

# NORTH YORKSHIRE COUNTY COUNCIL

## COUNTY COUNCIL

5 May 2021

### Formal meetings of the authority's committees from 7 May 2021 onwards

#### Report of the Leader of the Council

#### 1.0 PURPOSE OF REPORT

- 1.1 To consider the current options for holding formal committee meetings from 7 May 2021, on the expiry of the current regulations specifically enabling the holding of remote access meetings and to determine the manner in which such meetings will be held going forwards.

#### 2.0 BACKGROUND

- 2.1 Following on from the Prime Minister's announcement on 23 March 2020 about fundamental restrictions on public travel and movement due to the Covid-19 pandemic, the Leader of the Council stopped all formal committee meetings of the Council for the then foreseeable future, pending the introduction of legislation to allow for virtual meetings. Committee business continued via the Chief Executive Officer making urgent decisions that would previously have been made by the Council's committees under his emergency decision making powers in the Officers' Delegation Scheme, in consultation with other Officers and Members as appropriate.
- 2.2 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 2020 Regulations") came into force on 4 April 2020 and allow formal meetings of the Council, Executive and their committees and sub-committees held before 7 May 2021 to take place virtually (and to permit remote attendance at, and remote access to, such meetings). The Regulations enable the Council to hold such meetings without all, or any, of the Councillors being physically present in a room and allow for remote meetings through electronic and digital means at virtual locations using video and telephone conferencing, live webcast and live interactive streaming. Councillors need not be physically present, as long as they are able to hear and be heard (and where practicable, see and be seen by) other Councillors and members of the public attending remotely or in person.
- 2.3 On 7 April 2020 the Chief Executive Officer agreed, under his emergency delegated powers and in consultation with Executive Members (Decision Record 2020/CEO Emergency Powers/14), that a virtual meetings' regime for the Council should be introduced. The Council has published a Protocol for Remote Meetings and User Guides for members of the public on its website ([Decision Making at the Council | North Yorkshire County Council](#)).
- 2.4 All of the Council's formal, public committee meetings are currently live-broadcast, being live-streamed via the Council's YouTube page. The first remote meeting was held on 19 May 2020 and since then a total of 104 (as at 22 April 2021) formal committee meetings have been held remotely and live broadcast.

- 2.5 The 2020 Regulations are due to expire on 7 May 2021. The Government has confirmed that there is no Parliamentary time to extend or renew the Regulations before they expire or in the immediate future. On 25 March 2021, the Ministry of Housing, Communities and Local Government did, however, issue a call for evidence regarding remote meetings, which will close after 12 weeks, roughly 6 weeks after the existing regulations lapse - <https://www.gov.uk/government/consultations/local-authority-remote-meetings-call-for-evidence/local-authority-remote-meetings-call-for-evidence>. Through the call for evidence, the Government is seeking to understand the experience of local authorities regarding remote meetings and to invite their views on the advantages and disadvantages of making permanent express provision for remote meetings. Any new legislation introduced to expressly enable the holding of remote meetings is, however, some time away.
- 2.6 On 17 March 2021, the Association of Democratic Services Offices, Lawyers in Local Government and Hertfordshire County Council, supported by the Local Government Association, issued a claim with the High Court seeking a declaration which would allow for the continuation of local authority remote meetings beyond the 6 May 2021 on the basis that the existing local government legislation (separate to the Coronavirus legislation) could be interpreted to permit virtual meetings. The claim also included an application for the Court to expedite proceedings to ensure a decision is made before 6 May 2021. The case was heard on 21 April 2021 and the judgement is awaited, but there is no guarantee that the decision will be issued by 7 May 2021, nor that the case will be successful.
- 2.7 On 7 April 2021, the Government did, however, announce its support for the High Court claim, recognising that there was “a case to be heard” that the Local Government Act 1972 should be interpreted as allowing for virtual meetings “as the legislation was passed at a time when virtual meetings could not have been envisaged.” This support should hopefully add further weight to the case.

