

COUNCIL**15 SEPTEMBER 2020****REPORT OF THE ASSISTANT DIRECTOR (GOVERNANCE) & MONITORING OFFICER****A.4 “REMOTE” MEETINGS AND CHANGES TO THE COUNCIL’S CONSTITUTION**

(Report prepared by Ian Ford)

PURPOSE OF THE REPORT

To consider the recommended changes to the Constitution put forward by the Cabinet in consequence 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 [SI 2020/392].

BACKGROUND

On 29 May 2020 Cabinet considered a report of the Corporate Finance and Governance Portfolio Holder which sought its endorsement of the changes required to the Council’s Constitution 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’).

The Cabinet was made aware that the Regulations, made under section 78 of the Coronavirus Act 2020, applied notwithstanding any other legislation or current or pre-existing standing orders or any other Council rules governing meetings and would remain valid until 7th May 2021. This meant that, wherever there was a conflict, within the Constitution, or with any procedures or rules implemented under Business Continuity Arrangements, these remote meetings regulations would take precedence.

It was therefore the case that the effect of these Regulations on the Authority’s Constitution was to insert what were, in effect, mandatory standing orders for those authorities that wished to hold meetings remotely, either wholly or partially.

Members were informed that a Remote Meetings Protocol and Procedure Rules document had been produced on 17th April 2020 by Lawyers in Local Government (LLG) and the Association of Democratic Services (ADSOS) for the purpose of assisting authorities to highlight the changes required to Councils’ Constitutions in consequence of the Regulations. Rather than adopting the Protocol without amendment, the Monitoring Officer and Democratic Services officers, had worked through this national guidance and best practice in order to highlight the changes required for Tendring District Council.

It was reported that the proposed changes covered a number of miscellaneous amendments to the Council Procedure Rules and the Access to Information Procedure Rules, and Articles 3 and 7 which were all required in order to comply with the new legislation and to ensure that this Council’s Constitution remained effective, efficient and consistent at an operational level. The key changes to each of these documents were highlighted within the body of the Portfolio Holder’s report.

The Cabinet was advised that the Monitoring Officer could make these changes to the Constitution in accordance with the delegated authority provided to her within Article 15. However, it was still considered to be prudent for the Portfolio Holder’s Constitution

Review Working Party to undertake a light touch review prior to submitting the changes to Full Council for ratification, in order to enable the working practices and the guidance issued for remote meetings to be considered in a little more depth

The Cabinet's decision at its meeting held on 29 May 2020 was as follows:-

"That Cabinet:

- 1. notes that changes to the Council's Constitution are required as a direct 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;*
- 2. endorses the changes as identified by the Monitoring Officer and as set out in this report and Appendices A - E attached hereto;*
- 3. endorses that all changes took immediate effect to comply with the Regulations;*
- 4. endorses that all Councillors conduct all Council business through their Tendring District Council online accounts using the corporate IT kit supplied to them for the smooth facilitating and running of remote meetings;*
- 5. adopts the Remote Meeting Guidance for Members and Officers attached as Appendix F and grants a delegated authority to the Head of Democratic Services and Elections to make minor changes to such Guidance, in consultation with the Portfolio Holder for Corporate Finance and Governance;*
- 6. requests that the Portfolio Holder's Constitution Review Working Party undertake a light-touch review of any changes to be made to the Constitution and the application of the Remote Meeting Guidance and reflects upon working practices for remote meetings and then submits its recommendations direct to Full Council for ratification; and*
- 7. recommends that Appendix G, as attached to this report, be submitted to Full Council as a replacement to Appendix E to the March 2020 Constitution review report, which was then subsequently approved by the Leader of the Council (on behalf of the Cabinet) for submission to Full Council."*

The Portfolio Holder's Report and the relevant accompanying Appendices A to E which were considered by Cabinet at its meeting on 29 May 2020 are attached as Appendices.

In accordance with the decision of the Cabinet, the Corporate Finance and Governance Portfolio Holder's Constitution Review Working Party (CRWP) met on 3 July 2020 and undertook a light-touch review of any changes to be made to the Constitution and the application of the Remote Meeting Guidance and reflected upon working practices for remote meetings. The Working Party agreed to make the following recommendations to Full Council for ratification:-

- a) that the Council's regulatory committees be listed in the proposed new Council Procedure Rule 19A;*
- b) that the Remote Meeting Guidance for Councillors include a provision whereby Members inform the Chairman that they are leaving the meeting either permanently or for an extended period of time; and*
- c) that during this current period when meetings are being held remotely that any*

proposed amendments to Motions on Notice submitted to a Full Council meeting should be circulated in advance of that meeting.

The Working Party also discussed Members' attendance at meetings and compliance with Section 85 of the Local Government Act 1972 in the light of meetings being held remotely in accordance with the provisions 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 (and, in particular, Regulation 5 of those Regulations).

To assist in its discussions the Working Party had before it a Briefing Note prepared by the Monitoring Officer together with extracts of the relevant legislation.

It was **AGREED** by the CRWP that the Assistant Director (Governance) & Monitoring Officer take into account going forward that the **CRWP recommends that** –

- (i) Members who are following the proceedings of a meeting via the public 'live stream' should inform Officers that they are doing so via an email to democratic services or to the contact Officer listed on the agenda for that meeting and that they should send a second email when they have ceased to follow the proceedings;
- (ii) in order for that attendance referred to in (i) above to 'count' such attendance must be for a minimum period of time e.g. 30 minutes; and
- (iii) any Ward Member or "caller in" who registers to speak on a planning application due to be considered by the Planning Committee should be then sent the relevant Microsoft Teams or Skype4Business meeting invite in order that they can join the meeting at the appropriate juncture by video link rather than by audio telephone link only.

Due to the importance of the consequences of Section 85 of the Local government Act 1972 (attendance at a meeting within 6 months to avoid automatic disqualification), the Monitoring Officer's opinion is that recommendations (i) and (ii) directly above should be included within the Constitution once approved by Full Council.

RECOMMENDATIONS

- (a) That, subject to recommendation (b) below, Council resolves that the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices A to E attached hereto this report;
- (b) That the recommendations arising from the meeting of the Corporate Finance and Governance Portfolio Holder's Constitution Review Working Party held on 3 July 2020 be approved, adopted and implemented; and
- (c) That, subject to recommendation (b) above, the Monitoring Officer be authorised to make changes to the Constitution where necessary and ensure that the Remote Meeting Guidance for Councillors is updated accordingly.

BACKGROUND PAPERS

There are no background papers (as defined by the Local Government Act 2000) arising from this report.

APPENDICES		
A.4		
APPENDIX A	Part 4	Council Procedure Rules – Section One
APPENDIX B	Part 4	Council Procedure Rules – Section Two
APPENDIX C	Part 5	Access to Information Procedure Rules
APPENDIX D	Part 2	Article 3 – Citizen’s and the Council
APPENDIX E	Part 3	Article 7 – the Executive (Cabinet)
APPENDIX F		Report of the Corporate Finance and Governance Portfolio Holder which was submitted to the meeting of the Cabinet held on 29 May 2020