



OFFICER REPORT TO COUNCIL

REVIEW OF COVID RELATED CONSTITUTIONAL CHANGES

KEY ISSUE/DECISION:

The Council's Constitution sets out the rules and procedures for both executive (Cabinet) and non-executive (Council) decision making. In light of the national situation around coronavirus and prior to any emergency legislation being put in place, Council approved a number of recommendations and delegations at its meeting on 16 March 2021 in preparation for any special arrangements that may be required in order to allow council business to continue due to the Government not extending the Remote Meetings legislation.

It was agreed that these recommendations would be reviewed by 31 July 2021 and it is proposed that the delegations be removed.

DECISION MAKING:

Remote meeting legislation

1. Under the Coronavirus Act 2020 new regulations (The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 were created enabling local authorities to hold meetings remotely before 7 May 2021. The Remote Meeting Regulations ceased to be in force from 7 May 2021 and Local Authorities have had to revert to in person meetings and/or the use of delegations to officers.
2. The Council has successfully held a number of in-person committee meetings in line with social distancing measures including the Council's AGM in May. It has also utilised officer delegations where in-person meetings have not been possible.

Executive (Cabinet) decision making and Scrutiny

3. 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.

4. 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.
5. The 16 March 2021 Council report agreed 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).
6. It is recommended that this definition reverts back and that any reference to Cabinet will be referring to a formal Cabinet meeting.

Non-executive decision making

7. Council has responsibility for non-executive decision making and has delegated some function to committees and officers e.g. planning and regulatory committee and audit and governance committee.
8. In the 16 March report, it was agreed that all non-executive decision making would be delegated to officers (as far as the law allows) and that these delegations would only be used on a case by case basis and following agreement of the chairman or nominated member of the relevant regulatory committee. The delegations have only been used where an in-person meeting had not been possible and where the delegations have been used an informal remote meeting has been held to allow Members to put forward their views before any decisions were taken by the Proper Officer.

Decisions taken under the 16 March 2021 delegations

9. Following the Council being unable to continue to hold formal remote committee meetings from 7 May 2021, the officer delegations have only been used in one instance by the Health and Wellbeing Board on 2 June 2021.
10. In this instance, an informal remote meeting of the committee took place to informally consider and debate any items of business and allow the full committee to put forward their views. Following this informal meeting, the Proper Officer then took decisions based on the recommendations of the committee. The agenda and reports for this meeting were made available to the public along with a record of the decisions taken by the Proper Officer and the minutes from the informal meeting.
11. The Council has not had to use the officer delegations for any other decision making.

Urgent decisions

12. 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. These arrangements will remain in place should urgent decision making need to take place.

Non-attendance at council meetings

13. 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.
14. On 16 March 2021, Council resolved that special dispensation would be granted to all members for any non-attendance at meetings to the 31 October 2021 and it is proposed that this be reviewed at the 12 October Council meeting.

Remote Meetings – Ministry of Housing, Communities and Local Government call for evidence

15. The Council has welcomed the opportunity to put forward its views to the Ministry of Housing, Communities and Local Government's Local Authority Remote Meetings: Call for Evidence and a full response to this was submitted. The Council remains supportive of local authorities having flexibility and local choice as to whether to hold meetings remotely going forward.
16. Surrey County Council continues to urge the Government to favourably consider the request to amend the provisions in the Act to allow local authorities to continue to hold remote or hybrid meetings, with appropriate safeguards to maintain transparency. Local authorities have now had extensive experience of conducting remote meetings over the past year and the continued ability to hold remote meetings will be to the benefit of local authorities, councillors and the public at large.

<u>RECOMMENDATIONS:</u>

Council agrees:

1. To redefine the definition within the Council's Constitution to define Cabinet as a formal meeting of Cabinet.
2. To remove the delegation for all non-executive decision making to be delegated to the Proper Officer in consultation with the relevant

committee chairman and for any non-executive decision making to be undertaken in line with the Council's Scheme of Delegation.

3. To review the dispensation for non-attendance at meetings in relation to the six-month rule as set out in section 85(1) of the Local Government Act 1972 at 12 October Council meeting.
4. To note that the Council has provided a full response to the Ministry of Housing, Communities and Local Government's call for evidence in relation to the future of remote local authority meetings.

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

16 March Council report – Constitutional Changes – Remote meetings

MHCLG Remote local authority meetings call for evidence – Surrey County Council response