

THANET DISTRICT COUNCIL

RECORD OF OFFICER DECISION

Name of Officer:	Tim Howes, Director of Corporate Governance and Monitoring Officer
Directorate:	Corporate Governance
Relevant Portfolio Holder:	Councillor Rob Yates, Cabinet Member for Finance, Administration and Community Wealth Building
Date of Decision	17 March 2020
Subject of decision:	Attestation of the Common Seal
Call-in Deadline:	N/A

Decision made:

As a response to the COVID 19 pandemic, with effect from 17 March 2020 the Monitoring Officer took urgent action to extend the rules for attesting the fixing of the common seal to documents, which required a member and an officer to attest.

The change is that in addition to the existing requirement of a member and legal officer attesting the affixing of the seal, during the Covid pandemic, two legal officers would also be authorised to attest the affixing of the common seal.

The Chairman has been made aware of this decision and supports it.

Background

The purpose of attesting the affixing of the seal is not to agree the content or form of the document being sealed, but simply to show that the council's common seal has been properly affixed. The practice of attaching seals was introduced into England in the 11th century by Edward the Confessor, its use has recently declined, the Companies Act 2006 replaced the use of a seal by two signatures for companies, whilst its use continues in local and central government. However it is a constitutional and not a legal requirement and we are alone in East Kent in requiring a Member to attest the fixing of the common seal.

This decision will be reported to Council.

Reasons for the Decision:

1. To comply with the statutory 'lock down' restrictions which stopped people leaving home without a reasonable excuse and to minimise the risk of transmission of the virus, in particular to vulnerable and shielded people;
2. To enable the council to continue to complete contracts, agreements (e.g. planning agreements), property transactions and statutory notices (e.g. Tree Preservation Orders) etc. during the Covid pandemic;
3. Failure to complete such matters exposed the authority to unnecessary legal risks.

Alternative options considered and why they were rejected when the decision was made:

The alternatives were (1) to unlawfully subject members and officers to the unnecessary risk of catching or transmitting the virus. Given that there is no statutory or common law requirement for a councillor to attest the common seal, and since sealing was still necessary, a practical and lower risk solution was put in place, which minimised personal contact.(2) Not to seal any documents during lockdown, this would have brought the council's business, which required the completion of contracts, agreements, property transactions and statutory notices etc. to a halt.

Details of any conflict of interest declared by any executive Member who has been consulted by the officer making the decision and of any dispensation granted to that executive Member by the Head of Paid Service:

N/A

Please attach any report considered when making the decision (if applicable):

N/A