### 3.0 **COMMITTEE MEETINGS AFTER 7 MAY 2021**

- 3.1 There are 39 formal committee meetings of the Council due to be held in May, June and July alone (see Appendix 1). Of these meetings, there is the full Council on 21 July 2021.
- 3.2 As the current Regulations will not be extended and so expire on 7 May 2021, then there are a range of options as to how the Council could proceed:
- 1) return to physical meetings in person (with or without the public in attendance);
  - 2) hold meetings remotely, with the Chief Executive Officer using his emergency powers to formally take any decisions in consultation with the relevant committee (as occurred before the Regulations came into force);
  - 3) hold hybrid meetings, where some people are physically in the meeting room and some access the meeting remotely.
- 3.3 Taking each in turn, a SWOT analysis has been undertaken, as follows:

#### Return to meetings in person

- Strengths – enables meetings to be conducted with full interaction of all committee Members, meetings will be simpler to chair and there will be fewer ICT costs associated with support for the meetings (a live broadcast requires four members of staff and a meeting in person only one).

- Weaknesses – the effects of the Covid-19 pandemic, including the need for social distancing, are highly likely to continue for some time, creating additional responsibilities regarding the holding of meetings; increased costs associated with travel, catering, venue hire, and time. At present, the only room that the Council has available which would be Covid-19 safe for a standard committee meeting of 13 Members is the Council Chamber in the Brierley Building, which can accommodate a maximum of 25 people. There may not be suitable venues available for some of the larger meetings like Council (72 Members plus officers and members of the public) and Scrutiny of Health (20 Members plus officers and members of the public). The Council could mandate a maximum number of attendees for meetings in order to observe social distancing requirements and reduce the risk of infection transmission, however this may disenfranchise some Members and members of the public.
- Opportunities – demonstrate that we are back to business as normal, at a time when schools are back, furlough periods are ending and lockdown restrictions are being relaxed.
- Threats – not all councillors and officers will have been vaccinated by early May, it will seem like a backward step in terms of the use of technology by councillors, not all councillors will be ready to return to meetings held in person which will mostly be held in Northallerton. There will be increase in carbon emissions through increase in travel.

#### Continued remote meetings, with formal decisions by Chief Executive Officer under emergency delegated powers

- Strengths – Logistical benefits by, for example, removing attendance difficulties in rural areas or where joint meetings are required; established technology and practice, benefits in time management, travel costs and carbon reduction. Also, minimises the risk of infection associated with a third wave of the pandemic prior to all adults being vaccinated; appears to have increased transparency, attendance and public participation in council meetings;
- Weaknesses – concerns about the level of interaction in the meetings by Members and the challenges around chairing, and the Council begins to look out of sync with the rest of the County that will have returned to work and opened up for business as usual.
- Opportunities – greater involvement of the public and the media, and continued efficient use of time by officers and Members; would allow for the outcome of the High Court case to be determined prior to holding any physical meetings.
- Threats – not a long-term solution to have the Chief Executive Officer use his emergency powers on an ongoing basis. There is an element of interpretation as to whether the Covid-19 pandemic still represents an “emergency” so as to justify the Chief Executive Officer using his emergency delegated powers.

#### Hybrid meetings

- Strengths – meets the requirement to return to meetings in person whilst giving the option of remote meetings for those Members who are unable or reluctant to commit to physical attendance.
- Weaknesses – this approach would need a (politically balanced) quorate to meet in person to enable lawful decisions to be made, there is a risk that people who join the meeting remotely are placed at a disadvantage during the meeting and their role may be advisory only. There are technical difficulties in having effective hybrid meetings and additional work would be required to make this more effective.
- Opportunities – this could become the model for meetings in the long term, once the approach has been tried and tested and so normalised.

- Threats – it is not clear whether the necessary technology is currently in place to enable large numbers of hybrid meetings to take place. It will also mean that officers will have to be physically present to support those members and the public who are in attendance.

