

# ***Report to the Council***

**Committee:** Overview and Scrutiny

**Date:** 18 December 2007

**Chairman:** Councillor R Morgan

**Item:** 12(b)

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## **1. DECISION - MAKING IN EMERGENCIES**

### **Recommending:**

**That the draft Appendix to the Executive Procedure Rules (set out in the attached Appendix) be approved and published as part of the Council's Constitution.**

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1. An Emergency Planning exercise was held earlier in the year to test how the Council would respond to a major emergency such as Pandemic Influenza. One aspect of the seminar related to the ability of the Council to make essential decisions if large numbers of Councillors were unable to participate in decision-making by reason of death or illness.
2. One of the action points arising from the seminar was to consider amending the Constitution to make it more resilient in such circumstances. We were therefore asked to examine how this could be achieved.
- ... 3. Attached to our report is an appendix to the Executive Procedure Rules in the Constitution. The appendix addresses two types of emergency:
  - (a) those which are outside the scope of the District Emergency Response Plan such that normal decision-making processes are compromised; or
  - (b) any district-wide or local emergency is declared in accordance with the Council's Emergency Response Plan.
4. In both cases, we consider that the role of the Leader of the Council is of crucial importance. However, the two types of emergency do, in our view, require a different response.

### **Emergencies outside the scope of the District Emergency Response Plan**

5. We envisage a number of key stages in the assumption by the Leader of Council of emergency powers. The first of these would be to declare the emergency itself. In a situation such as the outbreak of Pandemic Flu, it is likely that Central Government will declare a national emergency of some kind. Thus, in terms of declaring the emergency, the Leader would simply comply with Government instructions having taken advice from key officers within the Council. In those circumstances, paragraph 3.3 will apply and once the emergency period has been declared, the Leader has authority under 3.6 to take such steps as are necessary to ensure that the decisions which have to be made can be dealt with. These steps might include suspending parts of the Constitution, appointment of replacement Cabinet members, if necessary appointing an Emergency Committee of the Cabinet and making decisions other than

by means of traditional meetings. The Leader would also be able to decide which decisions were urgently required and those of lesser urgency which could wait.

6. In Paragraph 3.5 of the Appendix, the Leader has power to extend the emergency. We feel that provision should be made however for the Council as a whole to determine that the emergency had run its course and to suspend the special powers.

### **Emergency Situations arising from the Emergency Response Plan**

7. Once again, we consider that the Leader of the Council's role is crucial to the process. Section 4 of the Appendix is designed to deal with situations where the Emergency Response Plan is activated at a level where there is a need for a small group of members to be involved and to take any decisions (particularly the allocation of resources) required. We accept that some decisions might need to be made urgently and would be reported to the Council retrospectively, consistent with the Council's powers under Section 138 of the Local Government Act 1972 to commit expenditure.
8. We also touched on the need for arrangements for ensuring that cover exists for the Council's Statutory Officers (viz Head of Paid Service, Monitoring Officer and Chief Financial Officer) and likewise for other Service Directors. We wish merely to raise the issue so that the kind of cover we have sought at member level is replicated among the officers who will advise the Leader in emergency situations.
9. We have amended the draft recommended by the Constitutional Affairs and Members' Services SSP to recognise the Chairman of the Council's constitutional role in paragraphs 3.1, 3.5, 3.6(c) and 37.
10. We recommend as set out at the commencement of this report.