

	Council 20 May 2020	Agenda Item No. 10(a)
Title	Revisions to the Constitution in response to Coronavirus & associated regulations	
For further information about this report please contact	Graham Leach Democratic Services Manager & Deputy Monitoring Officer 01926 456114 graham.leach@warwickdc.gov.uk	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006?	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers	The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 https://www.adso.co.uk/app/uploads/2020/04/LLG-ADSO-Remote-Meetings-Protocol-and-Procedure-Rules-2020-04-17.pdf	

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	No
Equality Impact Assessment Undertaken	No

Officer/Councillor Approval		
Officer Approval	Date	Name
Chief Executive/Deputy Chief Executive	11/5/20 11/5/20	Andrew Jones Chris Elliott
Head of Service		
CMT		
Section 151 Officer		
Monitoring Officer	11/5/20	Andrew Jones
Finance	11/5/20	Mike Snow
Portfolio Holder(s)	6/5/ 2020	John Cooke
Consultation & Community Engagement		
Executive, Group Leaders Head of Development Services		
Final Decision?	Yes	
Suggested next steps (if not final decision please set out below)		

1. **Summary**

- 1.1 The report brings forward for ratification the proposed changes to Council procedure rules that were agreed by the Chairman & Group Leaders on 25 March 2020. It also seeks further changes following the publication of The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 that enable remote Council meetings.

2. **Recommendation**

- 2.1 That Council considers the revisions to the Constitution, as set out at Appendix 1 to the report, as previously agreed by the Chairman & Group Leaders on 25 March 2020, and approves the revisions as proposed.
- 2.2 That Council approves the revisions to the Constitution as set out at Appendix 2 to the report.
- 2.3 That Council approves that the Constitution is revised as required so that any reference to 'meeting room' or 'place' is amended to say 'meeting'.
- 2.4 That Council approves an emergency powers clause in the Constitution, for the Chairman of the Council to take decisions in consultation with the Vice-Chairman and the Group Leaders, with advice from the Chief Executive, Monitoring Officer and Section 151 Officer, when Council is unable to meet due to an emergency situation. This includes the ability to revise Council procedure rules (for a limited time of no more than three months). Any decision would be brought back to the next meeting of Council for scrutiny. The items considered in this arrangement can only be urgent matters to ensure the Council can continue to function and meet, providing they are within the legislative framework and the spirit of the Constitution.

3. **Reasons for the Recommendation**

- 3.1 Warwick District Council was due to meet on 25 March 2020. As part of the agenda for that meeting, a number of proposed changes to the Constitution were included as proposals to help the Council continue to function when responding to the Coronavirus outbreak.
- 3.2 These amendments were brought forward at short notice, with a more detailed paper supporting these to be circulated before the meeting took place. Following the restriction on travel being introduced on 23/24 March 2020, the decision was taken that the Council meeting could not proceed and the detailed report was not produced.
- 3.3 Legal advice was taken on the proposed decisions that were included on the Council agenda for 25 March and it was advised that these could be taken by the Chairman & Group Leaders, so long as they were ratified at the next meeting of Council, with minimal risk to the Council.
- 3.4 As a result, these decisions were taken following discussions with Group Leaders with a view to them being temporary until the easing of travel restrictions or the 2 September 2020 Council meeting, whichever is the sooner.
- 3.5 This report provides the reasons for these changes along with proposals for further revisions to the Constitution. The revisions are brought forward in light

of the current restrictions on movement and the regulations from the Secretary of State to enable remote meetings to take place. While the proposed changes are not a requirement to enable meetings to take place, they provide greater flexibility than the Constitution currently allows.

