

Division(s): N/A

COUNCIL – 4 MAY 2020

CONSTITUTION CHANGES

Report by Director of Law & Governance

RECOMMENDATION

Council is RECOMMENDED to:

- (a) Note the amendments set out in the Annex that the Monitoring Officer has made following publication of the Regulations to give effect to the principles of open decision making and public engagement;**
- (b) Determine whether an Annual Council meeting be held virtually;**
- (c) Note the emergency powers set out at Annex 3;**
- (d) Agree that the Director of Law and Governance in consultation with the Chairman of the Council be authorised to make minor changes to the process and, as necessary, the Constitution in the light of practical experience of virtual working.**

Introduction

1. This report sets out for information proposed temporary changes necessary for the effective running of virtual meetings during the restrictions brought about by the corona virus pandemic. The changes are in line with, and give practical effect to, The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 that came into force on 4 April 2020. The Regulations enable all local authority meetings before 7 May 2021 to be held virtually and removes the requirement for the annual meeting this year.
2. The proposed Annex relates to both full Council, Cabinet and other committee meetings that are held in public. It sets out changes made by the Monitoring Officer to the annual meeting, appointments, virtual attendance at Council, Cabinet and other meetings of the Council, public attendance and public speaking. The Annex also includes a protocol on the running of virtual meetings. The changes are also consistent with the constitutional purposes outlined in Article 1 of the Constitution.
3. Annex 2 sets out for information the emergency powers already in the Constitution for the Chief Executive to act where necessary when urgent decisions are needed

The Changes

Virtual attendance at Local Authority meetings

4. The Regulations give the Council the flexibility to hold meetings at a time, day and frequency to suit their own needs, without the requirement for further notice. The Minister for Housing, Communities and Local Government (MHCLG) has advised the Association of Democratic Services Officers (ADSO) that this permits authorities to make changes to their meeting arrangements with immediate effect.
5. The regulations allow appointments normally made at an annual meeting to be continued until the next annual meeting or until such time as the authority determines. The Council therefore has the option to delay the annual meeting until such time as it determines or to hold it virtually. If an Annual Meeting is delayed, then all positions remain as they are today.
6. The Regulations allow for meetings to be held without the need for all, or indeed any of the members to be physically present in the room. In effect, it replaces all legislation and standing orders with the new provisions relating to virtual attendance. Annex 1 sets out arrangements for virtual meetings.
7. Virtual attendance by members counts for the purpose of the six-month rule on attendance, and for allowances. Where there is absence for illness the Council can continue to deal as now and pass the necessary resolution to approve the absence.

Other Standing Order Changes

8. In allowing virtual attendance at meetings councils are also given the flexibility to make standing orders on other matters such as voting, and rights of members of the public to attend and speak at meetings held virtually. It also covers access to information rules on the publication of papers.
 - (a) Rights of the Public to Attend and Speak
9. A meeting open to the public is redefined to include virtual meetings that the public can hear and where possible see. Physical attendance is not required to meet the need for those meetings that must be held in public. For this reason the technology being used (Microsoft Teams) is capable of live broadcast to members of the public.
10. This Council has always chosen to allow members of the public the right to speak on agenda items and the intention of the proposed Annex is that members of the public are not disadvantaged by virtual meetings taking place. Technology allows public speakers to happen virtually. However, some changes are needed to the way in which speakers are handled in order that they can happen effectively. The proposed Annex brings forward the deadline for speakers to request to speak

and introduces a requirement to provide a written summary prior to the meeting. This allows views to be taken into account even if the technology were to fail on the day. It is also proposed that there is provision for a written statement to be submitted where people do not have access to the technology or would prefer to provide a written submission. This is an extension of current rights which generally does not allow for written submissions.

(b) Public Access to Meeting Papers

11. Publication of documents has been extended to include publication on a website. This removes the necessity to provide a paper copy in County Hall at a time when the public do not have access.
12. For Executive meetings open to the public, meeting notices, agendas and reports are to be available on the council's website in addition to the council offices.
13. In respect of executive decisions, background documents will be published on the website rather than being made available at Council offices.

(c) Voting

14. Previously only members physically present were permitted to vote but now voting rights also include members attending virtually.

(d) Other matters

15. Given the complexity of holding virtual meetings, it is proposed that for Full Council meetings held virtually, motions on notice from members will not be allowed.

Support for Members

16. In introducing virtual meetings this Council is committed to provide Councillors with appropriate support and training. A dry run through of the meetings process will be arranged in the week before the meeting so that councillors can feel comfortable and confident with the technology and the protocol for these meetings.

