



RETURNING TO PHYSICAL MEETINGS

DELIVERING COVID 19 SECURE COUNCIL MEETINGS

Local councils (parish, town and city councils) and parish meetings must return to holding physical meetings from May 7th, 2021. The recent High Court ruling means that the facility to meet and make decisions using virtual meeting arrangements is no longer lawful.

The seven County Associations of Local Councils (CALCs) have collaborated to produce common guidance and information for local councils as we return to holding face to face meetings. We will continue to share best practice and a common approach during the coming weeks, as the Government's roadmap unwinds restrictions.

It will be a nervous time for many until the vaccination programme has been completed and confidence is restored, and this guide is intended to support your council during the recovery phase.

The Future of Local Council Meetings – A summary of the recent judgements

From the recent court judgements after 7th May 2021, we can now confirm the following outcomes:

- All meetings of local councils, their committees, sub committees or any other meeting held under the 1972 Local Government Act Sch 12 10 must be held as a physical, face-to-face meeting from 7th May 2021.
- The ruling also applies to parish meetings where there is no separate council.
- Members of the public must be able to attend any physical meeting. A secondary judgement has confirmed that the limiting the public to virtual access is unlawful; they must be able to attend in person.
- Councils can continue to live stream/broadcast/record their meetings, but this cannot be instead of giving physical access to the meeting.
- Council meetings are defined as work for councillors, clerk and should be organised in accordance with Government guidance and the Covid 19 principles of hands, face, space and fresh air.
- Virtual formats may be used for business meetings of members and consultation with the clerk.
- Only decisions taken by the council at a face-to-face meeting, or under the Scheme of Delegation will be lawful.
- Councillors who insist on retaining the use of virtual council meetings may be at risk of a complaint under the code of conduct for bring the council into disrepute.

*This is not a definitive guide, contact WALC for any specific guidance.

Holding Safe Council Meetings

After a year under Covid restrictions and shielding, it is now time to return to face-to-face meetings with public participation. Councils may wish to re-establish the annual calendar and begin a locally acceptable return to physical meetings which may include a phased approach. You may find the following information useful.

1. Cycle of Meetings

- The council is required as a minimum to meet once in May for a statutory annual meeting and at least three other times during the year. This means that the council will not have failed in any regard if it reduces the number of public meetings over the next few months. You may wish to keep the number of physical meetings to a minimum and use the scheme of delegation for non-urgent business during the first 2 – 3 months.
- A council may resolve to exclude the press and public from part of the meeting where the nature of the business to be discussed is deemed confidential, but this cannot be used to limit public attendance. Items which are normally discussed in an open session – planning, services, approval of minutes, payment of accounts etc cannot be moved into a closed session simply on the basis of excluding the public for health reasons.
- Local councils are able to meet on any day of the week including Saturdays if necessary and there is no requirement for an indoor venue, you can meet outside. Where no alternative space is available you can meet on licensed premises provided that no alcohol is on sale.
- There is no legal requirement for the Clerk to attend council meetings. Under its duty of care as an employer, the council must consider any reasonable request from staff to attend meetings virtually and agree adjustments wherever possible.

2. Public attendance at council meetings

The capacity of your meeting room will limit the number of people able to attend the meeting safely. Provided that you have assessed the capacity of the room and made reasonable adjustments to meet Covid 19 precautions and restrictions, you are able to restrict access when the room is 'full'.

Where you have significant public interest and the room is full, you should consider what other arrangements could be made to provide public access.

This could include:

- Restricting public participation to items on the agenda and asking the public to either submit their question in writing and/or registering to attend the meeting.
- Taking public participation per item. Whilst you may not be able to guarantee attendance for the whole of the meeting this should allow access for the item of interest.

