

Open

Extraordinary Council

Agenda

To be held remotely
5pm
Tuesday 21st April 2020



Council

Public Information

1. If you have any questions regarding the agenda or the attached papers please do not hesitate to contact the officer named below.
2. The Council meeting is open to the public except for any exempt/confidential items. These items are normally discussed at the end of the meeting. Where a meeting is held remotely, “open” means available for live or subsequent viewing.
3. Members of the public will be able to hear and see the meetings by a videoconferencing tool – details of the website and any access codes/passwords that members of the public need to use will be made available in due course.
4. This meeting is being held remotely online and will be recorded for play back. You should be aware that the Council is a Data Controller under the Data Protection Act 2018.
5. This Agenda can be made available in larger print on request; if you require a copy please contact:

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COUNCIL MEETING

9th April 2020

TO ALL MEMBERS OF THE COUNCIL AND HONORARY ALDERMEN

PRESS AND PUBLIC

Dear Member

YOU ARE INVITED to attend an extraordinary meeting of the Wyre Forest District Council to be held remotely **at 5pm on Tuesday 21st April 2020.**

The Agenda for the meeting is enclosed.

Details of the website for Councillors and members of the public to use, and access codes/passwords, will be made available separately.

Yours sincerely

A handwritten signature in black ink that reads "I R Miller".

Ian Miller
Chief Executive

Declaration of Interests by Members – interests of members in contracts and other matters

Declarations of Interest are a standard item on every Council and Committee agenda and each Member must provide a full record of their interests in the Public Register.

In addition, alongside the Register of Interest, the Members Code of Conduct (“the Code”) requires the Declaration of Interests at meetings. Members have to decide first whether or not they have a disclosable interest in the matter under discussion.

Please see the Members’ Code of Conduct as set out in Section 14 of the Council’s constitution for full details.

Disclosable Pecuniary Interest (DPI) / Other Disclosable Interest (ODI)

DPI’s and ODI’s are interests defined in the Code of Conduct that has been adopted by the District.

If you have a DPI (as defined in the Code) in a matter being considered at a meeting of the Council (as defined in the Code), the Council’s Standing Orders require you to leave the room where the meeting is held, for the duration of any discussion or voting on that matter.

If you have an ODI (as defined in the Code) you will need to consider whether you need to leave the room during the consideration of the matter.

(A) TERMS OF REFERENCE OF THE COUNCIL

The Council

1. Is the ultimate decision making Body.
2. Determines the Budget (but reserves powers to itself in relation to requirements).
3. Is responsible for appointing (and dismissing) the Leader of the Council.
4. Appoints at its Annual Meeting, the Regulatory Committees, the Overview and Scrutiny Committee and any other Committees/Forums necessary to conduct the Council’s business.
5. Decides on matters where the Cabinet is not minded to determine a matter in accordance with Council policy.

(B) MATTERS RESERVED TO THE COUNCIL

1. Those reserved by Law e.g. levying a rate, borrowing money, promotion of or opposition to a Bill in Parliament.
2. Matters reserved to the Council by financial regulations.
3. The adoption and amendment of Standing Orders, including the powers and duties of Committees and other forums.
4. Power to make, amend, revoke or enact or enforce any byelaws.
5. The determination of the objectives of the Council.
6. Matters of new policy or variation of existing policy as contained within the budget and policy framework.
7. Local Development Framework adoption.
8. Any function where a decision would be contrary to a plan, policy, budget or strategy previously adopted by the Council, which would be contrary to the Council’s Standing Orders, Financial Regulations or Executive arrangements.
9. The Scheme of Delegations to Officers.