- 3.6 It is proposed that the Quorum for Council be reduced to the minimum legal limit of a quarter (11) of the total number of Councillors on the Council (44). This is to enable maximum flexibility if such a time arose when a significant proportion of the Councillors were unavailable due to either work/personal commitments, illness or a mixture of both. This is not to say that more Councillors could not attend, but this proposal is about planning for the worst case scenario in the current climate.
- 3.7 It was proposed in March that the following items be removed from the Council agenda until further notice: Petitions, Public Submissions, Leader's and Portfolio Holders' Statements and Questions to the Leader of the Council & Portfolio Holders. This was agreed by the Chairman & Group Leaders until the national emergency is over or until 2 September 2020, whichever is the soonest. This proposal has now been revised as follows:
- (a) Petitions are welcomed by the Council, but their submission will be delivered by a member of the Council, until a time when the Chairman is satisfied with the remote meetings platform that enables public speaking securely and thereby appropriately mitigates the risk of wider interference with the meeting, or until the resumption of physical Council meetings, whichever is the soonest.
 - (b) Notices of motion from Councillors to be reinstated as they can be observed as with any other normal process.
 - (c) Public Submissions to be removed from the Council agenda as a standalone agenda item, following previous revisions. The ability for members of the public to address Council is addressed in Paragraphs 3.8, 3.9 and 3.10 of this report.
 - (d) Leader's and Portfolio Holders' Statements to be included on the agenda but to be in written form and delivered to committee@warwickdc.gov.uk by no later than 9.00am on the day of the meeting for circulation to all Councillors and made available online for the public. The right for Members to ask questions about these will be retained. Although not within the procedure rule to avoid being too prescriptive, the aim will be to publish these questions by no later than 11.00am on the day of the meeting.
 - (e) Questions to the Leader of the Council & Portfolio Holders – this standing item to be reinstated on the Council agenda as a core part of holding the Executive to account during the current emergency.
- 3.8 It is proposed that the ability for the public to directly address Council, Executive and Committee meetings is stopped at this time. Once remote meetings have started taking place successfully, it will become a priority to facilitate public speaking. To enable this taking place as possible, it is proposed that discretion is provided to the Chairman of the relevant meeting to permit public speaking when they are satisfied that the remote meetings platform enables public speaking securely and appropriately while mitigating the risk of wider interference with the meeting. An exception will be made for Licensing Panels, which is addressed in paragraph 3.10.
- 3.9 The limitation on public speaking is considered necessary at this time to enable both Councillors and officers to be comfortable in the remote meetings setting

and ensure that an appropriate time engagement from the public can be handled appropriately. This is because the priority is to enable members to meet again and for Ward Councillors to represent their communities. Members will note that there is no proposal that stops the participation of Ward Councillors representing the views of their community at Committee and this is seen as a key role for Councillors at this time. It will be promoted to members of the public that they can write directly to either the Executive or any Committee. This arrangement has been in place since at least 2006 but has most regularly been used by individuals who have not registered to speak at Planning Committee by the deadline or by those unable to attend.

- 3.10 Licensing Panels considering applications under either the Licensing Act 2003 or Gambling Act 2005 carry a legal requirement of representation by outside parties. They also provide a number of technical challenges for deliberation in confidence part way through the meeting before delivering a public decision. Therefore, such Panels will be used as part of the test process for enabling wider public speaking at Council meetings.
- 3.11 It was noted during the writing of this report that the Executive Procedure Rules limit an individual member of the Public to 5 minutes to address them. This is not reflected in Council Procedure rules and therefore Procedure Rule 34(b) should be updated to reflect this.
- 3.12 It was proposed in March that the Executive should not be required to make recommendations to Council on those items listed in Section 3 - Executive functions, page C8 of the Constitution. This was proposed at the time to enable other decisions to be taken directly by Council on 25 March, including revisions to the Constitution & Council procedure rules. During this time of uncertainty, it is recommended that this variation from the Constitution remains in place until 2 September 2020 when it should be revisited by Council. From a practical perspective, it removes some of the lead time for reports to be produced and still enables all Members to contribute to the debate and raise questions about proposals. Therefore, it is considered an appropriate measure at this time.
- 3.13 The revision to the delegations for the determination of planning applications enabled the Head of Development Services to determine more applications while the Planning Committee was unable to meet. This was a temporary measure until a time when Planning Committee could actually meet or by 2 September. This delegation has been used weekly and now includes all members of the Committee (or their nominated substitute). The Chairman of the Planning Committee has requested this continues until 2 September. This is to reduce the work load of the main Committee. The Planning Committee will still meet every four weeks, at 6.00pm, but will consider the most significant cases. This recognises that online meetings take longer and fatigue sets in quicker, thus potentially limiting the number of applications at a meeting to two or three. To provide clarity on decisions being proposed at the delegated meetings, the papers for these meetings will be made available online in advance and the recording of the meeting will be published online as well.
- 3.14 Moving to the revisions within Appendix 2, these facilitate remote meetings. The perfect example of this is that Council procedure 1 requires the approval from the Chairman of the meeting to hold a meeting at a venue which is not Riverside House or the Town Hall. It is likely that the remote meeting venue will be different in location each time due to unique website addresses. The amendment proposed is a temporary one that expires on 7 May 2021 (which is when the regulations for remote meetings expire).

