

Report To: Full Council

Date of Meeting: 14th April 2021

Report Title: Constitutional Amendments

Report By: Mary Kilner, Chief Legal Officer and Monitoring Officer

Key Decision: Y

Classification: Council decision

Purpose of Report

During the Covid Pandemic the Government removed the legal requirement for Local Authorities to hold public meetings in person thereby enabling remote meetings. The legislation applies to all meetings held before 7th May 2021. This report is to update Councillors on the provisions regarding remote meetings and to request that Full Council reinstate the emergency powers given to the Managing Director to enable decision making in such emergency situations.

Recommendation(s)

- 1. Full Council agrees to reinstate the emergency powers given to the Managing Director as set out in the Paragraph 8 of this Report with immediate effect for a period of no more than 12 months.**
- 2. Full Council adopts the amendments to Paragraph 26.22 of Part 4 of the Council's Constitution.**

Reasons for Recommendations

During the Covid 19 Pandemic it has been necessary to adapt our procedures to be able to continue the Council's business.

Introduction

1. During the Covid 19 Pandemic it has been necessary to adapt our procedures to be able to continue the Council's business.
2. At the Special Full Council meeting on 18th March 2020 an urgent amendment to the Council's Constitution was made as follows: 'The Constitution of the Council be amended to include the following: In urgency and/or emergency situations whereby Cabinet or Council and their respective Committees cannot meet to determine the Council's business, delegated authority is given to the Council's Managing Director (or nominee) in consultation with a minimum of 4 members of Cabinet, one of whom to be an opposition councillor and one to be the Leader or Deputy Leader of the Council. The delegation is to cover all the Cabinet's and Council's powers, duties and functions not currently covered by Part 8 of the Council's Constitution. In addition the delegation is to cover all Council Committees and Regulatory Committees. The Managing Director in making a risk assessment will need to decide whether these Committees are able to meet virtually and decide their view. If the Managing Director's nominee is making a decision, they must also consult with the Council's Monitoring Officer and Section 151 Officer. Emergency circumstances would include the sorts of events covered by our Emergency Plan as well as unprecedented episodes, such as pandemics. "Urgency" would in most cases be confined to essential decision making during such emergency situations. This change to apply from 19th March 2020 for a period of no more than 12 months. Any proposed extension or reinstatement of this change must be put to Full Council with full reasons outlined.'
3. The emergency powers granted to the Managing Director were only used when absolutely necessary. Where possible decisions were delayed until virtual committee meetings could be facilitated. In cases where an urgent decision was required the Managing Director consulted with the Cabinet and a record of those decisions were kept.
4. During the Covid Pandemic the Government temporarily removed the legal requirement for Local Authorities to hold public meetings in person. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 gave Councils the power to hold public meetings remotely through electronic, digital, virtual locations and telephone conferencing technology. The Regulations came into force on 4th April 2020 and apply to all meetings that are held before 7th May 2021. Remote meetings via Microsoft Teams started with the regulatory Committees in May 2020 followed by Cabinet and Full Council Meetings. Changes to the Council's Constitution have been made to facilitate remote meetings.
5. The Regulations do not apply to meetings held on or after 7th May 2021. Extending the regulations to meetings beyond 7th May requires primary legislation. The Government has written to all Council Leaders on 25th March advising that it is not possible to bring forward emergency legislation to extend this provision at this time. The Government state that it is for Local Authorities to apply the Covid-19 guidance to ensure meetings take place safely. They

have updated their guidance at www.gov.uk/government/publications/covid-19-guidance-for-the-safe-use-of-council-buildings/covid-19-guidance-for-the-safe-use-of-council-buildings

6. The Local Government Association and the Association of Democratic Services Officers have jointly sought Counsels advice on the ability to continue to hold Council meetings remotely past 7th May 2021. They are seeking a declaration from the Courts that the pre-existing legislation governing local authority meetings can be held remotely. In addition to the public health issues the benefits of remote meetings have increased public participation and equality of access to meetings while reducing travel and providing other cost savings.
7. The updated guidance issued by the Government suggests a number of options to minimise the number of face-to-face meetings held by Councils including the use of existing powers to delegate decision making to key individuals such as the Head of Paid Service. Under the circumstances we are requesting that Full Council reinstate the emergency powers given to the Managing Director at the Special Full Council meeting held last year subject to a change to the conditions.
8. “In urgency and/or emergency situations whereby Cabinet or Council and their respective Committees cannot meet to determine the Council’s business, delegated authority is given to the Council’s Managing Director (or nominee) in consultation with a minimum of 4 members of Cabinet, one of whom to be the Leader or Deputy Leader of the Council. The Managing Director (or nominee) should also consult with the Leader or Deputy Leader of the opposition. These emergency powers require the Managing Director to make a risk assessment as to the holding of all Council, Cabinet or Committee meetings ‘in person’ in such emergency situations and putting in place the necessary arrangements to be able to conduct those meetings in safety and in compliance with the current government and legal guidance. The delegation is to cover all Cabinet’s, Council’s and Committee’s powers, duties and functions not currently covered by Part 8 of the Council’s Constitution. In relation to Regulatory Committees, the Managing Director should also consult with the Chair of the relevant Committee and the Council’s Monitoring Officer to make a decision as to the conduct of that Committee meeting and the manner in which it is to be held. In circumstances where the Managing Director’s nominee is exercising these emergency powers (in the absence of the Managing Director) he or she must also consult with the Council’s Monitoring Officer and Section 151 Officer. Emergency circumstances would include the sorts of events covered by our Emergency Plan as well as unprecedented episodes, such as pandemics. “Urgency” would in most cases be confined to essential decision making during such emergency situations. This change to apply from 14th April 2021 for a period of no more than 12 months. Any proposed extension or reinstatement of this change must be put to Full Council with full reasons outlined.’
9. The Ministry of Housing, Communities and Local Government (MHCLG) has launched a consultation seeking views on the use of the current arrangements which have provided express provision for local authorities to hold meetings remotely or in a hybrid format during the coronavirus pandemic. The scope of the consultation is to understand the experience of local authorities in the whole of the UK regarding remote meetings. Details of the consultation can be found at <https://www.gov.uk/government/consultations/local-authority-remote-meetings-call-for-evidence/local-authority-remote-meetings-call-for-evidence> The consultation closes on 17th June 2021. The Council will be submitting a response to the consultation.

Timetable of Next Steps

10. Please include a list of key actions and the scheduled dates for these:

Action	Key milestone	Due date (provisional)	Responsible
Full Council	Decisions to be made	14 th April 2021	Chief Legal Officer

Wards Affected

(All Wards);

Policy Implications

Reading Ease Score:

Have you used relevant project tools?: Y/N

Please identify if this report contains any implications for the following:

Equalities and Community Cohesiveness	Y/N
Crime and Fear of Crime (Section 17)	Y/N
Risk Management	Y/N
Environmental Issues & Climate Change	Y/N
Economic/Financial Implications	Y/N
Human Rights Act	Y/N
Organisational Consequences	Y/N
Local People's Views	Y/N
Anti-Poverty	Y/N
Legal	Y/N

Additional Information

Officer to Contact

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