Wyre Forest District Council

Extraordinary Council

To be held remotely

Tuesday 21st April 2020

Part 1

Open to the press and public

| Agenda item | Subject | Page Number |
|--------------------|--|--------------------|
| 1. | Apologies for Absence | |
| 2. | Declarations of Interests by Members In accordance with the Code of Conduct, to invite Members to declare the existence and nature of any Disclosable Pecuniary Interests (DPI's) and / or Other Disclosable Interests (ODI's) in the following agenda items and indicate the action that they will be taking when the item is considered. Please see the Members' Code of Conduct as set out in Section 14 of the Council's Constitution for full details. | |
| 3. | Coronavirus Act 2020 - Governance and Constitutional Issues To consider a report from the Chief Executive which proposes the making of arrangements to ensure continuity of the Council's decision-making functions during the COVID-19 outbreak. | 6 |

WYRE FOREST DISTRICT COUNCIL

COUNCIL

21 APRIL 2020

Coronavirus Act 2020 - Governance and Constitutional Issues

| OPEN | |
|-------------------------|---|
| CABINET MEMBER: | The Leader of the Council |
| DIRECTOR: | Ian Miller, Chief Executive |
| CONTACT OFFICER: | Caroline Newlands Caroline.Newlands@wyreforestdc.gov.uk |
| APPENDICES: | Appendix 1-Council Procedure Rules Appendix 2-Planning Delegations |

1. PURPOSE OF THE REPORT

- 1.1 This report proposes the making of arrangements to ensure continuity of the Council’s decision-making functions during the COVID-19 outbreak. The changes are required to respond to eliminate the need for non-essential face-to-face contact whilst still allowing decision making to take place and to respond to the changes introduced by Government under the Coronavirus Act 2020 (“the Act”). In particular, reference is made to the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No 392, made under section 78 of the Act. These and any subsequent regulations made under section 78 are referred to in this report as “the section 78 regulations”.
- 1.2 The changes require amendments to be made to the Council’s constitution and additional delegations to be put in place to allow timely decision making.

2. RECOMMENDATIONS

- 2.1 That the Council **AGREES** that the Council’s annual meeting in 2020 is held on a date decided by the Chief Executive in consultation with the Chairman to the Council, such date not to be before the lifting of restrictions on movement and social distancing measures in response to the COVID-19 outbreak; and subject to there being no annual meeting in 2020 if those restrictions are not lifted in time for the annual meeting to be held by 30 September 2020.
- 2.2 That the Council **AGREES** that the temporary changes to the Constitution set out in this report and the delegations set out in paragraphs 2.4 and 2.5 below should apply until the earliest of:
 - (a) A date decided by the Solicitor to the Council in consultation with the Chairman of the Council; or
 - (b) The date of revocation of the section 78 regulations; or
 - (c) 6th May 2021.

- 2.3 That the Council AGREES the following temporary changes to its Constitution:**
- 2.3.1 the revised Section 7: Council Procedure Rules in Appendix 1;**
 - 2.3.2 the revised scheme of delegation for planning in Appendix 2 to be included in Section 4: Responsibility for Functions, with delegation to the Corporate Director: Economic Prosperity and Place to update planning practice notes and/or associated practice protocols to the extent necessary to reflect the temporary changes in the procedures adopted by the Council;**
 - 2.3.3 amendments to the scheme of delegation for licensing and registration functions in Section 4: Responsibility for Functions, as set out in paragraph 3.12 below;**
 - 2.3.4 the revised provisions to Section 8: Access to Information set out at paragraph 3.13; and**
 - 2.3.5 the revisions to Section 12: Contract Procedure Rules set out in paragraph 3.14.**
- 2.4 That the Council AGREES that delegated authority be given to the Solicitor to the Council in consultation with the Chairman of the Council, Chief Executive and Corporate Director: Resources, to make any additional temporary changes to the Constitution that are required as a matter of urgency between meetings of the Council, such additional temporary changes to be reported to the next meeting of the Council for formal ratification.**
- 2.5 That the Council AGREES that delegated authority be given to the Chief Executive in consultation with the Chairman of the Council, Solicitor to the Council and Corporate Director: Resources, to make any temporary changes to policies that ordinarily require full council approval and that are required as a matter of urgency between meetings of the Council, such temporary changes to be reported to the next meeting of the Council for formal ratification.**

