

For publication

COVID-19 – Remote meetings and other measures

Meeting: (1) **Standards and Audit Committee**
(2) **Cabinet Member for Governance**

Date: (1) **5th May 2020**
(2) **TBC**

Report by: **Monitoring Officer**

Ward: **All**

For publication

1.0 Purpose of report

1.1 To enable members to agree revised procedures, including the facility for remote member meetings during the current Covid-19 pandemic.

2.0 Recommendations

2.1 That the report be noted.

2.2 That officers determine the most effective way to phase in remote meetings.

2.3 That the draft Standing Orders for remote meetings be approved, with the Monitoring Officer authorized to make any reasonable amendments to ensure effective operation of remote meetings.

- 2.4 That appropriate member training (to be carried out remotely) and guidance is put in place to enable effective remote meetings.
- 2.5 That a power of attorney be entered into to facilitate an alternative means of executing deeds by the individual officers identified in the report, where appropriate.
- 2.6 That the Council's contract procedure rules be applied taking into account Procurement Policy Note - Responding to COVID-19 Information Note PPN 01/20 and other relevant government guidance. Procurement waiver applications in these circumstances to be considered by the Local Government and Regulatory Law Manager.

3.0 Background

- 3.1 On 19th March this committee considered and approved a series of delegations to enable Council decision-making to continue during the national emergency resulting from the Covid-19 pandemic, while physical meetings were not possible. These delegations have been used effectively since introduction.
- 3.2 However, there is awareness that such delegations result in a "democratic deficit" with access by the public to the decision making process now restricted. In some cases (e.g. Licensing Hearings) the law requires decisions by a formal meeting of members.
- 3.3 At a time of emergency it is still vital for the Council to make lawful decisions. Decisions can be challenged as ultra vires if not made lawfully, or a complaint might be sustained.
- 3.4 The law under which local government has operated at least since the Local Government Act 1972 requires most member decisions to be at a physical meeting.

- 3.5 Only individual Cabinet Member decisions and delegated officer decisions can be made lawfully without a physical meeting.
- 3.6 Under the Local Government Act 1972 all other member level decisions require councillors to be physically present and to vote.
- 3.7 The report referred to potential for emergency legislation to address decision making issues and other local government statutory responsibilities.
- 3.8 On 25th March the Coronavirus Act 2020 was made, which in turn facilitated emergency regulations on public health matters and local authority meetings.
- 3.9 On 1st April [The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#) (the Remote Meetings Regulations) were made.
- 3.10 The Remote Meetings Regulations came into effect on 7th April, these enable remote member level meetings to be held and decisions made. They also enable changes to be made to local authority meeting arrangements. The regulations are in place until 7th May 2021.
- 3.11 This report considers measures necessary to be put in place to enable a phased introduction of remote meetings as well as other measures in response to Covid-19.
- 3.12 Changes to the Constitution can be approved by Standards and Audit Committee or Full Council (the Leader also has some legal powers to make changes to executive decision making). The Constitution says that the functions of the Standards and Audit Committee include:

To approve any proposed amendments to the constitution, unless appropriate, or required by law to be approved by Full Council (or Leader or Cabinet).

- 3.13 At the time of writing this report it is envisaged that this meeting of the Standards and Audit Committee will be conducted remotely and will be the first such meeting at the Council.

4.0 Member level meetings

- 4.1 The 19th March report said that, subject to government legislation (referred to above) and/or any restrictions on the ability to hold meetings being put in place, any cabinet, committee or other meeting of the council is quorate if at least three members are present. A meeting cannot make a binding decision unless quorate. In fact the 19th March meeting of this committee had the minimum of members present to be quorate.
- 4.2 The senior democratic and scrutiny officer had carried out a desktop exercise to identify those members particularly who may need to self-isolate due to being over 70 or with other vulnerabilities. This shows that, in theory at least, it would be possible to continue holding member level meetings. However, there may be other factors affecting a member's willingness or ability to attend a meeting (e.g. a family member over 70 or with vulnerabilities).
- 4.3 Provided a meeting is quorate, the fact that many of its members are unable to attend does not affect the legality of the decision. So only sufficient members to make a quorum could attend, even if all invited, by agreement with the political groups.
- 4.4 While special arrangements might have been put in place to prevent risk of transfer – eg hold meetings in the Council Chamber to allow a 2 metre distance between individuals – national events overtook this with 'lockdown' and the requirement for self-

isolation. This made physical meetings almost impossible. The system of delegations to officers/members authorized by this committee on 19th March (prior to lockdown) has enabled Council decision making to continue.

- 4.5 While these delegations have been in operation since then and effective, there is an awareness of a “democratic deficit”, with the ability of the public to access the decision making process, and in some cases to participate, being restricted. In some cases the law requires a member level meeting with public participation (e.g some Licensing appeals) in others the public usually have a right to address the meeting after prior notice (planning applications considered by Planning Committee). An effective remote meeting system would help overcome this deficit.

5.0 Remote member level meetings

- 5.1 The Remote Meetings Regulations remove the 1972 Act requirements for physical meetings and permit remote attendance at meetings provided:

... that the member in remote attendance is able at that time—

(a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,

(b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and

(c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

- 5.2 There is now no requirement for physical meetings to be held at all, so can be convened entirely remotely in a virtual environment, away from the Town Hall.

5.3 The Remote Meetings Regulations allow standing orders to be created to put these arrangements into effect and also contain provisions so that the press has access to the meetings.

