

Arrangements for managing Town Council business during covid-19 pandemic

Background

As Members will recall, early in the Covid-19 pandemic emergency legislation was enacted which enabled regulations to be introduced to confirm the legality of Council and Committee meetings being held virtually. These regulations expire on 6th May 2021.

On 25th March the Minister for Regional Growth and Local Government, Luke Hall MP, wrote to councils in England confirming that the regulations regarding virtual council meetings will not be extended. Subsequently, the High Court heard a legal challenge to the government's decision by Lawyers in Local Government, the Association of Democratic Services Officers and Hertfordshire County Council, and ruled that the relevant section of the Local Government Act 1972 does require attendance in person. Therefore, all Council meetings held on or after 7th May 2021 have to be convened by traditional means in a specified physical meeting space.

Although transmission rates of Covid-19 are currently low, and are falling further, this remains a risk, and government regulations are likely to remain in force until at least 21st June. Therefore, any physical meetings held in the meantime, will need to be carefully risk assessed and managed. Updated guidance has been issued by the government on the safe use of council buildings, which also highlights ways that councils that can use existing powers to reduce the number of face-to-face meetings, and how to minimise the risk where these are necessary. The proposals set out in this briefing note have been prepared with this guidance in mind.

The government guidance suggests to Councils that they consider making 'Use of your existing powers to delegate decision making to key individuals such as the Head of Paid Service to minimise the number of meetings you need to hold'. This comes with the caveat that 'certain decisions cannot be delegated and require a decision by full council'. Under s. 101 of the Local Government Act 1972 all decisions can be delegated, except for the following:

- Levying the precept;
- Borrowing money;
- Approving the annual accounts and AGAR;
- Considering a public interest audit report;
- Adopting or revising the Code of Conduct.

In addition, the Council is legally obliged to hold an Annual Meeting in May each year, the business of which is governed by Standing Order 7.j. as follows:

- The election of the Chairman of the Council, to be known as Town Mayor.
- To receive the Chairman's Declaration of Acceptance of Office form, or, if not then received, to decide when it shall be received..
- To elect a Vice Chairman of the Council, to be known as Deputy Town Mayor.

- Confirmation of the accuracy of the minutes of the last meeting of the Council;
- Receipt of the minutes of the last meeting of a committee;
- Consideration of the recommendations made by a committee;
- Appointment of members to existing committees;
- Appointment of any new committees in accordance with Standing Order 5;
- Appointment of representatives to outside bodies;
- Review of the Council’s subscriptions to other bodies;
- Determining the time and place of ordinary meetings of the full Council up to and including the next Annual Meeting of full Council.

Proposed Way Forward

In light of the above it is proposed that the Annual Meeting should proceed as planned on 24th May (subject to the agreement of time and venue under the next agenda item) and that it should deal with the business set out in Standing Order 7.j. It is proposed that the special meeting scheduled for Wednesday 26th May be cancelled, and that the approval of the annual governance return and statement of accounts for submission to the external auditor, be also taken at the Annual Meeting.

It is recommended that all other decision making be delegated to the Town Clerk between 7th May and step 4 in the relaxation of the coronavirus regulations, currently anticipated on 21st June. As during the first lockdown in the spring of 2020, it is planned that this delegation would be exercised in consultation with councillors wherever possible, as follows:

Subject	Consultation prior to Decision
Matter arising from an existing Council minute	Mayor/Deputy Mayor
Minor matter within remit of established working party	Working Party either by e-mail or Zoom
Matter within remit of Committee or Sub-Committee	Members of committee by e-mail
Grant application under £10,000	Grants Panel via e-mail or Zoom
Recommendation from a committee/sub-committee/advisory committee not yet approved by Council	Full Council by e-mail
Significant decisions, such as a change in policy or commitment to spend requiring urgent decision prior to July Council Meeting	Full Council by Zoom

Examples of ‘significant decisions’ requiring consultation with full Council include:

- Commitment of unbudgeted expenditure in excess of £10,000.
- Significant changes in council policy.
- Awards of contracts or grants in excess of £10,000.
- Entering into leases or tenancy agreements with new third parties.

