

Report to: Governance Committee

Date of meeting: 2 March 2021

By: Assistant Chief Executive

Title: Coronavirus meeting arrangements

Purpose: To consider proposals in relation to Council meetings in the context of coronavirus (Covid-19)

RECOMMENDATION: The Committee is recommended to:

1. Note the current position in relation to Council meetings.
 2. Recommend to County Council to agree:
 - (i) To delegate authority to the Chief Executive to determine the venue for the Annual Meeting and make the necessary arrangements accordingly;
 - (ii) That the standing orders relating to virtual meetings continue and are reviewed by the newly elected Council in July 2021 or as soon as practicable thereafter; and
 - (iii) To extend for the period pending the review referred to in (ii) above the Council's agreement whereby Member non-attendance at a meeting due to issues related to Coronavirus or the virtual nature of the meeting be considered as an absence for a reason approved by the Council in relation to attendance requirements.
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1 Background

1.1 In May 2020 the County Council agreed recommendations from the Committee in relation to a number of temporary measures to help enable the County Council's business to be conducted efficiently throughout the period of disruption due to Covid-19. These included:

- to approve the approach in relation to Lead Member decisions being made virtually and to its continuation;
- to agree that the Leader will assume all the powers of the Cabinet where required;
- to agree delegations to officers in relation to the functions of the Planning, Pensions and Governance Committees and the Discretionary Transport Appeal Panel;
- to agree that Member non-attendance related to Covid-19 be considered as an absence approved by the Council;
- to agree that the Chief Executive (or in her absence the Assistant Chief Executive) be authorised to cancel or postpone meetings, in consultation with the relevant Chair or Cabinet Member;

1.2 These measures were reviewed by the Committee and full Council in October and it was agreed that they remain in place and are reviewed again at the Council meeting in July 2021 or as soon as practicable thereafter.

1.3 Since May 2020 a large number of virtual meetings have been held under the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the Regulations) which were enacted by Government to enable Members to attend remotely during Covid-19 restrictions. These regulations are currently in place until 7th May 2021. The meetings have largely worked well and have enabled Members to continue to make decisions in a transparent way.

1.4. In October 2020 the Council passed a resolution asking the Government to allow local authorities to have the ability to make their own decisions in relation to whether to hold virtual meetings after May 2021, should they want to.

2 Current position

2.1 As set out above, the Regulations which expressly permitted the holding of virtual meetings are in place until 7th May 2021. Local Authorities have welcomed the current flexibility to hold virtual meetings and have lobbied Government for this to continue beyond the current end date. The Government has recognised the benefits of such meetings but has said that due to the pressure on the legislative programme it will not be possible to make the provisions permanent before the temporary Regulations expire. This position is reflected in the response from the Secretary of State to the resolution passed by Council in October which is attached at appendix 1.

2.2 Much of the debate on whether it is or is not possible to make the provisions permanent relates to whether primary legislation is needed or whether this can be achieved through secondary legislation. This discussion is ongoing, together with whether in fact any change in legislation is required or whether current provisions can be interpreted such to facilitate the same result. At the time of writing these questions remain unresolved.

2.3 Although the vaccination programme is progressing at pace it is clear that at the time of the Council's Annual Meeting on 25 May 2021 that public health measures, including social distancing, will continue to be in place. The Government's 'roadmap' for exiting lockdown, published on 22 February 2021, indicates that a review of social distancing is unlikely to conclude before June.

2.4 Should it be necessary to hold a physical meeting in May the Council Chamber will not be able to accommodate all Members and enable appropriate social distancing (as currently set out in guidance) to take place. This clearly presents a significant challenge.

3 Proposed approach

3.1 In light of the situation outlined above, we are currently seeking an alternative venue which would be capable of accommodating all Members and the necessary officers with appropriate social distancing. Arrangements for webcasting a meeting from such an alternative venue are also being investigated. Should Government guidance continue to limit the number of Members able to attend in the Chamber and the legality of virtual meetings is not confirmed, the intention would be to use these alternative arrangements to enable the County Council to meet. Bearing in mind we will effectively be transitioning to the new make-up of the Council, it is recommended that authority be delegated to the Chief Executive to determine whether the meeting should take place at a venue other than

County Hall, what venue the meeting should be held at and to make the necessary arrangements.

3.2 Should a legal basis for holding virtual meetings beyond 7th May be confirmed, it would be possible to hold the Council's Annual Meeting virtually, minimising both the Covid-related risks and the cost to the authority. To cover this scenario it is proposed that the supplementary standing orders agreed by Council in July 2020 remain in place and are reviewed by the "new" Council in July 2021 or as soon as practicable thereafter. The arrangements that were agreed included provision for Member non-attendance at a meeting due to issues related to the virtual nature of the meeting (for example technical difficulties) to be considered as an absence for a reason approved by the Council and it is proposed that this be extended on the same basis.

4 Conclusion and Reason for Recommendation

4.1 There is currently considerable uncertainty in relation to how meetings will take place following the expiry of the Regulations on the 7th May which permit the holding of virtual meetings. Whilst it is hoped that the position will be clear by the Council's Annual Meeting this is not certain. It is therefore recommended that the Committee notes the current approach set out in paragraph 3.1 above and recommends to Council to delegate authority to the Chief Executive to determine the venue for the Annual Meeting and make the necessary arrangements accordingly. The approach is clearly less than ideal, and we all look forward to the time when the need for restrictions has passed, and Members and the public can physically attend meetings at County Hall should they wish to, but we need to plan on the basis of current understanding.

4.2 To enable virtual meetings to continue, in the event that they are permitted, it is recommended that the Council continues the standing orders relating to virtual meetings, including provisions in relation to non-attendance of Members due to issues related to Coronavirus or the virtual nature of the meeting, and that they be reviewed by the Council at its meeting in July 2021 or as soon as practicable thereafter. We will continue to keep the situation under review and an update will be provided to the Governance Committee in April.

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Our Ref:9511511

November 2020

Dear Becky,

Thank you for your letter of 20 October reporting on the motion agreed by your full council to ask Government that Local Authorities be given the powers to continue to be able to decide to hold virtual and/or physical meeting after 7 May 2021.

To extend the facility for councils to continue to meet remotely, or in hybrid form, would require primary legislation. As there is no option to extend the current regulations under the Coronavirus Act 2020 as section 78 (3) contains the sunset date of 7 May 2021.

However, I can assure you that I am aware that the flexibility to meet remotely has been welcomed by many, and it has undoubtedly played a significant part in helping local authorities continue to make business critical decisions in a democratic way whilst protecting the health and safety of their members, officers and the public. Government will be considering carefully the case for extending these regulations through primary legislation as necessary in the coming months.

Once again thank you for writing on this important matter and drawing my attention to the motion agreed regarding the continuation of remote meetings by East Sussex County Council.

*I hope you are well. Thank you for your
work in West Sussex. Robert.*

RT HON ROBERT JENRICK MP

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