

Appendix 13

Report to FGPC – Meeting protocol from 6 May

Author: Louise Harrison, Town Clerk, Ferndown Town Council, 1 April 2021.

1. The regulations that currently allow local authorities to hold meetings remotely until 06 May 2021 will not be extended by the Government, and so face-to-face meetings will need to resume from 07 May.

2. The Association of Democratic Services Officers (ADSO), Lawyers in Local Government (LLG) and Hertfordshire County Council have lodged a legal challenge in the High Court that seeks a continuation of local authority remote meetings beyond the 06 May 2021. The date for this challenge to be heard in the courts is not known, and the outcome not guaranteed and so the Committee needs to consider how it wishes to move forward.

3. From 7 May Council's current COVID-19 Scheme of delegation will cease to be effective and there is still much uncertainty around how legislation or COVID-19 risks and restrictions may change over the coming weeks and months.

4. NALC's position remains that all local councils should continue to meet remotely while the regulations are in force. The guidance in Annex 1 has been written to help local councils prepare for remote council meetings being unlawful from 07 May 2021.

5. The Council has several options available to it:

5.1 Continue to meet virtually.

Although, technically not permitted, this route is being suggested by some other councils. Although the risk of legal challenge is low, decisions could be challenged in the courts as ultra-vires. Online openness to the public is neither prohibited nor enabled by the Admission to Meetings Act 1960 and the Local Government Act 1972. Existing case law states "a valid meeting normally consist of people who can both see and hear each other" (Byng v London Life Association (1989) 1 All ER 560) and in 2012 the Government acknowledged this in their advice to charities about attendance at meetings (see <https://www.gov.uk/government/publications/charities-and-meetings-cc48/charities-and-meetings#the-definition-and-forms-of-a-meeting>).

5.2 Temporary Scheme of Delegation to the Town Clerk.

Backed up by the meetings timetable, Full Council and committee meetings would go ahead virtually and instead of making decisions, would recommend decisions to the Town Clerk, who would then enact those recommendations under the temporary delegation (draft Scheme of Delegation in Annex 2.) The scheme would remain in place until Councillors decided that a return to face-to-face meetings was safe, or that the delegation should cease for any other reason.

A meeting would need to be held before 12am on 6 May for two items that cannot be delegated to the Clerk – the election of Chairman/town Mayor and the election of Vice-Chair/Deputy Town Mayor.

However the only other item that cannot be delegated to the Town Clerk is the signing off of the AGAR, which has to be done by 30 June. A single physical meeting with a pre-agreed quorate in attendance indoor (BC theatre) or outdoor (KGV) meeting will need to take place.

5.3 Face-to-face meetings

This would be in line with the advice from NALC, as detailed in Annex 1.

The Health Protection (Coronavirus, Restrictions) (Steps) (England) Regulations 2021 includes an exception (exception 3) that a gathering is allowed where it is necessary for certain purposes which include "for work purposes or the provision of voluntary or charitable services." Members/officers attending a meeting would fall under this.

Additionally, in the letter dated 25 March 2021, from Luke Hall MP recommendations are

given on how to hold safe Council meetings, which infers that it would be legal to hold them.

However, provision should be made to enable the public to view the meeting on a social media site and currently the Council does not have the technology in place to allow this to happen.

Additionally, the holding of face-to-face meetings could pose a reputational risk to Council if public perception is that these should not be held until restrictions are lifted.

Council will also need to take into account the fears and concerns of both Councillors and Officers over returning to face-to-face meetings whilst restrictions are still in place (particularly those who are unvaccinated, have been shielding, or have other health concerns).

6. The Committee is recommended to discuss these options and agree a way forward.

Annex 1 – NALC advice

To help local councils prepare for this possibility some advice and suggestions are below:

- Consider what council business can be conducted before May so that the council can dedicate time to those issues in remote meetings. The more discussion and decisions you can conduct in remote meetings means the council can aim to hold fewer and shorter face to face meetings after May.
- This may require more meeting time than is currently planned, so the council should look at the meeting schedule in the run-up to May and see if more time or more meetings are required. Where possible, consider holding the annual council meeting and the parish meeting while the current Regulations permit for them to be held remotely.
- Consider when the council does need to meet face to face, and whether meetings can be delayed to later in the year when the potential COVID-19 risk may be further reduced.
- The council might consider holding a remote meeting as late as possible in April so that councillors who are unable to attend face-to-face meetings will have as much time as possible before disqualification by virtue of s.85 of the Local Government Act 1972 becomes an issue.
- It may help the council's business continuity to implement (or review) a scheme of delegation. This would allow the clerk to make certain decisions for the council, which would be especially important if the council were unable to hold meetings due to COVID-19 risks. In reviewing/adopting a scheme of delegation the council should ensure there is clarity around which decisions are delegated and which are not, for how long the scheme of delegation is in place, and when the scheme of the delegation will end or be reviewed.