NICK GRAHAM

Director of Law & Governance

Contact officer: Glenn Watson, Principal Governance Officer, 07776 997946.

April 2020

VIRTUAL MEETINGS PROCEDURE RULES

To set out temporary arrangements for the effective management of virtual meetings. These arrangements override any provision made in other parts of the Constitution and in the event of any conflict these temporary arrangements should take precedence. These rules have been made by the Monitoring Officer in accordance with Article 2 Rule 5.2(a) of the Council's Constitution in order to implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panels Meetings) (England and Wales) Regulations 2020 (the 'Regulations') and will remain in force until those Regulations are repealed. These rules are consistent with the purposes of the Constitution outlined in Article 1.

Listed in Appendix 1 are provisions in the Constitution that are affected by or disapplied by these Rules.

Appendix 2 provides a protocol for members on the running of meetings where there is virtual attendance.

1. General

- 1.1 A virtual meeting is a meeting of the Council, Cabinet, Committee or Sub-committee of the Council held by remote access and where virtual attendance by Members of the Council is by way of MSTeams Live Event or such other platform as provided.
- 1.2 Attendance of the public and public address at virtual meetings open to the public will be via the platform provided.
- 1.3 The Council, Cabinet and all Committees of the Council may hold all such virtual meetings that are deemed necessary and where such meetings are held these rules of procedure shall apply

2. Annual Meeting of the Council

The Annual Meeting of the Council will not be held in May and appointments to the Chairman, Deputy Chairman of the Council and appointments to other Committees will remain the same until the Annual meeting is held or until such time as the Council determines

3. Notice of and Summons to the Meeting

- 3.1 The Proper Officer will give notice to the public of the time and place of any meeting by publication of the details on the website. At least five clear days before a meeting, the Proper Officer will send a summons signed by him or her by electronic mail to every member of the Council. The summons will give the

date, time and place of each meeting and specify the business to be transacted and will be accompanied by such reports as are available.

3.2 Calling Urgent Virtual Meetings

The Proper Officer may, following consultation with the Chair of the Overview and Scrutiny Management Board, call an urgent virtual meeting without notice. The reasons for calling an urgent virtual meeting shall be clearly stated at the beginning of the urgent virtual meeting.

3.3 Moving or cancelling virtual meetings

The Proper Officer may, following consultation with the Chair of the relevant virtual meeting move or cancel a virtual meeting without notice.

4. Access to Virtual Meetings

4.1 Press and members of the public will be able to access virtual meetings using MS Teams Live Event or such other platform provided.

4.2 The press and members of the public will not be able to access those parts of the meeting considering exempt information.

5. Petitions and Public Address

5.1 Where a meeting is held virtually, members of the public will be able to participate in the following ways.

5.2 Public Speakers

Any person may address via the platform provided the Council, Cabinet or other Council Committee or an item in the agenda for not more than 5 minutes provided that

- (i) notice of the request and the reasons for wishing to address the Council is received by the Proper Officer not later than 9.00 am **four** working days before the meeting;
- (ii) a written copy of the statement is provided not later than 9.00 am **two** working days before the meeting.

Where a meeting is held virtually, and the addressee is unable to participate remotely their written submission will be accepted. This should be no longer than 1 A4 sheet. Notification requirements remain the same as set out above.

5.3 Petitions

Any person (other than a member of the Council) may present a petition at a Council meeting provided that

- (i) notice of the desire to present the petition and the wording of the petition is given to the Proper Officer not later than 9.00 am on **four** working days before the meeting;
- (ii) the Petition is emailed to the Committee Officer named on the agenda 2 working days prior to the meeting.

When petitions are presented the presenter shall have the right to address the Council for not more than 3 minutes in support of the petition. Where a meeting is held virtually, and the addressee is unable to participate remotely their written submission will be accepted. This should be no longer than 1 A4 sheet. Notification requirements remain the same as set out above.

6. Motions

Where Full Council meetings are held virtually the provision for members to submit a Motion will be disapplied.

7. Voting

- 7.1 At a meeting using virtual meeting technology any matter will be decided by a clear majority of those in attendance, physically or virtually by an electronic vote which shall record each member and how they have voted.
- 7.2 Recorded Vote - If the chairman or seven members, indicate after an electronic vote, but before the next business has commenced) a named vote shall be taken when each member shall be called upon to register his/her vote electronically: for or against the motion (or, if required by the Chairman, saying 'yes 'no' or 'abstain'). The Chairman will clarify with Council that all members have voted prior to closing the vote. The method to indicate a named vote will be via the electronic solution provided by the broadcast system.
- 7.3 Where under Rule 7.2 above, a named vote is taken after an electronic vote, the named vote is a separate vote for the purposes of Rule 10.2 above and shall take precedence over the earlier determination.