- 3.15 Council Procedure Rule 12 requires all Councillors to sign the attendance sheet. This will not be practicable under remote meeting working and therefore it is proposed this requirement is suspended until 7 May 2021. The names of those present will be recorded by the Committee Services Officer within the minutes and it will be the responsibility of the member to check these are correct when they are produced for approval as the true record at the following meeting of that Committee.
- 3.16 Council Procedure Rule (13)(3) requires a member to stand to speak at Council. It is proposed that this requirement is removed for any member who is unable to stand (in line with the Council's commitment to equality) or if they are attending the meeting of Council remotely.
- 3.17 Council Procedure rule 15 for disorderly conduct only needs minor changes to recognise that the meeting will not be within a physical room. It is also anticipated that the meeting will be broadcast in a way that the public cannot directly interrupt the meeting. These minor provisions ensure that the Chairman of the meeting still has the control over the operation of the meeting.
- 3.18 Council procedure rule 17(1) requires a show of hands for a vote to be cast or a recorded vote. The revisions allow for votes to be cast securely electronically or for the Chairman (or an officer at their request) to call each Councillor to vote without a recorded vote being taken.
- 3.19 It is proposed that Council Procedure Rule 28(2) should be revised to recognise that since 2010, all Councillors have been able to access all Council, Executive, Committee and Sub-Committee papers electronically and that since September 2019, paper copies have only been provided on request.
- 3.20 It should be noted that Council Procedure Rule 33, the recording of meetings, is not taking place at present because the recording systems for the PA at the Town Hall does not work. There will be an ability to both record and broadcast meetings within either of the preferred systems to be used for remote meetings. It is intended that these recordings will be made available online for 12 months, which reflects the current retention period for recordings of meetings. It is important to note that while a recording may exist, the law still recognizes the true record of the decision and the meeting as the minutes of the meeting signed by the Chairman.
- 3.21 Whilst reviewing the Council Procedure Rules for this report, it was noted by Officers that Procedure Rules 29 & 36 both refer to aspects of Declarations of Interest within the Code of Conduct. The proposal is included to rationalise this and also make reference to leaving the meeting rather than room, thus allowing for the Councillor to leave a remote meeting.
- 3.22 It was noted by officers when preparing this report that the Executive are required to receive a report from each Scrutiny Committee on their current work programme to each meeting of the Executive. This has not occurred for at least four years and is not considered practicable. Equally, all Councillors, since 2010, have been sent alerts when any agenda is published online so they can access the reports either online or via the dedicated secure app. Therefore, it is proposed that this requirement is removed.
- 3.23 There are a number of small revisions proposed to the Access to Information procedure rules which provide clarification on notices of agendas and where

they will be available. These are temporary revisions at this time until the regulations fall away on 7 May 2021. This is with the exception of 17(3) where the requirement was removed by Council when it agreed to no longer receive all Executive minutes because all members received these anyway.

- 3.24 The third recommendation is included to ensure that any other reference to 'meeting room' or 'place' is amended in the Constitution so that only references 'meeting'. Going forward, this enables a broader interpretation of 'the meeting' and saves changing when the regulations cease to exist or are confirmed as a permanent arrangement.
- 3.25 The fourth recommendation is proposed as a direct result of the Coronavirus outbreak and the far-reaching implications this had for the Council and its decision-making process. This proposal is included for such limited circumstances and hopefully one that will not ever be required to be used. This would have removed some of the hurdles that officers have faced in bringing forward remote meetings, such as this paper, and also the decisions that had to be taken from the Council agenda in March.

4. Policy Framework

4.1 Fit for the Future (FFF)

The Council's FFF Strategy is designed to deliver the Vision for the District of making it a Great Place to Live, Work and Visit. To that end amongst other things the FFF Strategy contains several Key projects.

The FFF Strategy has 3 strands – People, Services and Money and each has an external and internal element to it. The table below illustrates the impact of this proposal if any in relation to the Council's FFF Strategy.

FFF Strands		
People	Services	Money
External		
Health, Homes, Communities	Green, Clean, Safe	Infrastructure, Enterprise, Employment
<u>Intended outcomes:</u> Improved health for all Housing needs for all met Impressive cultural and sports activities Cohesive and active communities	<u>Intended outcomes:</u> Becoming a net-zero carbon organisation by 2025 Total carbon emissions within Warwick District are as close to zero as possible by 2030 Area has well looked after public spaces All communities have access to decent open space Improved air quality Low levels of crime and ASB	<u>Intended outcomes:</u> Dynamic and diverse local economy Vibrant town centres Improved performance/productivity of local economy Increased employment and income levels
Impacts of Proposal		

