

REPORT OF THE GOVERNANCE COMMITTEE

The Governance Committee met on 29 June and 13 July 2021. Attendances:

Councillor Glazier (2) (Chair)

Councillors Bennett (2), Collier (2) , Simmons (2) and Tutt (2)

1. Coronavirus temporary arrangements

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. In October 2020 Council agreed, on recommendation from the Committee, that these measures would be extended in light of ongoing Covid-19 restrictions and reviewed again at the July 2021 meeting of the Council.

1.2 The temporary measures approved by the Council were:

- 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; and
- 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.

1.3 In July 2020 the Council agreed, on recommendation from the Committee, supplementary Standing Orders in relation to virtual meetings held during the pandemic under temporary national Regulations ([The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#)) which came into effect on 4 April 2020 and expired on 7 May 2021 ('the Regulations'). In March 2021, given uncertainty at that time as to whether or not virtual committee and Council meetings would be permitted from 7 May, Council agreed to continue the virtual meetings Standing Orders and for these to be reviewed by the Council in July 2021.

Covid-19 temporary measures

1.4 Alongside the agreement of the temporary measures by Council in May 2020, arrangements were rapidly introduced to hold meetings virtually under the national Regulations. These arrangements were in place up until the expiry of the Regulations on 7 May 2021, enabling Council business to continue largely as normal during the pandemic. Since physical meetings have, in most cases, been required from 7 May, arrangements have been put in place to hold these in line with national Covid guidance on the use of public buildings and local Public Health advice and risk assessment, again enabling essential Council business to continue. As a result, there has been no need to rely on or use the delegations to officers set out in paragraph 1.2 above or the Leader's role in relation to powers of the Cabinet.

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1.5 Although Covid-19 currently continues to have an impact on normal ways of working, the lifting of remaining national restrictions is now planned for 19 July or sooner. In addition, arrangements to hold meetings either physically (with appropriate safeguards), or virtually where permitted, are now well established. The delegations to officers and Leader's extended role in relation to the powers of the Cabinet are therefore no longer required and are not recommended for renewal.

1.6 However, there remains a risk of individual Member attendance being affected by Covid-19 through illness, required self-isolation or due to individual health concerns which may limit attendance. In light of this, it is recommended that Member non-attendance related to Covid-19 continue to be considered as an absence approved by the Council.

1.7 It is also difficult to predict the ongoing course of the pandemic. There remains a risk of further waves of Covid-19, and it is possible that any further restrictions introduced as a result of any future spikes in the virus could disrupt meeting arrangements, particularly since there is currently no ongoing provision for virtual Council and committee meetings. In light of this it is recommended that the Council delegates authority to the Governance Committee to re-establish any of the temporary measures previously agreed by Council (as set out at 1.2 above) should the Committee consider this to be appropriate at a future date as a result of disruption due to restrictions being put in place. Where the Governance Committee considers it necessary to re-establish these measures the arrangements will be reported to the next meeting of the Council where the arrangements will be reviewed. This would enable temporary measures to be put in place pending consideration by Council to allow essential Council business to continue.

Virtual participation in meetings

1.8 A large number of virtual meetings have been held under the temporary Regulations during the pandemic. In general, the holding of virtual meetings has been a success; councillor attendance at such meetings has been good and decision making has largely continued as normal. There have also been a number of benefits including a reduction in carbon emissions and cost, greater flexibility in organising meetings and reduced time spent travelling enabling councillors have more time for their other duties.

1.9 In October 2020, Council unanimously passed a motion stating that:

Since lockdown remote working has been shown to be a very effective way for the Council to conduct its business. Without specific permission from the Government to continue in this way we shall have to revert to face to face meetings after the next County Council elections.

This Council resolves to ask Central Government to change the rules to enable Local Authorities to make their own decisions as to whether to hold virtual and/or physical meetings from May 2021.

1.10 Although Government did not extend the Regulations beyond May 2021, there has been a national call for evidence on local authority experiences of virtual meetings to which ESCC submitted a response based on the Council's position as expressed by the motion above. There remains a possibility that legislation may be brought forward by Government which would permit virtual Member attendance at meetings on a permanent basis.

1.11 Although the expiry of the Regulations has largely necessitated a return to pre-pandemic meeting arrangements, there are elements of virtual working that could be retained permanently by the Council under existing legislation. These would enable the benefits of virtual attendance identified by Members during the pandemic, such as increased flexibility, reduced travel costs and reduced carbon emissions, to be retained to a certain

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extent whilst awaiting the outcome of the national review which may enable further consideration by the Council of whether and how to make use of virtual working longer-term.

1.12 Lead Member decisions are covered by separate legislation to the majority of Council and committee meetings which has enabled virtual Lead Member meetings to continue beyond the expiry of the temporary Regulations and in line with the approach previously agreed by Council. Given the benefits of a virtual approach to these meetings, it is recommended that the Committee recommends to Council to approve the approach in relation to Lead Member decisions being made virtually on an ongoing basis, subject to the discretion of the Lead Member to hold a physical meeting if preferred, and to amend the Constitution accordingly. Other councillors would be able to attend and speak (with the agreement of the Lead Member) at either a virtual or a physical meeting virtually. All Lead Member meetings held virtually would be webcast to facilitate public access in line with the current approach, and provision made at County Hall for those members of the public who may not have access to the webcast to be able to watch it.

