

REPORT TO: Council

21 May 2020

LEAD OFFICER: Chief Executive/Monitoring Officer

COVID 19 – Changes to Decision Making Processes

Executive Summary

1. In the light of the national emergency concerning Covid-19 (Coronavirus), to agree Standing Orders for the conduct of remote meetings and consider other measures required in order to allow Council business to continue.

Recommendations

2. That Council:-

- 2.1. Endorses the postponement of the annual Council meeting in view of the Government's COVID 19 restrictions and agrees that prior to 7 May 2021 an annual meeting of the Council shall only take place following lifting of the Covid 19 restrictions by the Government and confirmation that it is safe to return to physical meetings:

- (a) where called by the Chair; or
- (b) where called by the Chief Executive or Monitoring Officer; or
- (c) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of the Council.

- 2.2. Notes that, as a consequence of 2.1 above, all current appointments of chairmen, vice-chairmen and of members of committees, joint committees, other bodies and substitutes shall continue until the next annual meeting or until such time as the Council may determine.

- 2.3. Endorses the decision of the Chief Executive to convene this meeting as an ordinary meeting of the Council, and authorises the Chief Executive, after consultation with the Leader and/or relevant Chair(s), to alter the frequency, move or cancel meetings or to vary the dates and times of meetings, as required.

- 2.4. Approves the Standing Order for remote meetings, as set out at Appendix A.

- 2.5. Agrees to amend the delegated powers of the Chief Executive to act in an emergency contained in paragraph 3.5.2 of the Scheme of Delegation in Part 4 of the Constitution, until specified otherwise by the Council, to read as follows:

“The Chief Executive (or any other Chief Officer or Head of Service in their absence) may exercise any power or function, which is in law capable of delegation, in any emergency threatening life, limb or substantial damage to property within the District, or where necessary in order for the Council to continue to carry out its functions or to maintain service delivery. This power shall include authority to incur expenditure not provided for within the budget or borrowing where the Chief Executive considers this essential for the purposes of managing or responding to the emergency or maintaining essential service delivery. The Chief Executive shall consult with the Leader of the Council (unless the Leader cannot be contacted after all reasonable efforts have been made). The Chief Executive shall update the Executive or Council, as appropriate, on the use of such powers.

- 2.6. Agrees, until specified otherwise by the Council, to the increase in the current maximum limit for a supplementary estimate to £100,000 on the understanding that if it later becomes evident that this additional expenditure can be met from savings elsewhere in the budget, it will be and delegates authority to the Leader, the Chief Executive and the Chief Finance Officer to approve such supplementary revenue and capital estimates.
- 2.7. Authorises the Monitoring Officer to make any necessary and consequential amendments to the Constitution to enable the implementation of the changes at 2.1 to 2.6 above.
- 2.8. Grants a dispensation to any Member unable to attend a council meeting for a period greater than six months for Covid-19 related reasons, in accordance with Section 85 (1) of the Local Government Act 1972 until 31 December 2020.

Reasons for Recommendations

3. In the light of the impact of Covid-19 on the Council’s usual decision making procedures, to confirm arrangements to enable the business of the Council to continue.

Details

Background

4. The Covid 19 pandemic is having an unprecedented impact on the day to day life of residents and the operation of all organisations, including the Council. As indicated in a report elsewhere on this agenda, the Council is playing a crucial role in responding to the emergency and is focusing on supporting our communities.
5. Given the impact of the pandemic and the uncertain nature of how long the restrictions on everyone's lives and movements will continue, this report invites the Council to agree steps to revise the current decision making arrangements until such time as the Government restrictions are lifted and it is safe and practicable to return to conventional arrangements for meetings.

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No. 392

6. The above regulations came into force on 4 April 2020 and apply to local authority meetings held before 7 May 2021.
7. The regulations:-
 - empower local authorities to alter the frequency of meetings, move or cancel meetings without further notice.
 - enable local authorities to postpone or dispense with the requirement to have an annual meeting and provide that where any appointment would normally be made at the annual meeting, such appointment continues until the next annual meeting or until such time as the authority may determine.
 - allow meetings to be held remotely, including via telephone conferencing, video conferencing, webcasting or live streaming;
 - set out the conditions to be met for a councillor to be defined as participating remotely which, as a minimum, require members and public speakers to be heard and hear each other and other members of the public who are not speaking, to hear, although the regulations provide that, where practicable, the parties should also be able to see each other;
 - override any existing standing orders or procedure rules which an authority may have relating to the conduct of meetings;
 - enable local authorities to make standing orders in relation to remote meetings;
 - confirms that any requirement to be "present" includes remote attendance and therefore counts for purposes such as the six month rule on attendance; and
 - provides that any requirement to make committee agenda available for public inspection is met by posting them on the authority's website.

