



WEST OXFORDSHIRE
DISTRICT COUNCIL

WEST OXFORDSHIRE DISTRICT COUNCIL

Name and date of Committee	Council – Wednesday 28 October 2020
Report Number	Agenda Item No. 18
Subject	Emergency and Urgency Delegations Decisions
Wards affected	All
Accountable member	Cllr James Mills, Leader of the Council Email: james.mills@westoxon.gov.uk
Accountable officer	Keith Butler Head of Democratic Services Tel: 01993 861521 Email: keith.butler@westoxon.gov.uk
Summary/Purpose	To note decisions taken under the emergency and urgency delegation arrangements approved by Council on 13 May 2020.
Annexes	None
Recommendation	That the report be noted.
Corporate priorities	N/A
Key Decision	N/A
Exempt	No
Consultees/ Consultation	None

I. BACKGROUND

- 1.1. At its meeting on 13 May 2020, the Council approved Emergency and Urgency delegations to the Chief Executive to enable decisions to be taken which were either an emergency, or where there was urgency such that the matter could not reasonably await the next meeting of whichever body would otherwise take that decision.
- 1.2. The report on the matter included the statement that: *“Any decision under the above provisions shall be recorded and published, and reported to Council, Cabinet or the appropriate Committee or Sub-Committee, such report to include the reasons that the powers needed to be used”*.
- 1.3. This report specifies four decisions taken under those powers.

2. PAVEMENT LICENSING POLICY

- 2.1. The Business and Planning Act 2020 received Royal Assent on 22 July. The Act included urgent provisions designed to make it easier for premises in England serving food and drink such as bars, restaurants and pubs to seat and serve customers outdoors through temporary changes to planning procedures and alcohol licensing. The Pavement Licensing provisions came into effect immediately, on the receipt of Royal Assent. The administration of Pavement Licensing under the Act is a responsibility of the District Council, and necessitated the approval of a policy for administering the necessary processes.
- 2.2. The Policy needed to be approved in a very short timescale, meaning that the Urgency powers were used and the decision to approve the Policy made following consultation with the Chair of the Miscellaneous Licensing Sub-Committee.
- 2.3. A report and the Policy were subsequently reported to the Sub-Committee, and may be viewed on the [Council's website](#).

3. EMERGENCY FOOD AND ESSENTIAL SUPPLIES GRANT ASSISTANCE SCHEME

- 3.1. The Government provided funding which, in two tier areas, was directed to counties, with a requirement to consider whether other authorities were better placed to deliver the funds. Within fairly broad criteria, the expectation was that the funding was used to support individuals suffering hardship as a result of COVID-19.
- 3.2. The requirement was for the funding of approximately £50,000 provided to West Oxfordshire to be spent within three months, meaning that a Policy needed to be agreed as a matter of urgency, which the Chief Executive did, following consultation with the Leader of the Council and the Cabinet Member for Health and Leisure. The approved Policy is in Annex A to a report which is [available on the website](#).

4. DELEGATION OF ENFORCEMENT POWERS UNDER COVID-19 LEGISLATION

- 4.1. The Health Protection (Coronavirus, Restriction) (England) (No.3) Regulations 2020 gave Oxfordshire County Council; powers relating to the control and prevention of coronavirus, and the County Council wished to delegate those powers such that they could be undertaken by this Council.
- 4.2. The powers needed to be capable of being used as soon as was practicably possible, meaning that the emergency delegation power was used by the Chief Executive for the purpose.
- 4.3. The decisions were:

- To accept the delegation of powers to enable West Oxfordshire District Council to carry out enforcement actions detailed by The Health Protection (Coronavirus, Restriction) (England) (No.3) Regulations 2020.
 - To authorise the Business Manager for Environmental and Regulatory Services, acting in consultation with the Chief Executive, to enter into all necessary and appropriate contracts and agreements to implement the delivery of the enforcement work on behalf of Oxfordshire County Council (OCC).
 - To delegate authority to the Business Manager Regulatory Services to perform the enforcement duties of OCC set out in any such agreements referred to above.
- 4.4. Prior to July 2020 the powers available to local authorities to enable them to fully implement the measures potentially needed to prevent, protect against, delay or otherwise control the incidence or spread of coronavirus in their area were not sufficient. The Regulations referenced above were intended to address/remedy this, and are effective until 17 January 2021. The acceptance of the powers from the County Council did not transfer the County Council's enforcement obligations under the Regulations but, in so far as this Council utilises those powers, it will be acting on behalf of the county and the latter will include that activity in the reports it is required to make to Government.
- 4.5. The Powers under the Regulations include the following main provisions:
- Closure of, or limiting access to, individual premises. Under this Regulation a local authority may impose prohibitions, requirements or restrictions in relation to entry and exit from or location of people within, specified premises. The authority cannot give this direction to any business or premises that forms part of essential infrastructure (as defined in the Regulations), vehicles used for public transport or the carriage or haulage of goods
 - Impose prohibitions, requirements or restrictions in relation to the holding of a specified event or events of a specified description. The direction can be given to; the owner or occupier of the premises for an event; the organiser of such an event; any person involved in holding such an event. A direction may impose requirements about informing persons who may be planning to attend an event of any prohibitions, requirements or restrictions imposed in relation to the holding of it.
 - Closure of public outdoor places or prohibit or restrict access to public outdoor places at specified times. Where the public outdoor place forms part of Crown land, the local authority cannot give a direction in relation to that place without the agreement of the appropriate authority.
- 4.6. The local authority must also review the need for any direction at least once every 7 days, to assess whether the conditions for issuing a direction (relating to a threat to public health and a direction being a necessary and proportionate means of preventing, protecting against, controlling or providing a public health response to the incidence or spread of coronavirus in the local authority's area), are still met. If these conditions are not met, the direction must be revoked.
- 4.7. If the threat still remains but the measures in the direction are found to be no longer necessary or proportionate, the local authority must either revoke without replacement, or revoke and replace the direction with one containing measures that are necessary and proportionate.
- 4.8. The Regulations also contain provisions about the process for and publication and notification of Directions and revocations; and as to enforcement, including that a person who contravenes certain provisions, or directions, commits an offence, punishable by a fine. A local authority designated officer or a constable (including a police community support

