

Senior Officer Urgent Decision

Name of report writer: Henry Gordon Lennox

Date: 14 May 2020

Ref: /



Title: Adoption of Temporary Standing Orders for Remote Meetings

Exempt from publication

No

Summary:

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings (England and Wales) Regulations 2020 permit a Council to amend its Standing Orders and other rules of the authority governing meetings to account for changes which permit meetings to be held remotely.

Recommendation:

(1) That the Temporary Rules of Procedure (COVID-19) (Appendix 1) are adopted to facilitate the Council holding remote meetings during the coronavirus pandemic.

a) Reasons for Recommendation

It is important that there are a set of rules in place to govern the nature of business that the Council is expecting to deal with during this time and also how such meetings, as and when they occur, should be conducted.

b) Alternative Options considered

Solely rely on the 2020 Regulations and existing arrangements. It is considered that this does not give sufficient clarity on the meetings the Council expects to hold or the practical arrangements around remote meetings which the current procedural rules simply do not cover.

c) Risk Considerations

The adoption of appropriate standing orders will help mitigate risk of challenge or criticisms around the conduct of virtual meetings. Some of the membership have expressed the concern about the use of urgency powers to adopt these without wider member engagement / input but the balance between the need to have arrangements in place prior to the first meeting and the ability to engage with the whole membership is in favour of adopting appropriate procedures, not least because Council can require their amendment at a relevant meeting. However, there is a potential reputational risk in this respect.

d) Policy and Budgetary Considerations

None

1 Main Body of the Report

- 1.1 With the Government's introduction of 'lockdown' in response to the COVID-19 pandemic, local authorities were not able to continue their meeting programmes due to a combination of the legal position requiring a physical meeting to be held and social distancing requirements.
- 1.2 The Government responded with the introduction 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, which essentially permits the holding of remote meetings (i.e. members don't have to be physically present to be in attendance and to be able to vote). They permit a range of options to hold remote meetings but whatever option is used, there are a set of conditions that must be adhered to to ensure that the attendance, and therefore the meeting, is legally compliant. These conditions include the ability of the public to see and hear and public speakers to be heard and seen. The Council is progressing the introduction of Zoom as the IT solution to enable the Council to hold virtual meetings and comply with the legal requirements.
- 1.3 Our procedural standing orders are drafted to reflect the pre-existing legal position and are predicated on meetings being held physically and will all members in attendance. They also cover the position on voting, minutes, public speaking amongst a number of other matters. The 2020 Regulations override any restrictions in local standing orders, in the sense they take precedence, but they also permit local authorities to amend their standing orders to deal specifically with the issue of remote meetings and permit changes to be made including (but not limited to) issues relating to voting, member / public access to documents and public / press access to meetings through electronic means.
- 1.4 It is to be expected that our procedural standing orders do not suit the holding of virtual meetings and therefore they need to be revised to address some of the practical arrangements around the holding of them. This is in relation to procedural matters but also the general practicalities and behavioural expectations.
- 1.5 The 2020 Regulations were introduced to help Council's redeploy its resources to deal with the Covid-19 pandemic and ensure essential / critical business continues whilst upholding democratic principles as well as protecting the health and safety of members, officers and the public in line with official public health guidance. This recognises that the holding of virtual meetings is not a return to 'business as usual' but instead, rather than a Council having to rely on urgency powers which have little democratic involvement, a Council can ensure that essential / critical business can continue through the proper democratic process.
- 1.6 A set of temporary standing orders has been prepared which reflect the above comments. They are included as Appendix 1. They are time limited to expire at the date of the sunset clause contained in the Coronavirus Act 2020 and 2020 Regulations, or before if determined by Council. While they don't replace all of our procedural standing orders, which still apply, they take precedence where there is any conflict. They disapply the requirement for Annual Council or a meeting programme to be agreed. Rather meetings will be called on an 'as needed' basis to deal with essential business. It is

acknowledged that planning and licensing constitutes essential business. They permit a more flexible approach to the issue of questions, motions and petitions, permitting them to be deferred or dealt with outside of formal meetings. It deals with the calling of meetings and publication of agendas and related paperwork in a virtual way (although this is essentially normal practice anyway). They deal with determining quoracy and voting procedures. It deals with member access to meetings and declaration of interests (particularly DPLs). It deals with access to the meeting by the public and press and public speaking arrangements. Finally, they deal with the expectation of member behaviour and conduct during the meeting.

