

Birmingham City Council

Council Business Management Committee

23 March 2020



Subject: Covid 19 – Temporary Governance Arrangements
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Does the report contain confidential or exempt information? ☐ Yes ☒ No

If relevant, state which appendix is exempt, and provide exempt information paragraph number or reason if confidential :

1 Executive Summary

- 1.1 To set out temporary governance arrangements during the Covid 19 outbreak. The following arrangements shall apply for the duration of the outbreak, with monthly reviews.
- 1.2 Arrangements will also be reviewed in light of any changes in Government guidance or legislation.

2 Recommendations

- 2.1 To note the temporary governance arrangements during the Covid 19 outbreak.
- 2.2 For members to review (remotely if necessary) at monthly intervals or in light of changing Government guidance.

3 Background

- 3.1 The national response to the Covid 19 outbreak has been escalated to the “Delay” phase. As a result, the Council has considered whether it is appropriate for meetings to take place.

Legal Position

- 3.2 Local authorities are required to hold meetings to make decisions, these meeting must be opened up to the public, save for in a limited amount of exceptional circumstances (e.g. exemption under Schedule 12A apply); this requirement is entrenched in local government legislations (The Public Bodies (Admission to

Meetings) Act 1960, [Part 5A of the Local Government Act of 1972](#), [The Local Government \(Access to Information\) Act 1985](#), [The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012](#).

- 3.3 The above legislation also requires that in order to vote on decisions or recommendations, a Member must physically be present at the meeting, at which the matter is considered. Similarly, in order to be counted towards the quorum of a meeting, a Member must physically be in attendance.
- 3.4 Based on the above legislation allowing Members to be considered present and vote at a virtual meeting is currently not permitted and would require a change in legislation. Currently many bodies (including the LGA, Lawyers in Local Government) are lobbying Government for an amend for legislation in the unprecedented global pandemic. As of 19th March, no such legislation is proposed.
- 3.5 Members may participate remotely (by phone or video conferencing) but would not be counted towards quoracy or be able to vote.
- 3.6 This report therefore sets out the various decision making process and meetings involving elected members and sets out alternative temporary arrangements to be implemented with immediate effect.

4 Executive Decisions and Meetings

Key Decisions

- 4.1 Under the Constitution, key decisions must be taken at a Cabinet meeting. In light of the pandemic:
 - Cabinet continues to take place with the Leader and three other Cabinet Members (no change required to the Constitution);
 - The public are 'physically excluded', however access would be via a live webcast and therefore the meeting is still open to the public;
 - Opposition members can attend or ask questions virtually;
 - Officer attendance will be limited to those who have been determined as necessary.
- 4.2 All other aspects of the process remain the same, including:
 - Key decisions must be posted on the Forward Plan 28 days before the meeting;
 - Notification of matters to be discussed in public must be given 28 days before the meeting;
 - Reports must be produced in the normal format with consultation taking place as required;
 - Corporate clearance and sign-off processes must be observed;
 - Agendas, reports and decisions will be recorded and published on CMIS as usual;
 - Decisions will be subject to call-in.

Cabinet Member and Officer Delegated Decisions

- 4.3 No change is required to the process as these decisions can be taken without the need for a meeting. Whilst it is good practice for Cabinet Member decisions to be taken in the presence of an officer, this can be done remotely.

Cabinet Committees

- 4.4 There are no scheduled meetings of Cabinet Committee Group Company Governance or Equal Pay Executive Committee.

5 Full Council

- 5.1 Full Council on 7th April is cancelled. Reports will be re-scheduled for a later meeting.
- 5.2 The Annual Meeting is scheduled for 19 May. An Annual Meeting must be held each year, and we await national guidance on this.
- 5.3 The Mayoral dinner, after the Annual Meeting, will be cancelled.
- 5.4 If a Full Council meeting is held, then temporary amendments to the Constitution could be proposed, included increased delegations and changes to appointments to committees.

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- 5.5 Further meetings will be called as necessary by the Leader.

