

FOR PUBLICATION

COVID-19 – REVIEW OF LEGAL MEASURES

MEETING: (1) STANDARDS AND AUDIT COMMITTEE
(2) CABINET MEMBER FOR FINANCE AND GOVERNANCE

DATE: (1) 22ND JULY 2020
(2) tbc

REPORT BY: MONITORING OFFICER

WARD: ALL

1.0 PURPOSE OF REPORT

1.1 To enable members to review efficacy of revised procedures agreed by this committee at previous meetings, including the facility for remote member meetings during the current Covid-19 pandemic.

2.0 RECOMMENDATION

2.1 That members consider the report.

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. At that time all member level meetings had to be held physically in a meeting room together. Members asked for a review after three months¹.

¹ <https://chesterfield.moderngov.co.uk/ieListDocuments.aspx?CIId=183&MIId=5846&Ver=4>

- 3.2 On 5th May, as the result of [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), which made non-physical meetings legal, this Committee agreed to phasing in of virtual meetings. It also agreed other measures in response to Covid-19 to help effective working during the pandemic².
- 3.3 On 2nd July an urgent meeting of the committee was held to decide necessary delegations resulting from the forthcoming Business and Planning Act³
- 3.3 This report considers the use of these measures as the pandemic continues.

4.0 EMERGENCY DELEGATIONS

- 4.1 These delegations were put in place by the committee in March at a point when physical member level meetings and decisions (other than by a single member) suddenly became impossible and an effective decision-making process was needed in its place.
- 4.2 The occasions where these delegations were used was reported to Full Council on 15th July⁴.
- 4.3 The need for such delegations was significantly reduced by the Remote Meetings Regulations, though they remain in place for the time being.

5.0 REMOTE MEETINGS

- 5.1 The Remote Meetings Regulations removed the requirements for physical meetings contained in the Local Government Act 1972, provided members and public could hear and, where practical, see the proceedings. Members must be able to speak and be heard at the meeting, and also the public, where exercising the right to speak. Members considered the regulations at this committee in May. The provisions last for a year and addressed the democratic deficit resulting from the lack of physical meetings.

² <https://chesterfield.moderngov.co.uk/ieListDocuments.aspx?CId=183&MId=5541&Ver=4>

³ <https://chesterfield.moderngov.co.uk/ieListDocuments.aspx?CId=183&MId=5931&Ver=4>

⁴ <https://chesterfield.moderngov.co.uk/documents/s32573/Emerg%20Del%20Special%20Urgency%20Decns%20rev%202.07.20.pdf>

- 5.2 The Remote Meetings Regulations also allowed standing orders to be created to put these arrangements into effect. This committee approved such standing orders at its May meeting. The standing orders have been supplemented by a series of guidance notes for members, public and officers which have been developed further with experience of virtual meetings and fine-tuned to the requirements of particular types of meetings.
- 5.3 This committee's meeting in May was the first meeting held virtually, with other meetings phased in gradually following that, including regulatory committees, cabinet, scrutiny and full council.
- 5.4 There has been careful member and officer training and familiarisation with the technology (Microsoft Teams) to ensure meetings run as smoothly as possible. Care has been taken over any equalities issues to ensure reasonable adjustments. Members have adapted quickly to the new technology and medium for meetings, which have been effective. Regulatory committees and full council have also successfully incorporated public speaking where permitted by Council procedures.
- 5.5 As lockdown eases attention is now starting to be given to how hybrid physical/remote meetings could be held, once appropriate, with some members socially distanced at the Town Hall and others attending remotely.

6.0 **CHANGES TO WHEN MEETINGS ARE HELD**

- 6.1 The Remote Meetings Regulations also permitted local authorities to alter frequency of, move or cancel meetings without further notice.
- 6.2 The requirement under the Local Government Act 1972 to hold an annual meeting at the latest in the month of May each year was specifically removed by the Remote Meeting Regulations. This allowed local authorities to focus on the priority of dealing with local implications of the Covid-19 pandemic.
- 6.3 The Annual Business Meeting and Annual Council Meeting were due to be held on 29th April and 13th May but, after consultation with the political leaders, were postponed until later in the year. It is now intended that they be held on 14th October and 21st October respectively.

7.0 **EXECUTION OF DEEDS**

- 7.1 Lockdown presented practical issues of executing Council documents and deeds. The meeting of 19th March authorised witnessing of deeds by one officer and dispensing with the Council seal where possible, and a wider pool

of senior managers were authorized by the Local Government and Regulatory Law Manager as signatories. The May meeting also authorised a power of attorney for named officers to sign deeds in the place of the Council seal.

- 7.2 In practical terms these changes have had limited effect on procedures, due to legal requirements relating to execution of certain deeds and Land Registry practices. The power of attorney has not yet been used, but remains available. However, the pandemic is now helping to ensure a review of such practices nationally, outdated in the electronic age. The Council is also to trial a commercial electronic signature system for some documents.

8.0 COVID-19 EMERGENCY PROCUREMENT

- 8.1 At its May meeting, this committee considered the government's [Procurement Policy Note - Responding to COVID-19 Information Note PPN 01/20](#) (March 2020) which made *"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"*

- 8.2 While this ability was already available under Regulation 32(2)(c), authority was obtained at the meeting 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. At the time of writing this report two such urgency requests have been approved (an online telephony system to enable officers to make and receive phone calls via their PCs while working at home and to enable progression on a proposal to continue to provide accommodation for rough sleepers during Covid-19).

9.0 BUSINESS AND PLANNING BILL

- 9.1 At an urgent meeting of this committee convened on 2nd July, the week that it was anticipated the Business and Planning Bill would become law, members considered new officer delegations for
- licensing pavement seating outside cafes and licensed premises and
 - considering applications to vary construction hours on non-residential developments.

Both processes involve very short statutory consultation and decision periods meaning that a member meeting was not feasible, as deemed consent would

result if a decision is not reached in the statutory timescale. The report also outlined other relevant licensing provisions (automatic permission for off-sales at licensed premises).

- 9.2 At the time of writing this report the Bill has still not been enacted. It has been considered by a committee of the House of Lords and amendments have been proposed e.g. to ensure access is preserved on pavements for disabled people and other procedural changes which may benefit local authorities (e.g. in terms of timescales and format of applications) if they survive when consideration of the Bill ends. After consideration by the Lords is completed it will return to the House of Commons. It is anticipated the Bill will be enacted prior to the start of the parliamentary summer recess (23rd July).
- 9.3 In the meantime, officers have prepared for the introduction of the new systems. For pavement licensing, standard Derbyshire-wide conditions have been provided by the highway authority and local conditions, taking into account any additional considerations relevant for Chesterfield. There is good coordination across the county in preparation. An online system for applications has also been enabled. Planning procedures will be ready to receive and decide applications to vary construction hours.

10.0 RECOMMENDATION

- 10.1 That members consider the report.

10.0 REASON FOR RECOMMENDATION

- 10.1 To enable the Standards and Audit Committee to monitor the effect of measures put in place by it at a time of the Covid-19 pandemic.

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