

REPORT TO A MEETING OF THE POLICY AND RESOURCES COMMITTEE TO BE HELD ON 27TH APRIL 2020

CONVENING COUNCIL MEETINGS

1 PURPOSE OF THE REPORT

To consider and approve changes to the Council's scheduled calendar of meetings arising as a result of the prohibition on public meetings currently in force.

2 INTRODUCTION

- 2.1 The COVID-19/ Coronavirus pandemic and the unprecedented in peacetime 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, can no longer be met.
- 2.2 The statutory requirements for meetings are mainly contained in the Local Government Act 1972 ("the 1972 Act") and the Public Bodies (Admission to Meetings) Act 1960 ("the 1960 Act"). Among other matters contained in these Acts of Parliament is the requirement that Councils hold an Annual Meeting at which it elects a Chairman, Vice Chairman, appoints Committees and approves authority for the delegation of functions to officers.
- 2.3 In recognition of the problem of holding and attending meetings, and further to the lobbying of NALC and others, the Government included s.78 in the Coronavirus Act 2020. This section gave the Secretary of State the power to make Regulations to make provisions for the holding of meetings. The 2020 Regulations approved by Parliament on 4 April 2020 set out provisions that allow local authorities to conduct meetings remotely.
- 2.4 The 2020 Regulations apply provisions to Local Authority meetings required to be held, or held, before 7 May 2021. The date could be brought forward if Government rules are relaxed.
- 2.5 The following sections of this Report set out the Regulations that apply to meetings of the Council and seek a decision in relation to each, where relevant.

3. MAIN PROVISIONS

The relevant Regulations for local authorities are as follows:

3.1 Regulation 2 – the 2020 Regulations apply to local authority meetings that are required to be held, or held, before 7 May 2021.

3.2 Regulation 3 – Parish Councils in England are included within the definition of "local authority" in the 2020 Regulations. Parish meetings are not included within the definition and, as such, there is nothing permitting them to meet remotely. In the view of the National Association of Local Council's (NALC), the current Government guidance means that parish meetings should not take place in person, including the annual meeting of the electors.

Decision required:

The position in relation to the Annual Parish Meeting (hereafter referred to as the Parish Assembly is confusing). It is omitted from the Coronavirus Regulations and therefore logically the provisions in the Local Government Act, 1972, still apply. It is however extremely challenging for this meeting to now be held before the 1st June given that it is a meeting of Parishioners and requires, if it is to be effective, considerable publicity in the case of a large urban area such as Leamington Spa. The hosting of such a meeting remotely, though technically feasible, would also present its own challenges as the format traditionally adopted for this Community forum, provides for participation via presentational reports by a variety of local community groups. It is therefore recommended that the Annual Parish Assembly, scheduled originally for the 6th April, 2020, is held on an alternative date later in the year, subject to relaxation of the current prohibitions on public meetings.

3.3 Regulation 4 – this provides that where an appointment would otherwise be made, or is required to be made at an annual meeting of a local authority, the appointment continues until the next annual meeting of the authority or until such time as that authority may determine (Regulation 4 (2)). This would apply to the election of the Chairman, the first business at the annual council meeting. Therefore the current Chairman can remain in place until an annual meeting is held (possibly next year) unless the Council decide to elect a replacement earlier.

Decision required:

The Annual Meeting of the Town Council is scheduled for 16th May. The provisions of Regulation 4 provide the Council with two options:-

- (1) To host the Annual Meeting by means of remote attendance on 16th May as scheduled. This will enable the Council to transact the items of business reserved for the formal occasion of the Annual Meeting, principally the appointment of the Mayor, Deputy Mayor and constitution of Committees for the year to May, 2021. Should it wish to implement this option, the formal ceremonial occasion usually associated with the election of Mayor could be re-arranged to a date later in the year.
- (2) Cancel or postpone the Annual Meeting. Regulation 4 allows for the continuation in office of the current Mayor and Deputy Mayor until such time as the Council determines or until the next Annual Meeting (May 2021). Such a decision would require the agreement of the current Mayor/Deputy Mayor to continue in office for an indeterminate period not extending beyond May, 2021.

The instructions of the Committee are requested.