3 THE PROPOSED CHANGES

- 3.1 Clause 78 of the Coronavirus Act 2020 introduces regulation-making powers with regard to meetings and proceedings of local authorities. These are broad powers to make regulations regarding:**
- 3.1.1 requirements to hold local authority meetings;**
 - 3.1.2 the times at or by which, periods within which, or frequency with which, local authority meetings are to be held;**
 - 3.1.3 the places at which local authority meetings are to be held;**
 - 3.1.4 the manner in which persons may attend, speak at, vote in, or otherwise participate in, local authority meetings;**

- 3.1.5 public admission and access to local authority meetings;
- 3.1.6 the places at which, and manner in which, documents relating to local authority meetings are to be open to inspection by, or otherwise available to, members of the public.

Flexibility in period during which the temporary changes will apply and to make further changes between council meetings

- 3.2 The Council needs to be able to react and implement new ways of working in accordance with the section 78 regulations which were made on 1 April and came into force on 4 April. They will continue in force for meetings held before 7 May 2021 although might be subject to amendment or revocation before that date. There therefore needs to be flexibility so that the temporary changes to the constitution set out in this report can be brought to an end earlier than 7 May 2021: this is covered by the recommendation in paragraph 2.2 and also by the delegated power in paragraph 2.4 to make further amendments between meetings of full council.
- 3.3 A similar flexibility is required temporarily to amend policies that ordinarily require full Council approval. Where a temporary amendment is required as a result of legislation or Government guidance arising from the COVID-19 outbreak, the delegation in paragraph 2.5 would allow those changes to be made quickly between meetings of full Council and reported for ratification at the immediately following meeting. While it is not possible to predict what temporary changes may be necessary, it is conceivable that policies such as the statement of licensing policy or the council tax reduction scheme might have to be amended temporarily to reflect legislation under the Act.
- 3.4 The delegations in paragraph 2.4 and 2.5 would apply only as long as the arrangements for temporary changes to the constitution, including remote participation in meetings: see paragraph 2.2.

Annual meeting

- 3.5 Among other things, regulation 6 of the section 78 regulations removes the requirement for an annual meeting to be held. In the normal course of events there is a desire by the Council to elect a Chairman who, in addition to formal roles within the Council, is the first citizen of the District. His or her election forms the centre point of the annual meeting. However there is now no legal requirement to hold such a meeting in 2020.
- 3.6 Following consultation with the Chairman, Vice Chairman, Group Leaders and Deputy Group Leaders, this report proposes that the annual meeting in 2020 should be held on a date decided by the Chief Executive in consultation with the Chairman to the Council. It is not possible to be specific about the date at this stage as it is not known when the Government will lift restrictions on movement and social distancing measures in response to the COVID-19 outbreak. However if those restrictions are not lifted in time for the annual meeting to be held before 30 September 2020, then there would be no annual

meeting in 2020 and office-holders etc would continue in office until May 2021. In practice, this means that the annual meeting – if it is possible to hold one – would be on the date of the Council meeting in either July or September. The consequence is that (with appropriate amendments to the Constitution) the Chairman and Vice Chairman of the Council will continue in office for the time being, until an annual meeting is held. Likewise Chairmen and Vice Chairmen of Committees will continue in office until that point. This is subject in all cases to the ability of a member to resign his or her office at any time, as normal, and if that scenario arose the Council would have to agree a fresh appointment to fill the vacancy. In addition, appointments to external bodies would continue until the annual meeting is held.