- Making arrangements to live stream or record the meeting so that it can be heard at a later date. There is no requirement for live broadcasting, but you may wish to continue to make recordings available on your website.
- Choose an appropriate venue of the meeting according to the items on the agenda and public interest. Choose the venue and level of public input appropriate to the issue.
- Identify if there is a spokesperson for the issue to limit the number of people wish to attend.
- Encourage the public to write to the council to share their views if they are unable, uncomfortable or unwilling to attend.
- Offer a virtual surgery if appropriate.

3. Emergency Scheme of Delegation to the Clerk

Local councils may not return immediately to a full calendar of face-to-face meetings. To help the business of the Council during this next phase, it is important that the council adopts a broad scheme of delegation to the Clerk. This will allow it to continue to operate between meetings until such time as you are confident to return to a normal schedule of meetings. Although delegation is a lawful form of decision making it must only be used as a emergency measure, when meeting would be inappropriate, unsafe or impossible.

The legislation allows for the council to delegate to an officer, but not individual members and the wording of the resolution below reflects the law.

Suggested wording is:

That the Council delegates authority to the Clerk in consultation with the Chairman and Vice Chairman/Mayor and Deputy Mayor to take any actions necessary with associated expenditure to protect the interests of the community and ensure council business continuity, informed by consultation with the members of the council. The scheme of delegation will be reviewed no later than September 2021.

You may find the following tips helpful when using the delegation:

- Delegation authorises the clerk to take decisions on behalf of the council instead of elected members. It is important that it is only used when a physical council meeting is either inappropriate or impossible.
- The Clerk chooses how to consult with members but any meeting either physically or virtually must not mirror a council meeting. It can also include written consultation and face to face meetings i.e., site visits.
- A consultation informs the clerk on how to act on behalf of the council. It can include consultation with members of the public in a similar way.
- For the short term the clerk may wish to organise a regular catch up with members to share business and gather views and that can take place virtually.

The Scheme of Delegation will support the council during the first few months **but must not be used as a way of avoiding holding council meetings**. The six-month rule

continues to apply and councils will need to meet at least once before November to avoid members losing their seat.

[The Openness of Local Government Bodies Regulations 2014](#) s7 requires the council to keep a record of any decisions made under delegation, together with the relevant paperwork.

4. What can and cannot be dealt with under the emergency scheme of delegation?

The scheme of delegation will cover:

- make day to day decisions.
- authorise budgeted expenditure.
- respond to consultations on behalf of the council.
- continue to deliver projects.
- respond to planning consultations.
- work with outside partners and public bodies for the benefit of the area
- anything urgent until such time as an extra ordinary meeting of the council can be called.

The following items will require a council meeting as they are not covered by the scheme of delegation:

- Co-option of councillors
- Election of Chair and Vice Chair
- Appointment of members to committees and other statutory roles
- Signing the AGAR annual return
- Setting the budget and precept
- Making permanent changes to council policies and governance documents such as Standing Orders, Financial Regulations. (Where this is urgent, it should be an interim arrangement until it can be approved at a meeting of council.)
- Granting extensions under the six-month rule

5. Financial Matters

The following payments can be made under the scheme of delegation without the need for approval at a meeting of the council or a committee:

- Any payment which part of an agreed contractual obligation is (salary and on costs, contractors, and suppliers). This is because failure to pay would be a breach of contract or the individual payment is part of budgeted expense.
- Any other budgeted item including approved grants, approved purchases (playground equipment, computer, other assets) insurance and any other expenditure previously agreed by the council. There is an audit trail that the council has already considered and approved the payment.
- Any amount authorised by the Clerk which within the limits set by the Council's financial regulations.
- Any other payment authorised under the Emergency Scheme of Delegation.

Regardless of the Emergency Scheme of Delegation, members are still responsible for the management of the council's finances in accordance with its financial procedures. Nothing in the Emergency Scheme of Delegation removes the council's obligations to carry out assurances as normal. It should work with the Clerk/RFO to identify how this can be achieved and recorded.

