

<b>Meeting:</b>	<b>Council</b>
<b>Meeting date:</b>	<b>Friday 11 September 2020</b>
<b>Title of report:</b>	<b>Changes to the Constitution - Covid19 Interim Standing Orders</b>
<b>Report by:</b>	<b>Solicitor to the Council</b>

## Classification

Open

## Decision type

This is not an executive decision

## Wards affected

(All Wards);

## Purpose

To ratify changes to the constitution relating to the inclusion of COVID-19 interim standing orders.

## Recommendation(s)

That:

- (a) **The COVID-19 interim standing orders contained in appendix A are approved**

## Alternative options

1. An alternative option to the recommendation would be to not ratify the inclusion of the COVID-19 interim standing orders. This is not recommended as the standing orders have enabled meetings of the Council to have been conducted remotely since *The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020* came into force in April 2020. An alternative to the use of the COVID-19 interim standing orders to host remote meetings of the Council would be the continuation of physical meetings

where it was legal to do so and where social distancing could be observed. This is not recommended and would have resulted in the cancellation of most, if not all, meetings in the initial coronavirus lockdown phase and later coronavirus restrictions on gatherings. Such widespread cancellations would have impacted adversely upon the functioning of the Council and been at odds with the prevailing efforts by local authorities across the UK to enable remote meetings.

## **Key considerations**

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 (SI 2020/392) came into force on 4 April 2020. The regulations concern the scheduling of local authority meetings and remote participation.
3. The regulations apply until 7 May 2021 and allow local authorities to alter the frequency of, move or cancel meetings (regulation 4) including the annual meeting. The regulations also permit remote participation on electronic, digital or virtual platforms (regulation 5 (1)) and outline the requirements that must be fulfilled to allow a member of a local authority to attend and participate in a remote meeting (regulation 5 (2)).
4. Local authorities are given power to make and implement interim standing orders to give effect to the provisions in the regulations (regulation 5 (6)). The COVID-19 interim standing orders – Herefordshire Council are attached as appendix A to this report. In accordance with part 3 section 1 of the constitution the monitoring officer has the power to make technical changes or changes required by law to the constitution including standing orders. Using these powers the monitoring officer incorporated the COVID-19 interim standing orders into the constitution of Herefordshire Council on 22 April 2020 and meetings of the local authority, since this date, have been undertaken in accordance with these rules.
5. The standing orders, as contained in the Annexe to the constitution, are presented to the current annual meeting of Council for ratification. The updated virtual meetings protocol is presented to the meeting to be noted.

## **Community impact**

6. The constitution is a key part of the council's governance arrangements and sets out how the council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. The format of the content of any amendments to the constitution should help make these arrangements clearer to understand and how the public can effectively engage with them.
7. The COVID-19 interim standing orders allow Herefordshire Council and meetings of the local authority to continue during restrictions on gatherings and social distancing requirements imposed during the lockdown.

## **Environmental Impact**

8. Whilst this is a decision on back office functions and will have minimal environmental impacts, consideration has been made to how it is in line with the Council's Environmental Policy. It is considered that the hosting of remote meetings at the council

will assist in the reduction of carbon emissions as participants and attendees of meetings will not be required to travel to a physical meeting location.

## **Equality duty**

9. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
10. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.
11. The council and its partners are committed to equality and diversity using the public sector equality duty (Equality Act 2010) to eliminate unlawful discrimination, advance equality of opportunity and foster good relations. All equality considerations are taken into account.
12. It is not envisaged that the recommendation in this report will negatively disadvantage the following nine groups with protected characteristics: age, disability, gender, reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
13. The COVID-19 interim standing orders have a positive impact upon some groups with protected characteristics by increasing the remote access of members of the Council and the public to meetings of the local authority. Members of the Council are enabled to participate in meetings without travelling to a physical location and members of the public can observe meetings without attending a venue of the local authority.

## **Resource implications**

14. None arising from the recommendations. The council already makes provision within its existing budgets to enable publication of the constitution on its website and to ensure that members and officers have the training necessary to ensure awareness and understanding of the requirements within the constitution.
15. Any resource implications, such as member and officer time and expenses, associated with the implementation of the COVID-19 interim standing orders, will be accommodated within existing resources and budgets, and will be kept under review.

## **Legal implications**

16. The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (SI 2020/392) came into force on 4 April 2020. The COVID-19 interim standing orders contained in appendix A give effect to these regulations at meetings of Herefordshire Council.
17. Under part 3 section 1 of Herefordshire Council's constitution meetings of the full Council have the power to adopt and change the constitution including standing orders. Under the same section of the constitution the monitoring officer has the power to make technical changes to the constitution or those required by law.

## **Risk management**

18. If the council's constitution is not accurate, up to date and understood then there is a risk that governance arrangements are not clear and robust leaving the council open to judicial review, contractual challenge or financial risk. The ratification of the COVID-19 interim standing orders seeks to mitigate this risk by improving clarity within the constitution about the governance arrangements for meetings of Herefordshire Council.

## **Consultees**

19. None

## **Appendices**

Appendix A – The COVID-19 interim standing orders

## **Background papers**

None identified.

**Please include a glossary of terms, abbreviations and acronyms used in this report.**