

REMOTE MEETINGS PROTOCOL AND PROCEDURE RULES

This document is produced by Lawyers in Local Government (LLG) and the Association of Democratic Services Officers (ADSO) for the purpose of assisting authorities and highlighting changes required to standing orders in consequence of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392 ('the Regulations'). It does not constitute legal advice and should not be relied upon in that capacity.

Introduction and Application of the Remote Meetings Procedure Rules

This Protocol and accompanying Procedure Rules provide the means and guidance for the conduct of any remote meeting of the Council, and its various Committees and Sub-Committees, held under the provisions of the Regulations.

This Protocol and Procedure Rules should be read in conjunction with the Authority's Standing Orders and Procedure Rules within the Constitution. The Regulations, made under section 78 of the Coronavirus Act 2020, apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Authority governing meetings and remain valid until 7th May 2021. This means that, wherever there is a conflict, these Remote Meetings Procedure Rules take precedence in relation to any remote meeting.

The effect of the Regulations on the Authority's Constitution is to insert what are, in effect, mandatory standing orders for those authorities that wish to hold meetings remotely, either wholly or partially. We have therefore written these up as such and included them alongside the procedural guidance contained in this Protocol, highlighted in boxes below, together with a cross reference to the Council Standing Orders and Procedure Rules contained in the '*Modular Constitution 2000*'¹. This should allow you to produce them as additional or amending standing orders (procedure rules) either separately or absorbed into your own authority's equivalent rules. The standing orders exist only on a temporary basis, having effect between 4th April 2020 and 7th May 2021.

It is our view that the Regulations, and therefore the standing orders, have an automatic amending effect on an authority's existing rules and can be applied immediately in order to run committee and cabinet meetings remotely. Nonetheless it

¹ This is the Model referred to in the Statutory Guidance issued under the then s.38 of the Local Government Act 2000 'New Council Constitutions'. This can now be found in the National Archives. It should be noted that the Model was little changed from the preceding model council standing orders it was based on (issued by the Ministry of Housing and Local Government in 1963 and reprinted in 1973 and itself based on the LGA 1933).

is good practice, even with express mandatory standing orders, to have these adopted formally by the full authority at the first opportunity to do so.

The Protocol also includes guidance and suggestions as to best practice in establishing procedures for remote attendance as they have so far been collated.

In adopting any parts of the Protocol directly, authorities will need to amend it or produce additional material specific to the technologies employed. In doing so, it is important for authorities to ensure that the needs of members of the public and members with disabilities who will wish to remotely access or attend a meeting are taken into account when considering the practicalities of establishing remote meetings.

The Protocol is an immediate response to the Regulations and is based on the information available at this point. We are learning all the time as practice develops across the country and remote meetings are conducted, and conducted differently, within differing authorities and utilising different technologies. This document will therefore be updated and reproduced in due course.

1. Annual Meeting

- 1.1 Following the now cancelled local elections for those that were due, holding an Annual Meeting during what would have been the normal 2020/21 municipal year is now a matter of choice.
- 1.2. Whether to continue to hold an Annual Meeting is a political decision, although usually called under the auspices of the Civic Mayor or Council Chair by the proper officer. This may still be the case or it may be that the leading politicians may have decided that it is better at this time to delay the meeting for several months or perhaps entirely this year and re-insert the meeting in the calendar after the delayed elections have been held next May. If the latter, there is still the possibility that some Members will call for an earlier Annual Meeting and this prospect should be recognised and catered for through the possibility of a vote at an ordinary or extraordinary meeting.
- 1.3 It should be noted that, where an Annual Meeting is delayed, all appointments from the 2019 Annual Meeting continue.

1A No Requirement to Hold an Annual Meeting

The requirement to hold an Annual Meeting is to be disregarded and, prior to 7th May 2021, an Annual Meeting of Council may only take place:

- (a) where called by the Chair; or

- (b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

Amends Model Council Standing Order 1.1 (Annual Meeting)

2. How will notice of Meetings and papers be provided?

- 2.1 The proper officer will give the requisite notice to the public of the time of the meeting, and the agenda, together with details of how to join the meeting which needs be available on the Authority's website (or that of the principal council in the case of a local council without a website or ability to do so).
[insert link to relevant part of your website].
- 2.2 Members will be notified of a remote meeting by email and all agenda papers will be available on the Authority's website and via the agenda software or other electronic means as appropriate.
- 2.3 The 'place' at which the meeting is held may be at an Authority building or may be where the organiser of the meeting is located or may be an electronic or a digital or virtual location, a web address or a conference call telephone number; or could be a number of these combined. The meeting may also be held in a meeting room or Chamber with a proportion of the membership and any participating public additionally attending remotely.

