



<b>Subject:</b>	<b>Council/Committee Meetings - Post 6th May, 2021</b>
<b>Date:</b>	23rd April 2021
<b>Reporting Officer:</b>	Suzanne Wylie, Chief Executive
<b>Contact Officer:</b>	John Walsh, City Solicitor/Director of Legal and Civic Services Jim Hanna, Senior Democratic Services Officer; Sarah Williams, Governance & Compliance Manager

<b>Restricted Reports</b>	
<b>Is this report restricted?</b>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
<b>If Yes, when will the report become unrestricted?</b>	
<b>After Committee Decision</b>	<input type="checkbox"/>
<b>After Council Decision</b>	<input type="checkbox"/>
<b>Sometime in the future</b>	<input type="checkbox"/>
<b>Never</b>	<input type="checkbox"/>

<b>Call-in</b>	
<b>Is the decision eligible for Call-in?</b>	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>

<b>1.0</b>	<b>Purpose of Report/Summary of Main Issues</b>
1.1	The purpose of this report is to propose arrangements for holding Council/Committee meetings following the expiry of the legislation permitting the hosting of remote meetings.
<b>2.0</b>	<b>Recommendations</b>
2.1	The Committee is requested to agree to changes to Standing Orders, as set out in the report, to enable the current arrangements for the hosting of remote meetings to continue.
<b>3.0</b>	<b>Main Report</b>
3.1	<b><u>Background</u></b>
3.1.1	As Members will be aware, the Council has had to alter its normal decision-making processes during the Covid-19 pandemic to ensure that it is following Public Health Agency guidance

<p>3.1.2</p> <p>3.1.3</p>	<p>on social distancing and essential travel, while maintaining continuity of critical services, and is currently holding Council and Committee meetings remotely via Teams.</p> <p>The authority to meet remotely is governed by Section 78 of the Coronavirus Act 2020. The aim of this provision is allow local authority meetings to be held remotely, including remote access by members of the public, subject to the relevant national authority making the appropriate regulations.</p> <p>The relevant legislation was made by the Northern Ireland Assembly - The Local Government (Coronavirus) (Flexibility of District Council Meetings) Regulations (Northern Ireland) 2020 – and came into effect from 1<sup>st</sup> May, 2020.</p>
<p>3.2</p> <p>3.2.1</p> <p>3.2.2</p> <p>3.2.3</p> <p>3.2.4</p>	<p><b><u>Key Issues</u></b></p> <p>The key issue is that, whilst regulations are currently in place, these expire on 6<sup>th</sup> May, 2021 meaning that, without steps being taken, the Council and its Committees can no longer meet remotely to make decisions after that date and would be required to be physically ‘present’ to make decisions.</p> <p>There is currently no provision to allow the Assembly to extend the regulations as they were enacted in exercise of the powers conferred by section 78 (3) of the Coronavirus Act 2020 – <i>“The regulations may make provision only in relation to local authority meetings required to be held, or held, before 7 May 2021.”</i></p> <p>This is a UK-wide issue and a number of organisations [the Association of Democratic Services Officers (ADSO) and Lawyers in Local Government (LLG) have been lobbying the Secretary of State for Housing, Communities and Local Government to change primary legislation to enable local authority remote meetings to take place beyond the current statutory deadline of 6th May 2021. The SoS has indicated that he has no plans to extend the date, as it requires primary legislation and there is no vehicle to do that in time for May.</p> <p>Accordingly ADSO and LLG, in conjunction with Hertfordshire County Council, have commenced legal proceedings in the High Court to allow for the continuation of local authority meetings beyond 6<sup>th</sup> May (as of 27/3/21 the claim has been issued in the High Court and they are awaited for the case to be listed for hearing).</p>

