

LOCAL GOVERNMENT ACT 2000

REGISTER OF URGENT
DECISIONS OF THE EXECUTIVE

NORTH DEVON COUNCIL CONSTITUTION
– Appendix 12



1) SUBJECT: Interim Theatre Contract Arrangements

2) REQUESTED DECISION:

2.1. To enter into a 12 month Theatre Operating Contract with Parkwood Entertainment Ltd. The contract will require a subsidy payment of £185k to Parkwood Entertainment Ltd which is a £10k increase on the approved 2017/18 budget. The additional £10k to be funded from the residual subsidy remaining from 2016/17 year which is being placed into a theatres reserve fund.

3) STATEMENT OF THE REASONS FOR THE REQUEST AND WHY IT IS URGENT: The previous theatre services provider; North Devon Theatres Trust (NDTT) fell into administration in January 2017 and ceased trading immediately, resulting in the closure of both theatres. It is in the public interest to minimise the length of time the facilities are closed to mitigate the negative impact on both the community & commercial theatre programme. If the theatres remain closed for a lengthy time period, they will be less attractive to a potential, long term operator as the challenge of building up a new theatre programme will be both costly and time consuming.

Awarding a 12 month contract to Parkwood Entertainment Ltd, will allow NDC to keep the theatres operational while it prepares and tenders a long term contract for the future provision of theatre services. The intention will be to award the long term contract in April 2018.

4) FINANCIAL IMPLICATIONS: As outlined at 2.1 above, there is a required subsidy increase of £10k (over the budgeted £175k) for the provision of the 12 month contract. There was an underspend of £40k against the 2016/17 subsidy budget and this residual balance is being placed into a theatres reserve fund. The £10k additional cost can be met from this earmarked reserve.

As the contract is only for a 12 month period, NDC will be responsible for meeting maintenance costs at the theatres for any single works item costing more than £1,000. Parkwood Entertainment will pay for the first £1,000 in each case.

NDC will also make a financial contribution to Parkwood Entertainment Ltd for 50% of the non domestic rates, at a cost of £15k (in recognition of the fact that this is a short/interim contract, with neither theatre able to run a full, 12 month commercial programme). The £15k additional cost can be met from the above reserve.

NDC also needs to pay for a mandatory Electrical Installation Test at both theatres that should have been completed in January 2017 by NDTT. This will cost approx. £8k. The 50% contribution to the rates and Electrical Installation testing can both be met using the aforementioned theatres reserve fund; this will leave a balance of £7k in the theatres earmarked reserve following all of the above payments.

5) ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

Alternative options would be to:

1. Close the theatres permanently or
2. Close the theatres until a long term contract has been prepared and tendered.

These options have been rejected after it was noted at an Extraordinary Meeting of the Council in February 2017 that NDC was committed to use its best endeavours to work to open the theatres as soon as possible.

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:

20th April 2017.

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	Y	20.4.17
Ward Member(s)	N/A	
Chief Executive	Y	20.4.17

Head of Service (name)	Y	20.4.17
Legal	Y	20.4.17
Finance	Y	20.4.17

11) APPROVED BY DECISION TAKER



Councillor Des Brailey MBE, Leader

12) NOT APPROVED BY DECISION TAKER

13) DATE THAT DECISION WAS TAKEN:

20th April 2017.

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).

