 For urgent decisions, the proposed arrangements would be as follows: the Chief Executive would be able to make any decision on behalf of Executive and if necessary by implication the Council. The decision would, in most circumstances, include consultation with the Leader of the Council. Where appropriate, the three opposition Group Leaders would also be notified in advance. In certain circumstances, ie where an Executive decision is urgent, the decision maker could exempt it from call in, agree that it did not need to be included on the Forward Plan or five clear days notice given. Dispensation for this has been sought from all four Chairs of the scrutiny committees to cover decisions of this type.
- 6.6 In the event of the Chief Executive not being able to make decisions, the delegation would be operated by the Director of Resources and if he was unable to make a

decision then to each of the Directors of the Council.

6.7 In the interests of public safety, should the absolute need arise, the Chief Executive may end up taking an Executive decision which could be outside of the Council's approved budget or policy framework (eg raising the prudential borrowing limit). The consultation process with the four group leaders would be followed in these instances. Any decisions taken under this provision on behalf of the Council would also require reporting to the Annual Council meeting.

6.8 Delegated authority is also sought for the Director of Governance and Partnership and Head of Democratic Governance to authorise applications for ward funding on an urgent basis. This may help to provide vital funds for local groups during this time.

6.9 Does the information submitted include any exempt information? No

7.0 List of Appendices:

7.1 None.

8.0 Legal considerations:

8.1 The Government is currently considering a Bill to give emergency measures to give ministers powers to take the right action at the right time to respond effectively to the progress of the coronavirus outbreak.

8.2 The measures in the coronavirus bill are temporary, proportionate to the threat, will only be used when strictly necessary and will be in place for as long as required to respond to the situation. However, this will put further pressure on the Council to respond to this emergency and this delegation will assist with that.

9.0 Human resources considerations:

9.1 This delegation will allow the Chief Executive to deploy the workforce, to act flexibly and with authority in the interests of its citizens and public safety and allow the Council to respond.

10.0 Equalities considerations:

10.1 None.

11.0 Financial considerations:

11.1 It is impossible at this stage to state what financial implications future decisions may

incur but any decision in this category will be consulted on with either the Statutory Finance Officer or in his absence his Deputy.

12.0 Risk management considerations:

- 12.1 This delegation will give the Chief Executive the flexibility to make decisions in the interests of its citizens and public safety and allow the Council to respond. For a Council meeting to occur then members have to be physically present to form a quorum and vote. With regard to Government's social distancing and self-isolation directions then this is not possible. The Minister for Housing, Communities and Local Government press release issued on 17 March refers to the potential for a virtual Annual Council meeting (presumably to be agreed by regulations following the passing of the Coronavirus Bill). It however does not refer to other Council meetings, therefore any further delegation will be sought at the Annual Council meeting, should the law be changed to hold it virtually. Once these regulations are made, a virtual Annual Council meeting will be organised at the earliest opportunity.

13.0 Ethical considerations:

- 13.1 Despite the alternative arrangements that will be put in place, it is important that reports should still be written with sound and cogent reasons for decisions and published online as much as possible. Individual decision-makers will need to have regard to the publication requirements under the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and have cogent reasons to take decisions on grounds of urgency and in accordance with the general exceptions and special urgency provisions.

14.0 Internal/external consultation undertaken:

- 14.1 The Leader of the Council has been consulted and the Chairs of the Council's four scrutiny committee. Their agreement has been given in principle for these general exceptions and urgency provisions to be in place.

15.0 Background papers:

- 15.1 None.

ONLY APPLICABLE FOR REPORTS WHICH WILL EVENTUALLY BE CONSIDERED BY THE EXECUTIVE/CABINET MEMBER

16.0 Key decision information:

16.1 Is this a key decision? YES

16.2 If so, Forward Plan reference number: Not included on the forward plan

16.3 If a key decision, is the decision required in less than five days? YES

16.4 If **yes**, please describe the reason for urgency:

The decision could not have been anticipated when the Executive agenda was published on 13 March 2020 due to the rapid escalation of the Coronavirus pandemic. Equally the situation is developing so quickly that it would not be prudent or in the interests of the population to wait until a future meeting.

17.0 Call-in information:

17.1 Are there any grounds for urgency, which would cause this decision to be exempt from the call-in process? YES

17.2 If **yes**, please give reason:

The emergency steps outlined in the attached report may need to be implemented immediately due to the developing Coronavirus situation.

TO BE COMPLETED BY THE HEAD OF DEMOCRATIC GOVERNANCE

18.0 Scrutiny Committee Chairman (where appropriate):

Date informed: 23 March 2020 Date approved: 23 March 2020

19.0 Declarations of interest (if applicable):

19.1 None.

20.0 Executive decision:

20.1 The Executive agreed as an urgent decision, exempt from call in, the recommendations as outlined above namely:

1. To note, and support on behalf of the Council, that the Chief Executive has agreed that a major incident should be declared for Blackpool Council on the grounds that the definition of a major incident as laid out in the 'Joint Emergency Services Interoperability Principles' (JESIP) has been met along with the definition of an 'Emergency' as laid out under the Civil Contingencies Act 2004.
2. Further to decision 1 to agree, as an emergency measure, to delegate all urgent Executive decision making to the Chief Executive or, in his absence or unavailability, the Director of Resources or in his absence or unavailability, any of the Council's Directors, in relation to their areas of responsibility. This decision making to be in response to issues caused directly or indirectly from the Coronavirus pandemic and would protect citizens in regard to public safety. This delegation to be reviewed at the next formal Executive meeting, or if necessary by the Leader of the Council prior to the next Executive meeting (e.g. if a number of Chief Officers are indisposed).
3. In relation to decision 2 above that (should the need arise) exemptions apply to contract procedure rules, access to information procedure rules, exemption from the forward plan and call in. Such exemptions to be recorded in a suitable and proportionate manner.
4. To note that the Chief Executive and Leader of the Council (or if they are indisposed their senior representatives) will hold a weekly conference call with the three Opposition Group Leaders (Cllr Mrs Callow will have a dual role in this as Lead Scrutiny Member), to brief them on the current situation affecting the Council and any decisions taken or likely to be taken, seeking their views as appropriate.
5. To agree that delegated authority is given to the Director of Governance and Partnerships and Head of Democratic Governance to authorise applications for ward funding.

21.0 Date of Decision:

21.1 23 March 2020

22.0 Reason(s) for decision:

22.1 In light of the declaration of a major incident by the Council's Chief Executive. It is considered that while these powers are exceptional and may not need to be used on a regular basis, as there is currently a wide scope in Executive decision-making delegations but due to the Coronavirus and in relation to public safety, there will no doubt be a stage when such powers are necessary. The delegated authority will be temporary, proportionate to the threat, will only be used when strictly necessary and will be in place for as long as required to respond to the situation.

23.0 Date Decision published:

23.1 24 March 2020

24.0 Executive Members in attendance:

24.1 Councillor Blackburn, in the Chair

Councillors Benson and L Williams

25.0 Call-in:

25.1 This decision was agreed as urgent by the Executive due to the Coronavirus pandemic situation and is therefore exempt from the call in process as it needs to be implemented immediately.

26.0 Notes:

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