

DERBYSHIRE COUNTY COUNCIL

17 June 2020

COUNCIL

Report of the Director of Legal and Democratic Services and Monitoring Officer

Updates to the Constitution and amendments to the arrangements for meetings resulting from the Covid-19 Pandemic and the associated emergency legislation

1. Purpose of the Report

To inform the Council of updates to the Constitution and amendments to the arrangements for meetings required as a result of the Covid-19 pandemic and the associated emergency legislation.

2. Information and Analysis

During the current pandemic and since the introduction of the lockdown arrangements, new legislation has been implemented in respect of the Council's governance arrangements, duties and obligations regarding decision-making and meeting arrangements. A number of these have resulted in the requirement for changes to be made to the Constitution on an emergency basis.

As a result of the lockdown arrangements and the ban on public gatherings, a number of Council meetings, including the Annual General Meeting had to be cancelled or postponed.

The Local Authorities and Police and Crime Panels (Coronavirus) (flexibility of meetings) Regulations 2020 came into force on 4th April. The Regulations provide that a local authority can hold meetings on such days and at such times that they may determine and enables local authorities to move, cancel or alter the frequency of meetings, including the Annual General Meeting without further notice. It also disapplies constraints and

timeframes specifying when meetings must be held, such as the Annual General Meeting.

The Regulations provide the ability for Elected Members to attend meetings remotely provided that they are able to hear and be heard, and where possible, to see and be seen by the other Members in attendance (either in person or remotely) and by any members of the public who are entitled to attend. They also clarified that any reference to being “present” at a meeting includes remote access.

Public participation at meetings is required to continue and this must be facilitated remotely. Remote access is clarified as meaning participation by electronic means, including by telephone conference, video conference, live webcast and live interactive streaming.

To provide for continued public participation, it is intended that the procedure for public questions be amended for occasions where meetings take place remotely so that questions will continue to be submitted in writing in accordance with the Constitution, but will be presented at the meeting by the Chair. Supplementary questions will be asked in writing after the meeting and will be responded to in writing, with the question and response being published on the Council’s website.

The Regulations enable it to be sufficient for public notice of meetings to be published on the website only, rather than also requiring a notice to be posted at the Council offices. Similarly, it is sufficient to publish documents which are required to be “open to inspection” by the public on the Council website, rather than being required to provide a hard copy.

Consequently, the Regulations also provide local authorities with the ability to make or change the Standing Orders relating to the arrangements for meetings within their Constitution to facilitate voting, member and public access to documents by remote means, as well as remote access of the public and press to meetings to enable the Regulations to be effected.

Therefore, it is proposed that the arrangements for meetings be amended in accordance with the provisions of the new Regulations as described above, and that the Procedure Rules for all meetings within the Constitution be amended to reflect these provisions and the revised arrangements.

In addition, the Health Protection (Coronavirus, Restrictions) Regulations 2020 came into force on 26th March 202. These provide the power for relevant and authorised persons to enforce business closures and restrictions and issue fixed penalty notices in the event of failure to comply. The Secretary of State has issued notice that officers designated by Local

Authorities are to be relevant and authorised persons for the purposes of the legislation regarding enforcement.

Therefore, in accordance with delegation 18 of the Delegations to the Director of Legal and Democratic Services of the Councils' Scheme of Delegations at Appendix 1 of the Constitution, namely the power to undertake any revisions or amendments to the Constitution required as a consequence of amendments or variations to legislation, or the implementation of new legislation, the Director of Legal Services agreed to the new Health Protection (Coronavirus, Restrictions) Regulations 2020 being added to the list of legislation specified at delegation 1 of the Delegations to the Director – Community Services with immediate effect to enable enforcement and administrative duties under the new regulations to be undertaken by Trading Standards staff.

3. Legal Considerations

As described within the report

4. Considerations

In preparing this report the relevance of the following factors has been considered: financial, prevention of crime and disorder, equality and diversity, human resources, environmental, health, property and transport considerations.

5. Officer Recommendations

That Council:

1. notes and approves the amendments to the arrangements to meetings to enable remote participation at meetings; and
2. approves the necessary updates to the Procedure Rules in Constitution to reflect the amendments to the arrangements for meetings; and
3. notes and approves the amendment to the list of legislation within the Council's Scheme of Delegations to the Director – Community Services to enable enforcement and administrative duties under the new regulations to be undertaken by Trading Standards staff.

Simon Hobbs

Director of Legal and Democratic Services and Monitoring Officer