Many councils now use internet banking and electronic payments. If the council still relies on signed cheques for making payments it is now recommended that it should reconsider the use of electronic payments. Many banks now offer some form of internet banking and this will remove the need for face-to-face contact with cheque signatories. It will also remove the need for the payee to have to travel in order to cash the cheque and receive payment.

The Council may wish to review the amount delegated to the Clerk in the Financial Regulations to ensure that it is proportionate to its needs at this time. With advice changing on a daily basis the council must ensure that the approved levels provide scope for the council to act as necessary.

[The Openness of Local Government Bodies Regulations 2014](#) s7 requires the council to keep a record of any decisions made under delegation, together with the relevant paperwork. The Clerk is therefore advised to keep a register or spreadsheet of the decisions taken, associated expenditure and the reasons for the decision together with any rationale. The schedule can then be noted by the council at its next meeting. This may be required at audit in the following year.

6. Planning matters

The Council should now be able to consider planning applications in public at face-to-face meetings. However, for minor applications it may still wish to use the scheme of delegation to respond.

- i) Advertise on the council's website links to all planning applications received from the planning authority on the council's website, offering the public the opportunity to let you know of any views. The notice should give a deadline for public comments to the Clerk in writing (suggested 5 working days)
- ii) At the same time the clerk will circulate the list with links to all members of the council.
- iii) At the end of the public opportunity to comment, the clerk will forward a summary of the public comments received to all members (or members of the relevant committee) for member comments for a period of a further 5 working days. Under GDPR, the clerk should not circulate individual responses without the writer's express permission.
- iv) Under the Emergency Scheme of Delegation, the Clerk and appropriate members will agree a council response which identifies relevant material considerations and may give local information or opinion. The draft response is then shared with members for 2 days for any comments, before being sent to the planning authority with the following statement:

“Due to the restrictions placed on the council as a result of the pandemic Coronavirus, this response represents the opinion of members of [insert name of council] identified through a consultation process and will be ratified at the next appropriate meeting of the council.”

- v) Maintain a list of council responses to planning applications on the website until the list is noted at the next council meeting.
- vi) If the matter is referred back to the council, the Emergency Scheme of Delegation will allow the clerk to take any appropriate action to respond on behalf of the council. As the council’s opinion has not been gained through the normal public process, it may be prudent to respond along the lines of:

‘due to the restrictions placed on the council as a result of the Coronavirus pandemic, it has been unable to consult further and therefore has nothing further to add’.

Top Tips for holding safe council meetings

There is no statutory guide in place for the management of local council meetings. The Government guidance on [Working Safely in Office and Contact Centres](#) and [Safe Use of Council Buildings](#) may be helpful.

Local council meetings should be held in accordance with the four Covid 19 principles:

- How to meet the social distancing requirements entering and leaving the building and during the meeting
- What PPE materials should you provide – hand sanitiser, masks, wipes or spray.
- How can you limit sharing documents and materials – continuing to use laptops and tablets.
- Ensuring proper ventilation – can the windows be open during the meeting and beforehand if the room has been used during the day.

It is essential that you identify the risks at your own venues and meetings and take steps to manage them. To help your council hold safe meetings the following tips may be useful. It is not an exhaustive list and you must always consider your own local circumstances and plan for your own local risks.

Venue

- Provide hand sanitiser for use before entering the building and on leaving.
- Keep a record of anyone attending the meeting, asking public to sign in on arrival and keep the list for 21 days. A QR code is also helpful but you should keep your own record.
- Try and provide a one-way system through the building.
- Design the seating in the room to accommodate councillors and the public. It may not be possible to provide tables for members to use during the meeting. Wherever possible people should not sit face to face and must maintain at least 2m or 1m+ with adjustments. Expect the seating plan to be different.