The report enables the democratic process to work more effectively at this time and allow for engagement with the public.	None	None
Internal		
Effective Staff	Maintain or Improve Services	Firm Financial Footing over the Longer Term
<u>Intended outcomes:</u> All staff are properly trained All staff have the appropriate tools All staff are engaged, empowered and supported The right people are in the right job with the right skills and right behaviours	<u>Intended outcomes:</u> Focusing on our customers' needs Continuously improve our processes Increase the digital provision of services	<u>Intended outcomes:</u> Better return/use of our assets Full Cost accounting Continued cost management Maximise income earning opportunities Seek best value for money
Impacts of Proposal		
The proposal will enable officers to continue to support the democratic process of decision making in an effective and timely manner and making sure that due process is followed	There are potential benefits from the proposals being developed for remote meetings that will enable more people to view meetings but also for more meetings to be held in agile manner to reduce the need for travelling to a venue for briefing sessions e.g. Portfolio Holder Briefings	None

4.2 **Supporting Strategies** - Each strand of the FFF Strategy has several supporting strategies however there are none relevant to this report.

4.3 **Changes to Existing Policies** – The report brings forward changes to the Constitution (some of which are for a limited time) but a view to ensuring Council decisions are open and transparent.

5. **Budgetary Framework**

5.1 The report does not impact on the budgetary framework of the Council or its budget.

6. **Risks**

6.1 The main risks associated with the report are about not taking a decision or trying to retain the procedure rules as before. A lot of them were prescriptive

and at this time (and going forward) it is considered appropriate to provide more freedom to enable remote meetings to work more effectively.

- 6.2 The underlying, but low risk, is the potential challenge to the decisions taken by Group Leaders and the Chairman in March. This was outside the Constitution but considered a practicable solution that would be looked upon favourably by the courts in response to the challenging position nationally. Now the Council is able to meet to ratify these decisions, by not taking that decision could lead to challenges on matters which have been determined under these revisions e.g. planning applications.

7. Alternative Option(s) considered

- 7.1 The ideas have been developed in collaboration with Councillors and based on the regulations and guidance from Centre for Public Scrutiny, LGA learning hub, Lawyers in Local Government and the Association Democratic Services Officers. Therefore, while options were considered in the development overall it is not felt appropriate for other options to be considered.

Revisions to Council Procedure Rules

Council procedure Rule 3

Quorum for Council to be reduced to the minimum legal limit of a quarter of the Council (11).

Council Procedure Rule 4 (1) (j) & 10

Petitions are welcomed by Council but the submission needs to be delivered by a member of the Council, until a time when the Chairman is satisfied with the remote meetings platform that enables public speaking securely and appropriately mitigating the risk of wider interference with the meeting or the resumption of physical Council meetings whichever is the soonest;

Council Procedure Rule 4 (1) (k) & 6

Notices of Motion to be reinstated.

Council Procedure Rule 4 (1) (l) 9

Leader's and Portfolio Holders' Statements to be in written form and delivered to committee@Warwickdc.gov.uk by no later than 9.00am the working day before the meeting for circulation to all Councillors;

Council Procedure Rule 4 (1) (m) & 8

Questions to the Leader of the Council & Portfolio Holders – to be reinstated on the Council agenda as a core part of holding the Executive to account during the current emergency

Council Procedure Rule 34

That until further notice, or until a time when the Chairman is satisfied with the remote meetings platform that enables public speaking securely and appropriately mitigating the risk of wider interference with the meeting or the resumption of physical meetings whichever is the soonest that Council Procedure Rule 34 regarding public speaking at Council, Executive, Committee and Sub-Committee meetings be suspended, with the exception of Ward Councillors and Licensing & Regulatory Panels.

34(B) be amended to limit a public speaker to five minutes, in line with the Executive Procedure Rules.

Part 3

Section 3 Executive Functions

That until 2 September 2020, the Executive is not required to make recommendations to Council on those items listed in Section 3 Executive functions page C8 of the Constitution.

Section 4 Scheme of Delegation

To confirm the revision of delegation DS (70) as up to a maximum of 2 September 2020.

"the determination of planning applications until further notice, so that for applications that fall within clauses i, ii, iii, v, vi, vii, viii (below), applications will be determined by the Head of Development Services in consultation with the Chair of Planning Committee (or in his absence the Vice-Chair of Planning Committee), *with other members of the Committee invited to attend to express their views*. For applications that fall within clauses iv and ix, applications will be referred to Planning Committee

Revisions to Council Procedure Rules

WDC Council procedure rule changes (number says which procedure rule)

Council Procedure Rule 1

Meetings of the Council, Executive, Committees or Sub-Committees will normally be held at 6.00 p.m. (or, by exception at other times, determined by the Chairman of the meeting) on such day or days as may be determined by the Chairman of the meeting, at the Town Hall, or Riverside House, Royal Leamington Spa, *in a remote/online setting*, or such other venue as may be agreed by the Chairman of the meeting.
(Temporary until 7 May 2021)

12 Record of Attendance

Every member of the Council attending a meeting of the Council, the Executive, committee or sub-committee must sign their name in the attendance book or sheet provided for that purpose.
(Suspended until 7 May 2021)

13. Rules of Debate for Meetings

(13)(3) - A member must stand to speak at Council, unless they are physically unable to or are attending the meeting remotely.

