

LOCAL GOVERNMENT ACT 2000

REGISTER OF URGENT  
DECISIONS OF THE EXECUTIVE

NORTH DEVON COUNCIL CONSTITUTION  
– Appendix 12



Reference No: 2014/08

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- 1) **SUBJECT:** North Devon Theatre's Trust Subsidy
- 2) **REQUESTED DECISION:** Pay a second quarter of the subsidy to NDTT for 2014/15 before the management agreement between NDC and NDTT is finalised and signed. The payment will be for the amount of £104,922.50

- 3) **STATEMENT OF THE REASONS FOR THE REQUEST AND WHY IT IS URGENT:** At the Executive meeting dated 8<sup>th</sup> April 2014 it was resolved that;

*“North Devon Theatres Trust (NDTT) and North Devon Council (NDC) enter into a management agreement for the operation of both the Landmark and Queen’s Theatre until 2018 and that annual payments to NDTT be made subject to the terms of the management agreement. The terms of the management agreement are to be approved by the Head of Legal Services and the Head of Property and Technical Services in consultation with the appropriate Executive Lead Member.”*

The management agreement is now complete in draft form and the leases for both theatres are virtually complete. When all drafts are complete (hopefully this week) they will be passed to NDTT for agreement and signing.

NDTT needs the subsidy payment from NDC to clear its accounts by 23<sup>rd</sup> July so that it can meet its payroll payments to its staff. NDC has received an invoice from NDTT for the second quarter payment, but there is a risk that there might not be time to finalise the Management Agreement and Lease (the documents need to be agreed by NDTT trustees and have them returned for signing and process payment of the invoice before July 23<sup>rd</sup>.)

- 4) **FINANCIAL IMPLICATIONS:** (NOTE: Please state if there are any financial implications. If so, state if there are sufficient funds within the agreed budget. If there are not sufficient funds, please state how the decision will be financed)

There are sufficient funds available to make this payment. The risk to NDC is that it could be challenged by an alternative theatre provider if it pays the subsidy, before a management agreement is in place. This risk is considered low, but a successful challenge could be very costly.

5) ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

1. NDTT has requested that NDC pays the entire subsidy for 2014/15 in one payment so that it can maintain cash flow despite the £100k cut to its subsidy this year. NDC can do this, but not until the management agreement is signed. We can therefore only pay the second quarter at present, the balance to be paid out when the agreement is signed.

2. Withhold payment until the management agreement, new lease for the Landmark Theatre and “agreement for lease” for the Queen’s Theatre are completed and signed. This has been rejected as an option because it will cause the Theatres Trust serious financial problems and may result in them not being able to operate.

6) A RECORD OF ANY CONFLICT OF INTEREST DECLARED: None.

7) A NOTE OF ANY DISPENSATION IF GRANTED: None

8) THE CONSENT OF THE CHAIRMAN OF THE OVERVIEW AND SCRUTINY COMMITTEE WAS OBTAINED ON:

30<sup>th</sup> June 2014

9) LIST OF BACKGROUND PAPERS (but not including published works or those which disclose exempt or confidential information (as defined in rule 10 of appendix 15 (Access to Information Procedural Rules) and the advice of a political advisor):

- None

10) CONSULTATION UNDERTAKEN:

The following have been consulted on this urgent decision:

Consultee	Consulted Yes/No	Date
Executive Member – Cllr Spear	Yes	30/06/14
Ward Member(s)	No (theatre covers more than one ward)	
Chief Executive	Yes	30/06/14

Head of Service - Diana Hill	Yes	30/06/14
Legal - Simon Fuller	Yes	30/06/14
Finance - Jon Triggs	Yes	30/06/14

11) APPROVED BY DECISION TAKER

Councillor Greenslade – Leader (NOTE: But no further payments until the management agreement is signed)

12) NOT APPROVED BY DECISION TAKER

13) DATE THAT DECISION WAS TAKEN: 1<sup>st</sup> July 2014

# GUIDANCE NOTES

NOTE: ALL REFERENCES TO SUB-PARAGRAPHS REFER TO APPENDIX 12 OF THE CONSTITUTION

PROCEDURE FOR DECISIONS WHICH MAY BE CONTRARY TO ADOPTED PLANS AND STRATEGIES (INCLUDING THE BUDGET):

1. The Chief Executive must notify the Leader/Deputy Leader/Other Executive Member.
2. The Leader/Deputy Leader/Other Executive Member must approve the use of the procedure and notify the Chief Executive of his approval together with his reasons.
3. The Chief Executive must notify the Chairman of the Overview and Scrutiny Committee or if unable to act the Chairman of Council or if absent the Vice-Chairman to seek his determination as to whether the conditions detailed in paragraph 1.1 (b) (i), (iii) or (iv) are satisfied.
4. The Chairman of the Overview and Scrutiny Committee or if unable to act the Chairman of Council or if absent the Vice-Chairman, must confirm to the Chief Executive in writing that the proposed decision is urgent and that either of the conditions identified in paragraph 1.1 (b) (iii) or (iv) have been satisfied, the Chief Executive shall advise the Leader, Deputy Leader or other member of the Executive that the decision may be taken by a person or body possessing a relevant power to make such a decision.
5. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).

PROCEDURE FOR DECISIONS WHICH ARE WITHIN THE ADOPTED PLANS AND STRATEGIES (AND CAN NOT BE INCLUDED IN THE FORWARD PLAN):

1. If the Chief Executive considers that the conditions in sub-paragraph 2.1 are satisfied, he must notify the Proper Officer of the need for the decision, the reasons why it was impracticable for it to be included in the Council's Forward Plan, and whether or not the decision is required to be taken within five working days.
2. On receiving the notification, under sub-paragraph 2.3 and where satisfied that no decision is required to be taken for five working days, the Proper Officer shall:
  - (a) notify in writing the Chairman of the Overview and Scrutiny Committee or if there is no such person, each Member of the Overview and Scrutiny Committee, with particulars of the proposed decision, the

reasons for its urgency and the reasons for it being impracticable to include in the Council's Forward Plan;

- (b) make available for public inspection at the Council offices a copy of the written notice given to the Chairman of the Overview and Scrutiny Committee about the decision.

3. Decisions to which sub paragraph 2.4 applies, shall not be made until after five working days have elapsed following publication of the proposed decision under 2.4 (b) of Appendix 12 in the Constitution.

4. Where it appears to the Chief Executive that an urgent decision-

- (a) meets the requirements of sub-paragraph 2.1 of Appendix 12 of the constitution; and
- (b) because of the urgency cannot be deferred for five working days,

he shall seek the agreement and confirmation in writing on both those points from-

- (c) the Proper Officer; and
- (d) the Chairman of the Overview and Scrutiny Committee or in his absence the Chairman of Council or if there is no Chairman the Vice-Chairman of Council;

and the person or body possessing a relevant power to make the decision may proceed to make it only when the necessary agreement and confirmation have been obtained.

5. If a decision is specific to a Ward, efforts should be made to ascertain the views of the local Councillor (s).