2A Access to Information

For all purposes of the Constitution, the terms "notice", "summons", "agenda", "report", "written record" and "background papers" when referred to as being a document that is:

- (a) "open to inspection" shall include for these and all other purposes as being published on the website of the council; and
- (b) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

Amends Model Council Standing Order 6 (notice and summons to meeting) and Model Access to Information Procedure Rule 5 (access to agenda and reports before the meeting), etc.

3. How will remote access to Meetings be provided?

- 3.1 Members and members of the press and public will be encouraged to use any video conferencing facilities provided by the Council to attend a meeting remotely.

- 3.2 If this is not possible, attendance may be through an audio link or by electronic means as referred to in Regulation 5(6)(c) of the Regulations.
- 3.3 Remote access for members of the public and Members who are not attending to participate in the meeting together with press facilities, will need to be provided through webcasting, live audio streaming, or others means.
- 3.4 If technology fails for a wholly remote meeting, and the meeting is no longer open to the public, any decisions made could be challenged as unlawful.
- 3.5 It is important to note that the public accessing the meeting by remote means, as described here, is different from the public attending to exercise a right to speak. A technological failure removing the ability for the public to access the meeting by remote means renders the whole meeting incapable of proceeding (as described above). A member of the public who attends to exercise their right to speak and is unable to do so renders only their item incapable of proceeding (This is set out paragraph 5 below).

3A Remote Access to Meetings

- (a) For all purposes of the Constitution the term “meeting” is not limited in meaning to a meeting of persons all of whom, or any of whom, are present in the same place, for which purposes any reference to:
- (i) “place” is to be interpreted as where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and
 - (ii) “open to the public” includes access to the meeting being through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and 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; and
- (b) If the Chair is made aware that the meeting is not accessible to the public through remote means, due to any technological or other failure of provision, then the Chair shall adjourn the meeting immediately. If the provision of access through remote means cannot be restored within a reasonable period, then the remaining business will be considered at a time and date fixed by the Chair. If he or she does not fix a date, the remaining business will be considered at the next ordinary meeting.

Amends Model Council Standing Order 6 (notice and summons to meeting) and Model Access to Information Procedure Rule 3 (rights to attend meetings)

4. Management of Remote Meetings for Members

- 4.1 Any Member participating in a meeting remotely, must when they are speaking, be able to be heard (and ideally seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other Members participating.
- 4.2 In addition, a remote participant must be able to be heard by, and in turn hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting.
- 4.3 The Chair will normally confirm at the outset and at any reconvening of a committee or cabinet meeting that they can see and hear all participating members (this is unlikely to be practical for a meeting of full council). Any Member participating remotely should also confirm at the outset and at any reconvening of the meeting that they can see and hear the proceedings and the other participants
- 4.4 The attendance of those members at the meeting will be recorded by the Democratic Services Officer.
- 4.5 The normal quorum requirements for meetings as set out in the Authority's Constitution will also apply to a remote meeting.
- 4.6 In the event of any apparent failure of the video, telephone or conferencing connection, the Chair should immediately determine if the meeting is still quorate:
- if it is, then the business of the meeting will continue; or
 - if there is no quorum, then the meeting shall adjourn for a period specified by the Chair, expected to be no more than ten or fifteen minutes, to allow the connection to be re-established.
- 4.7 Should any aspect of an individual's remote participation fail, the Chair may call a short adjournment of up to five minutes or so to determine whether the connection can quickly be re-established, either by video technology or telephone in the alternative. If the connection is not restored within that time, the meeting should continue to deal with the business whilst this happens, providing the meeting remains quorate and the public are able to hear.
- 4.8 In the event of connection failure, the remote Member(s) will be deemed to have left the meeting at the point of failure and if the connection cannot be re-established to those Member(s) before the end of the meeting, then the presumption will be that the meeting should continue to deal with the item/s.

- 4.9 If the connection is successfully re-established, then the remote Member(s) will be deemed to have returned at the point of re-establishment.
- 4.10 If a connection to a Member is lost during a regulatory meeting, the Chair will stop the meeting to enable the connection to be restored. If the connection cannot be restored within a reasonable time, the meeting will proceed, but the Member who was disconnected will not be able to vote on the matter under discussion as they would not have heard all the facts.
- 4.11 Etiquette at the meeting is referred to further below.