1.13 It is also recommended that virtual attendance be permitted in the following instances allowed under existing legislation and that the Constitution be amended accordingly:

- Cabinet – all Members of the Cabinet must attend in person. Officers and other councillors (including opposition spokespersons and local Members), petitioners etc to be allowed to attend and speak (with the agreement of the Chair) virtually.
- Full Council – All County Council Members must attend in person. Members of the public to be allowed to ask supplementary questions remotely (subject to existing Standing Orders governing public questions).
- Planning Committee – All members of the Committee must attend in person. Officers and members of the public or local Members making representations to be allowed to attend virtually.
- At the Council's Panels and Committees (including Governance Committee, Pension Committee, Scrutiny Committees, Audit Committee and Health and Wellbeing Board) – Committee and Panel Members must be present in person (unless legally permitted to attend virtually). Other participants, including officers and advisors, may attend virtually.
- Pension Board – may be wholly virtual or a hybrid meeting with some members present physically and others virtually at the Chair's discretion.

1.14 The supplementary Standing Orders adopted by the Council in 2020 to formalise the current approach to virtual meetings largely relate to the provisions in the Regulations which have now expired and to Council and Committee meetings which were covered by the Regulations. On this basis it is not recommended to renew the Standing Orders but instead to amend the constitution to facilitate the specific use of virtual participation in meetings as set out in paragraphs 1.12 and 1.13 above.

1.15 The previous decisions of the Council in relation to temporary measures to support the continuation of Council business during Covid-19 disruption are due for review by Council in July 2021. In light of the imminent planned lifting of remaining Covid restrictions nationally, the well-established local arrangements for holding both virtual meetings and Covid-secure physical meetings, and the expiry of temporary national provision for virtual meetings most of these measures are no longer required. However, the Committee recommends to Council that Member non-attendance related to Covid-19 continue to be considered as an absence approved by the Council, and that this be reviewed by the Council in March 2022 or as soon as practicable thereafter, and that authority be delegated to the Governance Committee to re-establish any of the temporary measures set out at paragraph 1.2 above should the Committee consider this to be appropriate at a future date as a result of disruption due to restrictions being put in place.

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1.16 There have been significant benefits from the introduction of virtual attendance at meetings. While some of this may be lost as a result of the Regulations that permitted virtual meetings not being extended, there is scope to incorporate some of the learning gained in the way that meetings are conducted going forward. It is therefore recommended that the Council approve the approach in relation to Lead Member decisions being made virtually on an ongoing basis, subject to the discretion of the Lead Member, and that virtual participation in meetings be permitted permanently in specific instances allowed under existing legislation as set out in the report, and that the Constitution be amended accordingly to give effect to this.

1.17 The Committee recommends the County Council to:

☆ 1) approve the approach in relation to Lead Member decisions being made virtually on an ongoing basis, subject to the discretion of the Lead Member, as set out in paragraph 1.12 of the report;

2) agree to permit virtual participation in meetings permanently as set out in paragraph 1.13 of the report.

3) agree that Member non-attendance related to Covid-19 continue to be considered as an absence approved by the Council and that this be reviewed by the Council in March 2022 or as soon as practicable thereafter;

4) agree that authority be delegated to the Governance Committee to re-establish any of the Covid temporary measures set out at paragraph 1.2 should the Governance Committee consider this appropriate due to Covid-19 restrictions (including Government guidance) being put in place; and

5) the Constitution be amended to give effect to 1 and 2 above

2. Amendment to the Constitution – East Sussex Channel Panel

2.1 The aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism. Delivery of Prevent is grounded in early intervention and safeguarding. Section 26 of the Counter-Terrorism and Security Act 2015 places a duty on certain bodies including local authorities in the exercise of their functions, to have “due regard to the need to prevent people from being drawn into terrorism”. In fulfilling the duty there is an expectation that East Sussex County Council participates fully in work to prevent people from being drawn into terrorism.

2.2 The Channel process forms a key part of Prevent and adopts a multi-agency approach to identify and provide support to individuals who are at risk of being drawn into terrorism. Section 36 of the Act sets out a specific duty on local authorities and other partners to provide support for people vulnerable to being drawn into terrorism. In England and Wales, this duty is met through Channel Panels. There is a legal requirement for Panels to be chaired and coordinated by the local authority. The East Sussex Channel Panel is chaired and coordinated by County Council officers and comprises a number of agencies and authorities relevant to each individual being discussed or supported.

