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# **Merton Council**

## **Cabinet**

**23 March 2020**

### **Supplementary agenda**

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## **Committee: Cabinet**

**Date: 23<sup>rd</sup> March 2020**

Wards: All

## **Subject: Reference from the Sustainable Communities Overview and Scrutiny Panel – Diesel Levy and Emission Based Charging**

Lead officer: Julia Regan, Head of Democracy Services

Lead member: Councillor Natasha Irons, Chair of the Sustainable Communities Overview and Scrutiny Panel

Contact officer: Rosie.Mckeever@merton.gov.uk 0208 545 3864

### **Recommendations:**

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1. The Sustainable Communities Overview and Scrutiny Panel recommends that Cabinet take into account its reference set out in paragraphs 2.14 to 2.17 below when making decisions on the Diesel Levy and Emission Based Charging proposals.
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## **1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. At its meeting on 25 February 2020 the Sustainable Communities Overview and Scrutiny Panel received a report on the Diesel Levy and Emission based charging review. The Panel was asked to discuss and comment on the report and agree any reference it wished to make back to Cabinet about the review.
- 1.2. The Panel agreed to make a reference to Cabinet, as set out in paragraphs 2.14 to 2.17 below.

## **2 DETAILS**

- 2.1. The Council introduced the diesel levy surcharge in 2016. Since its implementation, the Sustainable Communities Overview and Scrutiny Panel has had the opportunity to feed into the Terms of Reference and to review the effect of the levy
- 2.2. **Scrutiny process**
- 2.3. The Panel received a detailed report setting out the findings of the review, proposals for a new emission based charging model and the equality impact assessment.
- 2.4. Panel Members asked questions and sought responses to concerns raised. Responses were provided by the Director of Environment and Regeneration, Environmental Health Pollution Manager, Head of Parking Services and the Cabinet Member for Regeneration, Housing and Transport.
- 2.5. **Scrutiny response**
- 2.6. The Panel discussed and debated three potential motions to Cabinet;

- 2.7. A motion that “if this Council believes diesel cars are dirty, then every diesel car should be treated the same way” was defeated (Two votes for, six against).
- 2.8. A motion that ‘recommends Cabinet consider the full Equality Impact of their proposals across the borough by looking at the available data on car vehicle ownership by area to see if it impacts the Equality Assessment’ was voted on and recorded as defeated but procedure was followed incorrectly in this instance.
- 2.9. The first vote was recorded as two votes for, six abstentions. The Chair queried whether the vote should be carried given that there wasn’t enough positive support for the motion and due to the high level of abstentions, whether the Panel were clear on what the recommendation was. The Chair and Scrutiny Officer decided there was insufficient conclusion to pass it.
- 2.10. After further discussion, a re-vote was taken with an outcome of two votes for, six against). Motion fell.
- 2.11. Procedural advice was sought from the Head of Democracy Services after the meeting which determined the following;
- 2.12. A vote may be re-run if committee members are confused about what they were voting for but, although there was an element of confusion at the meeting, this was not sufficient to warrant a second vote in this instance.
- 2.13. The Sustainable Communities Panel were due to ratify this at their meeting on 17 March 2020 so that the resolution can be recorded as carried and will then be referred to Cabinet. Therefore;
- 2.14. Panel RESOLVED (two votes for, six abstentions) to make the following reference to Cabinet:
- 2.15. “This Panel recommends that Cabinet consider the full Equality Impact of their proposals across the borough by looking at the available data on car vehicle ownership by area to see if it impacts the Equality Assessment”
- 2.16. Panel RESOLVED (eight votes for, none against) to make the following reference to Cabinet:
- 2.17. “This Panel recommends that Cabinet look at the available evidence with the intention of putting a greater focus on incentives to encourage and support residents to change vehicles to less polluting types, including looking at examples from other boroughs’.

### **3 ALTERNATIVE OPTIONS**

- 3.1. None – Cabinet is required under the council’s constitution to receive, consider and respond to references from overview and scrutiny.

