

COUNCIL

20 JULY 2021

LATE MATERIAL (Second Despatch)

The following material has been received since the publication of the agenda for this meeting:

Item 11 Emergency Decision Making Arrangements - Recommendations of the Corporate and Resources Committee (13.07.21)

At its meeting on 13 July the Corporate and Resources Committee received late material proposing that the form of its recommendation to Council should be slightly modified. While it is lawful to delegate powers to amend aspects of the Constitution, for greater constitutional certainty it was recommended that the delegation proposed within the report be formally incorporated in a new temporary Procedure Rule which would itself form part of the Council's Constitution until the end of the current Municipal Year. The Committee therefore **RECOMMENDS TO COUNCIL** that:

The provisions set out below be incorporated in the Council's Procedure Rules for a time limited period expiring at the end of the 2021/22 Municipal Year;

- i) the Chief Executive Officer, in consultation with the Monitoring Officer, the Director of Public Health, the Leader of the Council and the Leader of the Opposition, be authorised to make any temporary adjustments to the arrangements for meetings of Council and its Committees as may be required in the interests of public safety where the urgent need arises between meetings of Council; and
- ii) Any such adjustments approved under the above delegation which have the effect of temporarily modifying aspects of the Constitution be subject to subsequent review at the next meeting of Council

The Committee requested that the full legal advice issued on this matter by the South London Legal Partnership be made available to Council. This is reproduced below:

Section 9R(6) of the Local Government Act 2000 states that where formal resolutions of the Council are required under part 1A of the Act, they cannot be delegated. This does not, however, mean that every decision made in connection with the governance of the Council has to be a decision of full Council or that the Constitution itself cannot provide for some level of delegation. It is, instead, aimed at significant decisions such as the form of governance to be adopted (for example whether to operate an Executive or Committee system) and whether Councils operating Committee systems choose to have an Overview and Scrutiny committee.

If the authorisation (to amend aspects of the Constitution) is included as a special temporary Procedure Rule in the Constitution making such changes will be compliant with the Constitution. The addition of such a temporary clause within the Constitution allowing for urgent alterations to be made would be lawful.