4A Members in Remote Attendance

- (a) A Member in remote attendance is present and attends the meeting, including for the purposes of the meeting's quorum, if at any time all three of the following conditions are satisfied, those conditions being that the Member in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Members in attendance.
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
 - (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A Member in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in (a) above are not met. In such circumstance the Chair may, as they deem appropriate;
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance of a Member contained in (a) above to be re-established;
 - (ii) count the number of Members in attendance for the purposes of the quorum; or
 - (iii) continue to transact the remaining business of the meeting in the absence of the Member in remote attendance.

Amends Model Council Standing Order 8 (quorum)

5. Remote Attendance of the Public

- 5.1 Any member of the public participating in a meeting remotely in exercise of their right to speak at Council or in regulatory or other meetings must meet the same criteria as members of the Council. Members of the public attending a meeting remotely must, likewise, when they are speaking be able to be heard (and ideally be seen) by all other Members in attendance, and the remote participant must, in turn, be able to hear (and ideally see) those other members participating be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- 5.2 A process for determining access to the meeting is recommended to be conducted, which should include requiring advance notification from members of the public wishing to attend remotely. For those items of business, an invitation to participate in the remote technology can then be sent out in advance.
- 5.3 Alternatively, for those authorities unable to provide a technological solution, standing orders will need to be produced that replace existing public speaking rights with public participation by receipt of representations in writing only. Submissions, petitions or questions received from the public can then be read out by the Chair or a supporting officer.
- 5.4 The Democratic Services Officer or meeting facilitator (see below) should be able to mute the member of the public once they have spoken, and remove them from the remote meeting on the instruction of the Chair, in order to maintain the good administration of the meeting or to retain order.
- 5.5 A breakdown of the technology should not disadvantage the member of the public in remote attendance wherever possible.

5A Remote Attendance by Members of the Public

- (a) A member of the public entitled to attend the meeting in order to exercise a right to speak at the meeting is in remote attendance at any time if all three of the following conditions are satisfied, those conditions being that the member of the public in remote attendance is able at that time:
- (i) to hear, and where practicable see, and be so heard and, where practicable, be seen by, Members in attendance;
 - (ii) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any other members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and

- (iii) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.
- (b) A member of the public in remote attendance will be deemed to have left the meeting where, at any point in time during the meeting, any of the conditions for remote attendance contained in Standing Order 5A(a) above are not met. In such circumstance the Chair may, as he or she deems appropriate:
- (i) adjourn the meeting for a short period to permit the conditions for remote attendance contained in Standing Order 5A(a) above to be re-established;
- (ii) suspend consideration of the item of business in relation to the member of public's attendance until such time as a following item of business on the agenda has been transacted and the conditions for the member of the public's remote attendance have been re-established or, on confirmation that this cannot be done, before the end of the meeting, whichever is the earliest; or
- (iii) continue to transact the remaining business of the meeting in the absence of the member of the public in remote attendance.

**Amends Model Council Standing Order 10 (questions by the public),
Amends any scheme for public participation in respect of planning, licensing and other committees and
Model Executive Procedure Rule 2.2**

6 Meeting Procedures

- 6.1 A meeting facilitator, who may be the Democratic Services Officer but preferably in addition to, is encouraged to be enlisted. Their role will be to control the video, telephone or conferencing technology employed for remote access and attendance and to administer the public and Member interaction, engagement and connections on the instruction of the Chair.
- 6.2 The Authority will endeavour to put in place a technological solution that will enable Members participating in meetings remotely to indicate their wish to speak via this solution, replacing the physical practices or rules concerning raising one's hand or standing to be recognised or expressing a desire to speak.
- 6.3 In respect of key committees and at Cabinet meetings, it will assist the meeting if those Members who wish to speak on a particular item could indicate their wish to speak to the Chair and to the Democratic Services Officer in advance of the start of the meeting where possible. Political groups are also encouraged to co-ordinate this activity wherever possible in respect of full Council/Authority meetings and other meetings likely to result in a high

number of requests to speak. This is particularly important if Members are unable to participate via video conference.

6.4 The Chair will follow the rules set out in the Constitution when determining who may speak, as well as the order and priority of speakers and the content and length of speeches in the normal way.

6.5 The Chair, at the beginning of the meeting, will explain the protocol for member and public participation and the rules of debate. The Chair's ruling during the debate will be final.