### **4 CONSULTATION UNDERTAKEN OR PROPOSED**

- 4.1. Included in the report to the Sustainable Communities Overview and Scrutiny Panel on 25 February 2020.

### **5 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

5.1. Included in the report to the Sustainable Communities Overview and Scrutiny Panel on 25 February 2020.

## **6 LEGAL AND STATUTORY IMPLICATIONS**

6.1. Cabinet is required under the council's constitution to receive, consider and respond to references from overview and scrutiny. The Local Government and Public Involvement in Health Act 2007 requires Cabinet to respond to reports and recommendations made by scrutiny committees within two months of written notice being given.

## **7 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

7.1. Included in the report to the Sustainable Communities Overview and Scrutiny Panel on 25 February 2020.

## **8 CRIME AND DISORDER IMPLICATIONS**

8.1. Included in the report to the Sustainable Communities Overview and Scrutiny Panel on 25 February 2020.

## **9 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

9.1. Included in the report to the Sustainable Communities Overview and Scrutiny Panel on 25 February 2020.

## **10 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT**

- None

## **11 BACKGROUND PAPERS**

11.1. None

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**Committee: Cabinet**

**Date: 23 March 2020**

Wards:

**Subject: DECISION MAKING ARRANGEMENTS IN THE COMING MONTHS**

Lead officer: Louise Round

Lead member: Councillor Mark Allison

Contact officer:

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**Recommendations:**

- A. That Cabinet notes and endorse the arrangements for the good governance of the Council during the Covid-19 crisis, namely that officers will exercise their delegated authority to take decisions in accordance with the Council's constitution.
  - B. That Cabinet notes that when officers are taking delegated decisions they will consult appropriately with members, key decisions will be subject to the usual notice requirements and both key and non-key executive decisions will be published on the Council's website in order to ensure transparency.
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**1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY**

- 1.1. The purpose of this report is to set out the arrangements for decision making which will operate over the coming months whilst the situation in relation to the Covid-19 pandemic pertains. Although the Council will be focussing on keep essential services going and supporting the most vulnerable in our community, it is important the normal administration of the Council is able to continue in the interim in order to promote good governance and to ensure that the Council is prepared to act swiftly once the country moves into recovery phase.

**2 DETAILS**

- 2.1. Members will be aware that a decision has been taken to cancel most of the formal council and committee meetings which were scheduled to take place between now and the annual council on 20 May. Fortunately, apart from in the last two weeks in March, very few meetings were due to take place. The exceptions to cancellation are this meeting and the Planning Application Committee which at the time of writing was is due to take on 19 April. In a conference call with the Secretary of State for the Ministry of Housing, Communities and Local Government (MHCLG), chief executives were encouraged to continue with planning and licensing hearings because of the impact on the local economy. However, advice from the Government is changing at pace and the position will be kept under review.
- 2.2. The way in which decisions are taken is governed by the Council's constitution which reflects the requirements of the law by, in broad terms, dividing the functions of the council into executive decisions which are the responsibility of the Cabinet, non-executive functions which are exercised

through committees and the scrutiny function exercised through the Overview and Scrutiny Commission and its panels. The most significant body of non-executive decision making relates to the Council's planning and licensing functions but most other matters are the responsibility of the Cabinet.

### ***Executive Functions***

- 2.3. The constitution contains schemes of delegation in respect of both executive and non-executive functions. The structure of both is that unless specifically reserved to the Cabinet or committee, as the case may be, the Chief Executive and certain other named officers are authorised to take decisions on behalf of the Council. In relation to executive functions, there are very few functions reserved to the Leader and none to the Cabinet as a whole which means that the Chief Executive and Directors are able to take decisions over the coming months even if there are no formal meetings of the Cabinet and this is what it is proposed.
- 2.4. Such decisions will be subject to the Access to Information Procedure Rules so that notice of key decisions will have to be given in advance in the usual way and non-key executive decisions taken by officers published once made. An exception to these delegations arises where the decision in question is outside the budget or policy framework. It is not envisaged that these will be necessary before Annual Council but if they are, the urgency procedure which allows such decisions to be taken with the agreement of the Chair or Vice Chair of the Overview and Scrutiny Commission will be invoked. Officers will of course ensure that there is appropriate consultation with relevant Cabinet members.

