

FULL COUNCIL COMMITTEE

Date: Monday, 12 April 2021

Title: Contingency Plan & Delegations – Post May 7th – Lawful Decision Making

Contact Officer: Town Clerk - Sharon Groth

Background

The purpose of this report is to

1. Consider alternatives to virtual meetings and/or face to face meetings but ensuring the Council's decision making is lawful;
2. In the likelihood of not being able to hold safe face to face meetings - to reaffirm the Town Clerk/Proper Officer's delegations as set out in statute, and within the Council's Standing Orders (SO 26 applies) for dealing with urgent and routine matters, along with the delegations previously agreed;
3. agree a process for continuing dealing with planning and licensing applications in the Council's role of consultee; and
4. if appropriate, agree to set up an emergency committee with delegated responsibility to deal with any urgent matters generally dealt with by Committees and Full Council, which cannot be dealt with under Standing Order 26.

Current Position

From recent email communications and earlier agenda items Members will be aware of the uncertainty around meetings of the Council being held safely after 7 May. As legislation and guidance currently stands there is an expectation that meetings will return to be held face to face.

Officers continue to follow Government Guidance - *the Roadmap out of Lockdown* and the advice of Council advisors – NALC/OALC and other credible information providers.

Attached is information from OALC.

Virtual Council Meetings – discontinued

Central Government did not extend the ability for Parish and Town Councils to hold virtual meetings under the Local Authorities & Police & Crime Panels (Coronavirus) (Flexibility of Local Authority & Police & Crime Panels Meetings) (England & Wales) Regulations 2020. See the attached statement from the LGA.

The continuation of the Town Council meetings is subject to being able to prepare the administration as well as having enough Councillors to ensure the lawful decision-making processes of the Town Council can continue.

It is a legal requirement that all Council and committee meetings must be open to the public (except for discussion of sensitive matters). Therefore, either the meeting takes place with members of the public attending if they wish, or it is cancelled.

Obviously, Councillors can choose not to attend. Full Council meetings do obviously take place in the Corn Exchange where arguably there is sufficient distance between the public and the Council members to reduce the risk of infection, however at this point in time not all age brackets have received their first vaccination and therefore the Council does have a duty of care to its staff as well as the members of the public and themselves as Councillors.

There currently is a High Court challenge being considered on 19 April 2021 by the Lawyers in Local Government, Association of Democratic Services and Hertfordshire County Council who declare that the Councils already have the powers needed to hold online meetings. The timescales for an outcome and whether there would still be a requirement for an act of parliament to enact any further changes is unknown.

Dealing with Planning Applications

Members will be aware that the Council is a consultee on planning and licensing applications, and due to tight timescales in the planning process the Committee meetings 3 weekly. Under the first lockdown prior to the virtual meetings being agreed as lawful planning applications were dealt with by the same committee by email. The Town Clerk would suggest that this process is re-implemented until meetings can safely return to face to face or virtual.

Year End Accounts and the adoption of the Annual Governance & Accountability Return

AGAR/Year end accounts ending 31 March 2021 the deadline for the adoption of this year's accounts has returned to 30 June 2021 (temporary extended last year to 29 September 2020). This requires a formal Council meeting to adopt it. There is a meeting scheduled for 28 June 2021 and it is hoped that this meeting will be able to proceed if only to agree and adopt the year end accounts.

Delegations to the Town Clerk/Proper Officer

As the Town Clerk/Proper Officer of the Council there are already delegations within her job description and in statute, however given the uncertainty of future meetings at this stage, in order for the Council to function going forward it is necessary to have a contingency and agree at this Council Meeting the formation of an emergency committee with delegated powers to deal with urgent matters that are beyond the remit of the Town Clerk and simply can't wait until face to face meetings can resume safely or there is a ruling that virtual meetings can continue.

All Members should be reassured that this is not an opportunity to vote through any 'pet' projects without scrutiny – it is simply a mechanism to be put in place to support the Town

Clerk and ensure that urgent decisions can be made accordingly so that the Council's routine business can continue to operate.