6.6 Members are asked to adhere to the following etiquette during remote attendance at a meeting:

- Committee members are asked to join the meeting no later than fifteen minutes before the start to allow themselves and the meetings facilitator or Democratic Services Officers the opportunity to test the equipment
- Any camera (video-feed) should show a non-descript background or, where possible, a virtual background and members should be careful to not allow exempt or confidential papers to be seen in the video-feed.
- Type their name on joining the meeting in full, e.g., "Cllr Joanne Smith" (where the technological solution employed by the authority enables this).
- All Members to have their video turned off and microphones muted when not talking.
- Rather than raising one's hand or rising to be recognised or to speak, Members should avail themselves of the remote process for requesting to be heard:

[e.g., where available]

- Members are to use any chat facility to indicate to the chair that they wish to speak. Members will unmute their microphone and turn their cameras on when the Chair invites them to speak. **The chat facility must not be used for private conversations** between councillors.
- Only speak when invited to by the Chair
- Only one person may speak at any one time
- Turn on the microphone and also the video-feed (if available or unless speaking to a diagram, presentation slide or drawing), then state your name before you make a comment
- When referring to a specific report, page, or slide, mention the report, page, or slide so that all members have a clear understanding of what is being discussed at all times.

- 6.7 Where members of the public are exercising speaking rights at the meeting via remote attendance, the Chair will as part of their introduction explain the procedure for their participation which will reflect those relevant elements of the above. Members of the public must adhere to this procedure otherwise they may be excluded from the meeting.
- 6.8 When the Chair is satisfied that there has been sufficient debate and (if the rules of the meeting require) there is a proposer and seconder for the item being discussed the Chair will progress to making a decision. Unless a Recorded Vote is called, the method of voting will be at the Chair's discretion and will be by one of the following methods:
- a vote by electronic means; or
 - an officer calling out the name of each member present with:
 - members stating 'for', 'against', or 'abstain' to indicate their vote when their name is called
 - the Democratic Services Officer clearly stating the result of the vote and the Chair then moving onto the next agenda item
 - by the general assent of the meeting.
- 6.9 Details of how Members voted will not be kept or minuted unless a Recorded Vote is called. Where a Recorded Vote is requested the Chair will ask members in turn to signify verbally whether or not they support that request.

6A Remote Voting

Unless a recorded vote is demanded, [which may be confirmed by the requisite number of Members confirming the demand verbally when requested by the Chair,] the Chair will take the vote ...

- (a) [,by use of the electronic voting system[s] for Remote Voting and voting in the Chamber or where an electronic voting system is not working correctly or unavailable ...];
- (b) by the affirmation of the meeting if there is no dissent [by assent]; or
- (c) the Chair will take the vote by roll-call and the number of votes for or against the motion or amendment or abstaining from voting will be recorded.

Amends Model Council Standing Order 17 (voting)

7. Declaration of Interests

- 7.1 Any Member participating in a remote meeting who declares a disclosable pecuniary interest, or other declarable interest, in any item of business that would normally require them to leave the room, must also leave the remote meeting. Their departure will be confirmed by the Democratic Services Officer of meeting facilitator, who will invite the relevant Member by link, email or telephone, to re-join the meeting at the appropriate time.

7A **Members excluded from the meeting**

Where a Member is required to leave the meeting, the means of remote attendance and access is to be severed whilst any discussion or vote takes place in respect of the item or items of business which the member or co-opted member may not participate.

Amends Model Council Standing Order 21 (Member Conduct) and where authorities have made a standing order pursuant to s.31(10) of the Localism Act (interests at meetings).

8. Exclusion of Public and Press

- 8.1 There are times when council meetings are not open to the public, when confidential, or “exempt” issues (as defined in Schedule 12A of the Local Government Act 1972) are under consideration. Where the technology is available, the Democratic Services Officer or meeting facilitator will ensure that there are no members of the public in remote attendance or remotely accessing the meeting are able to hear or see the proceedings once the exclusion has been agreed by the meeting.
- 8.2 Each Member in remote attendance must ensure and verbally declare that there are no other persons present who are not entitled to be (either hearing or seeing) consideration of such items, and/or recording the proceedings.
- 8.3 Any Member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would, in our view and as stated in the Welsh Government’s statutory guidance², be in breach of the Members’ Code of Conduct responsibilities.

9. Public Access to Meeting Documentation following the meeting

- 9.1 Members of the public may access minutes, decision and other relevant documents through the Council’s website. The definition of access to information and available to the public is the same as at Rule 2A above.

² Statutory Guidance made under Section 4 of the Local Government (Wales) Measure 2011: Remote attendance at council meetings

Requests for access to the list of background papers and other relevant documents should be by email or by post.

To raise comments or questions in respect of this document please contact:

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