

## **Amendment to Standing Orders Procedure Rules and Guidance for Remote Meetings**

**29<sup>th</sup> April 2020**

***Issued by City of York Council Monitoring Officer***

1. These Rules and Guidance have been issued by the Monitoring Officer in accordance with Article 16 of the City of York Council Constitution in order to implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the “Regulations”) which became into force on 4th April 2020, and provide for alternative arrangements for Local Authority meetings which are required to be held between 4th April 2020 and 7th May 2021.
2. These arrangements will remain under review by the Monitoring Officer.
3. These Rules will replace the current Council Procedure Rules as detailed below.

### **Which meetings do the Regulations refer to?**

4. The Regulations refer to the following:
  - Full Council;
  - Executive;
  - All Committees;
  - All Sub Committees; and
  - Annual Council (separate arrangements).
5. Initial Focus will be placed on delivery of the following meetings:
  - Executive;
  - Planning Committee; and
  - Licensing hearings (operated in conjunction with existing legislation).

### **Full Council**

6. There are no current arrangements planned to convene a meeting of Full Council unless one is deemed necessary. Should one be required, the Monitoring Officer will ensure it meets with the terms of the Regulations for remote meetings.

### **Annual Council**

7. Separate guidance will be issued in due course.

## **Other Committees of the Council**

8. Upon receipt of proposed items of business, the Monitoring Officer, in consultation with the relevant Portfolio Member and or Chair of a Committee and the Head of Paid Service and s151 Officer shall make arrangements for a remote meeting to take place in accordance with the Regulations using the risk assessment process meeting process being implemented.

## **Quoracy of Meetings**

9. All remote meetings of the aforementioned meetings can operate with the minimum quoracy levels, which is as follows:
  - Executive – minimum of 4 Members;
  - Planning Committee – minimum of 4 Members; and
  - Licensing hearings held under Licensing Act 2003 – 3 Members.
10. The quoracy details for all other meetings are set out in the Urgent Decision Making Guidance issued in March 2020.
11. In the event that a remote meeting starts quorate, but due to unforeseen circumstances, for example, IT issues, and does not remain quorate, the Democratic Services Officer may temporarily suspend the meeting until the issue is resolved and the meeting can recommence. These circumstances will be fully reflected in the minutes produced for each meeting.
12. With the exception of Licensing Hearings, which are dealt with as a separate procedure within the appendices, in order to avoid a meeting not being quorate should a Member experience IT issues and lose the connection to the remote meeting, there should be an additional two Members present above the minimum quoracy level for the relevant meeting.

## **Voting**

13. With the exception of Executive, where a show of hands will fulfil the voting requirements, all Members attending all other meetings will be asked to enter a named vote where voting is required so as to aid clarity and transparency with the live streaming arrangements. To record a vote, the Democratic Services Officer will perform a roll call of all Members present and ask them to state their voting intention (For, Against, Abstain). The Officer will keep a clear note of the votes made. These will then be counted and recorded in the minutes. At the conclusion of the voting the numbers of votes cast for, against and abstentions will be announced as well as the outcome of the vote. In the event of any vote being equally divided the Chair will have a second or casting vote.

## **Access to documents**

14. All agendas, reports and background papers will be available for public inspection by them being placed on and be available to view on the Council's website. There

is no longer a requirement to produce a printed copy of an agenda for public distribution. (Regulations 15 and 16(4) and (5)).

## **Public Participation**

15. The requirement to ensure that meetings are open to the public includes access by remote means, including video conferencing, live webcast and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.
16. The Council will endeavour to facilitate public participation where the meeting is being held remotely and where the IT platform allows for this. There may be instances where the IT platform would not permit the number of public speakers who wish to speak, or, where there are unforeseen issues with IT. Any consideration to reduce public participation will take account of technical issues and fairness.
17. Remote meetings will have a standing item on the agenda regarding public participation. Members of the public may register to speak on an item on the agenda or an issue within the meeting's remit (but see Appendix 1 and 2 on licensing hearings and planning matters) by contacting Democratic Services using the contact details as set out in the agenda for the meeting by 5.00pm on the working day preceding the meeting. Speakers will have a maximum of 3 minutes to speak and may subsequently be asked questions by Members. There is no public right of reply following the decision of the meeting.
18. For planning matters and licensing hearings, members of the public may speak on the matters or applications to be considered by members only. See the relevant Appendices for further detail. For Planning meetings, it will be at the Chair's discretion as to the number of speakers at that particular committee.
19. In exercising their right to public participation a member of the public is entitled to express views positive or negative about the performance of the Council but must not say anything which is defamatory or discriminatory, make any personal attack on an officer or a Member or disclose confidential or exempt information including personal information.
20. In the event that the Council are unable to facilitate public participation for a specific remote meeting, written questions for the public may be submitted for consideration at the meeting. Members of the public are strongly encouraged to email their comments in questions to Democratic Services prior to the meeting taking place so that in the event of technology difficulties, comments and views can still be taken into consideration at the meeting.
21. Meetings will be live streamed on the Council's YouTube account and made available to view on the Council's website (at [www.york.gov.uk/webcasts](http://www.york.gov.uk/webcasts)). Members of the public who wish to participate in meetings may need to familiarise themselves with the chosen conferencing technology.

