

---

**Decision Maker:** URGENCY COMMITTEE /LEADER

**Date:** 6<sup>th</sup> May 2020

**Decision Type:** Urgent Non-Urgent Executive Non-Executive Non-Key

**Title:** REMOTE / VIRTUAL MEETINGS RULES AND PROCEDURES

**Contact Officer:** Mark Bowen, director of Corporate Services

Tel. 020 8313 4461 E-mail: mark.bowen@bromley.gov.uk

**Chief Officer:** Mark Bowen, Director of Corporate Services

**Ward:** All

---

1. Reason for report

To consider and adopt rules and protocols for remote / virtual meetings.

To agree the programme of meetings for Municipal year 2020/21 including timing of meetings.

To agree arrangements for the annual meeting.

To agree minor changes on execution of contracts.

---

2. **RECOMMENDATIONS**

**Urgency Committee:**

- a) That the rules and protocols for virtual meetings at Appendix 2 of this report are agreed.
- b) That the programme of meetings is suspended with the exception of Executive, Resources and Contracts PDS Committee, Development Control Committee, Planning Sub-Committees and Licensing Sub-Committee meetings.
- c) That the Chief Executive with the agreement of the Mayor and the Leader is authorised to reinstate the meeting programme at any time.
- d) That during the period that meeting programme is suspended the Mayor or the Chairman of a relevant committee or sub-committee can require that a meeting of Council or a relevant committee is called.

- e) That where a non-executive matter (save for a licensing or planning decision) is not reserved to Members the Chief Executive with the agreement of the Mayor or the relevant committee Chairman may make that decision.**
- f) Members views are sought on whether they wish to voluntarily limit the number of Members who directly participate in a virtual/remote Annual Meeting.**
- g) Attendance at a virtual meeting will count towards attendance under the 6 month rule; if a Member is unable to attend a virtual meeting because any committee or other qualifying body they are appointed to does not hold any meetings or through persistent IT failure and is prevented from attending a face to face meeting because of social distancing rules then this shall be considered an approved reason for non-attendance under section 85 Local Government Act 1972 until 7<sup>th</sup> May 2021.**
- h) That a single officer signature is, until future notice, sufficient for all documents executed under seal.**

**Leader:**

- a) That the Executive Virtual Meetings Rules are agreed to operate in parallel with the arrangements agreed on 19 March.**
- b) That virtual meetings of the Executive are only held for matters the Leader considers should be decided in public.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not applicable
- 

Corporate Policy

1. Policy Status: New Policy:
  2. BBB Priority: Excellent Council:
- 

Financial

1. Cost of proposal: No Cost:
  2. Ongoing costs: Not Applicable:
  3. Budget head/performance centre: Not Applicable
  4. Total current budget for this head: Not Applicable
  5. Source of funding: Not Applicable
- 

Personnel

1. Number of staff (current and additional): Not Applicable
  2. If from existing staff resources, number of staff hours: Not Applicable
- 

Legal

1. Legal Requirement: None:
  2. Call-in: Not Applicable: (except for executive aspects of the recommendations)
- 

Procurement

1. Summary of Procurement Implications: Not Applicable
- 

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
- 

Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable

### 3. COMMENTARY

3.1 On 19<sup>th</sup> March the Urgency Committee and a special meeting of the Executive agreed decision making arrangements for the rest of the Municipal year. The minutes of the meetings are at [Appendix 1](#) together with a link to the full report. At the time of the meetings Local Authorities were unable to hold remote or virtual meetings. However the government through 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](#) has authorised holding remote meetings as long as certain criteria are met. The regulations are time limited and only apply to meetings taking place before 7<sup>th</sup> May 2021.

3.2 In summary, the regulations provide for:-

- remote access to meetings of local authorities by members of a local authority and by the press and public
- enable local authorities to hold and alter the frequency and occurrence of meetings without requirement for further notice
- provide for members of local authorities to attend meetings remotely
- modify existing legislative requirements for local authority meetings
- dis-apply provisions requiring local authorities to hold annual meetings
- modify legislation relating to public and press access to information relating to decisions made by local authorities to enable such access to be available through remote means

3.3 The explanatory guidance to the regulations says:-

*The measures will help local authorities redeploy their resources to deal with the pandemic and ensure essential business continues whilst upholding democratic principles and protecting the health and safety of members, officers and the public in line with official public health guidance.*

3.4 Therefore decisions will still be needed on what meetings need to be held and when and whether any aspects of the delegations agreed by the Urgency Committee and the Executive are appropriate to ensure that resources are not pulled away from key front line activities.

