

RIBBLE VALLEY BOROUGH COUNCIL REPORT TO EMERGENCY COMMITTEE

Agenda Item No. 2

meeting date: 7 MAY 2020
title: COVID-19 – CONSTITUTIONAL AND OTHER AMENDMENTS
submitted by: CHIEF EXECUTIVE
principal author: STEPHEN BARKER - SOLICITOR

1 PURPOSE

- 1.1(a) To approve a temporary addendum to the Council's Standing Orders in relation to remote attendance at formal meetings.
- (b) To approve waiver of the 6 month rule for Councillor attendance at meetings in the light of the Covid-19 pandemic.
- (c) To approve delegation of decision making powers to the Chief Executive or in his absence his nominated deputies, in consultation where appropriate with the Council Leader and the Leader of the Opposition.
- (d) To dispense with holding the Annual Meeting of the Council in 2020 and to confirm the continuation of appointments until the next Annual Meeting or further decision, with the exception of (e) below.
- (e) To appoint a Vice Chair of the Licensing Committee.
- 1.2 Relevance to the Council's ambitions and priorities
- Community Objectives – N/A
 - Corporate Priorities – To be a well managed Council.
 - Other Considerations – To safeguard the health and welfare of Members and officers of the Council.

2 BACKGROUND

- 2.1 The Committee system operated at Ribble Valley is predicated on Members physically coming together to make decisions in a public forum. The Council Leader and Leader of the Opposition, in consultation with the Chief Executive, have agreed that the present Covid-19 pandemic, together with requirements under the Coronavirus Act 2020 and regulations made thereunder, mean that it is not advisable, reasonable or safe for the Council to continue to meet as normal. That being the case, it is necessary to put in place alternative decision making processes for the Council which must be within the context of the Local Government Act 1972, the Coronavirus Act 2020 and other legislation governing local authority decision making.
- 2.2 Further, consideration will have to be given to the consequences of the steps taken to introduce the alternative decision making process, including amendment or addition to Standing Orders where appropriate, approval of delegated decision making processes and consideration of dispensation for Members with regard to their attendance at meetings due to the pandemic.

- 2.3 On 4 April 2020, the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 ('the regulations') came into force, and remain in effect until 7 May 2021.

3 ISSUES

- 3.1 The regulations, introduced in response to the Coronavirus outbreak and the requirements around social isolation and social distancing, allow for Councillors to attend and fully participate in formal meetings of the authority remotely via audio or, where practicable, video link. The regulations also allow for electronic publication of notices of meetings and/or for the public to be able to 'attend' remotely.

In order to ensure that the Council's meetings and decision making arrangements are fully aligned with the regulations, a temporary addendum to the General Standing Orders in part 4 of the Council's Constitution is proposed, as set out in Appendix A. This applies to meetings of Full Council, Committees and Sub-Committees. The addendum does not change any responsibilities or functions of any Councillors or meetings, but seeks to ensure that there are no barriers in the Constitution to delivering remote attendance.

Whilst the changes to the Constitution facilitate remote attendance, there are further technical and training requirements to ensure that such meetings can be delivered effectively with Members' full participation. It is therefore not proposed at this time to reinstate a full programme of Council and Committee meetings, although this is the aim, much will depend on the length of the lockdown.

It is suggested that the addendum is in place until 7 May 2021, in line with the regulations, unless otherwise amended before that date.

- 3.2 Councillors who fail to attend a meeting of the Council for a period of 6 months automatically cease to be a Councillor, and a vacancy is declared in accordance with section 85 of the Local Government Act 1972. However, the Council can waive this requirement where the circumstances merit. In the light of the Coronavirus outbreak, the temporary cancellation of all Council meetings and the requirements of lockdown and social distancing/isolation measures, it has not been possible for Members to attend meetings for some time. As there is no certainty when these measures will be amended or lifted, it is proposed that a waiver of the '6 month rule' be applied for all Councillors until 7 May 2021. It should be noted that, as and when meetings are reinstated, remote attendance counts as attendance for the purposes of this requirement.
- 3.3 The Council is required to have arrangements in place to continue to make necessary decisions. The most appropriate mechanism, based on the requirement to avoid social contact and public gatherings, and ADSO guidance for Councils that operate a Committee system of governance, is the delegation of decisions to officers. This delegation would be to the Chief Executive, or his nominated deputies.

It is proposed that the Council delegate the following decision making powers to the Chief Executive, or in his absence his nominated deputies in consultation where appropriate with the Leader and the Leader of the Opposition.

- Power to take any decision on behalf of the Council which can lawfully be delegated to officers, subject where appropriate to the decision maker, before taking the decision, having taken appropriate steps to consult the Leader and Leader of the

Opposition and if necessary the Chairman of the relevant Committee which would, save for the delegated power, have taken the decision

- Power to cancel Council, Committee or Sub-Committee meetings

3.4 Schedule 12 of the Local Government Act 1972 requires the Council to hold an Annual Meeting. This requirement is disapplied by the regulations. The regulations further stipulate that where an appointment would otherwise be made or require to be made at an Annual Meeting of a local authority, such appointment continues until the next Annual Meeting of the authority or until such time as the authority may determine. (It should be noted that the regulations apply to meetings that are required to be held, or are held before 7 May 2021).