6 Planning Committee

- 6.1 Planning Committee meets every two weeks, primarily to determine planning applications; which have to be determined within statutory time scales to avoid risk of appeals against non-determination and reputational harm. It is not feasible to stop making planning decisions until after the pandemic as this will have a substantial adverse impact on the economy and will seriously harm the reputation of the Council.
- 6.2 Whilst we await further national guidance, or a change in legislation, it is proposed that the following steps are taken:
- Reducing the number of meetings as far as possible – officers to explore if more planning applications could be delegated to officers or delayed where possible;
 - Where meetings are held, these will be held in the Council Chamber;
 - Physically exclude public observers but facilitate public access via the webcasting. Applicants and advisors must be able to attend (unless remote participation can be enabled) to exercise their right to speak on applications;
 - Review member attendance and agree a reduced attendance as necessary (quorum is 5);
 - Officer attendance will be limited to those who have been determined as necessary

- 6.3 Ahead of the first meeting in the Chamber (26 March) a site visit has been arranged with planning officers and the Chair.
- 6.4 Further work is underway with IT&D to facilitate remote attendance.

7 Licensing & Public Protection Committee

- 7.1 The Licensing & Public Protection Committee is scheduled to meet on 22 April and again in June. However, the Chair is keeping this under review and will only hold a meeting if required to do so.

Licensing Sub-Committees

- 7.2 The Council must determine licensing applications within a statutory timescale, failure to do so could lead to the applicant applying to the magistrate's court for determination. Some matters to be determined under the Licensing Act 2003 cannot be delegated to officers. Therefore, unless there is a change in legislation or national guidance, then some meetings must be held.
- 7.3 Therefore, it is proposed that the following steps are taken:
- Officers to determine whether any driver application matters can be delegated, and agree this with the Chair;
 - Ask applicants to agree to extend the timescale for their applications;
 - Rely on section 11 of the regulations where possible: this states that it is possible to "...extend a time limit provided for in these Regulations for a specified period where it considers this to be necessary in the public interest."
 - Where s11 is not applicable, and/or where applicants refuse to extend, or there are urgent matters, then meetings are held in line with the meeting guidance in Appendix 1.
- 7.4 As the pandemic progresses, it may be necessary to review the pool of members trained to undertake licensing reviews/applications, bringing in members with fewer risk factors.
- 7.5 Further work is underway with IT&D to facilitate remote attendance.

8 Overview & Scrutiny

- 8.1 Scrutiny chairs have agreed that the presumption is that meetings will be suspended unless there is a compelling reason to hold one. Members will continue scrutiny through briefings and options for remote meetings are being explored.
- 8.2 With regards to call-in, a flexible approach will be maintained, depending on the number of call-ins and the availability/risk factors of members involved. Again, where meetings are held, the meetings guidance in Appendix 1 will be followed.

9 Other Committees

- 9.1 **Audit Committee** on 24th March will go ahead at the Chair's request. The meeting has been moved to Committee Rooms 3 and 4, and the meeting guidance in Appendix 1 will be followed.
- 9.2 **Trusts & Charities Committee** is under review (the next meeting is 29th April, after the date of the review of these arrangements).
- 9.3 There are two **Personnel Appeals** scheduled for April.
- 9.4 No meetings are scheduled for the **Health and Wellbeing Board**.
- 9.5 **Standards Committee** is scheduled for 15 April.

Appendix 1: Meeting Guide During Coronavirus

Where meetings are held:

1. Meetings to be held in the largest meeting room available (including Council Chamber) to allow participants to sit spaced apart.
2. Meetings in Committee Rooms 3 and 4 to use the largest seating plan, again giving the maximum space between participants.
3. Hand sanitizer to be available (if possible)
4. One microphone to be used per person wherever possible.
5. All microphones (buttons and stems), equipment and tables to be wiped down before and after use.
6. No refreshments to be ordered
7. No presentations to reduce need for shared equipment, and reduce set up resources
8. Where members of the public/press are not permitted to attend in person, the webcast must be operational otherwise decisions taken at the meeting will not be legally valid. If there are problems with the web-stream, then two options to consider:
 - Having only one camera focused on the room and/or audio recording;
 - The meeting being filmed and subsequently uploaded.

The first option should be considered as a matter of course, to reduce the need for an operator to be in the room.

9. Members who are at risk must be discouraged from attending in line with government guidance, and therefore numbers may be reduced. Some meetings may be held at minimum quoracy. Officers who are at risk due to an underlying health condition should have already informed their Line Manager.

10. Officer attendance should be kept to a minimum.