

Committee Name and Date of Committee Meeting

Council – 03 June 2020

Report Title

Proposed Amendments to the Constitution

Is this a Key Decision and has it been included on the Forward Plan?

No

Strategic Director Approving Submission of the Report

Judith Hurcombe, Interim Assistant Chief Executive

Report Author(s)

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Ward(s) Affected

Borough-Wide

Report Summary

Members will be very aware of the multitude of issues caused by the current Covid-19 emergency and the subsequent social distancing and lockdown. One of the consequences of this is that the Council has not been able to hold face to face meetings. In response to this issue, Government has laid Regulations to enable Councils to hold meetings remotely. The Council's Constitution is therefore in need of amendment to recognise the changes introduced through the regulations. In addition, the Constitution is need of clarification in respect of the quorum for committees and sub-committees.

This report introduces changes to the Constitution which are necessary to meet the challenges posed by the Covid-19 pandemic and enable the Council to hold remote meetings effectively.

Recommendations

1. That the provisions 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 be noted.
2. That the proposed amendments to Appendix 4 of the Constitution (Council Procedure Rules), as set out in Appendix 1 of this report, be approved.

3. That the proposed amendments to Appendix 3 of the Constitution (Access to Information Procedure Rules), as set out in Appendix 2 of this report, be approved.
4. That the Constitution Working Group review the implementation and effectiveness of the changes after six months of operation and report back to Council by no later than January 2021 on any further changes required.

List of Appendices Included

Appendix 1 Proposed Amendments to the Council Procedure Rules

Appendix 2 Insert title here

Background Papers

[Section 78, Coronavirus Act 2020](#)

[The Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020 No 392](#)

Consideration by any other Council Committee, Scrutiny or Advisory Panel

No

Council Approval Required

Yes

Exempt from the Press and Public

No

Proposed Amendments to the Constitution

1. Background

1.1 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 make provision for remote attendance at, and remote access to, Council meetings held on or before 7 May 2021.

1.2 The key points from the regulations are as follows:

- Councils can hold and alter the frequency and occurrence of meetings without requirement for further notice
- Councils can determine not to hold an annual meeting, which was a requirement under the Local Government Act 1972
- Current appointments will continue until the next annual meeting or when the local authority determines
- Meetings, including any annual meetings, can be held remotely, including by (but not limited to) telephone conferencing, video conferencing, live webcast, and live interactive streaming
- Requirements for public and press access to meetings and documents can also be complied with through similar remote access
- Councils can make procedure rules in respect of remote meetings, and will not be constrained by any existing restrictions.

1.3 The Regulations make provision for authorities to make changes to their procedure rules, at a remote meeting convened under this new power, to enable them to deal with the practicalities of holding remote meetings. Such practicalities include voting, member and public access to documents and remote access of public and press. The power to make procedure rules also provides an opportunity for the Council to establish protocols for use by Members and the public and implement measures to prevent abuse. This report sets out the necessary changes require to the Constitution of Rotherham MBC to enable democratic decision making, deliberation and oversight to continue during the Covid-19 pandemic.

2. Key Issues

Annual Meeting

2.1 Among other things, regulation 6 of the section 78 regulations removes the requirement for an annual meeting to be held. In the normal course of events there is a desire by the Council to elect a Mayor who, in addition to formal roles within the Council, is the first citizen of the Borough. His or her election forms the centre point of the civic annual meeting. However there is now no legal requirement to hold such a meeting in 2020.

2.2 Following consultation with the Mayor and the political group leaders, this report proposes that the Annual Meeting in 2020 should be held on a date decided by the Mayor following consultation with the political group leaders and the Chief Executive. It is not possible to be specific about the date at this stage as it is not known when the Government will lift restrictions on movement and social

distancing measures in response to the COVID-19 outbreak. However if those restrictions are not lifted in time for the Annual Meeting to be held before 30 September 2020, then there would be no Annual Meeting in 2020 and office-holders etc would continue in office until May 2021. In practice, this means that the annual meeting – if it is possible to hold one – would be on the date of the Council meeting in either July or September. The consequence is that (with appropriate amendments to the Constitution) the Mayor and Deputy of the Council will continue in office for the time being, until an annual meeting is held. Likewise Chairs and Vice Chairs of Committees will continue in office until that point. This is subject in all cases to the ability of a member to resign his or her office at any time, as normal, and if that scenario arose the Council would have to agree a fresh appointment to fill the vacancy. In addition, appointments to joint committees and external bodies that are made by the Council would continue until the annual meeting is held.