It is therefore proposed that the Council dispenses with the requirement to hold the Annual Meeting scheduled for 12 May 2020, and notes the continuation of the appointments made by the Annual Council on 14 May 2019, with the exception of the appointment of Vice Chair of the Licensing Committee.

3.5 Very sadly, the Vice Chair of the Licensing Committee who was appointed on 14 May 2019 is incapacitated at the present time and unable to attend any meetings to fulfil that role. It is therefore proposed that Councillor be appointed as Vice Chair of the Licensing Committee with immediate effect.

4 LEGAL REQUIREMENTS

4.1 Under article 11.3 of the Council's constitution, changes to the constitution may only be approved by Full Council after consideration of the proposal by the Monitoring Officer. The Borough Solicitor, as deputy Monitoring Officer, prior to the commencement in post of the Head of Legal and Democratic Services, has considered and supports the proposals in this report.

4.2 The Council's Emergency Committee may exercise any of the Council's functions which are necessary:

- In the case of a major incident to fulfil the Council's role as determined in the Emergency Plan; or
- In other cases of urgency between meetings of the Council.

Members are advised that the Council's Emergency Plan does contemplate the Council's role in response to a pandemic, and it is considered that the measures proposed in this report are a reasonable and realistic approach to ensuring the efficient functioning of the Council. Further, given the current prohibition on social gatherings, resolution of these issues is a matter requiring determination urgently between meetings of the Council.

5 RISK ASSESSMENT

5.1 The approval of this report may have the following implications

- Resources – The Council's Solicitor will make any necessary changes and put new documents on the website. New paper copies of Standing Orders will need to be produced for distribution as appropriate.
- Technical, Environmental and Legal – The amendments will ensure the Council can deal with management issues and legal and technical matters more effectively.

- Political – No implications identified.
- Reputation – No implications identified.
- Equality & Diversity – No implications identified.

6 RECOMMENDED THAT COMMITTEE

- 6.1 Approve the proposals in 3.1, 3.2, 3.3, 3.4 and 3.5 of the report.
- 6.2 Report the changes to the next meeting of Full Council, when called.

STEPHEN BARKER
SOLICITOR

MARSHAL SCOTT
CHIEF EXECUTIVE

BACKGROUND PAPERS

Constitutional documents which are set out on the Council's website.

For further information please ask for Stephen Barker, extension 3216.

Procedural Standing Orders

Section A – General and Introduction

Addendum

This addendum is in effect until 7 May 2021 unless amended sooner.

No Requirement to Hold an Annual Meeting

A1 (1) The requirement to hold an Annual Meeting is to be disregarded and, prior to 7th May 2021, an Annual Meeting of Council shall only take place:

- (a) where called by the Mayor; or
- (b) following a resolution calling for an Annual Meeting being passed at an ordinary or extraordinary meeting of Council.

(2) Where no Annual Meeting is held, appointments made at the previous Annual Meeting will continue unless otherwise determined at an ordinary meeting of the Full Council

Access to Information

A2 References in the Standing Orders to 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
- (b) to be published, posted or made available at offices of the Authority shall include publication on the website of the Authority.

Remote Access to Meetings

A3 (1) References in the Standing Orders to 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. Reference to:

- (a) “place” or “meeting room” is to be interpreted to include electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers: and
- (b) “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, whether or not members of the public are able to attend the meeting in person

(2) Where a meeting is not accessible to the public attending in person, then if the Chair is made aware that the meeting is also not accessible through remote means due to any technological or other failure of provision, 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.

Councillors in Remote Attendance

A4 (1) A Councillor 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 Councillor in remote attendance is able at that time:

- (a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other Councillors in attendance.
- (b) 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
- (c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

(2) A Councillor 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;

- (a) adjourn the meeting for a short period to permit the conditions for remote attendance of a Councillor contained in A4(1) above to be reestablished
- (b) continue to transact the remaining business of the meeting in the absence of the Councillor in remote attendance, as long as the meeting remains quorate.

(3) Councillors in remote attendance at a meeting of Full Council shall be deemed to be in their designated seat for the purposes of voting.

Remote Voting

A5 Unless a recorded vote is demanded in accordance with Standing Orders, the Chair will take the vote

- (a) by use of the electronic voting system for Remote Voting where this is available and operational
- (b) by the affirmation of the meeting if there is no dissent, or
- (c) by roll-call, with each Councillor asked to orally indicate whether they wish to vote "For", "Against" or "Abstain".

Councillors excluded from the meeting

A6 Where a Councillor 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 Councillor or co-opted member may not participate.

Speaking rules

A7 (1) At meetings of Full Council, Councillors in remote attendance are not required to stand to address the meeting.

(2) Councillors in remote attendance should speak when invited to do so by the Chair, and not interrupt other speakers. Other Councillors must not interrupt whilst a Councillor is speaking unless they wish to make a point of order or a point of personal explanation.