

Cherwell District Council

Council

20 May 2020

Constitution Changes

Report of Director Law and Governance & Monitoring Officer

This report is public

Purpose of report

To advise Council of proposed temporary changes necessary for the effective running of remote meetings during the restrictions brought about by the corona virus pandemic. The changes are in line with, and give practical effect to, The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 that came into force on 4 April 2020. The Regulations enable all local authority meetings before 7 May 2021 to be held remotely and removes the requirement for the annual meeting this year.

1.0 Recommendations

The meeting is recommended:

- 1.1 To note the Virtual Meetings Procedure Rules (Appendix 1) and Councillor Protocol for Virtual Meetings (Appendix 2) that the Monitoring Officer has drafted following publication of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 to give effect to the principles of open decision making and public engagement.
- 1.2 To agree to postpone the holding of an Annual Council meeting until the scheduled Annual Council meeting in May 2021.
- 1.3 To authorise the Monitoring Officer, in consultation with the Chairman of Council, to make minor changes to the process and, as necessary, the Constitution in light of the practical experience of remote working and virtual meetings.

2.0 Introduction

- 2.1 The COVID-19/ Coronavirus pandemic and the Government measures in response to the crisis (e.g. prohibitions on gatherings, social distancing, self-isolation and shielding of those deemed to be the most vulnerable) have meant that the

requirement for local authorities to hold public meetings in person with all members present in one place cannot be met.

- 2.2 To enable the holding and attending of meetings, the Government included s.78 in the Coronavirus Act 2020 which enabled the Secretary of State the power to make The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which came into force on 4 April 2020. These Regulations make provision for the conduct of local authority meetings held before 7 May 2021, and for public and press access to these meetings.
- 2.3 The Regulations give the Council the flexibility to hold meetings at a time, day and frequency to suit their own needs, without the requirement for further notice. The Regulations apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Authority governing meetings. This means that, wherever there is a conflict, the Virtual Meetings Procedure Rules take precedence in relation to any virtual meeting and can be applied immediately in order to run council and committee meetings virtually.

3.0 Report Details

Virtual Attendance at Local Authority Meetings

- 3.1 The Regulations enable the council to hold meetings without all, or any, of the Members being physically present in a room. This allows for virtual meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing.
- 3.2 The 'place' at which the meeting is held may be a council building, or where the organiser of the meeting is located, or an electronic, digital or virtual location, a web address, or a conference call telephone number.
- 3.3 In order for members to be able to attend meetings of the council virtually, they need not be physically present, provided they are able to hear and be heard (and, where possible, see and be seen by) other councillors and members of the public attending remotely or in person.
- 3.4 The procedure rules in this constitution apply to remote meetings in the same way as they do for other meetings of the council except where they conflict, in which case the virtual meetings procedure rules set out at Appendix 1 take precedence over other procedure rules in relation to the governance of virtual meetings.
- 3.5 Virtual attendance by Members counts for the purpose of the six-month rule on attendance, and for allowances. Where there is absence for illness, the Council can continue to pass a resolution to grant a dispensation to approve the absence.

Standing Orders

- 3.6 In allowing virtual attendance at meetings councils are also given the flexibility to make standing orders on other matters such as voting, and rights of members of the

public to attend and speak at meetings held virtually. It also covers access to information rules on the publication of papers.

Public Participation

- 3.7 A meeting open to the public is redefined to include virtual meetings that the public can hear and where possible see. Physical attendance is not required to meet the need for those meetings that must be held in public. For this reason, the technology being used (Microsoft Teams) is capable of live broadcast to members of the public.
- 3.8 Cherwell District Council has always chosen to allow members of the public the right to present petitions and address meetings in accordance with the Meeting Procedure Rules (as set out in Part 2 of the Constitution) and Planning Committee Procedure Rules (Section 2.6 of the Constitution). Section 7 of the Virtual Meetings Procedure Rule set out arrangement for public participation at virtual meetings.
- 3.9 Members of the public wishing to address a virtual meeting should register in accordance with the existing procedures, requirements and deadlines. No changes to the current arrangements for public participation are proposed beyond the necessary change that a member of the public joining the meeting virtually for the item they have requested to address a meeting on. The Democratic and Elections Team will facilitate the virtual attendance of a registered speaker

Voting

- 3.10 Previously only members physically present were permitted to vote but now voting rights also include members attending virtually. Section 9 of the Virtual Meeting Procedure Rules set out the arrangements for voting.