3.4 From informal discussions with councillors in a variety of different settings regarding the operation of virtual meetings, the following themes have emerged: Members welcomed the reduction in travel time and costs associated with remote access meetings, the reduced costs associated with hospitality, travel claims and venue hire, and the reduced carbon dioxide emissions associated with travel to and from meetings; concerns that the remote meetings hinder debate and not all committee Members are actively engaged; the meetings can be very tiring and draining, particularly when they go on beyond one and a half hours; it remains difficult to chair meetings where people are not all in the same room. This is largely anecdotal and indicative but reveals that whilst remote access meetings are supported, there are some Members who would support a return to physical meetings in person and others who would not currently feel safe in physically attending meetings.

3.5 The Leader and the Assistant Chief Executive (Legal and Democratic Services) have each sought the views of Group Leaders and the Chairman of the Council regarding the continuation of virtual meetings in the future. To date, there is general support for continuing with virtual meetings which would make recommendations to the Chief Executive Officer, who would take these recommendations into account before making a formal decision on the matter.

3.6 The Government has recently issued guidance for the safe use of council buildings ([COVID-19: Guidance for the safe use of council buildings - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/guidance/covid-19-guidance-for-the-safe-use-of-council-buildings)) which actively encourages councils to move their annual council meeting to before 7 May 2021 (before the expiry of the 2020 Regulations) and to use powers to delegate decision-making to key individuals such as the Head of Paid Service and/or single Member decision-making. However the guidance goes on to state that where meetings take place in person the following steps should be followed:

1. Only those participants absolutely necessary should physically attend meetings and should maintain social distancing (2 metres apart or 1 metre with risk mitigation where 2 metres is not viable).
2. Avoid transmission during meetings for example by not sharing pens, documents and other objects.
3. Provide hand sanitisers in the rooms.
4. Holding meetings in well ventilated rooms whenever possible.
5. Use floor signage to help people maintain social distancing.
6. Not allow the public to attend and instead broadcast the meetings online (the guidance states that the public should not be attending council meetings until after 21 June 2021).

In reality this would make it extremely hard, if not impossible, to have a full Council meeting of all councillors in one venue staying 2 metres apart. It would not currently be possible to hold a full Council meeting in any properties owned by the Council. In addition, appropriate risk assessments would need to be carried out in ensuring staff have the appropriate safeguards.

3.7 In line with the Government guidance and on the direction of the Chairman of the Council, in these exceptional pandemic circumstances, the date of the Council's annual meeting has been brought forward to 5 May 2021, before the expiry of the 2020 Regulations. At that time, it will not be known who has filled the two vacant posts and therefore it will be

necessary to do an updated political calculation at some point after the elections and determine which committees the new councillors will sit on.

#### 4.0 **CONCLUSION**

4.1 The Government regulations which explicitly allow remote meetings to take place and to make formal decisions at those meetings are due to expire on 7 May 2021. The Government has confirmed that the Regulations, which require primary legislation to be extended, will not be extended prior to their expiry on 7 May and has issued a call for evidence regarding the operation of remote meetings and possible future legislation. Assuming the worst case scenario that the legal claim in the High Court is unsuccessful (and the Council no longer has the ability to hold remote meetings and take virtual decisions) then there are a number of options which could be pursued for the formal, public meetings of the Council's committees.

4.2 It is anticipated that all eligible adults will have had the first dose of the Covid-19 vaccine by 1 July 2021. As such, it is suggested that it would make sense to continue with the remote access live broadcast meetings until at least early July 2021. In doing so, the Chief Executive Officer would be asked to use his emergency powers to make any lawful decisions regarding any matters being considered by the committees at those meetings. After July 2021, this position could be reviewed once there is greater clarity on the current court case and government's position. It may be possible that after appropriate risk assessments and with the will of members, there could be the potential to have meetings in person or in a hybrid form, depending on the progress and impacts of the restrictions being relaxed.