15. Disorderly Conduct

[..]

If a member of the public interrupts proceedings, the Chairman of the meeting will warn the person concerned. If they continue to interrupt, the Chairman of the meeting will order their removal from the meeting ~~room~~.

If there is a general disturbance in any part of the meeting ~~room~~ open to the public, the Chairman of the meeting may call for ~~that part to be cleared~~ *the public to be removed from the meeting*.

17. Voting

(1) Voting at meetings of the Council, the Executive and committees will be by the show of hands (*or in the case of remote meetings via secure electronic voting system or the chairman (or an officer at their request) asking each member of their vote*). In the case of an equality of votes the Chairman (or Leader in the case of the Executive) will have the casting vote.

28. Inspection of Documents

(2) All reports made to, or minutes of, *Council*, the Executive, a committee, or sub-committee will be open for inspection by any member of the Council ~~during office hours~~ *electronically or on request in paper*.

29. ~~Disclosable Pecuniary Interest & Other Interests~~ *Interest of Members in Contracts and Other Matters*

(1) *That any Councillor with an interest must declare that interest in any relevant item at a meeting, and if required by law or the Code of Conduct leave the meeting for the duration of that item, unless a dispensation has been granted by the Standards Committee.*

- (1) ~~If any member of the Council has any pecuniary interest within the meaning of the mandatory Code of Conduct adopted by the Council in any contract, proposed contract or other matter of any kind, that member must leave the meeting room while the contract, proposed contract, or other matter is under consideration by the Council, the Executive, committee or a sub-committee unless:~~
- ~~(a) dispensation has been granted by the Standards Committee; or~~
 - ~~(b) the contract, proposed contract or other matter is under consideration by the Council as an item of the minutes of the Executive, committee, sub-committee and is not itself the subject of debate.~~
- (2) *Any such declaration and subsequent action ~~withdrawal~~ or invitation to remain must be recorded after the meeting in a register kept for the purpose by the Monitoring Officer.*

~~36. Disclosable Pecuniary Interests~~

~~That any Councillor with a disclosable pecuniary interest must declare that interest in any relevant item at a meeting, and leave the room for the duration of that item, unless a dispensation has been granted by the Standards Committee.~~

If a member fails to leave the meeting when required to do so because of a conflict of interest ~~do this~~, it will be considered as disorderly conduct and the Chairman will move that the Member leave the meeting as set out in procedure rule (15)

11. IN ORDER TO ENSURE THAT OVERVIEW AND SCRUTINY COMMITTEES' REPORTS ARE CONSIDERED BY THE EXECUTIVE THE AGENDA FOR THE EXECUTIVE WILL CONTAIN:-

- ~~(i) A workload report about the current work of the Overview and Scrutiny Committees.~~

ACCESS TO INFORMATION PROCEDURE RULES

4. NOTICES OF MEETING

The Council will give at least five clear days' notice, except in the case of special meetings as defined within Council Procedure Rules, of any meeting by ~~posting details of the meeting at Riverside House, Milverton Hill, Royal Leamington Spa and publishing details~~ on the Warwick District Council website.

(Temporary revision until 7 May 2021 when the regulations fall away)

5. ACCESS TO AGENDA AND REPORTS BEFORE THE MEETING

The Council will make copies of the agenda and reports open to the public available for inspection ~~at the designated office~~ *via the Council's website* at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda (where reports are prepared after the summons has been sent out, the designated

officer shall make each such report available to the public as soon as the report is completed and sent to Councillors) will be open to inspection for the time the item was added to the agenda

(Temporary revision until 7 May 2021 when the regulations fall away and the words designated office will be replaced by" Riverside House and")

8. **SUMMARY OF PUBLIC'S RIGHTS**

A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and available to the public at the Council's main offices, Riverside House, and on the Warwick District Council website.

(Temporary revision until 7 May 2021 when the regulations fall away)

~~17.3~~ **Quarterly Reports on Special Urgency Decisions**

~~In any event the Leader will submit quarterly reports to the Council on the executive decisions taken in the circumstances set out in rule 16 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.~~