### **Arrangements for Confidential/Part II items of business**

22. The Council have arrangements in place which will enable Members to go into a private session that is entirely separate to the public meeting to enable such matters to be dealt with in private.
23. Agendas will be organised so that such items are dealt with last, with the public excluded from the meeting.
24. In the event there is a need to enter private session during the course of the meeting, for example to give Members the opportunity to seek legal advice, the meeting will be adjourned whilst Members and officers attend the private session. As soon as the private session has concluded, the public meeting will be re-opened so that business can be resumed. During this time, a “screen saver” will appear on the video-conferencing platform notifying anyone viewing of the short adjournment in the public element of the meeting.

### **Moving or cancelling remote meetings**

25. The Monitoring Officer may, following consultation with the Chair of the relevant remote meeting move or cancel a remote meeting without notice.

## Background Guidance

26. The Regulations give flexibility to the Local Authority to devise arrangements to hold meetings remotely without all, or any, of the Members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing. The Council have developed and implemented bespoke (local to City of York) standing orders and other rules which can facilitate remote meetings. This will have the effect of amending the Council's Constitution for the prescribed time period. Authorities are empowered to make provision in their standing orders for remote attendance at meetings regarding, for instance, voting, member and public access to documents; and remote access of public and press to a local authority meeting to enable their attendance or participation
27. During this time, whilst West Offices is in restricted use and remote meetings are being delivered, the following will occur:
  - Public inspection of any agenda items will be via the council website only.

### **Which ICT platform will City of York Council use to promote remote meetings that can be live streamed?**

28. The ICT platform which the Council will use to facilitate remote attendance and access to its meetings may change as remote meetings are rolled out and also may change during the course of a remote meeting, for example, going from Part I to Part II. Factors, including securing and sharing data through these platforms will determine the platform used at any time. The platform used will enable the following to take place:
  - Contributions to be received from people using a wide variety of devices, not all of whom are on the Council network;
  - Being accessible to participants and members of the public who are either taking an active role or just observing; and
  - Presentations and documents (maps, plans, etc) to be displayed where required.
29. It should be noted that local Officer Schemes of Delegation are expected to be and will continue to be utilised although it is recognised that this may not be possible for some matters, i.e. certain licensing applications.
30. It is anticipated that for the time being there will still be instances where urgent decisions are required. As such, the Council will continue to operate the Urgent Decision Making Guidance issued in March 2020.
31. All meetings will be live streamed or live webcast (unless the meeting has resolved to go into private session to deal with confidential or exempt information). They cannot be recorded and then uploaded to the Council's website at a later date.

## What does “remote” meeting mean?

32. “Place” of a meeting is defined in Regulation 5(1) as:

*“Where a meeting is held, to be held, includes reference to more than one place, including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers”.*

33. Members are in remote attendance so long as they comply with all of the following conditions at the specific time [of the scheduled meeting] and are able to:

- Hear, and where practicable see, and be so heard and where practicable be seen by, the other members in attendance;
- Hear, and where practicable see, and be so heard and where practicable be seen by any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
- Be heard, and where practicable, be seen by any other members of the public attending the meeting.

34. A member must therefore be able to fully engage with the meeting. No reference is made to officers who attend to advise Members. However, they should be able to hear and be heard, and where practicable, seen, along with those other participants.

## Remote access - Regulation 5 (6): Voting, Access to Documents, Public Participation

35. The regulations stipulate how remote meetings can be accessed and these require City of York to adopt revised standing orders. This includes provisions for:

- How Members vote at meetings;
- How agendas and documents are accessed by Members, Officers and members of the public; and
- How members of the public and press can remotely participate and attend meetings by electronic means including telephone conference, video conference, live webcasts or live interactive streaming.

