

For publication

COVID-19 – END OF REMOTE MEETINGS

Meeting:	(1) STANDARDS AND AUDIT COMMITTEE (2) CABINET MEMBER FOR FINANCE AND GOVERNANCE
Date:	(1) 21ST APRIL 2021 (2) tbc
Cabinet portfolio:	Governance
Directorate:	Corporate
For publication	

1.0 Purpose of the report

1.1 To inform members of the need to return to physical meetings and to seek agreement of any revised procedures, during the current stage of the Covid-19 pandemic.

2.0 Recommendations

2.1 That the report be noted.

2.2 That members of the committee be informed of the outcome of the high court case, once known.

2.3 That, if the high court case confirms that attendance at meetings by remote means can continue after 6 May 2021, all member-level bodies continue to meet remotely until 21 June 2021 at the earliest and that the position be reconsidered at this point.

2.4 That, if the high court case is not successful and remote attendance is no longer permitted after 6 May 2021, the proposals for safely returning to physical meetings, as set out in the report, be considered and supported.

- 2.5 That officers, in consultation with the Leader, leader of the main Opposition Group, Chair of Standards and Audit Committee, Cabinet Member for Governance and Chair of the relevant committee as appropriate, determine the most effective way to safely reintroduce physical meetings.
- 2.6 That appropriate member training and guidance is put in place to enable the safe and effective reintroduction and conduct of physical meetings.
- 2.7 That after consultation with the Leader, leader of the main Opposition Group, Chair of Standards and Audit Committee, Cabinet Member for Governance and Chair of the relevant committee as appropriate, the Monitoring Officer be authorised to make any temporary amendments to standing orders as necessary to ensure the safe and effective reintroduction and conduct of physical meetings.
- 2.8 That the emergency, other delegations and remote meetings standing orders approved by this Committee in 2020 be retained.

3.0 Reason for recommendations

- 3.1 To put in place appropriate measures for physical member level meetings once remote meetings are no longer lawful.

4.0 Report details

- 4.1 In spring 2020, as a result of the Covid-19 pandemic the Council put into effect emergency decision making procedures, and as soon as legislation permitted, set up and ran remote meetings so Council business could be carried on safely. These issues were considered and agreed at meetings of this committee on 19th March and 27th April 2020.
- 4.2 On 25th March 2020 the Coronavirus Act 2020 was made. 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.
- 4.3 The Remote Meetings Regulations came into effect on 7th April, these enabled remote member level meetings to be held and decisions made. They also enabled changes to be made to local authority meeting arrangements. The regulations are in place until 7th May 2021. A package of measures was adopted by this committee (at the authority's first

remote meeting) on 5th May 2020, including standing orders for remote meetings. A Covid-19 supplement was added to the Constitution¹.

- 4.4 At its meeting on 15th July Council considered the instances where the emergency delegations had been used, and this Committee reviewed the effectiveness of the revised systems put in place at its meeting on 22nd July.
- 4.5 Covid-19 related delegations to meet the requirements of the Business and Planning Act 2020 were approved on 2nd July and 23rd September 2020.
- 4.6 The remote meetings system has operated effectively for the past year and has proven a sound mechanism for timely and transparent decision making. It was on this basis that this council and others wrote to the secretary of state for MHCLG (**Appendix 1**) clearly setting out arguments for why an extension of time was needed given continuing concerns about the impact of the coronavirus pandemic. However, the government has not acceded to requests from local councils or the Local Government Association that the remote meetings legislation should be extended beyond 7th May 2021.
- 4.7 On 25th March Luke Hall MP, a minister in MHCLG, wrote to all local authorities confirming that the government would not be extending the power to hold remote meetings beyond 7th May (**Appendix 2**). Various reasons were given, including insufficient time to bring forward primary legislation, the good progress being made on roll out of the national vaccination programme and the government's roadmap for lifting Covid-19 restrictions. The letter says:
 - Physical meetings, with appropriate measures in place, have never been prevented
 - The successful roll out of the vaccination programme means significant reduction in risk for local authority members meeting in person beyond 7th May
 - It is for local authorities to apply Covid-19 guidance to ensure meetings take place safely
 - Updated government guidance on safe use of council buildings has been issued