Review

These rules will be kept under regular review and updated as necessary by the Monitoring Officer under Article 2 Rule 5.2(a).

Rules		Impact/Amendment of Virtual Meeting Procedure Rules
General		
Throughout	Attendance	Attendance to include access virtually
Annual Meeting Provisions		
Council Procedure Rules (CPR) – 1	Annual meeting provisions	Remove
Article 5 Chairman of the Council	Annual meeting provisions	Remove provision relating to annual election.
Article 8 Oxfordshire Health Overview & Scrutiny Committee	Annual meeting provision	Disapply reference to the Council's annual meeting.
Notice of and Summons to a Meeting		
CPR 6		Remove by post
CPR 5	Place of Meetings	Amended to allow virtual meetings
Access to Virtual meetings		
Access to Information Rules	Access to Agenda Paper	Remove provision by post and access via Council buildings and replace with publication on the web site
Access to Agenda and Report		
Access to Information Rules (AIR) 5	Inspection of agenda and reports at County Hall	Disapplied
AIR 8	Access to background documents	Remove provision for physical access and replace with electronic access
AIR 14 and 15	Access to Forward Plan and related Notices	Physical provision at County Hall replaced by electronic access.
Petitions and Public Address		
- petitions		
CPR 10 Also Article 3 Rule1(b) (ix) Petitions Article 3 Rule 1(c) Speakers	Ability for the public to submit petitions	Additional provision amending deadlines and making provision for virtual attendance and written submission

CC6

- public address		
CPR 10 Also Article 3 Rule 1(c) Article 8 Rule 11	Ability for the public to make a public address	Additional provision amending deadlines and making provision for virtual attendance and written submission
- questions from the public		
CPR 11	Ability for the public to ask written questions	Disapplied
Motions		
CPR 13	Provision for Members to submit a motion on notice	Removed
Voting		
CPR 17 Also Article 8 Rule 10 Article 10 Rule 5 Article 12 Schedule 4 Annexes 2 & 3	Requirement to be present in the room in order to vote	Replaced by provision for attendance and voting to be permissible virtually.
Other Provisions		
CPR 2 Also Cabinet Procedure Rules 2	List of Ordinary items	Disapplied
CPR 17.9	Division bell	Disapplied
CPR 19	Signing of attendance book	Disapplied
CPR 21	Requirement for a member of the public to leave the room in the event of a public disturbance and for clearance of the room	Leaving the room to include removal from the virtual meeting.
CPR 22	Standing to speak	Disapplied
CPR 23	Suspension of standing orders	Present to include attendance virtually

Councillor Protocol for Virtual Public Meetings (including public attendance)

Additional protocol for virtual meetings, to be considered alongside standing orders:

General points about councillors joining and participating in a virtual meeting

- Councillors are encouraged to join the meeting well in advance (i.e. at least fifteen minutes before the scheduled start time) in order to avoid disrupting the meeting and to ensure any technical issues can be resolved with ICT.
- Where using video-enabled equipment, councillors should leave their cameras on throughout the meeting as far as practicable.
- Councillors should try to go to a quiet location for the Meeting with minimum disruptions and blur their backgrounds.
- **In all cases councillors will need to unmute their microphone before speaking and mute when they have finished speaking.**
- The Chairman will remind councillors to mute their microphones when not speaking. This is done in order to reduce feedback and background noise.
- Councillors are reminded that virtual meetings are generally public meetings and members of the public will be able to view them and Councillors should be mindful of this in their conduct and dress code.
- Non-verbal communication such as body language may be picked up and broadcast even when not speaking.
- Please be patient with one another and your Chairman.

Protocol for councillors speaking at meetings

- The Council will endeavour to put in place a technological solution that will enable councillors participating in meetings virtually to indicate their wish to speak.
- Notwithstanding this, in the case of Council and Cabinet meetings, councillors who wish to speak on a particular item should indicate their wish to speak to the Chairman and to Democratic Services in advance of the meeting through the normal Schedule of Business Process. Political groups are encouraged to coordinate this activity where possible. The Chairman will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers. The Chairman's ruling in this regard shall be final.
- **At the end of the debate, when all speakers have been heard, the Chairman will ask those present if anyone else wishes to speak.**
- Speeches will be timed in accordance with the Constitution, however, the Democratic Services Officer shall give the 30 second warning.
- Interruptions, such as 'point of order' should be kept to an absolute minimum and raised at the end of a speech not during.
- In the case of other meetings, the Chairman may ask each person in turn if they have any points they wish to raise on a particular item before completing the discussion on that item.
- When referring to reports or making specific comments, councillors should refer to the report and page number so that all members have a clear understanding of what is being discussed at all times.

