

Paper to Charlbury Town Council

Alternative arrangements for Council meetings to mitigate Covid risk to clinically vulnerable people

In May 2021, the Government withdrew Covid working arrangements for local councils which had allowed the use of video conferencing to conduct formal Council meetings (which were also facilitating larger numbers of members of the public watching meetings). Despite legal challenges and a promise that legislation would be altered to facilitate hybrid meetings, there is no sign of any such alteration. One Town Councillor is clinically vulnerable, and others are in households with clinically vulnerable people; there may be members of the public wishing to participate in meetings who are unable to do so for the same reason.

The removal of remaining restrictions on 19 July, combined with existing legislation, means that the Council cannot compel anyone attending a meeting to wear a face covering. This discriminates against clinically vulnerable people and poses a risk to their health. Covid rates are high across Oxfordshire and no likelihood exists that the law will allow hybrid meetings for the foreseeable future.

In response, the Council could:

1. Do nothing: continue current practice
2. Seek a 'mild hybrid' arrangement, where remote video participation would be possible but only the votes of those physically present could count (as is the current law)
3. Adopt a scheme of delegation to allow for full discussion and participation, as is the case in some principal and local councils, or
4. Adopt some other system.

We could also resolve to write to Government seeking a speedy resolution of this issue.

As the Council does not currently have standing orders for its committees, they are free to meet in whatever format is agreed (and online discussion is extensively and effectively used to make recommended representations on planning applications, for example); however, it is also appropriate for the Council to consider whether Standing Orders are needed for any of these.

Current practice

All councils still need to meet physically in order for Councillors' attendance to be recorded at least once every six months [the 'six month rule'] and for certain functions such as precept-setting. The Council has met in the Memorial Hall, the only room in Charlbury which offers appropriate social distancing and ventilation for a meeting of this size. Internet connectivity is an issue, although this is being addressed.

Nonetheless, for clinically vulnerable people there are risks in even attending meetings of this nature.

A 'mild hybrid' arrangement

Several councils including London Boroughs have adopted an arrangement in which council meetings are on a video link. With permission of the Chair, councillors not in attendance may speak but they may not propose or second a resolution or vote (as the law requires councillors to be physically present). Council meetings are scheduled as normal.

This allows for some degree of participation, and the Council could decide to adopt this format. However, a degree of discrimination remains in that elected councillors can only vote if physically present. While this would be likely to affect the nature of Council decision-making only rarely, (and the Council could take a view that finely balanced votes would require the views of all councillors to be made clear, for example), and it is a lawful way for business to be conducted, it still discriminates against councillors who are clinically vulnerable.

Alternative arrangements

There are two sets of arrangements being made by local councils at present to allow all councillors to participate in decision-making, which are believed by them to be lawful (although others have a different opinion). Both involve using a council's powers of delegation under the Local Government Act 1972 to delegate decision-making. Both are set out at the foot of this paper.

The first option [Option A] is used by among other councils Yate TC (South Gloucestershire) and Chelmsford City Council (a local council in Essex). Both delegate powers to the Clerk in consultation with Chair and Vice Chair. Meetings still take place, but in a hybrid or remote format with full participation.

The second option [Option B] is used by principal councils including LB Sutton but also by town councils including Abingdon. This delegates decision-making to an Urgency Committee, a structure commonly used by local government before the move to a Cabinet system of government in 2001, and still in use in some places.

Local authorities must have regard to the law and advice from officers (the Proper Officer in the case of town/parish councils). There are differing opinions on the robustness of these mechanisms in the event of a legal challenge. Our Proper Officer [the Clerk] will give advice at the meeting and has expressed concern at the use of any of the mechanisms above. The Council could also take a view that the manner in which we are currently being instructed to conduct business is discriminatory and therefore in breach of the Equality Act 2010. The Council could also choose to conduct its business in another manner, but must be mindful of the potential for a legal challenge as outlined above.

Recommendation

That the Council resolves which, if any, of the alternative options to adopt, resolving to amend Standing Orders to that effect, for a specified period of time until arrangements are reviewed. This could be, for example, at the Precept meeting in December.

Option One

As the authority to meet remotely ended on 7th May 2021, in order for Charlbury Town Council to deliver democracy and fulfil statutory duties to hold meetings in public and allow public participation, that:-

- All decisions be delegated to the Clerk in consultation with the Chair and Vice-Chair of Council and [if applicable] the relevant Committee / Sub- Committee / Project Steering Group, until such time as it is lawful and safe for the Council or Committee / Sub-Committee / Project Steering Group and members of the public to meet face-to-face, or until such time as remote council meetings become lawful again;
- The Clerk continues to convene meetings in accordance with the normal Charlbury Town Council timetable and processes; these meetings to be advisory meetings to the Clerk and relevant members, with the advisory process happening online;
- These meetings be advertised and open to the public in the normal way, and it be made clear they are advisory meetings as the law does not permit remote decision-making at this time;
- That the Clerk and relevant members to whom the decision has been delegated agree to seek the advice of members through those advisory meetings;
- That the Clerk organises a sufficient number of legal face-to-face meetings for compliance reasons (eg, enabling councillors to meet attendance rules) and for decisions to be taken that cannot be delegated.

Option Two

Government restrictions, along with our public health responsibilities to reduce the spread of infection, mean that in-person meetings with the number of participants required to operate our decision-making structures are not possible at this time. In the current circumstances, it is important that we take a reasonable and proportionate response to decision-making; taking a balanced approach in terms of supporting advice to avoid infection, maintaining essential decision-making, and ensuring transparent governance arrangements are in place.

In order to provide effective member oversight of council activities and to give councillors the opportunity to attend meetings in the current circumstances, it recommended that the following arrangements are agreed and will remain in place until the meeting of Council on [Date] 2021:

- An Urgency Committee is formed, comprised of XX members.
- Committees will continue to meet virtually, debate and determine matters, and then refer their determinations to the Urgency Committee for ratification immediately following the meeting.
- The Planning Committee meets virtually then refers determinations to the Urgency Committee with powers to consider recommendations referred to it or, if it cannot agree, refer recommendations back to the Planning Committee.