In the first instance the provision within the Council's Standing Orders should be invoked accordingly:

26. DELEGATION OF URGENT AND ROUTINE MATTERS

(a) There shall be delegated to the Town Clerk the authority to act in respect of any function of the council on a matter, which in his or her opinion does not admit of delay. This delegated authority shall only be exercised in consultation with the Leader or Deputy Leader.

(b) There shall be delegated to the Town Clerk the authority to act in respect of any function of a committee or sub-committee, which in his or her opinion either does not admit of delay or is routine. This delegated authority shall only be exercised in consultation with the Chairman or Vice-Chairman of the committee or sub-committee within whose terms of reference the particular function lies.

(c) Each exercise of delegated authority under this standing order shall be reported for information to the next meeting of the committee or subcommittee within whose terms of reference the particular function lies and to Council.

(d) The Town Clerk shall notify all members of any action taken under this standing order.

(e) The delegations in this standing order are in addition to and without prejudice to the powers of the council or its committees to arrange for the discharge of any of its functions by a sub-committee or an officer.

Furthermore, the Scheme of delegation agreed in June 2019 states:

2. Proper Officer

2.1 The Town Clerk shall be the Proper Officer of the Council and as such is specifically authorised to:

- (1) To receive declarations of acceptance of office.
- (2) To receive and record notices disclosing personal and prejudicial interests.
- (3) To receive and retain plans and documents.
- (4) To sign notices or other documents on behalf of the Council.
- (5) To receive copies of by-laws made by the unitary authority.
- (6) To certify copies of by-laws made by the Council.

(7) To sign summonses to attend meetings of the Council.

2.2 In addition, the Town Clerk has the delegated authority to undertake the following matters on behalf of the Council:

- (1) The day to day administration of services, together with routine inspection and control.
- (2) Day to day supervision and control of all staff employed by the Council, including recruitment.
- (3) Authorisation of routine expenditure within the agreed budget.
- (4) Emergency expenditure up to £20,000 outside the agreed budget.

2.3 Delegated actions of the Town Clerk shall be in accordance with Standing Orders, Financial Regulations and this Scheme of Delegation and with directions given by the Council from time to time.

Environmental impact

Having declared a Climate Change Emergency at its Council meeting on 26 June 2019 – with this in mind Councillors should have due regard to the environmental impact of any decisions they make with regard to its facilities and services it operates.

Risk

In decision making Councillors should give consideration to any risks to the Council and any action it can take to limit or negate its liability.

Without a contingency plan for urgent decision making in lieu of not being able to hold meetings of the Council and its Committees this may impede the continuation of Council business in a timely manner. Having a documented structure for delegations to the Town Clerk and an Emergency Committee ensures that the urgent decision making is lawful.

Financial implications

There are no direct financial implications arising from this report.

Recommendations

Members are invited to note this report and consider the following as temporary measures until the Council and its Committees can return to safe face to face meetings or other methods of being able to meet and make decisions lawfully:

1. agree emergency measures that if it is not possible to convene a meeting of the Council or Committee in reasonable time or where restrictions are in place, the Town Clerk (or in her absence the Deputy Town Clerk) shall have delegated authority to make decisions on behalf of the Council where such decision cannot be reasonably deferred and must be made in order to comply with a commercial or statutory deadline. The delegation does not extend to matters expressly reserved to the council in legislation or in its Standing Orders or Financial Regulations. Any decision made

under this delegation must be recorded in writing and must be published in accordance with the relevant regulations.

2. reaffirm the Town Clerk/Proper Officer's delegations as set out in statute, and within the Council's Standing Orders (SO 26 applies) for dealing with urgent and routine matters, along with the delegations agreed last year;
3. agree the process for continuing dealing with planning and licensing applications in the Council's role of consultee as detailed in the above report;
4. if appropriate, agree to set up an emergency committee with delegated responsibility to deal with any urgent matters generally dealt with by Committees and Full Council, which cannot be dealt with under recommendation 1 above;