

WAVERLEY BOROUGH COUNCIL

EXECUTIVE

12 MAY 2020

Title:

TEMPORARY GOVERNANCE ARRANGEMENTS

Portfolio Holders: Cllr John Ward, Leader of the Council

Cllr Peter Clark, Portfolio Holder for Business Transformation and IT

Heads of Service: Robin Taylor, Head of Policy & Governance and Monitoring Officer

David Allum, Head of Business Transformation

Key decision: Yes

Access: Public

1. Purpose and summary

- 1.1 This report proposes temporary changes to the Council's governance arrangements in response to the business imperative to prioritise urgent action to support the Waverley community during the Coronavirus emergency.
- 1.2 It summarises key changes in legislation (via the Coronavirus Act 2020) and Regulations (via the Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings (England)) Regulations 2020) ("the Regulations") and makes recommendations on temporary arrangements for Council and committee meetings during the 6-month period from April to October 2020.

2. Recommendations

That the Executive recommends to Full Council:

- 2.1 That in principle, remote meetings, at least for the time being, be used sparingly, and that only matters considered to be critical to the Council's business be dealt with by way of remote meetings. Non-critical, 'business as usual' items and items that can be delegated to officers (either through existing or new delegations), delayed or cancelled are not dealt with by remote meetings. All time-limited emergency provisions to be reviewed at the July Council meeting and at any further Full Council meetings beyond that as required.
- 2.2 That the Annual Meeting of Council for 2020 be postponed until such date to be agreed by the Leader of the Council, the Mayor, and the Chief Executive.

- 2.3 That the Mayor and Deputy Mayor remain in their current roles until an Annual Meeting of the Council is held.
- 2.4 That the committee memberships for 2019/20 continue for 2020/21, subject to any adjustments required to satisfy political proportionality following the January 2020 by-election; and that existing committee chairmen and vice-chairmen continue for 2020/21 unless there is a need to appoint a new chairman and/or vice-chairman due to any other reason.
- 2.5 That the revised schedule of committee meetings outlined for Phases 1, 2 and 3 in paragraph 4.8 below, is agreed; a detailed calendar of meetings will be provided to Members as soon as possible.

The Executive further recommends that the Standards Committee:

- 2.6 Considers and makes recommendations to Full Council on the adoption of revised Procedure Rules in relation to virtual meetings, and remote attendance at meetings, including a delegation to the Monitoring Officer in consultation with the Mayor, the Leader and the Chair of the Standards Committee to make minor amendments as need is identified in the light of experience.
- 2.7 Considers and makes recommendations to Full Council on the Terms of Reference of the proposed two new temporary EASTERN and WESTERN planning committees, on the basis of agreement between Group Leaders and Independent Members, together with recommendations on appropriate sunset clauses for these committees.
- 2.8 Considers and makes recommendations to Full Council on any other revisions to the Scheme of Delegation that officers propose in response to the Coronavirus Act 2020, or to facilitate the Council's response to the COVID-19 emergency.

3. Reason for the recommendations

To implement the provisions of the Coronavirus Act 2020 and the Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings (England)) Regulations 2020 allowing remote attendance at council meetings by Members and enable essential decision-making, whilst recognising that current circumstances constrain the ability to support the planned calendar of council meetings on the basis of 'business as usual'.

4. Background

Meetings

- 4.1 The Coronavirus Act 2020, which came into force at the end of March, includes provisions under section 78 for Regulations to be issued that allow far greater flexibility around requirements for local authority meetings than are set out in the Local Government Act 1972 and Local Government Act 2000. The Local Authorities (Coronavirus) (Flexibility of Local Authority Meetings (England)) Regulations 2020 came into effect on 4 April 2020.

- 4.2 The Regulations allow for some or all Members of a council committee (Full Council, a committee, or the Executive) to remotely access and attend a formal council meeting, and to take part in any vote and decision. The Regulations apply to all local authority meetings held before 7 May 2021, the date of the next local authority elections, and are not a permanent change to meeting arrangements.
- 4.3 The requirements are that those Members attending remotely must be able to hear (and see, where practicable) the contributions of all other Members of the committee, whether they are physically present in the meeting or also attending remotely. Those attending physically must be able to hear (and see, where practicable) those who are attending remotely. Proceedings must also be broadcast, so that the public may also hear (and see, where practicable) the proceedings and the contributions of all attendees.
- 4.4 The Regulations waive the statutory requirement for the Council to hold an Annual Meeting before the end of May in 2020. The Annual Meeting of Full Council conducts the business of electing a Mayor and Deputy Mayor for the forthcoming Civic year, and agreeing committee memberships, in line with political proportionality, for the 2020/21 civic year.
- 4.5 The Regulations override any Standing Orders (Procedure Rules) that are incompatible with the Regulations and also allow new or revised Standing Orders to be adopted that cover, amongst other matters, voting, Member and public access to documents, and remote access to meetings by press and public to accommodate new ways of working.
- 4.6 As Members will be able to attend meetings remotely, this should avoid the circumstance where a Member risks being disqualified for non-attendance of a meeting for 6 months, under s. 85 of the 1972 Act.