Annual Meeting

8. Following consultation with the Chair of the Council and Group Leaders, it was agreed to postpone the annual meeting scheduled for 21 May 2020 so that the Council can focus on its priorities. However, as the meeting on 4 April 2020 was cancelled, there is outstanding business which needs to be dealt with. The Chief Executive, following consultation with the Chair and the Group Leaders, in exercise of powers within the Constitution and her emergency powers in the Scheme of Delegation, convened this meeting as an ordinary meeting of the Council in order to avoid any further delay in despatching the outstanding business.
8. In accordance with the provisions of the regulations, all existing appointments agreed at the annual meeting in 2019 (as amended to reflect group changes) will continue until the next annual meeting, or until the Council determines otherwise. Where seats on a committee have been allocated to a political group under the rules on political proportionality, the Chief Executive is required to fill them in accordance with the wishes of the political group concerned, thus group leaders will continue to be able to alter their representation on committees, as desired.
9. It is suggested that the Council agrees contingency arrangements for calling an annual meeting before 7 May, should one be required and subject to it becoming safe and practicable to do so. Council is invited to agree that an annual meeting of the Council shall only take place before 7 May:
 - (a) where called by the Chair; or
 - (b) where called by the Chief Executive or Monitoring Officer; or
 - (c) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of the Council.

Standing Order for Remote Meetings

10. Whilst the regulations do override any Council Standing Orders or Procedure Rules to enable remote meetings to proceed, they do enable local authorities to make standing orders governing remote meetings which may include provision for voting; member and public access to documents and remote access for members of the public and press to attend and participate in such meetings.
11. A suggested Standing Order for Remote Meetings is attached at Appendix A. Elsewhere on the agenda for this meeting, Council is being invited to approve the new Constitution. If approved, the new Standing Order would follow on from the current Council Standing Orders, however where there is any conflict between other Standing Orders and Procedure Rules in the Constitution, this Standing

Order would take precedence over other Standing Orders/Procedure Rules in relation to the governance of remote meetings.

12. The Standing Order for remote meetings includes a proposed public speaking scheme. The new Constitution, if adopted, will increase flexibility around arrangements for public speaking, including providing the opportunity to both ask questions and to make statements and reducing the notice required from 7 working days to 3 clear working days. Unfortunately, in view of the greater management needed in terms of facilitating public speaking at remote meetings, including the need to provide speakers with the appropriate access to meetings, it is recommended that a separate public speaking scheme be adopted for remote meetings. The scheme at Appendix A enables speakers to ask questions and proposes that speakers are required to give 4 clear day's notice of their wish to speak. This will mean that, unlike in the current Constitution, the agenda will have been published before the deadline for asking questions. The scheme also replicates the discretion within the current public speaking scheme to allow the Chair to vary the scheme, where they consider it appropriate to do so. Council will be aware that a separate public speaking scheme operates for Planning Committee. The Planning Committee is due to consider a public speaking scheme for virtual meetings at its meeting to be held on 13 May 2020.
13. It should be noted that sections of the proposed Standing Order have been based on a model produced by Lawyers in Local Government (LLG) and the Association of Democratic Services Officers (ADSO).

Delegations to the Chief Executive

14. The Council has in place a delegation to the Chief Executive within the Delegation Rules in Part 4 of the Constitution, in the following terms:

“The Chief Executive (or any other Chief Officer in his or her absence) may exercise any power or function, which is in law capable of delegation, in any emergency threatening life, limb or substantial damage to property within the District. The Chief Executive shall consult with the Leader of the Council (unless the Leader cannot be contacted after all reasonable efforts have been made). The exercise of such power or function shall be confined to the minimum necessary to deal with the emergency and shall be reported to the next meeting of the Executive or Council, whichever shall be the first.”

