

Report of the Cabinet Member for Policy, Corporate and Asset Management

I have been asked to report as follows for Full Council on 29 April 2021:

By Councillor Shaw on:

- *How it is proposed to hold Council, committee and other meetings if the provisions for online meetings are not extended?*

Response

Members will be aware that with the onset of the COVID pandemic, the Government introduced 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 applied to local authority meetings (and police and crime panel meetings) that were to be held before 7th May 2021.

The Regulations permitted that a Member 'in remote attendance' can attend a meeting as long as certain conditions were satisfied. A meeting was not limited to those present in the same place. The reference to a "place" included electronic, digital or virtual locations and the Council has since run its entire suite of Committee meetings remotely and the system has worked well.

Local Authorities received a letter dated 25 March 2021 from Luke Hall MP outlining that extending the regulations to meetings beyond May 7th would require primary legislation and there was insufficient room in the Parliamentary timetable to do this, leaving Authorities with a choice of reverting back to face to face meetings, potentially reducing Councillor attendance at meetings, hiring much larger venues or a greater use of delegated powers.

An evidence bundle was collated by a number of interested parties (LLG, ADSO, Hertfordshire County Council and the LGA) to challenge the position and a court case took place on 21 April. It was hoped that a judge would give a direction that supported the updated interpretation proposed of the word 'place' which would have enabled councils to continue providing the option of remote attendance.

The judgement arrived on 28 April 2021 and the case was dismissed.

The full Judgement can be read here - [Hertfordshire County Council & Ors v Secretary of State for Housing, Communities And Local Government \[2021\] EWHC 1093 \(Admin\) \(28 April 2021\) \(bailii.org\)](#)

But in essence, the court concluded that:

"... the Secretary of State was correct in November 2016 and July 2019 to say that primary legislation would be required to allow local authority "meetings" under

the 1972 Act to take place remotely. In our view, once the Flexibility Regulations cease to apply, such meetings must take place at a single, specified geographical location; attending a meeting at such a location means physically going to it; and being “present” at such a meeting involves physical presence at that location. We recognise that there are powerful arguments in favour of permitting remote meetings. But, as the consultation documents show, there are also arguments against doing so. The decision whether to permit some or all local authority meetings to be conducted remotely, and if so, how, and subject to what safeguards, involves difficult policy choices on which there is likely to be a range of competing views. These choices have been made legislatively for Scotland by the Scottish Parliament and for Wales by the Senedd. In England, they are for Parliament, not the courts”.

ADSO / LLG have said they will continue to lobby government to quickly bring forward the necessary legislation to ensure that councils have local choice to determine how they run meetings, not just during the pandemic, but for the long term. Government had supported the position of those interested parties.

However, the Council will now need to look at a range of options to maintain the decision-making process in an open and transparent way.

Whilst no concrete decisions have been made, contingency plans had been made to book a larger venue (Exeter Chiefs) to accommodate an ‘in person’ annual meeting following the Elections, which, as Members will know, will be the 27th May. Whilst the letter from Government suggested that Local Authorities move their annual meetings to take place before the 7th May (expiry of the Regulations), this isn’t possible for Devon due to it being an Election year.

There are, however, a number of issues that Officers are currently considering and assessing which include practical matters such as:

- larger venues / rooms
- reconfiguration of committee room layouts
- overspill rooms
- limiting the use of shared microphones
- no provision of refreshments
- further risk assessments of the rooms / ventilation
- ensuring that agendas only contain items of key business to reduce the amount of time that people need to be physically present

There may be some meetings that can continue remotely. For example, the Devon Education Forum has recently been given permanent legislation to continue to hold meetings remotely. Furthermore, consideration will need to be given as to whether a remote / virtual meeting may still be appropriate for some of our non decision-making bodies and other forums.

There may need to be other measures taken to reduce the number of people physically in the meeting room, for example, the Council could make use of hybrid meeting technology and ask non committee members or the public / press to utilise this and remote in (acknowledging the rights of individuals to attend in person if they wished).

Much of this will depend on the risk assessments of the rooms and what can be done safely, but it is likely a range of options could be implemented moving forwards.

I understand that all meetings will continue to be webcast / livestreamed, even those that were not webcast prior to COVID (e.g. HATOCS, Audit, Investment and Pension to name but a few).

However, as a Council, I hope we do not reduce the numbers of committee members in the room or cancel large numbers of meetings (meetings would only be cancelled if there was no business to be transacted, as would be normal) or arranging for decisions that would normally be taken by a committee to be made under delegated powers.

But as I say, all of this is subject to further discussion and the views of the new Council being considered.

Councillor John Hart

Cabinet Member for Policy, Corporate and Asset Management