4.3 The suggested approach in paragraph 4.2 means that the full Council meetings in May (also the annual meeting) and July 2021 would be held remotely. There are likely to be decisions made at those meetings which are reserved to full Council and should not usually be delegated, for example:

- making any changes to the Constitution
- adopting/amending budget and policy framework or taking any decisions contrary to it
- electing the Leader of the Executive
- agreeing and/or amending the terms of reference for committees, deciding on their composition and making appointments to them
- making certain appointments to outside bodies
- conferring the title of honorary alderman

However, it is arguable that the Council's Constitution is clear that "In cases of emergency" the Chief Executive Officer has power "to take any decision which could be taken by the Council, the Executive or a committee." (paragraph 4.1(e) of the Officers' Delegation Scheme); so this would not be a delegation in the usual sense but the Chief Executive Officer standing in the stead of the Council and taking the decisions the Council would otherwise take (but is currently unable to), under his emergency powers. However full Council is asked to adopt the approach of allowing virtual meetings to take place and allowing the Chief Executive to use his powers to make the decisions after taking into considering the views of the virtual meeting. This will continue to allow the views of directly elected Councillors to be at the centre of decision making for the Council.

5.0 **FINANCIAL IMPLICATIONS**

5.1 The financial implications are set out in the body of this report.

6.0 **LEGAL IMPLICATIONS**

6.1 The legal implications are set out in the body of this report.

7.0 **CLIMATE CHANGE IMPLICATIONS**

7.1 There are no significant climate change implications arising from this report. However allowing virtual meetings to continue will reduce carbon emissions by reducing the requirement to travel to meetings.

8.0 **CONSULTATION**

8.1 Relevant Officers and Group Leaders have been consulted on the proposal

9.0 **REASONS FOR RECOMMENDATIONS**

9.1 For the safe, expeditious and efficient conduct of the Council's business during the enduring Covid-19 pandemic it is recommended that full Council approve that from 7 May 2021 the Council continues to hold remote live-broadcast committee meetings, with any formal decisions required being taken by the Chief Executive Officer under his emergency delegated powers; that power be delegated to the Chief Executive Officer to determine which committee meetings should be held virtually and which should be held physically.

10.0 **RECOMMENDATIONS**

10.1 That Council approve that from 7 May 2021:

- a) the Council continues to hold remote live-broadcast committee meetings, with any formal decisions required being taken by the Chief Executive Officer under his emergency delegated powers;
- b) that power be delegated to the Chief Executive Officer to:
  - (i) make any decisions necessary to enable virtual meetings for members to continue (including considering the implications of the existing legal challenge once the judgement has been made),
  - (ii) determine which committee meetings should be held virtually and which should be held physically

COUNTY COUNCILLOR CARL LES  
Leader of the Council

22 April 2021

Author of Report : Barry Khan, Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer

Background Documents:

- The Council's Constitution
- The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

## Appendix 1 – formal committee meetings being held from May to July 2021

18 May 2021	Planning and Regulatory Functions
19 May 2021	County Council
21 May 2021	Outbreak Management Board
25 May 2021	Executive
25 May 2021	Shareholders Committee
26 May 2021	Health and Well Being Board
27 May 2021	Skipton & Ripon ACC
31 May 2021	Appeals Committee
04 June 2021	Pension Fund Committee
07 June 2021	Corporate & Partnerships
08 June 2021	Planning and Regulatory Functions
09 June 2021	ACC Richmond (Yorks)
10 June 2021	Harrogate and Knaresborough ACC
10 June 2021	Police, Fire and Crime Panel
11 June 2021	Selby & Ainsty ACC
14 June 2021	Thirsk & Malton ACC
15 June 2021	Executive
16 June 2021	Scarborough & Whitby ACC
18 June 2021	Scrutiny of Health
21 June 2021	Appeals Committee
22 June 2021	SACRE
22 June 2021	Executive
22 June 2021	SACRE
23 June 2021	Outbreak Management Board
24 June 2021	Care and Independence
25 June 2021	Young People
28 June 2021	Audit
02 July 2021	Pension Fund Committee
02 July 2021	LGNYY
05 July 2021	Appeals Committee
06 July 2021	Executive
08 July 2021	Pension Board
12 July 2021	Transport, Economy & Environment
19 July 2021	Appeals Committee
20 July 2021	Planning and Regulatory Functions
21 July 2021	County Council
22 July 2021	Police, Fire and Crime Panel
28 July 2021	Local Access Forum
30 July 2021	Health and Well Being Board