2.3 The refreshed Channel Duty guidance published in 2020 outlined a number of changes to that will impact on local authorities and on Channel panels. The revised guidance aims to remove inconsistencies in Channel delivery nationally and is supported by a new Channel Panel Annual Assurance Statement (Appendix 1) which will be used to set a baseline for all local authorities' Channel practice from the financial year 2021/22 in England and Wales. The statement forms part of the strengthened quality assurance framework to

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support the Office for Security and Counter Terrorism (OSCT) business assurance arrangements. The assurance statement relates to standards to be achieved and options for assessment. Each local authority is asked to state the extent to which they believe their authority meets each of these standards and indicate the relevant RAG rating based on the definitions.

2.4 There are 36 standards to meet and ESCC is compliant with 35 standards. The completed assurance statement is attached at Appendix 1. In order to meet all of the requirements of the annual assurance statement it is necessary that the Channel Panel be referred to in the Council's Constitution. It is proposed that the following be added to Part 3 Table 5 (Other Committees and Panels) of the Constitution:

Channel Panels

Under its statutory duties set out in Section 36 and 38 of the Counter Terrorism and Security Act 2015 and the Counter-Terrorism and Border Security Act 2019, East Sussex County Council will lead Channel Panels for East Sussex covering the needs of adults and children. It will provide a Chair and Deputy Chair, appointed by the Director of Adult Social Care. These will be senior officers considered to have the required skills and experience and the appropriate authority to facilitate the engagement of multi-agency partners and the direction of their resources.

The Panel will develop a support plan for individuals who are adopted as Channel cases because they are vulnerable to being drawn into terrorism. It will ensure accurate records are kept detailing the support plan, agreed actions and decision-making. Governance arrangements for Channel will be through the statutory multi-agency East Sussex Community Safety Partnership.

2.5 The Committee recommends the County Council to:

- ☆ to agree to the Constitution being amended as set out in paragraph 2.4 of the report in order to reflect the Council's duty under the Counter Terrorism and Security Act 2015

3. Notice of Motion – Webcasting of Scrutiny Committee meetings

3.1 The following Notice of Motion has been submitted by Councillor Ungar:

"That this Council will, from the date of agreeing this motion, live webcast all its Scrutiny Committee meetings with the exception of when dealing with confidential/exempt items as directed by the Council's Monitoring Officer."

3.2 In line with County Council practice, the matter has been referred by the Chairman to the Governance Committee for consideration to provide information and inform debate on the Motion.

3.3 The same motion regarding the webcasting of Scrutiny Committee meetings was considered by Council in December 2018, shortly after the Council undertook a review of its scrutiny arrangements and introduced a new committee structure from May 2018 comprising People Scrutiny Committee, Place Scrutiny Committee and the Health Overview and Scrutiny Committee. During the review, some Members expressed reservations with regard to webcasting of scrutiny meetings which fell into two themes:

- some Members felt that webcasting of meetings would restrict an open and frank debate and would potentially result in some Members and officers feeling inhibited;

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- some were of the view that webcasting of these meetings would result in them becoming more politicised.

3.4 In light of the feedback from the review the County Council rejected the motion.

3.5 From 4 April 2020 to 6 May 2021 temporary national regulations were in place which allowed flexibility in the holding of meetings during the Covid-19 pandemic. These regulations enabled meetings to be held virtually using video conferencing technology with public access provided through a live webcast.

3.6 The past year has seen a rapid and significant change in practice in relation to Council meetings. Viewing and participating in meetings online has become commonplace, not only for Council Members and officers but for the wider public.

3.7 Permanently webcasting Place and People Scrutiny Committee meetings, in addition to maintaining the meetings previously webcast before Covid-19 (which include the Health Overview and Scrutiny Committee), would be possible within the existing webcast service contract without additional cost. There would be a limited resource implication arising from webcasting more meetings as an additional member of staff is required to attend the meeting to operate the system, along with associated preparation time. Until webcasting facilities are made available in other Council meeting rooms, or legislation is introduced to provide for virtual meetings, it would be necessary to hold all Scrutiny Committee meetings in the Council Chamber as this is the only room currently equipped for webcasting.

3.8 Scrutiny Committees undertake a significant amount of their work outside formal committee meetings, through informal Review Boards or Reference Groups which report back to the main committee. It is important these groups retain complete flexibility to meet virtually or physically in a range of venues to undertake more detailed investigations into topics agreed by the Committee, in the way scrutiny Members consider most effective.

3.9 The Notice of Motion requests the live webcasting of all Scrutiny Committee meetings (with the exception of confidential/exempt items). The use of webcasting has been kept under review over a number of years in response to Member feedback. Practice over the past year has altered considerably in light of temporary virtual meetings provision and Scrutiny Committee meetings have successfully been webcast without any significant issues arising. The current Scrutiny Committee Chairs have been consulted and are supportive of continuing the current practice of webcasting the committee meetings, subject to the opportunity to keep the impact under review over the coming year.

3.10 The Committee recommends the County Council to:

- ☆ agree the motion as set out in paragraph 3.1 of this report, subject to a review in July 2022 or as soon as practicable thereafter, or when requested by the Scrutiny Chairs.

13 July 2021

KEITH GLAZIER
(Chair)