- Display a sign at the entry to the building which clearly states the maximum number of people allowed in the room at any time – and maintain this number.
- Have a phased arrival at the meeting and ensure that everyone moves straight to their seat and do not gather to talk/chat with others.
- Consider when and where masks should be worn. If distance provides, members may remove their masks during a meeting whilst seated. The public can be asked to wear a mask throughout the meeting unless addressing the council.
- Ensure that other rooms, kitchen, toilets etc are closed during the meeting – limit access to the including only the meeting room and access to it.
- Remind members to bring their own drinks but that no eating will be allowed.
- Encourage anyone attending the meeting to take a LFT test before attending the meeting.
- Provide information on who should not attend – anyone displaying symptoms, tested positive, returned from abroad in last 14 days etc.

Council business

- Virtual meetings have been shorter and more focussed. Try to limit the length of the meeting to less than one hour; returning to the physical format does not mean a return to longer meetings.
- Councillors who declare an interest and must leave the room will need a clear path and should wear a mask when moving about. You may wish to identify an alternative way of withdrawing without walking through the public seating.
- Do not present papers at the meeting or table last minute documents – all paperwork should be circulated in advance.
- Remind members to bring their own writing materials which must be removed at the end of the meeting.
- Encourage the use of laptops/tablets at meetings which should be wiped down before and after the meeting.
- Agree that members should remain seated throughout the debate and suspend any standing order which requires them to stand when speaking.

Finally develop strong signage and information for use around the meeting venue, on your agendas and website. Give clear information throughout the meeting venue to ensure that the public and members are able to follow the instructions.

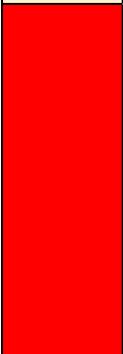
Site Visits and inspections

Any member of the council attending a site visit on behalf of the council must do so in accordance with the Covid principles of hands, face, space and fresh air. They should use their own judgement about when and where they should wear PPE and leave the meeting if they feel that they are at risk. If this happens, they should report this to the Clerk as soon as possible.

The Council will provide hand sanitiser or wipes to any members on request.

We will continue to update this guidance as good practice develops.

Year	Month	W/C	Governance	Finance	Scheme of Delegation	Alert!	
2021	May	10th			If required - Period of Emergency Scheme of Delegation	In election areas: Register of Interests and Declarations of Acceptance of Office	
		17th					
		24th					
		31st	1st June - Annual Parish Meet.				
	June	7th					
		14th					
		21st					
		28th		Approve Section 1&2 of AGAR			PKF Littlejohn Timeline
	July	5th		Exercise of Public Rights			
		12th					
		19th					
		26th					
	Aug	2nd					
		9th					
		16th					
		23rd					
		30th					
	Sept	6th	Return to Normal Meetings		Publish Approved AGAR 1&2	Review of Emergency Scheme of Delegation / Possible Amendment or Cessation	
		13th					
		20th					
		27th					
	Oct	4th					
		11th					
		18th					
		25th					
	Nov	1st		Start 2022/23 Budget Prep			6 Month Rule!
		8th					
		15th					
22nd							
29th							
Dec	6th		Start 2022/23 Budget Prep			Have you held enough meetings this year - 4 required?	
	13th						
	20th						
	27th						
2022	Jan	3rd		Approve Precept Submission			
		10th					
		17th					
		24th					
		31st					

Key:	
	>> Face to Face meetings can start - please be mindful of duty of care to employees and willingness of others to take part
	>> The 'Roadmap' concludes subject to the 4 measures being satisfied and all restrictions are lifted
	>> Many councils don't meet in August. Councils may decide to bring the Summer recess forward if they have one or cancel for this year to conduct business
	Declarations of Acceptance of Office and Register of Interests must be completed by newly elected or co-opted councillors >> If councillors last met virtually in May, but then don't attend meetings thereafter this window is when six-month rule applies. The six-month rule is where councillors have not attended meetings or not had their reason for absence approved by the council for six consecutive months. Where this is the case, the member ceases to be a councillor. A council is required, by legislation, to hold an annual meeting and then meet on three other occasions during the year.
	>> Period of Emergency Scheme of Delegation