6.0 Practical arrangements to facilitate remote meetings

6.1 In the lead up to and since the making of the Remote Meetings Regulations officers have been working on devising ways for members to participate effectively in remote meetings and for the public and press to view/listen to the meetings, and where appropriate for the public to participate (particularly Licensing and Planning Committees).

6.2 All council officers now have access to Microsoft Teams. This is software which enables secure online meetings with facility for voice and video. Many officer virtual meetings have now been held using this technology and staff are adjusting to working in this new virtual environment.

6.3 At the time of writing this report most councillors also have Teams with the app placed on their iPads during the week beginning 13th April. Some members have yet to have the software on their devices and ICT are working on this.

6.4 Democratic Services staff, the Local Government and Regulatory Law Manager and ICT Service have been working on devising how Microsoft Teams can be used effectively for these meetings and testing it. There are issues relating to whether this can be implemented effectively and Teams may not be a permanent solution. It is understood that while few local authorities have implemented virtual meetings, some are working on implementing them and others have no current plans to do so.

6.5 There are currently ICT issues over putting a system in place that will allow public participation, it is understood that webcasting meetings should be possible soon once the software has been thoroughly tested. It is proposed that until all remote meetings are

in place the emergency delegations approved on 19th March will continue to be in effect in parallel, and retained as a fall back measure, with the facility to resume use of them should remote meetings not be practicable.

- 6.6 A series of Standing Orders have been drafted to enable proper and effective management of such meetings. These are attached at Appendix 1 as a new Standing Order 37. Undoubtedly there will be the need to review these arrangements in due course, and it is recommended that the Monitoring Officer be authorised to amend these as appropriate (unless the change is significant in which case a further report would be submitted to this Committee) and produce guidance for participants.
- 6.7 Virtual meetings will require member training. All participants will need to learn new skills and individual support may be needed to assist members with disabilities in accessing meetings along with a review of existing reasonable adjustment arrangements.
- 6.8 There will be a need for greater meeting management by chairs and officers who assist them. The standing orders include procedural rules for conducting meetings, providing all members with the opportunity to participate whilst ensuring that the outcome of the meeting is recorded in a clear and transparent manner.
- 6.9 The Local Government Association and other public sector organisations have started to produce guidance on remote meetings and this will be used to inform this council's introduction of the system.
- 6.10 An Equalities Impact Assessment is attached at Appendix 2.

7.0 Changes to meetings

- 7.1 The Remote Meetings Regulations also permit local authorities to alter frequency of, move or cancel meetings without further notice.

- 7.2 The requirement under the Local Government Act 1972 to hold the Annual Council Meeting at the latest in the month of May each year has been specifically removed by the Remote Meeting Regulations.
- 7.3 The Annual Business Meeting was due to be held on 29th April but has now been postponed. The Chief Executive consulted with the leaders of the three political groups and that in the current circumstances they have all agreed to moving the Annual Business Meeting, and all agenda items usually considered at that meeting, to a date to be confirmed later in the year.

8.0 Execution of deeds

- 8.1 The meeting of 19th March authorized witnessing of deeds by one officer and dispensing with the Council seal where possible.
- 8.2 A lot of research has been carried out by Council legal officers and at other local authorities investigating alternative ways to execute documents during lockdown, when access to council premises is restricted. Unfortunately options are limited due to legal and other requirements, with the Land Registry having particularly stringent requirements including 'wet signatures' of two officers. Officers are unable to print documents at home for ICT and security reasons. Legal officers still have to visit the Town Hall to print legal documents and apply the Council seal to deeds.
- 8.3 Using his authority under the Constitution (Part 2, paragraph 1.7) the Local Government and Regulatory Law Manager has added other senior managers to the list of authorized signatories (previously the list comprised mainly council solicitors). This pool of officers increases the ability to find a second authorized signatory where one is needed.
- 8.4 The Council also has the power to enter into a power of attorney authorizing named officers to sign deeds in place of applying the

Council seal. While that does not overcome all procedural hurdles (a witness is also needed), such an arrangement may be useful on occasions for executing deeds. Accordingly, it is proposed that a power of attorney be entered into authorizing various individuals, namely the Chief Executive, Executive Directors, Assistant Directors, Legal managers and Council solicitors to execute (ie sign) deeds on behalf of the Council, with appropriate record kept of documents executed in this way.

9.0 Procurement

- 9.1 Since the Covid-19 crisis the government has issued the [Procurement Policy Note - Responding to COVID-19 Information Note PPN 01/20](#) (March 2020) saying it is *“clear that in these exceptional circumstances, authorities may need to procure goods, services and works with extreme urgency. Authorities are permitted to do this using regulation 32(2)(c) under the Public Contract Regulations 2015”*
- 9.2 The guidance considers the different options for procurement in extreme urgency subject to proper records being kept and a contract award notice being published. Where appropriate, the Council will apply the guidance and Regulation 32(2)(c).
- 9.3 While this ability is already available under Regulation 32(2)(c) authority is sought for the Local Government and Regulatory Law Manager to consider such requests for procurement in the same way that waiver applications are dealt with under Paragraph 4 of the Contract Procedure Rules in Part 4 of the Constitution. This will help ensure proper procedures are followed and governance in place notwithstanding extreme urgency.

10. Recommendations

- 10.1 That the report be noted

- 10.2 That officers determine the most effective way to phase in remote meetings.
- 10.3 That the draft Standing Orders for remote meetings be approved, with the Monitoring Officer authorized to make any reasonable amendments to ensure effective operation of remote meetings.
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10.0 Reason for recommendations

- 10.1 To put in place appropriate measures where physical member level meetings and other administrative steps are impracticable at a time of national emergency.

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