15. Whilst arrangements are now being put in place to conduct meetings remotely, it would be prudent to include within the above delegation the ability for the Chief Executive to take any urgent decision required to enable the Council to continue to maintain service delivery and fulfil its functions during this period of national emergency. It is accordingly recommended that the delegation be revised as indicated below:-

“The Chief Executive (or any other Chief Officer or Head of Service in ~~his or her~~ their absence) may exercise any power or function, which is in law

capable of delegation, in any emergency threatening life, limb or substantial damage to property within the District, or where necessary in order for the Council to continue to carry out its functions or to maintain service delivery. This power shall include authority to incur expenditure not provided for within the budget or borrowing where the Chief Executive considers this essential for the purposes of managing or responding to the emergency or maintaining essential service delivery. The Chief Executive shall consult with the Leader of the Council (unless the Leader cannot be contacted after all reasonable efforts have been made). ~~The exercise of such power or function shall be confined to the minimum necessary to deal with the emergency and shall be reported to the next meeting of the Executive or Council, whichever shall be the first.~~ The Chief Executive shall update the Executive or Council, as appropriate, on the use of such powers.

16. The power would only be used in exceptional circumstances where it was not possible to take decisions through the normal decision making channels. It is worth noting, that, to date, the Chief Executive has only used the emergency powers in paragraph 14 once, alongside other powers in the Constitution and the new Government Regulations, to convene this meeting of the Council.
17. Currently the maximum limit for a supplementary estimate is £50,000. It is proposed that, in view of the exceptional circumstances relating to the Covid-19 emergency, for this temporary period, this be increased to £100,000 on the understanding that if it later becomes evident that this additional expenditure can be met from savings elsewhere in the budget, then it will be.
18. It should be noted that the Leader has also agreed a temporary delegation to the Chief Executive to enable any urgent decisions to be taken on an executive function where it is impracticable or impossible for the matter to be considered by the Cabinet (or by a relevant Lead Cabinet Member to whom the decision making functions have been delegated).
19. In the event of any key executive decision being delegated to, and taken by, the Chief Executive or another officer, wherever practicable, this would be taken in consultation with the Leader or relevant Cabinet member, with decisions being published alongside any reports taken into account and any key decisions being subject to call-in in the usual way (unless urgent and exempt from call in).

Non-attendance at Council meetings

20. Section 85(1) of the Local Government Act 1972 provides that where a councillor fails to attend any meeting of the authority within a six month period, they will be cease to be a member of the authority unless the failure is due to a reason approved by the Council.
20. Council is requested to grant a dispensation to all members for any non-attendance at meetings for any reason related to Covid-19 until 31 December 2020.

Review of Arrangements

20. Should the recommendations be agreed, a monthly review will take place with Group Leaders (to be held virtually), at which Group Leaders will be invited to review whether they are content with the arrangements.

Options

21. The Council could determine not to agree the standing orders, delegations and other proposals within this report but they are designed to put in place arrangements to enable continued decision making via the medium of remote meetings and to mitigate risk of the Council failing to be able to continue to discharge its functions or maintain service delivery in view of the impact of Covid-19 on the operations of the authority.

Implications

22. In the writing of this report, taking into account financial, legal, staffing, risk, equality and diversity, climate change, and any other key issues, the following implications have been considered:-

Risks/Opportunities

23. The Covid-19 outbreak and the Government's lock down restrictions have resulted in the need to put in place urgent arrangements to enable meetings to be held remotely. At the time of writing, two virtual meetings have taken place, however there is a risk associated with delivering virtual meetings, in terms of the potential for technical failure. There may still be a need for urgent decisions outside of the committee cycle and therefore to mitigate against that risk the report recommends strengthening the power for the Chief Executive to take emergency decisions where necessary to ensure that the Local Authority can continue to carry out its duties and can maintain service delivery.

Alignment with Council Priority Areas

A modern and caring Council

24. The proposals in this report seek to respond to the Covid-19 emergency and agree measures that will enable remote decision making facilitating continued service delivery to our customers.

Background Papers

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Policy and Crime Panel Meetings) (England and Wales) Regulations 2020 No. 392.

Appendices

None

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