3.4 Regulation 5 – this permits the holding of remote meetings. The effect of the Regulation is that persons attending a local council meeting do not need to be in the same place. "Place" means more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers (Regulation 5 (1)). To attend a meeting remotely a member in remote attendance must meet specified conditions (see provision of Regulation 5 (2) below).

Regulation 5(2) of the 2020 Regulations provides that a member in remote attendance attends the meeting at any time if the member is able at that time:

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

All of the above conditions must be satisfied. These conditions allow members to join via a video link system or by telephone so long as every member can be heard by every other member and the public.

All members, clerk and other staff, and any members of the public will be in attendance for the purposes of the 2020 Regulations if they are in remote attendance. The provisions in Regulation 5 will apply notwithstanding any standing orders or rules to the contrary.

Decision required

The provision for the hosting of remote meetings has been successfully implemented by a number of local Councils. Arrangements have been made to subscribe the Council to a recommended remote platform to enable its meetings to be held via this medium for the period of the current prohibition of face to face meetings. The decision will be subject to review by the Council on a regular basis.

The Committee is recommended to approve the hosting of remote meetings, subject to the provisions set out above.

3.5 Regulation 5 (6) also enables local councils to make standing orders to specify:-

- (i) how voting will be carried out
- (ii) how members and the public can access Documents; and
- (iii) how remote access of the press and public by electronic means will take place. Councils should make these decisions based on their own needs and capacity. Local factors such as broadband strength may also determine what methods they use.

Decision required

The Council's current Standing Orders make provision for access to documents via its website and these provisions are not affected by the introduction of remote working. Voting procedures are considered in recent guidance from Warwickshire Association of Local Councils and this will be advised to Members prior to the first meeting that is conducted remotely.

3.6 Regulation 6 – confirms that being present at a local council meeting includes being present through remote attendance. The Regulation also dis-applies paragraph 7 of Schedule 12 to the 1972 Act. This means there is no requirement for a Parish Council to hold its annual meeting although a Council may do so if it so chooses. However paragraph 8 of Schedule 12 has not been dis-applied. This requires a local council to hold in a year not less than three meetings, in addition to the annual meeting.

Decision required

The Council has held sufficient meetings within 2019/20 to ensure compliance with the provisions of Paragraph 8. If this provision continues to be applied, then the Council will need to meet on at least three further occasions, irrespective of the decision on whether to hold the Annual Meeting. Given the opportunities for remote meetings, this is not considered an impediment to this Council.

3.7 Regulation 13 – Section 1 (4) (a) of the 1960 Act has been amended so that public notice of the time and place of the meeting is deemed to be given if published on the relevant principal authority's website. In NALC's view the notice could be placed on the local council's website or in a prominent physical place to meet the advertising requirements contained in Schedule 12 of the 1972 Act. Councils should take account of social distancing requirements before deciding to put notices in physical spaces. NALC's view is that a council's decision making is unlikely to be challenged if it only places the notice on its own website.

Decision required

The Council Notice Board, (outside the Town Hall) is currently not being updated due to the requirements to avoid unnecessary travel to work. It is submitted that the Council website, supplemented by social media, is sufficient to ensure appropriate publicity of its meetings. The Committee is recommended to approve use of these means to publicise Council meetings for the duration of the current arrangements.

3.8 Regulation 17 – confirms that a local council complies with Regulation 8 of the Openness of Local Government Bodies Regulations 2014 (decisions and background papers to be made available to the public) by making the written record and any background papers available for inspection by publishing them on the website; or by such other means that the council considers appropriate.

Decision required

The Council complies with this requirement through publication of Agenda, Minutes and Background Papers on its website and should continue to do so.

4. CONCLUSION

- 4.1 As with all local authorities, the Town Council is faced with managing its constitutional arrangements at a time of considerable disruption. This has meant that all governmental bodies have needed to embrace different forms of working as a result of the requirements to avoid social gathering and implement distancing the present health emergency.
- 4.2 The changes in meeting arrangements set out in this Report represent a means of achieving compliance with the Public Health England advice and Government directives. These arrangements will need to be reviewed periodically based on further directives and advisory announcements.