¹ <https://www.chesterfield.gov.uk/media/1385264/constitution-of-chesterfield-borough-council-covid-19-supplement.pdf>

- Authorities could use powers to delegate decision making to key individuals such as Head of Paid Service to minimise the need for meetings
- Annual council meetings could be held before 7th May
- The roadmap proposes that organised indoor meetings (performances, concerts etc.) are permitted from 17th May, subject to guidelines and capacity. Councils could choose to start holding physical meetings after that date.
- There is a legal obligation to ensure the public can access most meetings, but remote access should continue to minimise the need for them to attend physically until at least 21st June when the Roadmap anticipates all restrictions will have been lifted
- Acknowledging that some authorities (but not all) have asked for remote meetings to continue long term, the government is launching a call for evidence on the issue to be considered later in the year

4.8 Coronavirus rules were extended by parliament on 25th March without reference to remote meetings.

4.9 Before Luke Hall MP's letter, an application to the high court for a declaration as to whether existing legislation permitted remote meetings was launched by Lawyers in Local Government, Association of Democratic Services Officers, and Hertfordshire County Council. Also supported by the Local Government Association, this application is to be heard on 21st April. The outcome is unlikely to be known when this committee meets.

4.10 The court application seeks a declaration of law: that existing provisions within Schedule 12 of the Local Government Act 1972 and the Local Authorities Executive Arrangements (Meetings and Access to Information) (England) Regulations 2012 enable local authorities to hold meetings remotely regardless of the expiry 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.

4.11 Given the government's position over ending remote meetings, Council officers have been considering how physical meetings can be resumed safely and whether other measures need to be put in place.

4.12 As the court application is not to be heard until 21st April, and the outcome of this uncertain, it is impracticable to hold off preparing for the return to physical meetings from 7th May.

- 4.13 This report considers practical and other measures which need to be put in place for physical meetings to begin again, should the court application be unsuccessful, or the outcome not known before 7th May.
- 4.14 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).

5.0 Physical member level meetings

- 5.1 Any cabinet or committee meeting of the council (unless a single member meeting) is quorate if at least three members are present. At least a quarter of members must be present for a meeting of Full Council to be quorate. A meeting cannot make a binding decision unless quorate.
- 5.2 Provided a meeting is quorate, the fact that many of its members do not attend does not affect the legality of the decision. So only sufficient members to ensure a quorum would need to attend, even if all were invited, by agreement with the political groups. However, care should be taken to maintain confidence in the decision-making process by balancing the number of members attending with the need to ensure safety. This would need to take account of relevant rules and risk assessments for the appropriate meeting room.
- 5.3 While the Council could revert to emergency single officer/member delegations similar to those put in place in March 2020 (and it is recommended that these delegations be retained in reserve for the time being) it has previously been acknowledged that such delegations led to a “democratic deficit”, with the ability of the public to access the decision making process, and in some cases to participate, being restricted.
- 5.4 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). The law also requires that the public and press usually have access to such meetings.

5.5 An effective return to physical meetings would therefore need to take all of the above and other matters into account.

6.0 Practical considerations for physical member level meetings

6.1 A risk assessment for Town Hall operations has recently been updated to reflect increases in the numbers of visitors to and staff working in the Town Hall as the Covid-19 restrictions ease. This risk assessment, along with advice from the resources task and finish group (which has been considering practical and health and safety issues during the pandemic) has been used to inform the development of a risk assessment and arrangements for returning to physical meetings.

6.2 A separate assessment of the Council Chamber has been completed, which has concluded that the Chamber is unsuitable for meetings of the Full Council due to lack of space and poor ventilation; this is the case for both 2-metre or 1-metre+ social distancing. There are also strict limits on capacity for the committee rooms which means that the committee rooms would only be suitable for holding meetings of the smaller committees such as Employment and General Committee and Standards and Audit Committee. The Chamber would need to be used for the larger committees, such as Cabinet, Planning Committee and the Scrutiny Committees, particularly where there is a requirement for members of the public to address the meeting.