- 1.7 As the procedural standing orders are contained in the Constitution, it would normally be a decision for Council to amend them. The only way this will be able to happen is through a virtual meeting and there needs to be a set of rules in place governing that meeting. So, the intention is for these rules to be adopted using urgency powers, to enable virtual meetings, and then for them to be ratified at the first Council meeting or where members can pursue amendments to them if required.
- 1.8 The initial draft of the standing orders was circulated to the Group Leaders for their comment with a view to trying to obtain some form of wider agreement from the membership. It is understood that the Group Leaders consulted within their groups and various comments were received from the parties and the standing orders were revised to take account of these and to hopefully address concerns raised. The revised orders were re-circulated for comment with a deadline given for any further comments, however none were received. What is contained at Appendix 1 is what was circulated for further comment with a couple of further minor amendments (in relation to public speaking) and tidying up / formatting changed. Accordingly the standing orders have been the subject of consultation with the Group Leaders (and therein the wider membership) as well as the Head of Paid Service. The Head of Paid Service was content with the rules and what they seek to achieve.
- 1.9 In light of the need for a 'fit for purpose' set of procedures going forward to determine what business to conduct so it does not place an unreasonable burden on Council resources and to deal with how the Council's business will be conducted – noting that Council can revisit these fairly swiftly if the membership is concerned - it is recommended that they be adopted.

Appendices

Appendix 1 - Temporary Rules of Procedure (COVID-19)

Background Papers

The 2020 Regulations - <http://www.legislation.gov.uk/ksi/2020/392/contents/made>

Legal Implications

The legal position is as detailed in the report and no further comment is required.

Financial Implications

There are no financial implications.

Authority

Senior Officers delegated powers paragraph 1

Consultations

Email to the Chairman 14th May 2020.

'Happy to agree the temporary standing orders and for you to proceed.'

Has the Chief Executive been notified?

The Head of Paid Service was consulted during the process. Specifically, in terms of the decision, the Chief Executive was emailed on 14th May 2020 and confirmed his willingness to proceed.

Officer Decision

Decision:

Adopt the temporary standing orders as per the Recommendation.

Reasons for decision:

For the reasons detailed in the report.



Signed..... Dated: 14th May 2020

Senior Officer job title and name:

Henry Gordon Lennox, Monitoring Officer

Equalities impact

Will the proposal impact on promoting equality/opportunity as between people of different backgrounds [age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity]

Positive /Neutral /negative impact?

Details:

Proposals to mitigate any negative impacts:

APPENDIX 1

Temporary Rules of Procedure (COVID-19):

Remote Meetings Procedure Standing Orders

1. INTRODUCTION

General

- 1.1 These Remote Meetings Procedure Rules have been adopted by the Council and have been made under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.
- 1.2 These Remote Meetings Procedure Rules are aimed at helping the Council to redeploy its resources to deal with the Covid-19 pandemic and ensure essential / critical business continues whilst upholding democratic principles and protecting the health and safety of members, officers and the public in line with official public health guidance.

Interpretation

- 1.3 In these Remote Meetings Procedure Rules;
“remote access” and “remote attendance” have the meaning given to them by the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020.
“Council Meetings” means those meetings of the Council that are subject to the Council’s Procedural Standing Orders as detailed in Part 4.1 of the Council’s Constitution

Application

- 1.4 These Remote Meetings Procedure Rules apply to Council Meetings prior to 7 May 2021 or such other date as may be prescribed in regulations or such earlier date as may be determined by the Council.
- 1.5 Article 12 of the Constitution is to be read subject to these Remote Meetings Procedure Rules and any of the following Rules of Procedure take effect as if varied or disallowed by these Remote Meetings Procedure Rules:
 - Part 4.1 Procedural Standing Orders
 - Part 4.2 Access to Information Procedure Rules
 - Part 4.3 Budget and Policy Framework Rules
 - Part 4.4 Executive Procedure Rules
 - Part 4.5 Overview and Scrutiny Procedure Rules.

Save as varied or disallowed by these Remote Meetings Procedure Rules, the above Rules of Procedure shall continue to apply to Council Meetings.

- 1.6 Any inconsistency between these Remote Meetings Procedure Rules and the aforementioned Rules of Procedure shall be interpreted in favour of these Remote Meetings Procedure Rules.