Implementation of arrangements for remote meeting attendance

- 4.7 The Council (in a joint statement by Group Leaders) has suspended all council meetings until 30 June 2020. Whilst the Regulations facilitate holding meetings where some or all of Members are in remote attendance, the Council's agreed and clear corporate focus is on responding to the Coronavirus pandemic and supporting our local community. Therefore, the new ability to hold council meetings remotely means that the meeting calendar should not resume in a way that reflect 'business as usual'.
- 4.8 It is therefore proposed that arrangements are agreed for the short-term, with an opportunity to review and for the Council to adopt revised arrangements e.g. at the July Full Council meeting, for the autumn and winter cycle of meetings depending on the prevailing circumstances.

Phase 1 – May 2020 – July 2020

Remote meeting arrangements should reflect that the Council is responding to the Coronavirus pandemic, and should be used for essential business only. During Phase 1, all meetings to be entirely remote, even if orders around social distancing have been relaxed, and some Members or officers decide to 'attend remotely' from the council offices.

In order to streamline the operations of the planning committees, Group Leaders have

agreed in principle to replace the suspended Joint Planning Committee and four Area Planning Committees with two new temporary planning committees – WESTERN and EASTERN - which will consider all applications requiring determination by a planning committee under the Scheme of Delegation that are located in their geographical area. The new temporary planning committees will each have 15 Members, and membership will be politically proportional.

Priority meetings (in order of priority)

1. Executive Committee – to undertake any urgent items of business and to formally make proposals for debate by the Standards Committee.
2. Standards Committee – to review proposed arrangements. There has been consultation with Group Leaders on the proposed arrangements, with broad agreement on the principles. Standards Committee will be asked to review the details of the proposals which will be temporary changes to the Constitution.
3. Extraordinary Council – to agree:
 - all required delegations to officers of powers and duties under the Coronavirus Act 2020
 - any other emergency powers of delegation to enable the Council's efficient response to the pandemic;
 - to formally agree to implement the directions of the government in responding;
 - new meeting arrangements;
 - new temporary arrangements for planning decision-making, including planning committees, delegations and member call-in to committee;
4. Proposed new planning committees to be diarised as required to meet the demands of the Planning Service to have planning applications determined.
5. Potential limited cycle of Overview and Scrutiny meetings – to be discussed by the Overview & Scrutiny Co-ordinating Board. It is expected that the focus of these meetings would be on the response to the COVID-19 emergency by the council and partners, and looking forward to what 'recovery' means for the community and the council.
6. Audit Committee – probably as scheduled, although the deadline for signing off the annual accounts is now 30 November 2020.

Phase 2 August 2020 – October 2020

There will be an opportunity for arrangements to be reviewed in July, and for Full Council to agree the approach to be taken for the next cycle of meetings. This will depend on the extent to which social distancing orders have been relaxed and the Council's focus has moved to recovery. A further opportunity for review will be at October 2020 Full Council meeting.

Phase 3 November 2020 – April 2021

The working assumption is that the normal committee calendar will resume (if it hasn't already), but with the facility for remote attendance by some or all Members. Meetings would have a physical location specified, as well as the means of joining remotely.

Provisions for remote attendance will end 7 May 2021, unless they are subsequently

extended or otherwise enacted to update LGA1972.

5. Relationship to the Corporate Strategy and Service Plan

- 5.1 Ensuring that the Council is still able to take essential decisions during the Coronavirus emergency that support Waverley's residents, businesses and communities is fundamental to the purpose of the Council.
- 5.2 Implementation of Regulations to enable remote attendance at formal council meetings by Members supports open, democratic and participative governance at a time when Members are unable to travel to the Council offices to take part in meetings in person.

6. Implications of decision

6.1 Resource (Finance, procurement, staffing, IT)

Comments from IT

The Council has chosen Zoom video-conferencing platform to enable holding remote meetings, as this has an excellent reputation for being easy for users to operate. Zoom has addressed security concerns regarding access to meetings, and we are confident that there are sufficient controls available to ensure that participation in meetings is by invitation, and access is controlled by the meeting 'host'.

Industry best practice strongly suggests that hardware is required for optimum functionality and that we should not rely on software only. This will offer us more control and is required in any case if we are to link to other functionality such as web-casting etc. Committee Room 1 facilities have been upgraded to form the base for our initial video conferencing facility. Testing of equipment and software, and training of officers and Members has been carried out during April.

Finance – Committee Room 1 facilities have been upgraded at a cost of £16,000. There is a small ongoing revenue cost of the Zoom video-conferencing platform. These costs have currently been met from previously approved budgets. Waverley has received funds to help with the impact of COVID-19 which can be used towards these costs.

