

Council

19 May 2020

Decision-Making Arrangements During the Covid-19 Pandemic

Report by the Executive Director, Corporate and Communities

Relevant Portfolio Holders: The Leader and Portfolio Holder for Community and Governance

Purpose

To set out the options for the operation of decision making arrangements, including virtual Council and Committee meetings, during the ongoing Covid-19 emergency.

Recommendations

To **RESOLVE** that:

1. a Response & Recovery Committee consisting of 11 Members be established to exercise all functions currently delegated to Strategic Committees and to receive briefings and updates on the Council's Covid-19 response for the period until 12 October 2020;
2. the revised calendar of meetings for the period to 12 October 2020 attached at **Annex 1** be adopted;
3. the guidance for Members participating in virtual Committee and Council meetings set out at **Annex 2** be noted; and
4. consideration be given to the need for any further interim decision making arrangements at the meeting of Council on 13 October 2020.

Benefits to the Community:

The proposed decision making arrangements will enable the Council to continue to maximise its support to the local community during the Covid-19 pandemic whilst maintaining the appropriate levels of democratic accountability and transparency.

Key Points

- A. The Covid-19 pandemic has required the Council to rapidly refocus its resources to prioritise support to local health and care services, vulnerable residents and local business. It has also presented unprecedented challenges in the operation of the normal decision making process as social distancing rules and the requirement to stay at home initially made the transaction of business through Committee meetings impossible.
- B. However, new Regulations now allow for meetings of Council and its Committees and Sub-Committees to be held in virtual form, thereby enabling the resumption of decision making by Members. The first of these virtual meetings took place on 5 May when the Licensing-Sub Committee sat in remote session.
- C. A streamlined schedule of virtual Committee meetings is now proposed which will enable the Council to balance the urgent imperative to focus staffing and management resources on the delivery of critical frontline services with the essential need for democratic accountability and transparency in decision making.

- D. Council is asked to approve the immediate resumption of regulatory Committees dealing with planning and licensing applications and the establishment of a temporary Response & Recovery Committee which will meet on a monthly basis to exercise all the functions of the five Strategic Committees where decisions cannot wait until the resumption of normal business. It will also receive reports and updates on the Council's Covid-19 response. Meetings of the Council will continue to be held as scheduled other than for the largely ceremonial Annual Meeting, which does not need to be held this year. It is proposed that the continuing need for interim arrangements is reviewed by Council at its meeting in October.
- E. The report sets out details of the proposed arrangements for the Response and Recovery Committee together with guidance on the operation of virtual Committee meetings.

Context

1. At the outset of the Covid-19 pandemic the Council took the exceptional step of cancelling its formal committee meetings until at least 11 May 2020 in the interests of public safety. This ensured that the Council was well placed to comply with subsequent guidance from the Government on social distancing, and the instructions for people to stay safe in their homes. The transaction of all non urgent business has been postponed and urgency mechanisms contained within the Constitution are being utilised to enable the Chief Executive and Executive Directors to take urgent decisions which would otherwise have required Member approval in Committee. In order to retain as much democratic oversight as possible, measures have been put in place to broaden the consultation which must first be undertaken with Members and to ensure public notice is given of all decisions taken.
2. In the interests of transparency and democratic accountability, it is essential to re-introduce collective decision making by Members in Committee as soon as it is safe and practicable to do so. The ongoing emergency continues to prevent public gatherings but new Regulations which came into force on 4 April and apply until May 2021 enable for the first time meetings of the Council and its Committees to be held virtually.
3. The Regulations require members of the Committee and any members of the public directly participating in the meeting to be able to hear and be heard by all participants, and wherever practicable to see and be seen. There must be a live audio and, wherever practicable, video feed accessible to members of the public
4. Google Meet has been identified as the most appropriate platform for hosting virtual meetings in the first instance because of the high level of Member familiarity with the solution and the ability to implement it at pace. It is proposed that the virtual meetings will be relayed live to the public on the Council's YouTube channel. This separation of the broadcast from the meeting itself ensures there is no direct public access, thereby eliminating the risk of external disruption. Testing of this solution is complete and the first formal virtual meeting, of the Licensing Sub-Committee, took place successfully on 5 May.
5. Other video conferencing packages, including one currently in development specifically for the local authority market, are continuing to be assessed with a view to ensuring the most effective and appropriate technology is utilised.