2. TIMING AND BUSINESS

Meetings only to be held where required

- 2.1 While these Remote Meetings Procedure Rules apply;
 - (a) The Council will not hold the Annual Meeting in May 2020 and the appointments made by the Council at the Annual Meeting in May 2019 (or subsequently) shall continue until the Annual Meeting in 2021 or until such earlier time as the Council determines to hold a meeting to make new appointments.

- (b) The only Council Meetings that will be held are those that are expressly required by law to be held (which shall include Extraordinary Meetings called in accordance with the Constitution) or where in the opinion of the Chairman of the relevant Council Meeting in consultation with the Leader and Head of Paid Service (or Monitoring Officer in his absence), it is necessary to hold the meeting due to the essential nature and / or urgency of the business to be transacted.
- (c) Any requirement in any procedure rule or otherwise for a Council Meeting to provide an annual report to the Council or to produce an annual work plan shall be postponed.
- (d) Any requirement in the Constitution or otherwise for a Council Meeting to meet a particular number of times in any year or with a particular frequency are disapplied.

Time and place

- 2.2 There will be no requirement for a programme of ordinary meetings to be in place.
- 2.3 Meetings will be held at the time notified in the agenda but may be held in more than one place and may include electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers. Meetings may also be live-streamed.

Business

- 2.4 In keeping with the rationale for holding meetings only where they are to conduct essential and / or urgent business, agendas for any such meetings required to be held shall not include any items for questions or motions on notice from Councillors where in the opinion of the Chairman of the Council Meeting in consultation with the Leader and the Chairman of the Scrutiny Committee and Head of Paid Service (or Monitoring Officer in his absence) the question or motions on notice can reasonably be delayed to a later meeting.
- 2.5 Any minutes of a previous meeting agreed by a Council Meeting as representing a correct record will not need to be immediately signed by the Chairman but may be signed at a later convenient time. The minute will be endorsed by the Democratic Service Officer as having been agreed.
- 2.6 Members' attendance record will be kept by the Democratic Service Officer and there will be no requirement for members to sign any attendance sheet to record their attendance.
- 2.7 Declarations of Acceptance of Office may be administered remotely with the book being endorsed by the Proper Officer with the date the declaration was given and the officer holder shall sign at a later convenient time.

3. NOTICE OF MEETINGS

- 3.1 At least five clear working days before a meeting save in cases of urgency and/or where following such notice the meeting is moved or cancelled, the Head of Paid Service will ensure an agenda is sent by electronic means to every councillor of the Council or relevant body. The agenda will give the date and time of the meeting together with the details for remote access. The agenda will also specify the business to be transacted, and be accompanied by such reports as are available.
- 3.2 The notice of the meeting and the agenda together with copies of such reports as are available will at the same time be published on the Council's website.

- 3.3 Where a report becomes available after publication of the notice and agenda, the relevant officer shall send it electronically to all Councillors and arrange for a copy to be published on the Council's website as soon as practicable.
- 3.4 Where members of the public have the right to inspect any agendas, reports, background documents or minutes of previous meetings at the Council's offices, the right shall be deemed to have been met by publication on the Council's website.

4. QUORUM

The number of Councillors required to be present for a quorum for a Council Meeting shall be as set out in the Constitution. However, for the purposes of determining whether a quorum of Councillors is present at a meeting those Councillors in remote attendance shall be included. If at any time during the meeting the number of Councillors present means the meeting is not quorate the Chairman shall declare this and adjourn the meeting immediately. The remaining business will be considered on a date and time set by the Head of Paid Service in consultation with the Chairman.

5. VOTING AT MEETINGS

Majority

- 5.1 Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those councillors voting and in remote attendance at the time the question was put. If there are equal numbers of votes for and against, the Chairman of the meeting will have a second or casting vote.

Method of voting

- 5.2 On a motion being put to the vote, the Chairman will ask members, if they are for or against the motion or whether they abstain.
- 5.3 Members will then be asked how they vote in alphabetical order. Alternatively, votes may be cast using electronic means where available. For the avoidance of doubt there shall not be any voting by ballot.
- 5.4 The clerk to the meeting will announce the numerical result of the vote immediately the result is known.

6. INTERESTS

- 6.1 A Councillor who would ordinarily be required to leave the room during the consideration of an item of business due to the Councillor having a disclosable pecuniary interest or to having such other interest as the Council's Code of Conduct may require the Councillor to do so, shall be deemed to have done so if the Councillor disconnects their remote access (or is removed from the meeting) and remains disconnected (or removed) until such time as the Chairman invites the Councillor to re-join the meeting.
- 6.2 Where reasonably practicable to do so, a Councillor who has an interest under Remote Meeting Procedure Rule 6.1 that would require him/her to leave the meeting, should notify the Monitoring Officer or the Democratic Services Manager 2 days in advance of the meeting.