Council Procedure Rules

- 2.3 Changes are required to the Council Procedure Rules so that they operate successfully in circumstances where councillors, officers and members of the public are taking part in meetings remotely, using web-enabled conferencing. It is envisaged that the selected technology will enable members of the public to hear and see councillors and officers and should also allow only preregistered speakers to be able to address a meeting as set out in the Council Procedure Rules.
- 2.4 Council is invited to approve the changes which are incorporated in the revised Procedure Rules set out in Appendix 1, which recognise the provisions of the Coronavirus Act 2020 and the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. The main changes (in addition to the timing of the Annual Meeting) relate to:
 - a) how members participate and vote in meetings that are being held remotely;
 - b) how members of the public can exercise their right to speak at meetings;
 - c) clarifying arrangements for quorum at committees and sub-committees

Responsibility for Functions – Scheme of Delegation

- 2.5 It is not proposed to amend the Scheme of Delegation and any responsibility for functions at this time in view of the progress that the authority has made to enable virtual meetings of Cabinet, committees and sub-committees. This should be kept under review by the Constitution Working Group, which is a cross party Member body with responsibility for proposing amendments to the Constitution.

Access to Information Procedure Rules

- 2.6 In light of the fact that the Council's offices are closed to the public, The Access to Information Procedure Rules are proposed to be varied so that references to documents being available for inspection will be to documents available on the Council's website; and requests for copy documents, where the Rules allow

them to be provided, will be provided only by e-mail and only where electronic copies are already available at the time of the request.

3. Options considered and recommended proposal

3.1 The Cabinet and a number of the Council's committees and sub-committees have already met remotely using digital technology during April and May 2020. Those meetings were legitimately convened and held in accordance with the Coronavirus Act and the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

3.2 This report formalises the new legislative provisions within the Council's Constitution and, in the case of the Council Procedure Rules, provides further clarity on the application of procedure rule 7 in respect of quorum at committees and sub-committees of the Council.

4. Timetable and Accountability for Implementing this Decision

4.1 The proposed amendments to the Constitution will take effect immediately after approval is given by the Council at its meeting on 3 June 2020.

5. Financial and Procurement Advice and Implications

5.1 Meetings held by remote participation will reduce some associated costs, such as printing of papers for committee meetings as Members will use laptops or tablets to read papers. No other implications arising from this report or the section 78 regulations have been identified at this time.

6. Legal Advice and Implications

6.1 The proposed changes comply with the requirements of local government legislation such as the Local Government Act 1972 and the Local Government Act 2000 as amended by the section 78 regulations. The legal implications of the recommendations are detailed in the main body of this report.

7. Human Resources Advice and Implications

8.1 There are no HR implications associated with this report.

8. Implications for Children and Young People and Vulnerable Adults

8.1 There are no implications for children and young people or vulnerable adults arising from this report.

9. Equalities and Human Rights Advice and Implications

9.1 Remote participation in meetings using web-enabled technology means that members of the public who do not have internet access will not be able to see or hear what has happened at a meeting. It is the Government's social distancing measures that restrict the ability to hold meetings that members of the public may attend in person and therefore no reasonable adjustment can be

made. Reports and minutes of meetings will continue to be publicly available, at present only on the Council's website: again this will continue to be the case until public access to buildings can be restored and people will then be able to view paper copies of documents if they wish.

10. Implications for Partners

10.1 There are no implications for partners arising from this report.

11. Risks and Mitigation

11.1 The risk of not adopting these changes is that the Council would not be able to make effective and timely decisions, to protect the financial and legal position of the Council and to act in the best interests of residents and businesses in the borough. The regulations published by the Government provide a statutory basis for the Council to use digital and virtual means to conduct its democratic business during the pandemic whilst social distancing measures remain in place.

12. Accountable Officer(s)

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