36. Regulation 5 applies notwithstanding any prohibition or restriction in the Council’s standing orders or other rules (Regulation 5(5)). It means that the Council does not have to draft revisions to its Constitution and have them approved by Full Council before commencing remote meetings. The Council is though empowered to change its standing orders and rules to address remote attendance but the legislation does not require it to do so. There will be a need to draw up some processes, in particular how public participation is facilitated, and to operate in a reasonable rational and fair manner. In the event that any remote meeting procedures conflict with the Council’s constitution or standing orders, the provisions contained within this document takes precedence in relation to the governance of remote meetings.

## Convening a Meeting

37. The Regulations have put alternative arrangements in place for the convening of a meeting including the flexibility of meetings taking place:
  - Meetings can now be held on a date and time of the Council's choice;
  - The frequency of meetings can be altered; and
  - Meetings can now be held, moved or cancelled without requirement for further notice.
38. This means that the Council are not bound by the previously published meetings calendar and are free to schedule meetings much more flexibly to meet the local decision-making requirements. However, in the interests of fairness, the Council will give as much notice as possible.
39. It should be noted that hearings to determine licensing applications under the Licensing Act 2003 must be postponed or adjourned to a specified date notified to the parties, with stated reasons that are in the public interest. Please see Appendix 1 for further detail.

## **APPENDIX 1 - LICENSING ACT 2003 SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS**

### **Introduction**

1. During the coronavirus pandemic emergency period it will be necessary for licensing hearings to be dealt with remotely. This procedure sets out how City of York Council will deal with such hearings. This procedure must be considered in conjunction with the Council's Delivery of Remote Meetings document which sets out how all meetings, including licensing hearings will be held in York.
2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
3. The Council's hearings procedure is based on regulations made by the Secretary of State under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.
4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The Hearing will be recorded and the recording placed on the Council's website.

### **Preparation for the Remote Licensing Hearing**

5. The Sub-Committee will use the video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee. This video-conferencing platform will also be used for decision making in private. All paperwork relevant to the hearing will be published online on the Council's website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.
6. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
7. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.

8. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
9. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

### **The Remote Licensing Hearing**

10. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
11. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.
12. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
13. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.
14. **The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives.** Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.
15. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.

16. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

### ORDER OF PROCEEDINGS AT THE REMOTE HEARING

#### **Chair's introduction and opening comments**

17. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their representatives), and establish the identity of all who will be taking part.
18. The Chair will outline the procedure to be followed.
19. The Chair will proceed with the order of business on the agenda.

#### **Licensing Manager**

20. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application. The Chair will invite all present, one by one, to ask the Licensing Officer questions if they wish, to clarify any points raised in the report.

#### **The Application**

21. The Applicant (and/or their representative) will address the Sub-Committee and present information in support of the application and may call any witnesses to support the application, one witness at a time *[maximum 15 minutes]*.
22. The Chair will invite the Representors to ask questions of the Applicant in the following order [maximum 5 minutes each party]:
  - Police;
  - Other Responsible Authorities;
  - Ward Councillors;
  - Members of the Sub-Committee;
  - The Sub-Committee's legal adviser.

#### **The Representations**

23. The Chair will invite the Representors and/or their representative in the following order to address the Members of the Sub-Committee and call any witnesses in support of their representation *[maximum 15 minutes each party]*:
  - Police
  - Other Responsible Authorities
  - Ward Councillors

- Public representation
24. The Chair will invite the Applicant to ask questions of each Representor and/or their witnesses after each presentation [maximum 5 minutes per Representor]. The Chair will invite the Committee Members to ask questions of each Representor (or their representative) and/or their witnesses after each presentation.
  25. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

## Summaries

26. The Chair will invite the Representors (or their representative) in the following order to summarise their case [*maximum 5 minutes each party*]
  - Police
  - Other Responsible Authorities
  - Ward Councillors
  - Local residents
27. The Chair will invite the Applicant (or their representative) to summarise their case [*maximum 5 minutes*].
28. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

## Determination

29. The Sub-Committee will withdraw to consider their decision with the Legal Adviser and the Democratic Services Officer in a separate private on line meeting. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.
30. If the decision is made following the conclusion of the hearing, the Sub-Committee will return to the public online meeting to announce an outline of the decision to those present. This decision will then be communicated in full in writing, including reasons for the decision, to the Applicant and all Representors (whether in attendance or not) usually within 5 working days of the hearing. There can be no further questions or statements.
31. If the Sub-Committee does not make a decision on the day of the hearing, the decision will be made within 5 working days beginning with the day or the last day on which the hearing was held. The Democratic Services Officer will inform the parties that they are no longer required and the decision will be communicated in writing to the Applicant and Representors within 5 working days of the decision being made.