Changes to Council Procedure Rules (Standing Orders)

- 3.7 Significant changes are required to the Procedure Rules so that they operate successfully in circumstances where councillors, officers and members of the public are taking part in meetings remotely, using web-enabled conferencing. It is envisaged that the selected technology will enable members of the public to hear and see councillors and officers and should also allow only pre-registered speakers to be able to address a meeting as set out in the Procedure Rules.
- 3.8 Council is invited to approve the changes which are incorporated in the revised Procedure Rules set out in Appendix 1. The main changes (in addition to the timing of the Annual Meeting) relate to:
- a) how members participate and vote in meetings that are being held remotely;
 - b) how members of the public can exercise their right to speak at meetings;
 - c) in order to keep the length of Council meetings manageable when meeting remotely, limiting the number of motions to a maximum of two and to limit the time for questions to 15 minutes, while also removing the ability to ask a supplementary question;
 - d) ceasing to require the Chairman to attest affixing of the Seal and to allow electronic signatures to be used wherever possible.

Standing orders 8.5 and 8.6 provide for the life of these amended Procedure Rules to be time-limited, as set out in paragraph 2.2 above, and that the Procedure Rules existing immediately prior to 21 April 2020 will return to being in full force once the temporary arrangements cease.

Changes to delegation schemes

- 3.9 Officers already have considerable delegations under the Responsibility for Functions section of the Constitution. The additional delegations are to enable decisions to continue to be taken at times when it may not be possible for Members to do so. The temporary changes are to supplement and, in some cases amend, the existing delegations.
- 3.10 In respect of planning, some other councils are using extant urgency powers and all decisions are being taken by officers. That is not the intention in Wyre

Agenda Item No. 3

Forest where it is hoped to continue with meetings of the Planning Committee. However changes to the scheme of delegation are proposed so that the number of reports required to be prepared for the Committee can be minimised: this is to allow for circumstances (such as availability of planning officers as a result of sickness) which could mean that capacity was severely limited. The amended scheme of delegation in Appendix 2 specifies that only a limited range of applications should be reported to committee:

- a) Major planning applications (as defined by point 7 of the existing scheme of delegation);
- b) Planning applications, other than an householder application, where 2 or more statutory consultees have objected and it is proposed to approve the application;
- c) Planning applications, other than an householder application, where 3 or more non-statutory consultees have objected and it is proposed to approve the application;
- d) Planning applications where there are fewer objections from consultees than stipulated in (b) or (c) and a District Councillor for the ward requests consideration by the Planning Committee, the request to identify the specific planning issues that the Planning Committee should consider;
- e) Planning applications where the applicant is the District Council or made on land owned by the District Council; or where the applicant is a serving District Councillor, serving officer of the District Council or serving County Councillor representing a division in Wyre Forest or made on land owned by one of the foregoing.

3.11 The rationale for these temporary arrangements is to minimise the number of reports coming forward in order to keep meetings shorter and to allow for potentially limited capacity among planning officers. They will ensure that the Planning Committee focuses on major matters and those where there is a significant level of objections, but still retain the ability for a ward member to request consideration by the Planning Committee even where perhaps only one objection has been received.

3.12 In respect of licensing, it is again proposed temporarily to lighten the load in respect of potential reports to the Licensing and Environmental Committee by making the following changes to the scheme of delegation for Licensing and registration functions in Section 4 of the Constitution: omit paragraphs 1, 2, 3 and 9 from the list of exceptions. The main effect of this is that all decisions on matters in relation to Hackney Carriage and Private Hire Operators, Vehicles and Drivers would be taken by the Head of Regulatory Services (Worcestershire Regulatory Services). Appropriate adjustments will be made to procedural processes to facilitate these determinations, taking account of the current restrictions on movement and social distancing guidance.

Changes to Access to Information rules

3.13 In light of the fact that the Council's offices are closed to the public, The Access to Information Rules will be varied so that references to documents being available for inspection will be to documents available on the Council's website; and requests for copy documents, where the Rules allow them to be

provided, will be provided only by e-mail and only where electronic copies are already available at the time of the request. It is possible to purchase print copies of documents if required.