Proposals

6. There are broadly five possible approaches to decision making pending the resumption of normal conditions:
 - Continue with the existing urgency arrangements under which decisions are taken by Executive Directors in consultation with relevant Members
 - Operate a full programme of virtual Committees mirroring the conventional structures and calendar on a business as usual basis;
 - Operate a streamlined structure of virtual Committees to a modified timetable in order to transact urgent business only
 - Establish an Emergency Committee for the transaction of all urgent business in accordance with existing Constitutional provisions
 - Utilise Full Council for all urgent decision making purposes
7. The reliance solely on existing urgency mechanisms is not recommended. Despite the measures that have been taken to ensure extensive consultation with Members, the cancellation of all Committee meetings was intended only as an initial interim response to allow for full evaluation of the unprecedented circumstances and the passage of the necessary legislation to enable virtual meetings. The absence of democratic accountability and public oversight over a potentially extended period of time would be undesirable.
8. Business as usual will, however, be difficult to maintain. In the period between 12 May to 30 July, a total of 27 meetings of the Council and its Committees and Sub-Committees are currently scheduled. Each of these would, if they went ahead, consume significant senior Officer and Member time in preparation, attendance at pre-meetings and the Committee itself and follow up activity. The transition to virtual meetings will add further to this burden because of the need for additional preparation and planning. It is imperative that Officers are not diverted from a focus on the delivery of critical frontline services. At a time when many services and initiatives have been paused and large numbers of staff, including senior management, redeployed into other roles, the volume of routine planned business is in any event likely to decline.
9. Some form of streamlined arrangement is therefore recommended. Planning to do less than usual in Committee will also assist in the roll out of virtual meetings, providing scope for flexibility when things do not go as planned and capacity to accommodate urgent decisions when there is a need to do so.
10. Given the relatively limited number of matters which fall outside Officers' existing delegated powers but which will need to be determined prior to the resumption of normal conditions, it is likely that the business of the five existing Strategic Committees could feasibly be folded into a single Committee, provided that it meets at relatively frequent intervals. This would have the advantages of simplicity and responsiveness, eliminate duplication caused by references between Committees and provide a streamlined approach to keep to a minimum the call on senior management time.

Options

11. There are a number of different ways in which decision making by a single body could be implemented.
12. The Council's Constitution provides for the establishment of an Emergency Committee in the event of a civil emergency or disaster. Comprising the Leader of the Council, the Chairs or Co-Chairs of the Standing Committees and the Chairs of any Neighbourhood Committee affected by the disaster (in this case each of the Neighbourhoods), together with the Leaders of all Opposition party groups, the Committee would be able to exercise full delegated powers to take any urgent action it considers necessary.
13. The Emergency Committee is not a practical vehicle for the current situation. Its membership would be so large as to be unwieldy (a minimum of 20 Members based on current appointments) and there is no provision for backbench members to exercise voting rights. The Opposition would be heavily under-represented with just one Member on the Committee.
14. An alternative approach would be to utilise meetings of Full Council. This would require no constitutional adjustments and would ensure the full engagement of all Members. Nevertheless, it is not recommended because the size of the meeting and its consequent need for structure and procedural formality, especially in the context of virtual meetings, would limit the opportunity for back and forth debate and the questioning of Officers in the manner normally associated with Committee meetings. The absence of opportunities for the provision of Officer advice is a matter of convention that could be set aside but doing so would add further complexity to a large scale meeting.