The notification will include information about the rights of appeal against the determination made.

## **APPENDIX 2: PROCEDURE FOR REMOTE PLANNING COMMITTEE MEETINGS**

### **Introduction**

1. During the coronavirus pandemic emergency period it will be necessary for Planning Committee meetings to be dealt with remotely. This procedure sets out how City of York Council will deal with such meetings. This procedure is supplemental to, and must be considered in conjunction with, the Council's Delivery of Remote Meetings document which sets out how all meetings, including Planning Committee meetings will be held in York. Members must also continue to adhere to the Code of Good Practice for Councillors involved in the Planning Process contained in the Constitution.
2. The meeting will be recorded and the recording placed on the Council's website.

### **Preparation for the Remote Planning Committee Meeting**

3. The Planning Committee will use the video-conferencing platform when the meeting is in public session. Clear instructions will be provided to participants on how to join the remote meeting. A link for the general public to watch the meeting will be available on the Council's website.
4. The Committee may exclude the public from any part of a meeting if it considers there are commercially sensitive or 'exempt' matters to be discussed. Should any part of the meeting need to be held in private session, a separate private online meeting will be convened by the Committee.
5. All paperwork relevant to the Planning Committee meeting will be published online on the Council's website, 5 working days before the remote meeting. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote meeting.

### **Public Participation**

6. The applicant, their advisor and members of the public may register their wish to speak on the matters or applications to be considered by members by contacting Democratic Services using the contact details as set out in the agenda for the meeting by 5.00pm on the working day preceding the meeting. Clear instructions will be provided to public speakers who have registered to speak on how to join the remote meeting.
7. Members of the public that have registered to speak are strongly encouraged to email the points they wish to make to the Committee to Democratic Services prior to the meeting taking place so that in the event of technology difficulties, they can still be taken into consideration at the meeting. These will not be circulated to the members of the Planning Committee unless technical difficulties are experienced during the meeting meaning that public participation of one or more registered public speakers is not possible. This is to ensure all views are taken into consideration within the Planning Committee meeting itself and there is no discussion outside the meeting.

8. It will be at the Chair's discretion as to the limit on the number of speakers at that particular committee. Each speaker will be invited to make their representation and will be allowed a maximum of 3 minutes each to speak and may subsequently be asked questions by Members.
9. After each registered public speaker has finished speaking and members have no further questions of them, they will be asked to leave the remote meeting platform and will be able to view the remainder of the meeting via the live webcast broadcast online.

### ORDER OF PROCEEDINGS AT THE REMOTE PLANNING COMMITTEE MEETING

#### **Chair's introduction and opening comments**

10. The Chair will introduce the meeting, identify committee members and officers as needed and will welcome all registered speakers.
11. The Chair will outline the procedure to be followed. In all matters of procedure and interpretation of these rules, the Chair's decision will be final.
12. The Chair will proceed with the order of business on the agenda.

#### **Planning Officer**

13. When the agenda item relating to the application is reached, the Chair will invite the Planning Officer to outline the application.
14. The Planning Officer and any other relevant officers present may be asked questions by the Planning Committee Members

#### **Public Participation**

15. The Chair will then invite the registered public speakers to speak for a maximum of three minutes each.
16. The Chair will invite Members to ask questions of each registered speaker immediately after they have spoken.

#### **Members Debate**

17. After all registered public speakers have spoken and there are no further questions from Members, the Chair will invite Members to debate the application in question. At this point there will be no further public speaking.
18. At any time it may be necessary for officers to address the Committee to answer questions asked or to comment or clarify any points (including public participation) that have been raised during consideration of the application or to advise the Committee.

19. Any dispute or question as to procedure at the Committee, including the operation of the public speaking scheme, will be determined by the Chair, whose decision on all matters will be final.

### **The Vote**

20. Following consideration of the application, the Chair will ask the Committee to vote on the application in question.
21. Members will be asked to enter a named vote so as to aid clarity and transparency with the remote meeting arrangements. To record a vote, the Chair will invite a rollcall of all Members present to be undertaken whereupon they will be asked to state their voting intention (For, Against, Abstain).
22. In the event of any vote being equally divided the Chair will have a second or casting vote.

### **Close**

23. Once all business of the meeting has been considered, the Chair will close the meeting