

SOUTH HOLLAND DISTRICT COUNCIL

Report of: The Executive Manager - Governance (Deputy Monitoring Officer)

To: Performance Monitoring Panel Monday, 13 July 2020

(Author: Christine Morgan Democratic Services Officer)

Subject Call In (Re-opening of South Holland's Markets, and Spalding Market Stall provision)

Purpose: To explain the background to the Call-In and the process to be followed by the Panel

Recommendation:

That the Panel considers the content of this report and the supporting documentation, and considers the options available to it, as detailed within section 3 of this report.

1.0 BACKGROUND

- 1.1 On 16 June 2020, the Cabinet considered the report of the Executive Director of Place regarding the re-opening of South Holland Markets and Spalding Market Stall Provision.
- 1.2 The following decisions were made by the Cabinet:
1. That, in order to secure the safe re-opening of South Holland District Council markets, in line with government guidance introduced due to Covid-19:
 - a) The current practice of erecting and dismantling SHDC stalls at Spalding Tuesday and Saturday markets be suspended;
 - b) The removal of trade waste by South Holland District Council at Holbeach, Long Sutton and Crowland markets be terminated, thereby making the service equitable across all markets;
 - c) A book and pay system for traders who wish to stand at any SHDC market be introduced to enable a planned approach to market layouts each week and remove the need for cash handling, both of which assist with the opening of Covid-safe markets;
 - d) In the event that, following the consultation referred to in Appendix B of the report, the current practice of erecting and dismantling stalls at the Spalding market is ended, the fees for Spalding traders be amended as shown at paragraph 1.20 of the report;
 - e) A rent free period be introduced for traders until 31 July 2020 to support the recovery of markets;
 - f) Social distancing procedures be introduced at all markets including changing the layouts to accommodate the new government guidance;
 - g) The market trader handbook be amended in line with the above recommendations;
 - h) The following toilets be re-opened with an enhanced, hourly cleaning regime:

- a) Spalding Vine Street and Winfrey Avenue, Tuesday to Saturday 8am to 4pm;
- b) Long Sutton and Holbeach, Monday to Friday 8am – 2pm.

2. That the Portfolio Holder for Place be authorised to:

- a) designate a statutory market at Victoria Street car park should the volume of traders increase to such a point that it is deemed appropriate to enable the Spalding markets to operate safely in accordance with Governance guidance; and
- b) make a recommendation to Full Council or the appropriate Chief Officer (in consultation with the Chief Executive) in relation to any proposed impact on employment arising from the consultation process referred to in Appendix B; and

3. That the Environmental Services Manager be authorised, in consultation with the Portfolio Holder for Place, to

- a) Undertake the necessary consultation in relation to any proposed impact on employment referred to in Appendix B of the report;
- b) Change fees as set out;
- c) Procure and implement a book and pay system
- d) To continue to monitor the government guidance as part of the Covid-19 response and make amendments alongside guidance changes, as requested.
- e) Establish a Covid compliant market in the Market Place, Long Sutton if a road closure order can be obtained via the local Highway Authority and arrangements prove viable and achievable. If no such closure can be obtained the market to be established in the nearby council owned car park.

1.3 A copy of the report and the appendices considered by the Cabinet are attached, in addition to other relevant information for the Panel's consideration. Note that appendices H, I, J and K contain confidential information, and are therefore not for publication by virtue of paragraphs (1) (information relating to any individual), (2) (Information which is likely to reveal the identity of any individual) and (3) (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Part 1 of Schedule 12A of the Local Government Act 1972. A copy of these appendices is included with the agenda for members of the Panel.

2.0 **CALL-IN**

2.1 In accordance with the Constitution, when a proposed decision has been made by the Cabinet, all councillors receive a copy of the decision notice (the minutes). The decision notice states that the proposed decisions contained in it will come into force on the expiry of 5 working days from the date of its publication, unless the proposed decision is called in.

If a councillor wishes to call in a proposed decision, notice must be given by way of a call-in form, to the Executive Manager-Governance, by the expiry date shown on the decision notice.