From May 2021, as face-to-face council meetings resume there will still be the risk to attendees of COVID-19 exposure. Councils should conduct a risk assessment in advance of a face to face meeting which should give consideration to what the council can do to reduce risk to councillors, staff and public including:

- Providing hand sanitiser to those entering the meeting room and making sure hand sanitiser is readily available in the room itself
- Staggering arrival and exit times for staff, councillors and members of the public
- Putting a one way system in place (additional security staff will be needed)
- Placing seating at least 2-metres apart
- Ensuring everyone wears face masks
- Holding paperless meetings

- The sharing of papers should be discouraged and people should be asked to take the papers etc with them at the end of the meeting to minimise how many people handle them
- Arranging seating so people are not facing each other directly
- Choosing a venue with good ventilation, including opening windows and doors where possible.
- Choosing a large enough venue to allow distancing.
- The council (or venue owner/operator) will need to identify the venue's maximum capacity in their risk assessment, taking into account the need for social distancing. Consider how the council will ensure this capacity is not exceeded and how it will manage the situation if more people wish to attend than capacity allows. For example, could meetings be live-streamed or could members of the public submit questions via email?
- If the venue has an NHS QR code to support test and trace then all attendees should register using that app, for those without access to the app they should register attendance in line with the venue's test and trace procedure. NB all venues in hospitality, the tourism and leisure industry, close contact services, community centres and village halls must have a **test and trace procedure**
- Venues must conform with the government guidance for **multi-purpose community facilities** and for **council buildings**. If the venue is run by the council then the council must take responsibility for this, otherwise, the council can ask the venue to provide confirmation that they do conform to this guidance
- The council must understand and ensure it is acting in compliance with the latest government **safer workplaces guidance**

Managing staff:

- It would be advisable to inform the clerk and any other staff whose role involves supporting or attending council meetings, as soon as possible that the council will need to prepare to return to face to face meetings from May onwards. This will allow them to make the necessary preparations as described above, and also to allow time to engage with staff to alleviate any concerns they may have related to attending physical meetings again.
- Councils should consult with staff (ask for and consider their views to try and reach an agreement) about returning to work as part of their preparations for face to face meetings.
- The council must make the workplace (including council meetings) as safe as possible for staff, this includes undertaking a risk assessment, taking reasonable steps to reduce risks identified in the risk assessment, and ensure it is acting in compliance with the latest Government **safer workplaces guidance**
- ACAS have produced useful **guidance for employers and employees** related to COVID-19, including advice on how to support staff to **return to the workplace** and how to manage situations where staff may be worried or not wish to return.

Government advice is available at <https://www.gov.uk/government/publications/covid-19-guidance-for-the-safe-use-of-council-buildings>

Annex 2 – Temporary Scheme of Delegation

1. Temporary Scheme of Delegation

- 1.1 Section 101 of the Local Government Act 1972 provides:
 - That a Council may delegate its powers (except those incapable of delegation) to a committee or an officer.
 - A Committee may delegate its powers to an officer.
- 1.2 Any delegation to a Committee or the Proper Officer shall be exercised in compliance with the Council's Standing Orders, any other policies or conditions imposed by the Council and within the law.
- 1.3 The Proper Officer may nominate another named Officer to carry out any powers and duties, which have been, delegated to that Officer.
- 1.4 In an emergency the Proper Officer is empowered to carry out any function of the Council.
- 1.5 Where officers are contemplating any action under delegated powers, which is likely to have a significant impact in a particular area, they should also consult the Members, and must ensure that they obtain appropriate legal, financial and other specialist advice before action is taken.

2. Delegation to The Proper Officer

- 2.1 As a temporary measure, to allow for effective decision making whilst Covid-19 restrictions and considerations are in place, the Proper Officer may be empowered to take any and all decisions recommend to them by the relevant Committee or Full Council
- 2.2 This empowerment does not affect the delegations already in place via Standing Orders or Financial regulations.
- 2.3 The Proper Officer may not take additional decisions that would normally be taken by a Committee or Full Council unless that Committee or Full Council has met in a meeting suitably convened under the requirements of the Local Government Act 1972 and made available to the public to view (where not covered by confidentiality/exempt business) and expressly agreed for that decision to be enacted via this temporary delegation.

3. Full Council matters

- 3.1 The following items are reserved for Full Council decision only and cannot be delegated to an Officer.
 - To appoint the Chairman/Town Mayor and Vice-Chairman/Deputy Town Mayor in May each year
 - To sign the AGAR by 30 June each year
 - To set the Precept
 - To appoint the Head of Paid Service (Town Clerk)
 - To make byelaws
 - To borrow money
 - To consider any matter required by law to be considered by Council