<p>3.2.5</p> <p>3.2.6</p> <p>3.2.7</p> <p>3.2.8</p>	<p>However, that challenge is to the Local Government Act 1972 which applies to local authorities in England, so even, if successful, the Department of Communities will have to determine whether this applies to the Local Government Act (Northern Ireland) 2014 which governs Council/Committee meetings and proceedings in Northern Ireland.</p> <p>The Permanent Secretary to the Department for Communities has indicated that she is aware of the position and that the Department is working on the introduction of the legislative changes needed to ensure that powers to operate remotely are extended.</p> <p>She has also stated that, due to legislative time pressures, it is possible that there may be a short period between the lapse of the current legislative cover and the introduction of changes when councils may need to consider other arrangements.</p> <p>Therefore, in the absence of new legislation, the authority to hold remote meetings will expire on 6<sup>th</sup> May, 2021 and members are being asked to consider changes to Standing Orders, which the City Solicitor is of the opinion fall within the legal powers of the Council and which will enable the current arrangements to be retained.</p>
<p>3.3</p> <p>3.3.1</p> <p>3.3.2</p> <p>3.3.3</p>	<p><b>Rationale</b></p> <p>Section 37 of the Local Government Act (NI) 2014 requires a council to make standing orders for the 'regulation of the proceedings and business' of the council. The provision also permits the variation of standing orders.</p> <p>Section 17(3) of the Interpretation Act (NI) 1954 provides that, if legislation empowers or requires something be done, then all such powers as are reasonably necessary to enabling this or are reasonably incidental to that are also given. Section 31 of the same Act provides that legislation is to be applied to circumstances as they occur in the sense that the legislation is 'always speaking'.</p> <p>The above legislation in combination provides the basis on which the council can, in the City Solicitor's opinion, vary standing orders to achieve essentially the same impact as the 2020 Regulations.</p>

3.4	<b>Proposed Changes</b>
	<b>Remote Attendance</b>
3.4.1	Meetings of the council are not limited to a meeting of persons all of whom, or any of whom, are present in the same place and any reference to a “place” where a meeting is held, or to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers.
3.4.2	<p>A member of a council (“a member in remote attendance”) attends the meeting at any time if all of the following conditions are satisfied. Those conditions are that the member in remote attendance is able at that time—</p> <p>(a) to hear, and where practicable see, and be so heard, and where practicable be seen by, the other members in attendance;</p> <p>(b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public in attendance in order to exercise a right to speak at the meeting; and</p> <p>(c) to be so heard and, where practicable, be seen by any other members of the public in attendance.</p>
3.4.3	A Member, or a member of the public, attending a meeting or being in attendance includes that person attending by remote access.
3.4.4	<p>Schedule 5 to the 2014 Act (meetings and proceedings) applies to meetings of the Council as follows—</p> <p>(a) any reference to being “present” at a meeting includes being present through remote attendance;</p> <p>(b) any reference to a “place” where a meeting is held, or is to be held, includes reference to more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers; and</p> <p>(c) in addition to the publication of notice of the time and place at the offices of the council such notice of remote meetings will be published within the required time on the Council website.</p>

<p>3.5</p> <p>3.5.1</p> <p>3.6</p> <p>3.6.1</p> <p>3.7</p> <p>3.7.1</p>	<p><b>Public access</b></p> <p>A meeting being “open to the public” includes access to the meeting through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend in person; and being “present” at a meeting includes access through remote means.</p> <p><b>Access to information</b></p> <p>Any information to which the public is entitled to access (agenda and unrestricted reports) will be made available on the Council’s website in addition to any duty for publication arising under the 2014 Act.</p> <p><b>Decision-making</b></p> <p>Any references in the 2014 Act to “members present and voting on the decision” includes a member being present through remote attendance.</p>
<p>3.8</p>	<p><b><u>Financial and Resource Implications</u></b></p> <p>No additional.</p>
<p>3.9</p>	<p><b><u>Equality or Good Relations Implications/Rural Needs Assessment</u></b></p> <p>Any equality, good relations or rural needs assessments would be subject to the Council’s usual screening process.</p>
<p><b>4.0</b></p>	<p><b>Documents Attached</b></p>
	<p>None</p>