officer) may take such action as is necessary to enforce a direction made under the Regulations.

- 4.9. A local authority designated officer will be able to issue a prohibition notice requiring a person not to continue to contravene a direction under the regulation; and in relation to contraventions of a direction relating to an event, or relating to public outdoor places, a constable (including a police community support officer) may direct a person to leave the event or place, or may remove a person from the event or place, and in relation to an event, may direct the event to stop. Businesses or individuals that are in breach of such a direction can be subject to prohibition notices and fines.

5. TEST AND TRACE SELF ISOLATION DISCRETIONARY SUPPORT PAYMENTS POLICY

- 5.1. Arising from the statutory requirement for persons testing positive for coronavirus, or identified as a close contact by Test and Trace to self-isolate, the government introduced a scheme to help people who would struggle financially as a consequence, with eligible persons to receive a payment of £500. The scheme includes mandatory qualification criteria, and will run until 31 January 2021.
- 5.2. The eligibility for this scheme has been restricted to those individuals who
- Have been told to stay at home and self-isolate by NHS Test and Trace, either because they have tested positive for coronavirus or have recently been in close contact with someone who has test positive;
 - Are employed or self-employed;
 - Are unable to work from home and will lose income as a result; and
 - Are currently receiving Universal Credit, Working Tax Credit, income-based Employment and Support Allowance, income-based Jobseeker's Allowance, Income Support, Housing Benefit and/or Pension Credit.
- 5.3. Due to the restrictions within the 'main' Test and Trace Payment scheme the Government has allocated an additional pot of money to support those individuals who are not currently in receipt of one of the qualifying benefits listed above to create a 'Discretionary Scheme'.
- 5.4. The Council can introduce additional criteria to determine eligibility for discretionary payments in their own District as long as these operate in addition to, rather than instead of the criteria detailed above. It is therefore being recommended to add a further two categories as follows:
- Are not a Student (as they are not available for work); and
 - Do not have savings/capital in excess of £6,000 (as these residents are not in the greatest need).
- 5.5. Payments of £500 will be awarded to each successful application and will be paid within 72 hours following receipt of all supporting documentation.
- 5.6. Both of these schemes will be administered by the Councils' Revenues and Benefits Service and the Discretionary Scheme Policy follows (as closely as possible) the Council's approved Discretionary Housing Payment policy; in terms of the qualifying criteria and decision making arrangements.
- 5.7. The Government has provided funding to support Local Authorities in implementing the Test and Trace Support Payment (Discretionary) scheme. This includes both administrative costs (set-up costs and running costs) and the costs of the payments to be made under the scheme. For West Oxfordshire District Council the discretionary support payment allocation is (£18,470.57. The allocation to cover administration and set-up costs is

£24,538.40. Awards are only permitted at £500. There is no discretion to award more or less.

- 5.8. There is no additional top-up funding for this scheme. If the council awards over its funding allocation, the council will be liable for any overspend. As the administration and set-up of this scheme will be implemented and processed within internal resources already available to the Council, the Council may decide to utilise some of the set-up costs funding of £24,538.40 to top-up this scheme if necessary to support more residents if there is a requirement to do so.
- 5.9. Because of the need for the scheme to be implemented as soon as possible in order to ensure assistance could be provided, the urgency delegation power was used by the Chief Executive for the purpose of making decisions to (i) approve the adoption of the policy; (ii) authorise the Group Manager for Resident Services to administer the scheme; (iii) approve the top-up scheme described in 5.8 above; and (iv) approve the additional criteria referred to in 5.4 above.

6. FINANCIAL IMPLICATIONS

- 6.1. This report has no financial implications.

7. LEGAL IMPLICATIONS

- 7.1. This report has no financial implications.

8. ALTERNATIVES/OPTIONS

- 8.1. Not applicable.

9. BACKGROUND PAPERS

- 9.1. None