



**Report for:
ACTION/INFORMATION**

Item Number:

Contains Confidential or Exempt Information	No
Title	Committee Meetings after 7 May 2021 – Options Paper
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Portfolio(s)	Leader of the Council – Cllr Julian Bell
For Consideration By	Council
Date to be Considered	18 th May 2021

Purpose of Report:

This report sets out recommendations for council and committee meetings going forward, following the end of many of the rules permitting virtual meetings.

1. Recommendations

That Council:

- 1.1 Notes the legal position on virtual meetings
- 1.2 Agrees the principles for decision making, set out at paragraph 2.3 below
- 1.3 Agrees that, so far as practicable, in-person attendance at meetings should be kept to a minimum
- 1.4 Agrees that, where the law permits it, meetings should continue to take place in virtual-only format
- 1.5 Notes that the Director of Legal and Democratic Services will put in place arrangements for all public meetings of council, cabinet, committees or panels to be live streamed
- 1.6 Agrees that, where permitted by law, third party and officer attendees at public meetings should be permitted to attend virtually
- 1.7 Notes that the Director of Legal and Democratic Services will keep the position under review and report back as appropriate

2. Reason for Decision and Options Considered

- 2.1 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which allow the Council to hold virtual meetings, expired on

7th May 2021.

- 2.2 Legal action by the Association of Democratic Services Officers and Lawyers in Local Government, for a declaratory judgement that virtual meetings are lawful under existing legislation, was unsuccessful, despite support from the Secretary of State. The judgement can be found at [this link](#). This confirms that virtual meetings are, in the main, no longer lawful without legislative change. However, there remains some scope for interpretation of the law with regard to attendance by the public.
- 2.3 The following principles are recommended, to guide Ealing Council's decision making processes:
 - a. *Democracy*: all decisions must be taken in accordance with democratic principles
 - b. *Transparency*: decision making must be transparent, which in turn allows for full accountability and scrutiny
 - c. *Safety*: all participants in our local democratic decision making and processes must be and feel safe
 - d. *Flexibility*: the processes we put in place must be capable of adjusting to circumstances, including changes in COVID-related restrictions
 - e. *Agile*: any arrangements that we put in place must be kept under constant review
- 2.4 The following options have been ruled out, as they are considered not to be fully in accordance with the above principles:
 - a. Making greater use of delegations to officers to reduce the number of public meetings required, and
 - b. Continuing with a full programme of in-person meetings, with the entire committee membership expected to attend all meetings.
- 2.5 The option remains to increase the level of delegation to individual cabinet portfolio holders. However, this is not recommended as it would be unlikely to result in a significant reduction in in person meetings, given that some level of regular cabinet decision making would still be required. Delegation of decisions to a single councillor of "council side decisions" (ie. decisions of bodies such as full council, Planning Committee, Audit Committee or Licensing Committee) is not legally permitted.
- 2.6 Therefore, the preferred option is for the Council to return to an in-person format for those meetings where virtual meetings are no longer permitted and where decisions for action are taken. However, it is recommended that the council continues to hold meetings in virtual format where those meetings are

scheduled to take only decisions that do not require actions to be taken as a result – such as scrutiny panels.

- 2.7 All in-person meetings will be organised in a COVID-secure way, necessitating the use of larger and well-ventilated rooms. Routine webcasting of public meetings will minimise the numbers of people needing to attend, beyond members of the committee in question and of some officers in support. Regular self-testing (ie. COVID rapid antigen) by in-person meeting participants will be strongly encouraged.
- 2.8 The Institute of Licensing has obtained the [opinion of Philip Kolvin QC](#) that it will be lawful to continue to hold licensing hearings virtually, by reason that they are held under the provisions of the Licensing Act 2003 rather than the Local Government Act 1972. The requirement for licensing hearings is that:
- a. proper notice is given, with all papers served timeously on the authority and published online;
 - b. the actual parties to the hearing are able to participate; and
 - c. any member of the public can see or hear, albeit not participate in, the hearing

The council could therefore take the decision to continue to hold its licensing hearings remotely, with the reassurance that the risks of challenge would be low.

- 2.9 It should also be possible to continue to hold Fostering Panel meetings in virtual format, as these are held under the provisions of different legislation to other council meetings.

Options for in-person meetings

- 2.10 It is not recommended that **full attendance** at in-person meetings is resumed immediately following 7th May. This is because:
- It will be impossible to eliminate the risk of catching COVID, which will be of particular concern to those in higher risk groups and those who have not yet been vaccinated
 - The availability of suitable rooms, and
 - The challenges of fitting each meeting space with suitable measures, such as open windows, Perspex screens, socially distanced seats, the enforcement of mask wearing, and other precautions. These are unlikely to result in an easy or engaging meeting experience.
- 2.11 Holding meetings with the **reduced but quorate attendance** will necessitate significant engagement by the party whips, so as to ensure that political balance is achieved as well as a comfortable meeting experience and the opportunity for all committee members to participate regularly, without some members being asked to take on more or less in person committee work than others. However, this approach will better ensure that members and staff are safe.

- 2.12 It is important that the council's approach is kept under review, in particular following 21st June, when all remaining COVID restrictions are due to be removed. It is likely however that there will be a need for caution on an ongoing basis, so any review of the meetings arrangements will need to take into account Ealing's own policies and procedures.

