

## Corporate and Resources Committee

13 July 2021

### Emergency Decision Making Arrangements

Report by Director, Corporate & Communities

Relevant Portfolio Holder: Communities and Engagement

#### **Purpose of Report**

To review the arrangements for the operation of the Council's Committees and decision making process in the light of the evolving public health situation.

#### **Recommendation(s)**

**The Committee is asked to RECOMMEND TO COUNCIL that:**

1. the Chief Executive Officer, in consultation with the Monitoring Officer, the Director of Public Health, the Leader of the Council and the Leader of the Opposition, be authorised to make any temporary adjustments to the arrangements for meetings of Council and its Committees as may be required in the event of a material change in the public health situation; and
2. any such adjustments approved under the above delegation which have the effect of temporarily modifying aspects of the Constitution be subject to subsequent review at the next meeting of Council.

#### **Benefits to the Community:**

The proposals will enable the Council to maximise the level of democratic accountability and transparency in its decision making arrangements during the Covid-19 pandemic while safeguarding the health of Members, Officers and the public as they participate in those processes.

#### **Key Points**

- A. Meetings of the Council and its Committees are once more taking place in person following the expiry of temporary regulations which permitted local authority meetings to be conducted remotely between 4 April 2020 and 6 May 2021. The ongoing pandemic nonetheless continues to present challenges in the organisation of those meetings. These include the constraints imposed by the severely reduced capacity of the Council Chamber as a consequence of the need for social distancing and the requirement for a wide range of other mitigation measures to help ensure the safety of all participants.
- B. The delay in the withdrawal of all Covid restrictions from 21 June to 19 July at the earliest has extended the period during which these mitigation measures have had to be applied to meetings. However, there appears to be the possibility that Committees will be able to meet in normal, or near normal, conditions when they resume after the August recess. No further special interim arrangements are therefore proposed at this stage.

- C. Nevertheless, in order to provide the flexibility to respond rapidly and appropriately to any changes in the public health situation which may arise in between meetings of either this Committee or Council, it is proposed to renew the existing delegation to the Chief Executive Officer, in consultation with the Monitoring Officer, the Director of Public Health, the Leader of the Council and the Leader of the Opposition, to make any temporary adjustments to the arrangements for meetings as may be required. If these changes modify any aspect of the Constitution the next meeting of Council will have the opportunity to review and amend them.

## **Context**

1. At the outset of the Covid-19 pandemic in March 2020 the Council took the exceptional step of cancelling its formal committee meetings to ensure compliance with 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 was postponed and urgency mechanisms 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 were put in place to broaden the consultation with Members and to ensure public notice was given of all decisions taken.
2. The Council was able to reinstate its Committee meetings in virtual form in May 2020 following the introduction 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 which enabled local authority meetings to take place online for the period to 6 May 2021
3. An initially streamlined schedule of meetings was progressively extended so that by October 2020 most Committees had been reintroduced save for the operation of a single Response and Recovery Committee undertaking the functions of all five of the Strategic Committees. A temporary Culture, Housing, Environment and Planning Committee was subsequently established to discharge the functions of the former Environment and Sustainable Transport and Place and Culture Committees and the Children and Adults Care and Education Committee was reinstated, bringing the total of Strategic Committees operational to three.
4. Following the expiry of the temporary Regulations on 6 May all local authority meetings must once more be held in person with all Members present in the same physical meeting space. Meetings have therefore now resumed in the Guildhall with Covid mitigation measures in place including socially distanced seating arrangements, screens to protect each individual participant, mask wearing and ventilation. All attendees are recommended to undertake a lateral flow test on the day of a meeting. The reduction in capacity of the Council Chamber due to social distancing requirements significantly limits the number of members of the public able to attend meetings in person but every meeting continues to be live streamed in order to maintain full transparency.
5. It is not possible under the current restrictions to accommodate every Member in the Chamber for meetings of Council so the Annual Meeting on 18 May took place with only a bare quorum of Members in attendance and the meeting on 20 July will be held in the Kings Centre, Chessington which offers more space. Conversely, meetings of the Neighbourhood Committees, which usually take place in relatively small venues in the relevant communities, are being held at the Guildhall to ensure sufficient space for all Members to attend with appropriate

social distancing, adequate control of all other risk mitigation measures and the ability to live stream proceedings to the public.

6. A number of meetings were postponed to a date beyond 21 June in the anticipation that they might be able to take place in normal conditions following the relaxation of all Covid safe requirements. However, the Government's decision to extend the restrictions to 19 July in the light of the recent deterioration in the public health situation means that it has been necessary to apply the mitigation measures to all meetings in the June/July cycle.
7. Efforts have also been made to ensure that formal in person meetings only take place where it is strictly necessary for them to do so because of the nature of business to be transacted. Hearings of the Licensing Sub-Committees, which are subject to separate legislation, have resumed in virtual form until the end of August to ensure the safety of all participants and the Licensing Committee agreed on 1 July to amend the Hearings Procedure Rules to provide the flexibility for the Sub-Committee to continue to meet remotely beyond that where it is considered appropriate.

### **Proposals**

8. At its meeting on 29 April Council requested the interim arrangements be reviewed once more at its next meeting, on 20 July. At the time of the preparation of this report the public health situation remains fluid but the success of the vaccination programme offers the realistic prospect of meetings returning to normal, or near normal, arrangements upon their resumption after the August recess. No special provisions are therefore proposed at this stage although, depending on risk assessments closer to the time, some modest mitigation measures may still be required such as the use of individual rather than shared desks and microphones and provision for greater spacing in the public gallery.
9. However, there continues to be the need for some form of flexibility to enable the Council to rapidly adjust its arrangements in response to changes in the public health outlook in between meetings of either this Committee or Council. It is therefore proposed that the Chief Executive Officer, in consultation with the Monitoring Officer, the Director of Public Health, the Leader of the Council and the Leader of the Opposition, be once again authorised to make any temporary adjustments to the arrangements for meetings of Council and its Committees as may be required in the event of a material change in the public health situation.
10. Any changes introduced under these delegated powers which have the effect of temporarily modifying aspects of the Constitution (for example matters affecting the functions of Committees or the Procedure Rules) would be subject to subsequent review at the following meeting of Council.

### **Resource Implications**

11. The proposal set out above contains no direct financial implications.

### **Legal Implications**

12. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which expressly provided for the meetings of local authorities to be conducted remotely, expired on 6 May 2021. A judgment handed down by the High Court on 28 April 2021 dismissed a claim that the legislation governing local authority meetings in England already permitted remote meetings to take

place. As a consequence meetings must once more be held in person with all Members present in the same physical meeting space (different statutory provisions apply to hearings of the Licensing Sub-Committee).

### **Equalities Analysis**

13. An equalities analysis of the implications of a return to face to face meetings with mitigation measures, prepared in April 2021, acknowledged that the necessary Covid-19 mitigations to enable face to face meetings to take place have the potential to present challenges to some participants in the meetings. The analysis recognised, however, that the Council would not be able to lawfully conduct its business without the return of in person meetings. In the event of a return to normal operating conditions such challenges would no longer apply.

### **Background Papers -**

Full Equalities Impact Assessment Form B concerning the return of face to face meetings, April 2021, held by the author of this report.

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