Staffing – officer support for council meetings held with some or all Members attending remotely will be met from within existing budgets. Remote meetings may require additional support (two DSOs, IT) at least initially, in order to support the chairman and monitor the IT and broadcast.

6.2 Risk management

Not making arrangements to enable essential decisions to be taken at this time will hamper the Council's ability to meet its legal responsibilities, particularly in relation to determining planning applications.

IT failure – in the event that IT fails, and a significant number of Members are not able to join a meeting remotely; or broadcasting fails so that the public are unable to hear (and see, if video is available) the meeting proceedings, protocols will require the Chairman to adjourn the meeting and reconvene at a later time, or date.

6.3 Legal

To allow local authorities to manage their resources, the Regulations allow local authorities to determine not to hold their annual meeting. Where meetings are held, the Regulations provide that local authorities have the flexibility to hold meetings at any time of day and on any day, to alter how frequently meetings can be held and to move or cancel meetings without requiring further notice. This will ensure that local authorities can divert resources to other efforts and have the flexibility to reallocate officers and members.

As local authorities are not required to hold annual meetings under the Regulations, current appointments will continue until the next annual meeting of the authority or when the Council determines. This provides, in the absence of an annual meeting, continuity of membership.

Being able to hold all meetings flexibly, including annual meetings, executive meetings, and committee meetings, allows Council business to continue while adhering to official public health guidance. It also allows the public the same flexibility to attend whilst adhering to the guidance. The Regulations provide for meetings to be held remotely. For the purposes of any statutory requirement, members of the local authority will be considered as attending a meeting if they can hear, and where practicable see, and be heard and, where practicable, be seen by other members and the public. This allows for meetings to be held by remote means including via telephone conferencing, video conferencing, live web chat and live streaming.

The Regulations also provide for local authorities to make standing orders about remote attendance at meetings in relation to voting; members and public access to documents; and what facilities are to be employed to allow the meeting to be held remotely to suit their own circumstances. These arrangements can be made by the local authority without any restrictions contained in any standing order or any other rules of the local authority governing the meeting. This gives the local authority flexibility to arrange and hold such meetings regardless of such existing restrictions.

By virtue of the Regulations the “place” at which a local authority meeting is held is not confined to the council building. The “place” may be where the instigator or arranger of the meeting is, or electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers. By virtue of these Regulations, a person is attending a meeting in a specific place if they are attending at different types of location, including physical, electronic, digital or virtual locations. These Regulations also provide for requirements for a meeting being “open to the public” to be satisfied by a local authority holding the meeting remotely. This provides the local authority with the flexibility to facilitate remote meetings outside of the council offices and to hold meetings entirely by remote means. It also provides for members of the public to attend remotely rather than in person which may breach the Government’s public health advice.

Where it is stipulated that documents are “open to inspection”, the Regulations

provide that this requirement is satisfied by the documents being published on the council's website. Documents include notices, agendas, reports, background papers minutes etc. The publication, posting or making available of documents at council offices includes publication on the website of the council, or in the case of a parish council, on their principal council's website. This provides for local authority members and officers, and the public, to have access to documents without attending council buildings and therefore without breaching the government's public health advice.

6.4 Equality, diversity and inclusion

The ability for members of the public to 'attend' and participate in council meetings by remote means is embedded with the Regulations. Waverley has webcast its principal committee meetings for a number of years, and the public are familiar with viewing meetings online, either live or after the event.

There are no other direct equality, diversity or inclusion implications in this report. Equality impact assessments are carried out when necessary across the council to ensure service delivery meets the requirements of the Public Sector Equality Duty under the Equality Act 2010.

6.5 Climate emergency declaration

The ability for Members to attend council meetings remotely will reduce the number of car journeys that need to be made to the Council offices and make an immediate contribution to reducing the Council's carbon footprint. Whilst the Regulations are time-limited (local authority meetings held up to 7 May 2021) it might be expected that this will bring closer the time when these arrangements are enabled permanently.

7. Consultation and engagement

- 7.1 The proposal set out in this report have been discussed with the Executive, Group Leaders and Independent Members and reflects the feedback they have provided.

8. Other options considered

- 8.1 The other main option is to not hold any fully or partially remote meetings during this time. However, now that the Regulations have been passed to enable remote attendance at meetings, there is scope to enable Members to fulfil their democratic responsibilities in a way that is proportionate to the current emergency.

9. Governance journey

- 9.1 The proposals in the this report have been discussed informally by the Executive Members meeting with the Leader of the Principal Opposition Group and Independent Members. Subject to the agreement of the Executive, the recommendations will be considered at Full Council.
- 9.2 Recommendations from the Standards Committee on temporary changes to the Constitution will be considered at Full Council, including dates for reviewing arrangements and *sunset clauses*.

Annexes:

None

Background Papers

There are no background papers, as defined by Section 100D(5) of the Local Government Act 1972).

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