### ***Non-Executive Functions***

- 2.5. For planning decisions, there are a certain number of decisions reserved to the Planning Application Committee and there are no equivalent provisions allowing such decisions to be taken in urgent cases. The next scheduled meeting is 23 April and so consideration is being given to whether that meeting should go ahead and if so whether it will be recommended that Committee delegate some of its decision making powers to officers on a temporary basis as it is entitled to do under section 101(2) of the Local Government act 1972.

### ***Remote participation in meetings***

- 2.6. In the meantime, MHCLG officials have indicated that they are considering changing the law to allow meetings to take place virtually as this is not currently allowed. Democracy Services are assessing the technical options for allowing members to participate in formal decisions from a remote location should this become possible. Any such provisions are expected to be included in the COVID-19 Emergency Bill which will be laid before Parliament on 19 March with a target date for Royal Assent of 31 March. It is



hoped that that bill will also cover the position of councils' annual meetings which in a year where there are no elections have to be held by the end of May.

### **3 EMERGENCY PLANNING ARRANGEMENTS**

- 3.1. As well as the formal decisions which will be taken as set out above, the Council has initiated its emergency planning procedures to ensure that it is able to respond to events as they unfold.
- 3.2. The council has now adopted formal London Resilience (Gold, Silver, and Bronze) arrangements to manage the coronavirus response in the borough. As recently requested by the London Resilience Forum (LRF), this includes operating a 7 day a week Borough Emergency Coordination Centre (BECC) and daily situation reporting to LRF. Internally, directorate service teams are now running daily situation report meetings, where issues are raised around staffing levels, service provision, and any alternative arrangements that need to be made for those service areas. This is our Bronze level decision-making, and front-line staff contribute via their line managers.
- 3.3. This feeds into the council's COVID-19 response group, which is the single point for all major decisions on how we handle the crisis, and meets every morning. This is our Silver level group, and is the focus point for bringing all our decisions into one place and looking at them as a whole, and their combined impacts. The group is currently chaired by Dr Dagmar Zeuner, Director of Public Health and in the weeks ahead will be rotated for further resilience and in recognition that the situation has moved from a public health incident to a civil contingency emergency.
- 3.4. Finally, the Council Management Team (comprising Chief Executive and the five directors) is meeting regularly and is acting as the council's Gold command team. This is where complex or wider decisions need escalating for a more detailed view of the impacts, and is the highest point to refer or escalate a decision within the council.
- 3.5. Member oversight of emergency planning arrangements is provided through the Leader's Steering Group which meets weekly. Individual Cabinet members and opposition leads are briefed in the normal way. In addition the Leader is in daily touch with the Chief Executive.

### **4 ALTERNATIVE OPTIONS**

- 4.1. The alternative option to officers taking more decisions under delegated authority is to continue with all formal council meetings which, given the current government advice and the duty of care we owe to staff and councillors, would not seem to be a prudent course of action. The position may change should measures be introduced to allow remote participation in council meetings.

### **5 CONSULTATION UNDERTAKEN OR PROPOSED**

- 5.1. No public input required but the decision to cancel meetings was taken in consultation with and the support of all the political group leaders.

## **6 TIMETABLE**

- 6.1. It is proposed these measures be put in place with immediate effect.

## **7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS**

- 7.1. There are no real resource implications at this stage as the decisions envisaged would in any event have required significant decision and input.

## **8 LEGAL AND STATUTORY IMPLICATIONS**

- 8.1. The decision making process outlined above is in line with the Council's constitution and the requirements of the Local Government Acts 1972 and 2000

## **9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS**

- 9.1. None

## **10 CRIME AND DISORDER IMPLICATIONS**

- 10.1. None

## **11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS**

- 11.1. None

## **12 BACKGROUND PAPERS**

- 12.1. None