



Havering

LONDON BOROUGH

GOVERNANCE COMMITTEE

29 April 2021

Subject Heading:

Forthcoming expiry of remote meetings regulations and implications for a return to in-person meetings

Report Author and contact details:

Andrew Beesley,
Head of Democratic Services
Andrew.beesley@onesource.co.uk

Policy context:

Guidance for the safe use of Council buildings

Financial summary:

None arising from this report

SUMMARY

As part of its response to the COVID pandemic, the Government introduced regulations which expressly permitted remote council meetings. Those regulations are due to expire on 7 May 2021.

The Government has therefore issued guidance for the safe use of Council buildings which will assist local authorities who will hold face-to-face meetings once the virtual meeting regulations come to an end.

Separately, judicial review proceedings have been issued seeking a declaration from the High Court on whether remote meetings can be held under pre-Covid legislation either with or without the need for the Secretary of State to make further regulations.

This report therefore summarises the guidance issued for the safe use of Council buildings and sets out practical implications for a return to in-person meetings.

RECOMMENDATIONS

To note the arrangements for a return to in-person meetings following the expiry of the virtual meetings regulations on 7 May 2021.

REPORT DETAIL

1. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020) came into force on 4 April 2020 to expressly permit the holding of remote council meetings. The regulations are due to expire on 7 May 2021.
2. Under the regulations, all meetings can be convened remotely by audio link or video link. Therefore, meetings can be convened whilst members are at home and/or in different parts of the country. An audio link is necessary for remote meetings. As a minimum requirement, Members attending remote meetings must be able to hear and be heard by all other members attending and any members of the public attending and entitled to speak. Where practicable, members must be able to see, and be seen by, other members and the public too. A quorum of members is still needed.
3. After an initial period when all council meetings were suspended, the Council has been operating all meetings remotely since June 2020 using Zoom video conferencing technology. All Members were provided with laptops and given training on video conferencing. Meeting protocols were also established to ensure compliance with the regulations and to establish appropriate meeting etiquette.
4. The regulations are due to expire on 7 May 2021 and any extension would require primary legislation. In a letter dated 25 March 2021, Luke Hall, the Minister of State for Regional Growth and Local Government informed Council Leaders that "...the Government has concluded that it is not possible to bring forward emergency legislation on this issue at this time".
5. The Government has re-issued guidance for the safe use of Council buildings which is designed to assist local authorities who will hold face-to-face meetings once the virtual meeting regulations come to an end.
6. The guidance sets out the following general principles that have to be considered for the safe re-opening of council buildings:

Governance Committee, 29 April 2021

- Core public health guidance regarding health, hygiene, and social distancing
 - Safe workplace guidelines, to ensure employees are safe to return to work
 - Any local lockdown areas or restrictions
7. The guidance directs local authorities to take appropriate actions as part of a specified COVID-19 risk assessment for the opening of council buildings for permitted activity, including council meetings.
 8. The risk assessment specifies how meetings will follow the Covid 19 principles of hands, face, space and fresh air and which will conform to restrictions in place for social distancing.
 9. In practical terms, the following steps will be taken:
 - Provide hand sanitiser to those entering the meeting room and making sure hand sanitiser is readily available in the room itself;
 - Staggering arrival and exit times for staff, councillors and, if required, members of the public;
 - Allocate seat numbers for individual members and officers with associated access and egress routes;
 - Seating 2 metres apart, or 1 metre with risk mitigation (where 2 metres is not viable);
 - Arranging seating so people are not facing each other directly; and
 - Meeting rooms must have good ventilation, including opening windows and doors where possible;
 - All drinking vessels have been removed to mitigate the risk of transmission. Attendees bringing a drink of their own but must take all items with them upon departure.
 - Attendees must ensure that any tissues, disposable mask and gloves are double bagged and placed in the bin outside of the meeting room. A secure confidential waste bin will also be located outside of the meeting room.
 - All surfaces and floors to be cleaned after each meeting.
 10. Identifying council meeting accommodation which can meet those requirements is limited. The Council Chamber is considered to be the only venue which can meet the criteria whilst providing a large enough space for most council meetings to be held. Attendee numbers will however be limited in accordance with a risk assessment, meaning that committee members only can attend. Non-committee members and officers would be required to dial in remotely. Substitute arrangements will remain, however details of substitutes must be provided in advance of the meeting to assist with seating arrangements.
 11. Where a 2 metre distance cannot be ensured, a 1 metre rule can be implemented with mitigating actions. Further mitigating actions available include:
 - further increasing the frequency of hand washing and surface cleaning