3.5 At present, remote meetings are the only option for Member decisions where a meeting is required as the ability to undertake remote meetings makes it extremely difficult to argue that even meetings where social distancing is practised comply with the exceptions in regulation 6 of the Health Protection (Coronavirus Restrictions) Regulations 2020 (as amended), which permits individuals to leave their homes and regulation 7 which prohibits gatherings of more than 2 people save in the most exceptional circumstances.

#### **Remote meetings – Legal Requirements**

3.6 Regulation 5 (3) sets out conditions which must be satisfied when a remote meeting is held and these are:-

*3) Those conditions are that the member in remote attendance is able at that time*

*(a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,*

*(b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and*

*(c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.*

- 3.7 The word “..practicable..” is important as it does in appropriate circumstances allow for telephone as opposed to video meetings and means a meeting will still be compliant if some people are unable to connect.
- 3.8 From a practical perspective as long as a meeting remains quorate for each item – i.e. sufficient members can hear the debate, then even if some members lose connectivity and are unable to vote, any decisions taken will still be lawful. Members should only vote on an item where they have been able to hear the entire debate (although loss of visual connection alone should not prevent voting.)
- 3.9 Public and press access requirements are satisfied if we allow remote access, and a meeting is deemed to be public even if members of the public and press can't attend in person.
- 3.10 We are also allowed to make standing orders regulating remote meetings under regulation 6 which can include provision for:-
- (a) voting;*
  - (b) member and public access to documents; and*
  - (c) remote access of public and press to a local authority meeting to enable them to attend or participate in that meeting by electronic means, including by telephone conference, video conference, live webcasts, and live interactive streaming.*
- 3.11 Members and officers have anticipated the above requirements and trial telephone and video meetings have been held for the recent E&RPDS briefing and the Plans 4 and Plans 1 briefing meetings.

### **Notice of meetings and access to documents**

- 3.12 There is still a requirement to publish agendas and give 5 clear days' notice of meetings (save for urgent meetings called at shorter notice) but this can be done on our website and there is not a requirement to give paper notice.
- 3.13 We are also now allowed to hold meetings at such hour and on such days, and alter the frequency, move or cancel such meetings as we may determine, without requirement for further notice. This resolves a longstanding legal ambiguity on our ability to cancel a meeting once called.
- 3.14 The regulations still require us to make agendas and background documents available for inspection but now allow us to discharge our duties by making them available on our website and we no longer have to make paper copies available and our obligation to provide copies of documents to newspapers and the public on request is also dis-applied. However in practice we will still be subject to Freedom of Information requests.

### **Proposals for conduct virtual/remote meetings at Bromley**

- 3.15 It is proposed that remote/virtual meetings are delivered through WebEx which supports remote video and audio meetings. The product has been tested on the Plans 1 and 4 briefing sessions. Formal training is being provided and this is being supplemented by informal

briefing. Cllr Gary Stevens has been offering coaching sessions to Members and has been undertaking extensive work to support the transition to remote meetings with Member colleagues.