Dealing with Disclosable Pecuniary Interests (DPI)

- Where a member has disclosed a DPI or other declaration in an agenda item that requires them to be absent from the meeting for that item, the member should leave the virtual meeting for the duration of the item. Failure to do so would be a breach of the council's code of conduct.
- At the conclusion of the item, the Chairman and Democratic Services Officer will ensure that any member who has absented themselves from the meeting has re-joined the meeting before moving to the next agenda item

Voting

- Councillors participating in meetings virtually will indicate their vote by way of an electronic poll and must wait for the Chairman to indicate that members should vote. Your voting option will appear on the screen in front of you. **Thirty seconds will be given prior to the vote to ensure everyone is ready.**
- Should there be technical difficulties, where a vote is required on a particular item, the Chairman may ask each member (of the committee) to vote in turn. Councillors should express their vote verbally. This will not be included as a recorded vote in the minutes.
- The Democratic Services Officer will record the outcome of votes and announce the decision to the meeting.

Participation by members of the public

- Members of the public who wish to observe the proceedings of a committee are able to do so by watching the live stream. The Council will make a live stream available on an appropriate channel and will publicise this on the agenda for that particular meeting.
- Public participation will be permitted in line with the procedures set out in the Constitution. A member of the public who has been given permission by the Chairman to address a meeting in accordance with the Council's Meeting Procedure Rules will be invited to participate in the virtual meeting for the purpose of speaking to the meeting. The Chairman may re-order the agenda in order to facilitate this participation at the beginning of the meeting.
- Members of the public who have been given permission by the Chairman to address a meeting may read out their written statement, of which prior notice will have been given in line with the public participation procedure in the Constitution when invited to do so by the Chairman.
- The public must provide the written statement to the relevant office 2 working days prior to the meeting. As an alternative, if a member of the public who wishes to address the meeting but is unable to join for technological reasons, they may submit a written statement that can be read out by the Chairman or Democratic Services Officer at the appropriate time.

Dealing with exempt items of business

- There are times when council meetings are not open to the public, when confidential, or "exempt" information – as defined in Schedule 12A of the Local Government Act 1972 – is under consideration.

- Any councillor in virtual attendance who fails to disclose that there are in fact persons present who are not so entitled will be in breach of the Council's Code of Conduct.

Dealing with technical difficulties

- In the event that the Chairman or Democratic Services Officer identifies a failure of the virtual participation facility, the Chairman will declare a recess while the fault is addressed.
- If it is not possible to address the fault and the meeting is inquorate, the meeting will be abandoned until such time as it can be reconvened. If the meeting is quorate, the meeting will continue. Those attending virtually would be aware and accept that the meeting would continue, and a vote would be taken without their attendance.
- If the meeting was due to determine an urgent matter or one which is time-limited and it has not been possible to continue because of technical difficulties, the Chief Executive, in consultation with the Monitoring Officer and where appropriate/possible the relevant cabinet member, shall explore such other means of taking the decision as may be permitted by the Council's constitution.

Interpretation of standing orders

- Where the Chairman is required to interpret the Council's existing standing orders in light of the requirements of virtual participation, he or she shall take advice from the Monitoring Officer prior to making a ruling. The Chairman's decision in all cases shall be final.

Emergency Provisions

Under Part 7.1 of the Constitution the following emergency provision exists.

Rule 2.1(d):

The Chief Executive and the other officers are empowered to take all necessary decisions in cases of emergency¹.

Additionally:

Rule 6.3(c)

Any function of the Cabinet or of a Council committee or sub-committee, after consultation with the appropriate other officer and thereafter:

- (i) in the case of an executive function, with the Leader of the Council or, in his/her absence, the Deputy Leader of the Council; or
- (ii) in any other case, with the Chairman of the relevant committee or sub-committee or, in his/her absence, the Deputy Chairman of the relevant committee or sub-committee.

Any exercise of these functions shall be reported to the Cabinet or other relevant committee or sub-committee and shall be published on the website as soon as possible.

¹ For the purposes of this scheme, emergency shall mean any situation in which the relevant officer believes that failure to act would seriously prejudice the Council's or the public's interests. Such interests are to be interpreted widely and include (but are not limited to) the risk of damage to property or threat to the health or wellbeing of an individual.