Changes to Contract Procedure Rules

- 3.14 The following variations to the Contract Procedure Rules are considered necessary:
- 3.14.1 Rule 42.2 is varied so that contracts under seal can be signed by the Solicitor to the Council or her authorised signatory.
 - 3.14.2 Rule 47.3 Contracts above the E.U. Threshold which contain no option to extend in the original notice (or contracts which require a longer extension than permitted in Rule 47.3 due to emergency) can only be extended with the written consent of the Solicitor to the Council.
 - 3.14.3 Appendix 6 is altered so that there is no requirement for a representative from legal services to be present at a tender opening.
 - 3.14.4 All references to £160,000 to be increased to £180,000 in line with the increase in EU procurement thresholds from 1st January 2020

Changes to financial regulations

- 3.15 Under delegated powers in paragraph 1.1.6 of the approved Financial Regulations, the Corporate Director: Resources, following consultation with the Cabinet Member for Strategy and Finance, has made temporary changes to the Financial Regulations to provide for greater flexibility during the COVID-19 Pandemic. In summary this change increases the limit for Service Manager Virements from £20,000 to £50,000 and the cumulative Cabinet approval limit for both Virements and Supplementary estimates from £200,000 to £500,000 in a financial year. This change does not require Council's approval but is reported for completeness.

4 FINANCIAL IMPLICATIONS

- 4.1 The cost of software to enable remote attendance at meetings is estimated at about £1k and will be absorbed within existing budgets or funded from the generic funding for COVID-19 provided by Government (thus far, only £50k has been provided). Meetings held by remote participation will reduce some associated costs, such as catering, while others will increase (such as provision of paper agendas in order to facilitate participation in meetings on Ipads or laptops, as members will not be able conveniently to follow proceedings and refer to meeting papers on the same screen). No other implications arising from this report or the section 78 regulations have been identified at this time.

5 LEGAL & POLICY IMPLICATIONS

- 5.1 The proposed changes comply with the requirements of local government legislation such as the Local Government Act 1972 and the Local Government Act 2000 as amended by the section 78 regulations.

6 RISK MANAGEMENT

- 6.1 While Cabinet business could continue without meetings because of the “strong leader” model of decision-making, no other meetings of the Council and its committees should take place unless amendments to the constitution are agreed. The risk of not adopting these changes is that the Council would not be able to make effective and timely decisions, to protect the financial and legal position of the Council and to act in the best interests of residents and businesses in the District.

7 EQUALITY IMPACT ASSESSMENT

- 7.1 The widely-used web-based conferencing platform that the Council is planning to use confirms that its products conform “with exceptions” with the standards in EN 301 549 Accessibility Requirements, which are the European standards embodied in UK legislation by the Public Sector Bodies (Websites and Mobile Applications) Accessibility Regulations 2018. In the circumstances, it is not considered a reasonable adjustment for the Council to have to search out a conferencing platform that provides full compliance.
- 7.2 Remote participation in meetings using web-enabled technology means that members of the public who do not have internet access will not be able to see or hear what has happened at a meeting. It is the Government’s movement restrictions that restrict the ability to hold meetings that members of the public may attend in person and therefore no reasonable adjustment can be made. Reports and minutes of meetings will continue to be publicly available, at present only on the Council’s website: again this will continue to be the case until public access to buildings can be restored and people will then be able to view paper copies of documents if they wish. Members of the public can pay to have printed agendas sent to them in accordance with the approved scheme of fees and charges.

8 CONCLUSION

- 8.1 The Council is invited to approve the actions and changes set out in section 2 above.

9 CONSULTATION

- 9.1 The Chairman and Vice-Chairman, Group Leaders and Deputy Group Leaders
9.2 Corporate Leadership Team

10 BACKGROUND PAPERS

- 10.1 Section 78, Coronavirus Act 2020

<http://www.legislation.gov.uk/ukpga/2020/7/section/78>

- 10.2 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No 392

<http://www.legislation.gov.uk/uksi/2020/392/contents/made>