- 3.16 There are facilities in WebEx to permit members of the public to see and hear meetings. There is also a facility to broadcast WebEx meetings in real time on YouTube on the Council's website.
- 3.17 If a member does not have the facilities at home to participate in a virtual meeting it may, if there is no alternative, be possible on a case by case basis to provide the necessary equipment at the Civic Centre with social distancing measures being maintained.
- 3.18 Revisions to the Constitution and Procedure Rules are needed to support the introduction of remote/virtual meetings. The following suite of draft documents has been produced and is included at Appendix 2 -
- Virtual Meetings Procedure Rules
  - Virtual Meeting Etiquette
  - Executive Virtual Meeting Rules
  - Licensing Virtual Meeting Rules
  - Planning Virtual Meeting Rules.
- 3.20 Various national bodies have also produced guidance which are provided at Appendix 3.
- 3.21 The provisions deal with practical issues on general meeting etiquette, dealing with IT issues during a meeting, voting, declaration of interests and public participation.
- 3.22 The draft programme of meetings currently envisages a full programme of meetings from 13<sup>th</sup> May onwards. A copy of the draft programme is at Appendix 4. As is outlined above the regulations give considerable flexibility to cancel, postpone or rearrange meetings.
- 3.23 Whilst the regulations allow virtual meetings to be held experience from local testing and elsewhere indicates that they can't replicate face to face meetings. Meetings require additional administrative support to manage the meeting and support the Chairman. On call IT support is also required. Given other pressures in supporting government initiatives and generally there is unprecedented pressure on several service areas which will impact on the ability to produce reports and support meetings. In many instances even where a formal meeting isn't held briefings and discussion can take place through e-mail, conference calls and WebEx meetings without the formality and additional work associated with a formal public virtual/remote meeting. The regulations also give flexibility on the day/time we hold meetings. Given that there is no longer a need to travel to the Civic Centre it is suggested that meetings start earlier than has previously been the case and in any event no later than 6pm.
- 3.24 The following paragraphs consider the position for key meeting areas.

## **Licensing**

- 3.25 It is still mandatory for decisions to be taken by a committee or sub-committee of Members. There are statutory/regulatory timescales in which some matters need to be considered. Therefore it is essential that, until ordinary meetings can be held again, virtual/remote Licensing sub-committee meetings are held.

## **Development Control and Planning**

- 3.26 The arrangements agreed on 19 March delegated decision making powers to the Assistant Director on all planning applications where a majority of Members consulted were in agreement with his proposed decision.
- 3.27 This situation is not without issues as some sensitive decisions are frozen and there is no public involvement in briefing meetings.
- 3.28 There isn't a mandatory right for members of the public to be able to address a Planning Meeting. However this can be accommodated using WebEx and whereas the right can be suspended Members may prefer to retain for now unless insurmountable problems present themselves.
- 3.29 Where applications aren't controversial and where there isn't any great public interest then the present delegations can continue, with virtual/remote meetings open to the public being held for less clear cut matters or ones where there is demonstrable interest from members of the public. Any decisions relating to Council applications/land should, if they can't be deferred, held using a public virtual/remote meeting.

## **Executive decision making**

- 3.30 The proposals adopted on 19 March allow Executive decisions to be taken without formal meetings and as long as there is prior consultation with Members of a relevant Policy Development and Scrutiny Committee. Flexibilities are also being proposed to allow urgent contracting/procurement decisions to be taken under delegated powers.
- 3.31 Remote/virtual meetings of the Executive can take place. However both arrangements can operate in parallel and it is recommended that the arrangements set up on 19 March are retained in addition to the proposed Executive Virtual Meeting Rules.
- 3.32 Given flexibility to hold meetings under the new arrangements a decision needs to be taken on whether or not to retain the dates for the next 2-3 scheduled Executive meetings. An issue which is germane is whether only essential decisions should be taken during the present situation. This is important as the next agenda, for the meeting scheduled on 19<sup>th</sup> May, would be published at the latest on 11 May. The Forward Plan of Key Decisions for the next 3 months is attached at [Appendix 5](#).
- 3.34 Relevant Chief Officers can give an indication of where a decision can be deferred to assist members.
- 3.35 The main method of engagement with members of the public is through public questions and it may be prudent where a virtual meeting of the Executive is held to provide written answers rather than oral answers to questions.

## **Scrutiny**

- 3.36 The Council is required to have at least one Scrutiny Committee and there are limited requirements for some elements of scrutiny e.g. crime and disorder to be considered at least once a year.
- 3.37 The decision was taken on 19 March to suspend Scrutiny Meetings for the remainder of the Municipal year.