Response & Recovery Committee

15. It is therefore proposed that a new Response and Recovery Committee which is fully compliant with political balance requirements be established to undertake the functions of each of the existing Strategic Committees on a time limited basis to 12 October 2020. The Committee would also receive briefings and updates on the Council's Covid-19 response. For the avoidance of doubt, the Committee will not have the constitutional status of a Strategic Committee.
16. A monthly schedule of meetings from May through to September, including provision for a meeting during the normal recess month of August in case of urgent need, would be likely to allow for a sustainable workload of 4-5 items per meeting. The frequency would be sufficient to enable the Committee to deal with all but the most urgent of business (for which the conventional urgency route under Procedure Rule 30 would continue to apply).
17. If membership of the Committee was to be set at 11, the same size as a Strategic Committee, nine seats would be available to the Administration and two to the Opposition, consistent with representation on the Council as a whole. (A revised calculation of the overall political proportionality allocations can be found at **Annex 3**). Membership could be rotated through the use of the substitution arrangements on a meeting by meeting basis where it is considered beneficial to ensure the presence of Members with the relevant expertise and experience in respect of items on the agenda and to help keep Members fully engaged with the decision making process.

18. Call-in arrangements will not be applied in these exceptional circumstances because the urgency and criticality of the decisions likely to come forward will not allow for unscheduled delay.
19. There is no expectation that routine non urgent business will be transacted, and any relaxation of normal procedures, protocols or scrutiny is strictly temporary.

Council

20. Although the statutory requirement for an Annual Meeting of the Council in 2020 has been lifted by Government, there will be a need for an Extraordinary Council meeting in May to authorise the interim arrangements outlined in this report. The July Council meeting is retained in the calendar, and it is anticipated that the meeting of Council on 13 October would determine whether or not circumstances permit a return to normal arrangements.

Regulatory Committees

21. There is an ongoing need for the Council to exercise its usual regulatory functions and it is therefore proposed that the Development Control Committee, Neighbourhood Planning Sub-Committees (or Neighbourhood Committee if it exercises planning functions) and Licensing Sub-Committees continue to meet, albeit on a virtual basis. The determination of planning applications will retain engagement in decision making at a Neighbourhood level when there is otherwise insufficient Officer capacity to support the normal range of Neighbourhood Committee business. Members of the public will be able to exercise virtually their usual rights to verbal representations in respect of planning and licensing applications.
22. Meetings of other Committees will not be scheduled during this period but may be convened in accordance with all usual notice procedures if it is necessary for them to transact urgent business and to meet any statutory requirements.

Calendar of Meetings

23. A modified calendar of meetings for the period to 12 October is set out at **Annex 1**

Virtual Committee Meeting Arrangements

24. Remote meetings will require different behaviours and procedures to those conducted in a shared physical space. In the absence of immediately apparent physical cues such as nods and raised hands, and with less immediate forms of informal communication, they will require more pre-planning and structure. Proceedings will be slower, at least initially, while all involved familiarise themselves with new ways of conducting business.
25. The role of the Chair will be more challenging, as they will need to allow more time to pause discussion, remind Members of processes, check engagement, take votes and keep the meeting focused on its ultimate outcome. In the interests of transparency, it is likely that the Chair will need to introduce each participant at the start of the meeting, announce the arrival and departure of Members during the course of the meeting and conduct each vote by roll call, with Members affirming in advance that they have been present in the meeting for the entirety of the debate to avoid the risk of challenge, particularly in respect of Planning and Licensing applications.

