

3. EMERGENCY SCHEME OF DELEGATION TO THE CLERK - DALC

Local councils may not return immediately to a full calendar of face-to-face meetings. To help the business of the Council during this next phase, it is important that the council adopts a broad scheme of delegation to the Clerk. This will allow it to continue to operate between meetings until such time as you are confident to return to a normal schedule of meetings. Although delegation is a lawful form of decision making it must only be used as an emergency measure, when meeting would be inappropriate, unsafe or impossible.

The legislation allows for the council to delegate to an officer but not individual members and the wording of the resolution below reflects the law.

A recommended wording is:

That the Council delegates authority to the Clerk in consultation with the Chairman and Vice Chairman to take any actions necessary with associated expenditure to protect the interests of the community and ensure council business continuity, informed by consultation with the members of the council. The scheme of delegation will be reviewed no later than May 2022.

You may find the following tips helpful when using the delegation:

- Delegation authorises the clerk to take decisions on behalf of the council instead of elected members. It is important that it is only used when a physical council meeting is either inappropriate or impossible.
- The Clerk chooses how to consult with members but any meeting either physically or virtually must not mirror a council meeting. It could also include written consultation and/or face-to-face meetings i.e. site visits.
- A consultation informs the clerk on how to act on behalf of the council. It can include consultation with members of the public in a similar way.
- For the short term, the clerk may wish to organise a regular catch up with members to share business and gather views and that could take place virtually.

The Scheme of Delegation will support the council for a short period but must not be used as a way of avoiding holding council meetings. The six-month rule continues to apply and councils will need to meet at least once before November to avoid members losing their seat.

The Openness of Local Government Bodies Regulations 2014 s7 requires the council to keep a record of any decisions made under delegation, together with the relevant paperwork.

4. WHAT CAN AND CANNOT BE DEALT WITH UNDER THE EMERGENCY SCHEME OF DELEGATION?

The scheme of delegation can cover:

- making day to day decisions
- authorising budgeted expenditure

- respond to consultations on behalf of the council
- continue to deliver projects
- respond to planning consultations
- work with outside partners and public bodies for the benefit of the area
- anything urgent until such time as an extra ordinary meeting of the council can be called.

The following items will require a council meeting as they are not covered by a scheme of delegation:

- Co-option of councillors
- Election of Chair and Vice Chair
- Appointment of members to committees and other statutory roles
- Signing the Annual Governance and Accountability Return
- Setting the budget and precept
- Making permanent changes to council policies and governance documents such as

Standing Orders, Financial Regulations. (Where this is urgent, it should be an interim arrangement until it can be approved at a meeting of council.)

- Granting extensions under the 6-month rule

5. FINANCIAL MATTERS

The following payments could be made under a scheme of delegation without the need for approval at a meeting of the council or a committee:

- Any payment which part of an agreed contractual obligation is (salary and on costs, contractors, and suppliers). This is because failure to pay would be a breach of contract or the individual payment is part of budgeted expense.
- Any other budgeted item including approved grants, approved purchases (playground equipment, computer, other assets) insurance and any other expenditure previously agreed by the council. There is an audit trail that the council has already considered and approved the payment.
- Any amount authorised by the Clerk which within the limits set by the Council's financial regulations.
- Any other payment authorised under the Emergency Scheme of Delegation.

Regardless of the Emergency Scheme of Delegation, members are still responsible for the management of the council's finances in accordance with its financial procedures. Nothing in the Emergency Scheme of Delegation removes the council's obligations to carry out assurances as normal. It should work with the Clerk/RFO to identify how this can be achieved and recorded.

Many councils now use internet banking and electronic payments. If the council still relies on signed cheques for making payments it is now recommended that it should reconsider the use of electronic payments. Many banks now offer some form of internet banking and this will remove the need for

face-to-face contact with cheque signatories. It will also remove the need for the payee to have to travel in order to cash the cheque and receive payment.

The Council may wish to review the amount delegated to the Clerk in the Financial Regulations to ensure that it is proportionate to its needs at this time. With advice changing on a daily basis the council must ensure that the approved levels provide scope for the council to act as necessary.

The Openness of Local Government Bodies Regulations 2014 s7 requires the council to keep a record of any decisions made under delegation, together with the relevant paperwork. The Clerk is therefore advised to keep a register or spreadsheet of the decisions taken, associated expenditure and the reasons for the decision together with any rationale. The schedule can then be noted by the council at its next meeting. This may be required at audit in the following year.

6. PLANNING MATTERS

The Council should now be able to consider planning applications in public at face-to-face meetings.

However, for minor applications it may still wish to use the scheme of delegation to respond.

i) Advertise on the council's website links to all planning applications received from the planning authority, offering the public the opportunity to let you know of any views. The notice should give a deadline for public comments to the Clerk in writing.

ii) At the same time the clerk will circulate the list with links to all members of the council.

iii) At the end of the public opportunity to comment, the clerk will forward a summary of the public comments received to all members (or members of the relevant committee) for member comments. Under GDPR, the clerk should not circulate individual responses without the writer's express permission.

iv) **Under the Emergency Scheme of Delegation, the Clerk and appropriate members will agree a council response which identifies relevant material considerations and may give local information or opinion. The draft response is then shared with members for any comments, before being sent to the planning authority with following statement:**

“Due to the restrictions placed on the council as a result of the pandemic Coronavirus, this response represents the opinion of members of Germansweek Parish Council identified through a consultation process and will be ratified at the next appropriate meeting of the council.”

v) **Maintain a list of council responses to planning applications on the website until the list is noted at the next council meeting.**