- 3.38 There is not a legal requirement to undertake pre-decision scrutiny. If virtual meetings of the Executive are held in public to decide items then it could be argued that a virtual meeting of scrutiny also held in public (if the two meetings were to take place a short time apart to consider the same item) may cause confusion and would sometimes pull front line staff away from key duties on two occasions rather than on one. It is proposed that the suspension of portfolio PDS Committees is continued, but that the vital role of scrutiny will be focussed through the lead PDS Committee, Executive, Resources and Contracts PDS Committee, which will meet as necessary.
- 3.39 That does not mean that pre-decision scrutiny cannot take place through other means in advance to inform the executive decisions, and scrutiny Leads and opposition Members would still be permitted to address the Executive at a virtual meeting.
- 3.40 Where it is considered essential to hold a virtual scrutiny meeting of any PDS Committee then this can be called if 5 clear days' notice is given and the agenda is published at the same time. For urgent matters this time scale can be reduced.

### **The annual meeting**

- 3.41 Bromley will be holding an Annual meeting on 13 May.
- 3.42 Under the present arrangements this can only be a virtual meeting. This is because of the Health Protection (Coronavirus Restrictions) Regulations 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](#) .
- 3.43 Firstly, Regulation 6 restricts movement which means "...no person may leave the place where they are living without reasonable excuse."
- 3.44 It is permissible to leave home where work cannot be done at home. The facility to hold remote meetings means that the business element of the annual meeting can be conducted without the need for members to leave home.
- 3.45 Secondly, Regulation 7, with exceptions, prevents gatherings of more than 2 people in a public place save for essential work.
- 3.46 The fact that we are no longer required to hold an annual meeting and are given powers to hold virtual meetings makes it difficult, if not impossible, to argue that attending a meeting is essential work or that work cannot be undertaken at home.
- 3.47 The quorum for the Annual Meeting to be lawfully constituted under the Constitution is 20 members. All members have a right to attend a virtual meeting but by agreement a meeting could be constituted with between 20-60 members participating.

### **Council and other Committees**

- 3.48 There are certain matters which are reserved to full Council or to Members and if they are to be dealt with a virtual/remote meeting must be held.
- 3.49 However there are other matters where a decision by members is not a legal requirement. . Some authorities have delegated such decisions to their Chief Executive and where the Mayor and a relevant Committee Chairman are in agreement and do not wish to call a meeting that may be an option members are prepared to agree.

## Member Attendance

3.50 Members of the Council are automatically disqualified from office if they fail to attend a meeting of the Council or one of its committees or sub-committees for a six month period, unless they have obtained a specific dispensation. It is proposed that attendance at a virtual meeting will count towards attendance under the 6 month rule. If a member is unable to attend a virtual meeting because any committee or other qualifying body they are appointed to does not hold any meetings or through persistent IT failure and is prevented from attending a face to face meeting because of social distancing rules then this shall be considered an approved reason for non-attendance under section 85 of the Local Government Act 1972 until 7<sup>th</sup> May 2021.

## Sealing Arrangements

3.51 Legally, some documents need to be executed as a deed (e.g. section 106 agreements and certain property documents). When documents are being executed as a deed the Seal of the Council needs to be affixed and a “wet signature” used to sign the Deed. Unfortunately the Land Registry will not accept electronic signatures for a range of documents.

3.52 The Council also requires contacts with a value of over £200k to be sealed.

3.53 Historic practice has seen the Mayor or another Member and a senior legal officer attest to the affixing of the seal. This is not a legal requirement and is only a constitutional requirement for contacts executed under seal.

3.54 One officer signature is sufficient and in the present circumstances it is proposed that the need for a member signature is dispensed with which will allow for documents to be executed in a timely way.

## 4. LEGAL IMPLICATIONS

4.1 The legal implications are set out within the body of the report.

<b>Non-Applicable Sections:</b>	Impact on Vulnerable Adults and Children/policy/Financial/Personnel/procurement
Background Documents: (Access via Contact Officer)	None

## **Appendices**

### Appendix 1

Minutes of 19 March 2020 Urgency Committee and Executive

### Appendix 2

Suite of 5 protocol documents

### Appendix 3

National body documents x 3

### Appendix 4

Programme of meetings 2020/21 (as approved by GP&L Committee on 11<sup>th</sup> February 2020)

### Appendix 5

Forward Plan of key Decisions (April 2020)