Agenda management

- 2.13 Key officers and meeting chairs will work together, to ensure that, where possible, all in-person meetings are as short as possible. This might involve removing some information-only items from meeting agendas and by tighter control of debate.

Webcasting

- 2.14 It is proposed to webcast all in person meetings in any event. This will reduce the need for anyone other than committee members and key officers to attend. The council will continue to invest in the equipment necessary to achieve this.

Hybrid and "soft hybrid" meetings

- 2.15 Full 'hybrid' meetings, where some members are logged in from home and considered 'present' in the Committee room, will be a good option for the council, as and when the law changes to allow virtual meetings.
- 2.16 If and when hybrid meetings become lawful, it would be sensible for officers to work with meeting chairs, to ensure that wherever possible it is clear in advance whether any members plan to attend in person. This will avoid abortive work setting up the "in-person" side of a hybrid meeting, if in fact all members plan to attend virtually.
- 2.17 Officers are also exploring the practicalities and legality of a 'soft' hybrid option, would require members of the actual committee / cabinet / panel in question to attend in person but which would allow public and third-party speakers and officers to contribute to meetings remotely.
- 2.18 The council does not currently have the technical equipment to deliver hybrid meetings to an acceptable standard. However, officers are actively working on solutions to make hybrid meetings possible, noting that the position is further complicated by the fact that both Ealing Town Hall and Perceval House are due to close for refurbishment or demolition respectively.

3. Key Implications

The council's approach will continue to evolve, as COVID risks and restrictions ease, the law changes, and new equipment is brought online. It is also anticipated that changes will be made in the light of experience with various formats.

4. Financial

There is a small budget to pay for Committee meetings. It is unclear, until options are fully scoped, whether this budget will be sufficient to pay for in person meetings if hire costs are higher and if there are greater demands for security and stewarding at meetings to ensure social distancing.

Financial background

There will be a small cost to setting up a rudimentary webcasting solution, which would involve purchasing a HD camera and suitable tripod to broadcast the meeting. This can be met by existing Democratic Services budgets.

Hybrid meetings, if and when they become lawful, will require investment in a significant upgrade of the council's system. At the present time Democratic Services do not have a capital budget to fund this work.

5. Legal

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 give the Council the power to hold virtual meetings. These regulations expired on 7 May 2021, as they were made under the Coronavirus Act 2020.

Following 7 May, the Council must adhere again to the various requirements and statute including (but not limited to) the Local Government Act 1972, Local Government and Finance Act 1989, Local Government Act 2000 and Localism Act 2011.

The option of holding licensing hearings in virtual format has not been tested in court. However, the legal opinion obtained by the Institute of Licensing indicates that the risk of successful challenge is low.

The Council will also have to follow COVID secure guidelines and health and safety legislation, noting that these will change over time.

6. Value For Money

Value for money will be achieved by the Council being able to continue to take essential decisions in a timely manner. It is not good value for money to unnecessarily delay decisions to slow projects down.

7. Sustainability Impact Appraisal

A sustainability impact appraisal is not required as this is a return to arrangements prior to COVID restrictions.

8. Risk Management

Risks are outlined in the body of the report. It will be important for all in-person meeting spaces to be fully risk assessed in advance of meetings taking place in them.

9. Community Safety

Measures will be put in place to minimise the risk of COVID transmission at in person meetings.

10. Links to the 3 Key Priorities for the Borough

Decision making continuing past 7 May will allow the Council to achieve the three priorities for the Borough which are:

- Good, genuinely affordable homes
- Opportunities and living incomes
- A healthy and great place

11. Equalities, Human Rights and Community Cohesion

A return to in person meetings may be a source of anxiety for a range of groups, such as those who are clinically extremely vulnerable. Arrangements will aim to take these concerns into account and where possible put in place measures to minimise risk.

12. Staffing/Workforce and Accommodation implications:

Not all staff working on Committee meetings, including DSO, support staff and officers presenting at meetings, will have been offered or accepted a vaccination. Those that were defined as clinically extremely vulnerable who have had a vaccination may be reluctant to meet in person again. This will need to be managed with care, compassion and pragmatism until the point where everyone has been offered a vaccination and has completed their course of vaccinations. This is unlikely to be until autumn 2021.

13. Property and Assets

No property is being proposed to be retained or disposed of in this report. However Council properties are being considered as locations for in person Council meetings.

15. Consultation

Consultation has taken place internally.

16. Timetable for Implementation

This will be driven by the easing of COVID restrictions and any changes to the law on meetings.

17. Background Information

- a. The [Local Authorities and Police and Crime Panels \(Coronavirus\) \(Flexibility of Local Authority and Police and Crime Panel Meetings\) \(England and Wales\) Regulations 2020](#), which allows the Council to hold virtual meetings, and which will expire on 7th May 2021.
- b. [On 25 March 2021, the Minister of State for Regional Growth and Local Government wrote](#) to all Council leaders stating that the regulations would not be extended or made permanent due to insufficient time in the government's legislative programme, as it would require primary legislation.

'Local authorities have legal obligations to ensure that members of the public have access to most of their meetings. For physical meetings, the government would actively encourage local authorities to continue to provide remote access until at least 21 June, at which point it is anticipated that all restrictions on indoor gatherings will have been lifted in line with the Roadmap. However, it is for individual local authorities to satisfy themselves that they have met the requirements for public access.'

- c. [High Court decision](#) on the legality of virtual meetings.