6.3 The risk assessment for physical meetings is currently being finalised; however, below is a summary of the key points:

- a. **Face coverings/social distancing** – Face coverings must be worn by all staff, members and the public when in public and communal areas, unless exempt, and social distancing, currently 2 metres, must be maintained. Members and staff will be encouraged not to arrive early and to leave the premises immediately after the meeting they are attending has finished. Signage is already displayed throughout the Town Hall to advise and ensure compliance with the rules and guidance, though this will also need to be supported and managed by staff/town hall stewards. This is important particularly as officers and members will be returning to the Town Hall for meetings after a long period of absence and under very different circumstances. Members and officers will also be required to use the signing-in logs at the Town Hall to comply with test and trace.

- b. **Refreshments and belongings** – Members and staff will be required to bring their own refreshments and other belongings such as iPads, notepads and pens, and ensure that these are taken home with them afterwards.
- c. **Meeting duration** – Steps will be taken, where practicable, to reduce the length of meetings, and Chairs will be supported and encouraged to focus on essential matters of council business.
- d. **Limiting attendance** – The current rules state that room capacity should not exceed 50% of the total capacity of the room. While the law requires the decision makers to be present, it would be sensible to cut officer attendance to the minimum necessary for the proper conduct and administration of the meeting and technology. There is no legal requirement for other officers to be physically present, and arrangements could be made for them to access the meeting remotely e.g. via conference call and/or video link.
- e. **Public access** – Government advice recommends that public attendance be provided by live stream until the planned relaxation of all restrictions on 21 June 2021, though by law some facility for some public to safely attend would still have to be provided. Public access to meetings will need to be by prior arrangement with Democratic Services to avoid over-crowding and comply with test and trace.
- f. **Full Council** – Even taking these factors into account there is no satisfactory space to hold a full council meeting of all members when socially distanced, or with other measures in place (such as screens, and family bubbles).

While the Annual Business Meeting on 28th April can still be held remotely, the most urgent consideration is the Annual Council Meeting of 12th May. There are no alternative off council premises available to accommodate the meeting on that date. Political group leaders have been consulted over options for this meeting:

- i. It could be held virtually on 29th April (and limited to essential business only, making a short meeting)
- ii. It could be held physically in the council chamber on 12th May but with member attendance limited to those

nominated by their groups, to reduce member attendees while still remaining quorate.

The Leader and the leader of the opposition and the leader of the community independent group all favour moving the Annual Council Meeting to a virtual meeting on 29th April and preparations are now underway for this.

Assuming the Roadmap continues as envisaged by the government, a return to meetings without social distancing might be feasible for the July Full Council meeting. However, if there is still an element of social distancing required, the meeting would need to be moved to a different venue. In this regard, potential alternative venues have been identified and provisionally reserved; and other practical measures have started to be put in place, e.g. procurement of additional technology including individual microphones.

- g. **Non-statutory meetings** – Some of the council’s meetings are informal, consultative bodies, these include Scrutiny Project Group and consultative meetings. Current advice states that, wherever possible, such meetings should continue remotely; therefore these meetings will still be conducted remotely via Microsoft Teams.
- h. **Meeting schedule** – There may be some disruption to the current meeting schedule as thorough cleaning will need to take place of rooms between meetings. Any changes will be discussed with relevant members and officers and communicated to members in the coming weeks.
- i. **Lateral flow tests** – Staff are already being strongly encouraged to take lateral flow tests before coming into a council workplace. Likewise, members will also be strongly encouraged to take a lateral flow test before coming into the Town Hall for a meeting.

6.4 An Equalities Impact Assessment and risk assessment will be carried out once the full implications of a return to physical meetings are understood.

6.5 Any necessary guidance on the safe and effective return to physical meetings for members, officers and the public will be developed, with training for members and officers as necessary.

6.6 It is possible that some temporary amendments to standing orders might be necessary as the result of measures to ensure physical meetings are safe.