26. The priority at this stage of the emergency is to facilitate effective decision making with the minimum possible diversion from the delivery of critical frontline services. Meetings will need to be sharply focused and as brief as possible in order to help reduce the burden on Member and senior Officer time. Members will be asked to provide notice of their intention to speak on an item in advance of the meeting in order to assist the Chair and to keep contributions concise. Reports are likely to be presented in a briefer form than normal in order to minimise the diversion of Officer time and assist the Committee to focus on the high level strategic issues.
27. The usual avenues for public participation in Strategic Committees, ie the submission and debate of petitions, questions and contributions to Member debate, would not apply to the Response & Recovery Committee. There is not presently the organisational capacity to prepare responses to detailed public questions or petitions. Public comment in debate on agenda items would be complex to manage at the outset, but it may be possible to accommodate it as familiarity with the technology grows over time and this will be kept under review.
28. Officers are working towards the incorporation of public participation in the July meeting of Council.
29. Detailed guidance has been prepared for Members participating in virtual Committee meetings (attached at **Annex 2**). This covers all aspects of the conduct of a virtual meeting including the set up of devices, workarounds in the event of connection failures, etiquette in the meeting, voting and withdrawal with a Disclosable Pecuniary Interest. Separate guidance will be prepared specifically for Chairs who will also be supported by comprehensive briefing notes and scripts on a meeting by meeting basis.
30. There has been considerable recent media coverage of the disruption of virtual meetings by external elements. The transmission of proceedings to the public via a relay of the stream to YouTube rather than open access to a Google Meet event greatly reduces the risk of any such occurrence. Other than Members and staff, the only individuals with direct links to join the meeting will be members of the public with a direct participatory role, such as speakers on planning applications. In the event of misbehaviour, there are controls which will allow the removal of an individual from the meeting.
31. Nevertheless, as an additional safeguard, Members will also be issued with secondary invitations to entirely private virtual meeting spaces which can be used in the event of any need to withdraw from the public. These can also be used when it is necessary to move into private debate on exempt material.

Member Support

32. A survey of Members indicates a high level of technical readiness for the transition to virtual meetings. No Member reports lacking a broadband connection or a primary device with camera which will allow them to participate in a meeting, though a very small number do not have a second device on which they will be able to easily access electronic meeting papers. While this is not essential for participation, it is desirable to avoid the additional complexity of toggling between a screen with the video link and the agenda reports. Provision will be made to loan an appropriate device such as a tablet or Chromebook to Members where necessary.

33. While all Members have some experience of participating in virtual meetings, and many have wide experience of multiple platforms, a number have indicated a need for training and support in the use of the technology. Two briefings have taken place to set out how the virtual meetings are likely to operate. There has been good take up for the briefings, and further one-to-one and small group support and training has been offered to all Members. Test mock meetings of both the Development Control Committee and Licensing Sub-Committee took place on 29 April.

Resource Implications

34. The implementation of the proposed virtual meeting solution can be achieved at no direct cost save for the acquisition of a small number of devices for those Members without access to a second laptop or tablet.
35. The technical and procedural complexity of virtual meetings means that they will, however, require much more intensive Officer support including the attendance of two additional Democratic Services Officers to assist in monitoring Members' virtual attendance and communication through the Chat function and two ICT technician to relay the broadcast to YouTube and ensure the feed is sustained for the duration of the meeting - if the link fails, the meeting must be adjourned until such time as the live coverage is reinstated.

Legal Implications

36. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 relating to virtual Committee meetings are made under section 78 of the Coronavirus Act 2020 and apply notwithstanding any other legislation or current or pre-existing standing orders or any other rules of the Council governing meetings. Wherever there is a conflict, the Regulations take precedence in relation to any remote meeting. They remain valid until 7th May 2021. The effect of the Regulations on the Council's Constitution is to automatically insert what are, in effect, mandatory Procedure Rules in respect of meetings held remotely, either wholly or partially. Details of these supplementary Procedure Rules are contained at **Annex 4** for information.

Equalities Analysis

37. An equalities analysis has been carried out for these arrangements and is attached at **Annex 5**.

Health Implications

38. The adoption of the revised decision making arrangements is designed to maximise the Council's ability to support the response of local health and care services to the Covid-19 pandemic. Health Protection legislation and guidance is being published and updated regularly by national bodies and therefore subject to change. Whilst we need to remain agile to react to this, some degree of social distancing is likely to remain in place in the coming months. The implementation of virtual Committee meetings is a means of supporting this public health requirement during the course of the emergency.

Background papers: held by author of the report - Gary Marson, Head of Democratic and Electoral Services, email gary.marson@kingston.gov.uk - None

Annexes:

Annex 1 - Calendar of Meetings

Annex 2 - Virtual Meeting Guidance

Annex 3 - Political Proportionality Calculation

Annex 4 - Mandatory Procedure Rules

Annex 5 - Equalities Analysis