Access to Information

- 3.11 The requirement to ensure meetings are open to the public includes access by remote means, including video conferencing, live webcast and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.
- 3.12 Any requirements for the authority to ensure publication, posting or making available a document for inspection at offices of the council include publication on the council's website.

Annual Council

- 3.13 Following the now postponed local elections that were due to take place on 7 May 2020, holding an Annual Meeting during what would have been the normal 2020/21 municipal year is now a matter of choice.
- 3.14 The regulations allow appointments normally made at an annual meeting to be continued until the next annual meeting or until such time as the authority determines. The Council therefore has the option to delay the annual meeting until such time as it determines or to hold it virtually. If an Annual Meeting is delayed, then all positions remain as they are today.

- 3.15 Notwithstanding, the Group Leaders can make amendments to their allocated seats on Committees. This will be effective when reported to a meeting of Full Council.

Full Council – Motions and Questions

- 3.16 In December 2019 a number of Constitutional changes relating to the procedure rule for considering motions on motion and written questions at Full Council were approved. No further changes are proposed to the existing standing orders in relation to motions and written questions as set out in Part 2 of the Constitution, Meeting Procedure Rules.
- 3.17 The arrangements for motions and questions at Full Council are included at Section 8 of the Virtual Meetings Procedure Rules sets out the arrangements for Notwithstanding, paragraph 3.16 above detailing there are no changes to existing procedures, in order to maintain good administration of the meeting, Members are encouraged to notify the Democratic Services Officer if they wish to speak on a motion. Members who have not given notification will still be able to speak on a motion in accordance with the rules of debate.
- 3.18 The arrangements for motions and written questions will be in accordance with the Meeting Procedure Rules (Part 2 of the Constitution). In order to maintain good administration of the meeting, Members are encouraged to notify the Democratic Services Officer if they wish to speak on a motion. Members who have not given notification will still be able to speak on a motion in accordance with the rules of debate.
- 3.19 If a Member wishes to ask a question to the Leader (including on the minutes of Executive) or a Committee Chairman on the minutes, they must notify the Democratic and Elections Team by noon on the day of the meeting they wish to do so. It is not required for the topic to be notified. No questions without notice will be permitted at a meeting of Full Council.

Support for Members

- 3.20 In introducing virtual meetings this Council is committed to providing Councillors with appropriate support and training. Training of the virtual meetings process will be arranged in advance of the Council meeting so that councillors can feel comfortable and confident with the technology and the protocol for these meetings. Additional support will be provided to the Council and Committee Chairmen.

4.0 Conclusion and Reasons for Recommendations

- 4.1 The proposed temporary changes are necessary for the effective running of remote meetings during the restrictions brought about by the corona virus pandemic. The changes are in line with, and give practical effect to, The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 that came into force on 4 April 2020.

5.0 Consultation

Group Leaders

Support proposals

6.0 Alternative Options and Reasons for Rejection

6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: Not to agree the recommendations. This is not recommended as the amendments to the Virtual Meetings Procedure Rules are required to enable the council to continue the democratic process of local decision making

Option 2: To amend the recommendations. This is not recommended as the proposals are in line with the Regulations and supported by Group Leaders.

7.0 Implications

Financial and Resource Implications

7.1 There are no financial implications arising directly from this report.

Comments checked by:

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Legal Implications

7.2 The proposals and arrangements set out within this report are in accordance with good practice and legislative requirements.

Comments checked by:

Nick Graham, Director Law and Governance, nick.graham@cherwell-dc.gov.uk

Risk Implications

7.3 The Constitutional amendments are in accordance with legislative requirements. Setting out the arrangements ensures openness and transparency of the decision making process thereby minimising the possibility of challenge to decisions.

Comments checked by:

Nick Graham, Director Law and Governance, nick.graham@cherwell-dc.gov.uk

8.0 Decision Information

Wards Affected

All

Links to Corporate Plan and Policy Framework

N/A

Lead Councillor

None

Document Information

Appendix No	Title
One	Virtual Meetings Procedure Rules
Two	Councillor Protocol for Virtual Meetings
Background Papers	
None	
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