- keeping the meeting time / agenda as short as possible

12. Hearings under the Licensing Act 2003 and Gambling Act 2005 can continue to be held remotely already as they are governed by separate rules (i.e. the Licensing Act 2003 (Hearings) Regulations 2005) and there is no requirement as to place or presence.
13. There are a total of 7 committee and Cabinet meetings scheduled between 7 May and 21 June 2021 to which the proposed arrangements would apply, with a review undertaken in readiness for the anticipated release of COVID legal restrictions on 21 June.

Holding of the Annual Council Meeting

14. There are however certain decisions which cannot be delegated and require a decision by Full Council. This includes the requirement to hold an annual meeting. The guidance suggests holding a virtual annual meeting before 7 May so that the meeting is held while the current regulations still apply.
15. Following consultation with Group Leaders, the Mayor agreed that the date of the annual meeting be rescheduled to 27 April 2021.

Meeting access for the public

16. The Council has a legal obligation to ensure that members of the public have access to most of its meetings. This will however be limited whilst social distancing remains in place. The guidance also actively encourages local authorities to continue to provide remote access until at least 21 June, at which point it is anticipated that all restrictions on indoor gatherings will have been lifted in line with the Roadmap.

Pending Judicial Review outcome

17. Lawyers in Local Government (LLG) and the Association of Democratic Services Officers (ADSO) have issued judicial review proceedings seeking a declaratory judgment. These proceedings are intended to seek clarity on whether remote meetings can be held under pre-Covid legislation either with or without the need for the Secretary of State to make further regulations. It is understood that these are the possibilities being canvassed:
 - a. Pre-Covid legislation (such as the Local Government Act 1972 in respect of non-executive meetings and Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 in respect of executive meetings) enable local authorities to hold meetings remotely. The argument being that references to 'place' should be interpreted to include on-line platforms or the internet and the requirement to be present is not limited to physical presence.

Governance Committee, 29 April 2021

- b. The Secretary of State has order making powers under section 16 of the Local Government Act 1999 to modify or dis-apply the provisions of the Local Government Act 1972.
 - c. The Secretary of State has the power to make regulations under section 15 of the Cities and Local Government Devolution Act 2016 authorising executive decision making bodies to hold remote meetings.
18. These proceedings will be heard on 21 April 2021 and it is hoped that a decision will be made as soon as practicable thereafter. Recently and helpfully, Robert Jenrick said that the Government would support the argument that virtual meetings were permitted by the Local Government Act 1972. The outcome and implications of these proceedings will be reported in due course.

Call for Evidence

19. On 25 March 2021, the Government launched a public consultation to seek views on the use of the current arrangements which have provided express provision for local authorities to hold meetings remotely or in a hybrid format during the coronavirus pandemic. The 12 week consultation will expire on 17 June 2021.

Financial Implications and Risks

There are no financial implications or risks arising from this report.

Equalities and Social Inclusion Implications and Risks

No implications or risks have been identified. All meetings will continue to be broadcast live and available for download via the Council's website. There will also be the opportunity for a member of the public to watch meetings in-person, subject to compliance with an appropriate risk assessment.

Legal Implications and Risks

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 permit the operation of remote or 'virtual' meetings will expire on 7 May. Following guidance issued by the Government on the safe use of Council buildings, it is a matter for Councils to determine how in-person meetings are to be facilitated, mindful of its meeting procedure rules held within the Council's Constitution and requirements of Local Government law.

Human Resources Implication and Risks

There are no implications or risks for Human Resources.

Governance Committee, 29 April 2021

Background Papers

None