7.0 Emergency delegations

7.1 The various emergency and Covid-19 delegations approved in 2020 are still in place and available to be used if necessary. Luke Hall MP's letter suggests using such delegations to minimise the need for meetings. It is therefore recommended that these delegations continue to be retained and held in reserve and used when absolutely necessary, with the ability of the Monitoring Officer to amend if necessary in accordance with this committee's decision in April 2020.

8.0 Implications for consideration – Financial and value for money

8.1 The return to physical meetings will have a financial impact in terms of the technology and equipment necessary to ensure safe engagement by members, officers and the public. Some meetings will need to be held outside the town hall at other premises.

9.0 Implications for consideration – Legal

9.1 How local authority meetings are held is determined by legislation.

9.2 Remote meetings have been possible over the past year due to government legislative response to Covid-19.

9.3 The government is now refusing to extend remote meetings and the council must prepare for a return to physical meetings after 6th May.

9.4 There is a court application pending which argues that the law continues to permit remote meetings. Members will be updated once the outcome is known.

10.0 Implications for consideration – Human resources

10.1 The return to physical meetings will pose challenges to members and officers who for various reasons would need or prefer to continue to engage remotely.

10.2 Remote meetings have increased the level of support required from the democratic services team and additional support has also been redeployed from other teams within the council. Returning to physical meetings during a period when Covid-19 restrictions are still in place will also place resourcing pressures on the team as meetings require careful planning and staff need to be on hand to support members, officers and the public in complying with the rules. As a result, the team has re-prioritised their duties and some of team's responsibilities have been moved to other teams within the council to allow staff to focus on the statutory committees.

11.0 Implications for consideration - Risk management

11.1 Risk management considerations continue to be assessed.

Description of the Risk	Impact	Likelihood	Mitigating Action	Impact	Likelihood
Do not hold physical meetings - decisions would be unlawful.	High	High	Prepare for safe return to physical meetings	Low	Low
Risks associated with returning to physical meetings during the COVID-19 pandemic. A risk assessment has been prepared and will be reviewed by the Council's COVID-19 Hub. A summary of the risks can be found in paragraph 6.3 above. Additional risk assessments are in place for Members and the use of Council premises during COVID-19.	High	High	See paragraph 6.3 above. Implementation of risk assessments and additional control measures for the return to physical council meetings and use of council premises.	High	Medium

12.0 Implications for consideration - community wellbeing

- 12.1 Legislation requires facilities for public to attend physical meetings, though the Luke Hall MP letter suggests that facilitating remote attendance would reduce the demand for this. Some committee procedures necessitate public to attend to make representations (e.g. planning committee). It is not yet known how the public will respond to a return to physical meetings.

13.0 Implications for consideration – Equality and diversity

- 13.1 Any equalities impact of return to physical meetings will be taken into account in an equalities impact assessment which is under development. Care will be taken to ensure that there is no disproportionate impact on people with protected characteristics when physical meetings are resumed and existing arrangements for reasonable adjustments will be reviewed in line with the risk assessments. In addition, accessibility will be considered when exploring alternative venues and meetings will continue to be live streamed to improve public access whilst the COVID-19 restrictions are still in place.
- 13.2 The EIA will need to be refined as we work through the return to physical meetings and new or alternative reasonable adjustments may be required.

14.0 Implications for consideration – Climate change

- 14.1 Return to physical meetings at the Town Hall or other venues will result in more travel by members and officers currently working from home and connecting to meetings remotely. Options will be explored to enable officers who are not required to be physically present in meetings to join the meeting remotely, avoiding unnecessary travel.
- 14.2 The letter sent by the council to the MHCLG, attached at appendix 1, highlighted the impact that remote meetings would have in supporting the council's Climate Change Action Plan and target for achieving net zero carbon emissions.

Decision information

Wards affected	All
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Document information

Report author	
Gerard Rogers - monitoring officer Rachel Appleyard - senior democratic and scrutiny officer Corporate Directorate	
Background documents These are unpublished works which have been relied on to a material extent when the report was prepared.	
<i>n/a</i>	
Appendices to the report	
Appendix 1	Council letter to MHCLG
Appendix 2	Luke Hall MP letter