As during the first lockdown, the Town Clerk will keep a log of all decisions made under these delegated powers, which will be reported to the first full council meeting to be held after 21st June and formally recorded in the minutes of that meeting.

As last year, in a situation where the Town Clerk is incapacitated it is proposed that the Finance Manager would take the place of the Town Clerk. If both the Town Clerk and Finance Manager are incapacitated then the relevant departmental manager would have delegated authority, in consultation with the Mayor/Deputy Mayor and other members of the management team.

The principal impact of this scheme of delegation on the Council's meeting schedule will be to mean that no physical committee meetings or extraordinary council meetings will be held prior to 21st June.

During the first lockdown, the Planning and Consultation Committee met informally online to consider planning applications, with the comments being submitted by the Administration and Communications Manager. Members may wish to resume operation in this way so that there would still in effect be online informal committee meetings in May and June.

Meetings of the other standing committees (Tourism, General Operations and Roads & Transport) had been included in the draft schedule of meetings prior to 21st June in order to ensure that their minutes could be presented to the Monthly Council Meeting scheduled for 12th July. Here, there are two options: either to continue with the scheduled dates and to hold the meetings online, in effect as informal advisory committees to the Town Clerk, or alternatively to re-schedule them for a later date once it is deemed safe for meetings to again take place in person in the council chamber.

The 'advisory committee' route has been introduced by a number of other larger town councils around the country, including Stroud, Weston Super Mare, Chichester, Bishops Stortford, and has a number of benefits at this time. These meetings can be convened flexibly, can still engage with outside representatives, will have no limits on virtual public attendance and will create less administrative work as there will be no need to produce full formal agenda packs or minutes. All decisions can also be enacted swiftly under delegated powers.

Alternatively, it is likely that physical committee meetings can be held in late June and July. However, unless there is a decision to change the meeting dates of full council, there may be a delay in approving the minutes, possibly until a meeting in September. That said, if Members strongly favour a return to physical meetings over the summer then a revised meetings schedule can be presented to the Annual Meeting on 24th May.

Under these delegated arrangements, the final decision as to whether physical meetings can resume in the Town Council chamber will rest with the Town Clerk, informed by the risk assessments prepared by the Operations Manager, and taking into account the view of the mayor and deputy mayor elected at the annual meeting on 24th May.

The future of virtual meetings

The government has launched a call for evidence about how remote meetings have been used during the pandemic, to 'inform any potential future legislation regarding their use beyond the coronavirus outbreak'. This is a link to the consultation, which will close on 17th June 2021 - [Local authority remote meetings: call for evidence - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/local-authority-remote-meetings-call-for-evidence). Members are

free to respond individually and are invited to consider requesting officers to compile a corporate response.

In respect of Town Council meetings, Members will need to determine whether Council meetings continue to be made available to members of the public and councillors unable to be physically present beyond 21st June. The High Court is due to determine whether or not 'public access' means in person or virtually in coming weeks. It is suggested that this question be determined once that judgement has been made as this may have a bearing as to whether remote access by the public has to facilitate public participation, as via Zoom at present, or whether it need only be via live streaming.

Recommendation

To delegate all decision making to the Town Clerk, except where matters are expressly reserved for full Council by statute, with appropriate steps being taken for consultation with elected members in accordance with the table above.

That the agreed scheme of delegation be in place until 'step 4' of the easing of lockdown, currently scheduled for 21st June, council and committee meetings to resume thereafter in accordance with the schedule of meetings to be adopted by full council on 24th May (subject to risk assessment and any local outbreak control measures in place at that time).

To determine whether to hold the spring and summer round of committee meetings prior to 21st June as informal advisory committees; or whether to include revised dates for physical meetings in the schedule of meetings to be presented to full Council on 24th May.

To consider whether to make a corporate response to the government's call for evidence regarding the future of remote meetings.

Martin Ayres
Town Clerk

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