7. MEMBER ACCESS TO MEETINGS

Where any procedure rule confers the right on a member to attend a Council Meeting, that right is to be interpreted as a right to attend by remote access only. The rights of a member in remote attendance are unaffected unless disapplied by or in conflict with these Remote Meetings Procedure Rules.

8. REMOTE ACCESS TO MEETINGS BY THE PUBLIC AND THE PRESS

Right to be present at a meeting by remote access

8.1 Members of the public and the Press have the right to hear and where practicable to do so, to see the formal Council Meeting by remote access except where confidential or exempt information is likely to be disclosed, and the meeting is therefore held in private.

Details of remote access to be included on agenda

8.2 The Head of Paid Service (or the Monitoring Officer in his absence) will include the details of how members of the public and the Press can hear and where practicable to do so, to see the meeting on the notice of the meeting.

Discussion of confidential business and disclosure of exempt information.

8.3 Upon the relevant Council Meeting passing a motion to exclude the public and Press from the meeting due to the discussion of confidential business or exempt information, the right of the public and the Press to see and / or hear, the meeting shall cease and their electronic access will be disconnected.

9. PUBLIC SPEAKING

9.1 The arrangements for public speaking at the Development Management Committee and Licensing and Enforcement Sub-Committee shall continue in accordance with the arrangements detailed in the Constitution.

9.2 Otherwise, where the Constitution permits public speaking at any other Council Meeting speakers will be required to register to speak with Democratic Services not less than 24 hours before the meeting is due to start or where a report is added to an agenda after this time no less than 1 hour before the meeting is due to start.

9.3 Members of the public may submit representations or questions to the Democratic Services Team to be read out during the public speaking section of a meeting rather than doing so through remote access.

9.4 Those members of the public who successfully register to speak may ask their questions or make their statements during the public speaking item on the agenda unless the Chairman decides otherwise.

9.5 The Monitoring Officer has the discretion to put in place alternative arrangements for public speaking at any meeting where he deems it necessary and / or appropriate to do so.

10. CONDUCT DURING MEETINGS

10.1 Although there is no need to be in formal dress, Councillors should be attired in dress appropriate for a public meeting.

10.2 Councillors should join the meeting early (i.e. at least ten minutes before the scheduled start time) in order to avoid disrupting or delaying the meeting or not being recorded as present. Councillors should remember that they may be visible and heard by others, including the public, during this time.

10.3 At the beginning of any Council Meeting, the Chairman or supporting officers will outline the protocol to be followed which will include detailing how Councillors indicate that they wish to speak.

10.4 Councillors in remote attendance or any member of the public exercising a right to speak in remote attendance shall only speak when called upon to do so by the Chairman and shall cease to speak when told to do so by the Chairman.

10.5 Subject to Remote Meetings Procedure Rule 10.4, when a Councillor is speaking no other Councillor or member of the public in remote attendance shall interrupt that Councillor or seek to speak over that Councillor.

10.6 If a Councillor or any member of the public interrupts or seeks to speak over a Councillor who has been called upon to speak by the Chairman, the Chairman will

warn the person concerned. If the person concerned persists in doing so at any time during the remainder of the meeting, the Chairman may adjourn the meeting or restrict the ability of the member to participate and /or call for a vote on whether the person should be removed from the meeting. If carried, the person's remote access shall be disconnected.

- 10.7 Where in the opinion of the Chairman the meeting is subject to technological problems or members attending the meeting are suffering technological problems and in the opinion of the Chairman the impact is such that it is not possible to take a fair decision then the Chairman shall have the right to adjourn the meeting with the remaining business being considered on a date and time set by the Head of Paid Service in consultation with the Chairman
- 10.8 In the event that the Chairman or Democratic Services Officer identifies a failure of the remote attendance facility, the Chairman shall declare a recess while the fault is addressed. Where it is not possible to address the fault the Chairman shall have the right to adjourn the meeting with the remaining business being considered on a date and time set by the Head of Paid Service in consultation with the Chairman.
- 10.9 No Councillor in remote attendance shall drink alcohol or eat during the course of a Council Meeting.

May 2020