The decision can be called-in in the following way:

- By a Ward Representative (in relation to a matter in their ward); or
- Two members of the Performance Monitoring Panel; or
- Any three members

The notice must be signed by at least one councillor (as above), and must also specify:

- The reason(s) for the call in, and

Either:

- What action the councillor(s) who made the call-in consider the decision maker should take to address those concerns

Or

- What alternative decision the councillor(s) would like to see taken.

2.2 The decision was called in by Councillors A M Newton, M Hasan and R Gibson, who stated:

'We do not feel full and proper information has been available to all'.

2.3 Councillors Newton, Hasan and Gibson consider the following alternative decision should be made:

'Stalls should continue to be provided at Spalding market until the end of this financial year, or until proper and meaningful discussion is held with market traders, or their representatives'.

3.0 **OPTIONS**

3.1 The Panel has the following options:

- a. To take no further action in relation to the call in (in this event, the proposed decision will take effect from the date of the Panel meeting).
- b. To refer the proposed decision back to Cabinet setting out in writing the nature of its concerns. (In this event, the Cabinet will re-consider the matter within 15 working days. Having regard to the views of the Panel, the Cabinet will make a final decision, which may or may not amend the original decision. This decision will not be subject to call-in (unless it is believed to be contrary to the Policy Framework or Budget). The Cabinet must explain the decision in relation to the concerns raised by the call in.
- c. If, having taken officer advice, the Panel considers that the decision is contrary to the Policy Framework or Budget, it may refer the matter to full Council. In this event, the Council will consider the matter within 15 days. If the Council does not consider the decision to be contrary to the Policy Framework or Budget, then it becomes effective on the date of the Council meeting. If the Council decides that it is contrary to the Policy Framework or Budget, then it can approve an amendment to the Policy Framework or Budget, in which case the decision will take effect from the date of the Council meeting. If the Council refuses to amend the Policy Framework or Budget, it can refer the matter back to Cabinet, who have to meet to consider the matter within 15 days. The Cabinet's decision is not subject to call in. If the Council approves an amendment to the Policy Framework or Budget it can still refer the matter back to Cabinet for final decision – again, this matter is not subject to call in.

4.0 IMPLICATIONS

In preparing this report, the report author has considered the likely implications of the decision - particularly in terms of Carbon Footprint / Environmental Issues; Constitutional & Legal; Contracts; Corporate Priorities; Crime & Disorder; Data Protection; Equality & Diversity/Human Rights; Financial; Health & Wellbeing; Reputation; Risk Management; Safeguarding; Staffing; Stakeholders/Consultation/Timescales; Transformation Programme; Other. Where the report author considers that there may be implications under one or more of these headings, these are identified below.

4.1 Constitutional & Legal

4.1.1 Provision for call-in is a legal and constitutional requirement. The options and process are set out in the body of the report.

4.2 Stakeholders / Constitution / Timescales

4.2.1 The call-in timetable is set out in the body of the report

5.0 WARDS/COMMUNITIES AFFECTED

5.1 Spalding and users of the Spalding markets.

6.0 ACRONYMS

6.1 None.

Background papers:- Notice of call in

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Key Decision: N

Exempt Decision: N

Appendices attached to this report:

Appendix A	Cabinet covering report and Appendix A – 16 June 2020
Appendix B	Cabinet minute - 16 June 2020
Appendix C	NABMA Social Distancing Guidance
Appendix D	Market Charter
Appendix E	Market Timeline
Appendix F	Member Stall Feedback
Appendix G	Budget Information

Exempt appendices attached to this report (Please note that the following appendices are not for publication by virtue of Paragraphs 1 (Information relating to any individual), 2 (Information which is likely to reveal the identity of any individual) and 3 (Information relating to the financial or business affairs of any particular person (including the authority

holding that information)):

Appendix H	Appendix B to Cabinet report – Cabinet 16 June 2020 (Exempt paragraphs 1 and 3)
Appendix I	NABMA report (Exempt Paragraph 3)
Appendix J	Market Trader Feedback (Exempt paragraphs 1 and 2)
Appendix K	Risk Assessment Statement (Exempt paragraphs 1 and 2)