



OFFICER REPORT TO COUNCIL

CONSTITUTIONAL CHANGES - REMOTE MEETINGS

KEY ISSUE/DECISION:

A report to consider arrangements for Council decision making post 7 May 2021 if regulations to hold remote meetings are not extended by that date or if new legislation is not in force.

Council will be aware of that regulations to allow remote attendance for councillors and the public were implemented in spring 2020 and Council meetings have operated successfully under these arrangements. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are due to expire on 6 May 2021 and at this time it is not certain that they will be extended. Whilst it is hoped that new regulations are made to extend remote attendance for Council meetings this report recommends that Council resolves to agree the below arrangements so Council decision making can continue as far as possible throughout any period when remote meetings may not constitute *formal* meetings of Councillors.

The recommendations provide that on the coming into force of any remote meeting regulations, the delegations and definitions agreed in this report automatically cease as formal member meetings will then be available.

CONSTITUTIONAL ARRANGEMENTS:

The Council's Constitution sets out the rules and procedures for both executive (Cabinet) and non-executive (Council) decision making. In light of the continuing national pandemic and in the absence of Government extending the Remote Meeting Regulations beyond 7 May 2021 which would allow council committee business to continue to operate virtually, Council is asked to authorise the Chief Executive and Monitoring Officer to make the necessary amendments as set out in this report, to the Constitution.

Members will still be accountable and responsible for decision making and it is proposed that this continues so far as possible. Where it is not possible to hold a *formal* Cabinet or committee meeting remotely, any notice will still be published, any reports will still be provided and members will attend an *informal* remote meeting and be fully involved in contributing to consideration of the issues. If a formal decision is required, this will be made through a

delegation to an individual Cabinet member or officer and where appropriate call in procedures will apply.

DECISION MAKING:

Executive (Cabinet) decision making and Scrutiny

The Leader has authority to make any executive decision and may delegate to Cabinet, individual Cabinet Members or officers as the Leader considers necessary for the proper management of council business.

While the Leader is able to amend the delegations with the Leader's Scheme of Delegation, the Council's Financial Regulations and Procurement Standing Orders set out the thresholds for decision making and provide that some decisions need to be made collectively by Cabinet.

To provide for ongoing decision making in areas such as procurement, property and budget virements it is proposed that Council agrees to amend the Financial Regulations and other rules so that any reference to Cabinet requires either a formal Cabinet meeting or the Leader or nominated Cabinet Member individually making a decision in consultation with two other Cabinet Members (a quorum of Cabinet).

Any individual decision will be made as a formal decision of a Cabinet Member with full public notice and the right to scrutinise. All key executive decision (unless under special urgency) will be subject to call in procedures.

Any executive decision making or where an item is called, in will be considered in a virtual manner by committee members in accordance with the Surrey County Council Remote Meetings protocol as agreed by the Audit & Governance Committee (**Annex A**).

Non-executive decision making

Council has responsibility for non-executive decision making and has delegated some functions to committees and officers e.g. Planning and Regulatory Committee and Audit and Governance Committee.

It is proposed that all non-executive decision making is delegated to officers (as far as the law allows). These delegations will only be used on a case by case basis and following agreement of the chairman or nominated member of the relevant regulatory committee and in line with the Surrey County Council Remote Meetings protocol (**Annex A**).

Urgent decisions

The Council already has arrangements in place for decisions that need to be made in cases of special urgency. Standing orders enable the Chief Executive to act on behalf of the organisation in consultation with the Section 151 Officer and Monitoring Officer and Cabinet Members as appropriate.

Monitoring of the delegations and use of the Remote Meeting Protocol

It is proposed that any use of the delegations outlined in this report and the Remote Meetings Protocol will be monitored by the Audit & Governance Committee and they will make recommendations on any required amendments to the Protocol. The delegations and definitions will automatically cease on the coming into force of regulations which provide for remote attendance at Council meetings.

Council AGM and Appointment of chairmen and committees

The Council must have an Annual General Meeting following local elections to appoint a Chairman, a Leader of the Council and to make appointments to committees. If no remote meeting regulations are in force, arrangements will need to be agreed dependent on the circumstances in late May and subject to public health advice at the time to hold a Council meeting and make these appointments in a Covid safe environment. This may include agreement from members and groups to have, for example, attendance limited to a quorum of members to reduce any health risk and be limited to essential business only.

Non-attendance at council meetings

Section 85(1) of the Local Government Act 1972 states that all councillors must attend a committee meeting of the council within a six month period unless the failure was due to a reason approved by the local authority.

Council is asked to resolve that special dispensation is granted to all members for any non-attendance at meetings of the Council until 31 October 2021.

This dispensation will be automatically removed on the coming into force of regulations which permit remote attendance at Council meetings.

Continuation of the Remote Meeting Regulations

The Council is aware that the Government has stated that it would require primary legislation to continue to allow formal committee meetings to take place virtually and should the Remote Meeting Regulations be extended post 7 May 2021 then the Council will communicate this to members and revert to normal committee business in line with this legislation.

RECOMMENDATIONS:

That, in the absence 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 being extended beyond 7 May 2021, or other regulations being in force, Council agrees:

1. To amend the definition within the Council's Constitution (as far as the law allows) to define Cabinet as a formal meeting of Cabinet **or**

the Leader or nominated Cabinet Member making a decision in consultation with at least two other Cabinet Members.

2. To delegate all non-executive decisions (as far as the law allows) to the relevant proper officer in consultation with the relevant chairman or member nominated by the chairman.
3. To agree that all members unable to attend a council meeting for a period greater than six months receives a dispensation further to section 85(1) of the Local Government Act 1972 to 31 October 2021.
4. To resolve that, in the absence of legislation to allow remote meetings to take place, that all decision making will take place in line with the Surrey County Council Remote Meetings Protocol (**Annex A**).
5. To agree that the Audit and Governance Committee will monitor the use of the delegations in line with the Remote Meetings Protocol (**Annex A**) and as required, make recommendations on any required amendments to the protocol to ensure that Members remain informed in relation to council decision making.
6. To authorise the Monitoring Officer in consultation with the Chairman of the Council and group leaders to incorporate any legislative changes issued by Government into council business processes.
7. To agree that all the above measures will automatically terminate on the coming into force of any regulations which permit remote attendance at Council meetings.
8. To review these measures (if still in force) by 31 July 2021 or as soon as practicable thereafter as determined by the Audit and Governance Committee.

Lead/Contact Officers:

Paul Evans, Director of Law and Governance

Email: paul.evans@surreycc.gov.uk tel: 02082132584

Sources/background papers:

Constitution of the Council

Annexes:

Annex A - Surrey County Council Remote Meetings Protocol
