

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	COUNCIL	11 FEBRUARY 2019	14

CONSTITUTIONAL AMENDMENTS

PUBLIC ITEM

This item is for consideration in the public part of the meeting.

SUMMARY

At the Council meeting held on 10th December 2018 the progress of remote access to meetings was considered and noted, with a further report being sought at the Council meeting on 11th February as to whether the Audit and Standards Committee supports its original recommendations, with respect to proposed changes to the Council procedure Rules, supports the proposal tabled by the Finance and Democracy Committee at its meeting held on 26th November 2018 or the amendment as suggested by Councillor Clayton at the 10th December 2018 Council meeting.

The recommendation of the Audit and Standards Committee are before Council for decision.

Additionally Audit and Standards Committee has considered the results of an assessment carried out to compare the Council's current arrangements with the guidance issued by CIPFA "Audit Committees - Practical Guidance for Local Authorities and Police 2018" to ensure that the Committee continues to operate in accordance with best practice.

The recommendation of the Audit and Standards Committee incorporates the latest guidance to the term of reference for the committee and are before Council for decision. Specific requirements for Fylde Borough Council, within the current terms of reference, in relation to the regulatory framework and the arrangements of the committee will remain unchanged.

RECOMMENDATIONS

- As recommended by the Audit and Standards Committee to amend the Council Procedure Rules to allow for remote access as follows:

2 REMOTE ATTENDANCE:

2.1 Arrangements for remote attendance

(a) Subject to 2.3 and 2.4, the chairman may make arrangements to allow (as far as the law permits) a member ('M') to participate in a meeting of the council including any committee (s) of which that Councillor is a member, if the following circumstances apply

(i) M has notified the Director of Resources in writing no later than one week before the meeting of their wish to participate remotely; and

(ii) M reasonably believes that it would be detrimental to their physical or mental wellbeing to attend the meeting in person.

(b) Any arrangements must ensure so far as possible that any person attending the meeting is able to hear

M's contributions as easily as those of members attending in person.

2.2 Substitutes

M may be represented by a substitute under rule 22 or 23 but not by remote access means.

2.3 Exempt and confidential items

M may not participate remotely in any part of a meeting in which the public have been excluded under section 100A of the Local Government Act 1972.

2.4 Maximum number of members participating remotely

The maximum number of members who may participate remotely in a council meeting is 2.

2. As recommended by the Audit and Standards Committee to adopt the revised Terms of Reference for the Audit and Standards Committee as shown at Appendix A to the report.

SUMMARY OF PREVIOUS DECISIONS

Remote Access to Meetings

Audit and Standards Committee – 17 January 2019
Council – 10 December 2018
Finance and Democracy Committee - 26 November 2018
Audit and Standards Committee - 15 November 2018
Finance and Democracy Committee - 19 June 2017, 19 March
Council - 3 April 2017
Member Development Steering Group Notes - 2017/2018

Terms of Reference of Audit and Standards Committee

Audit and Standards Committee – 17 January 2019
Council – 6 February 2017
Audit and Standards Committee – 19 January 2017

CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services (Value for Money)	√
Delivering the services that customers expect of an excellent council (Clean and Green)	√
Working with all partners (Vibrant Economy)	√
To make sure Fylde continues to be one of the most desirable places to live (A Great Place to Live)	√
Promoting Fylde as a great destination to visit (A Great Place to Visit)	√

REPORT

Remote Access to Meetings

1. The Member Development Steering Group (MDSG) has been piloting technological solutions to allow members who are unable to attend formal meetings to participate in them by remote access. The MDSG undertook this review as a part of its remit to promote member wellbeing.
2. The technology has been tested through a number of differing means including the attendance of Councillor Mark Bamforth at meetings of the MDSG (latterly as a member of the Group), attendance at Learning Hours and a trial attendance at meetings of the Environmental, Health and Housing Committee. MDSG is satisfied that the technological solutions are now sufficiently robust and reliable to allow them to be used in formal meetings of the authority.

3. A councillor who is not physically present at a meeting of a council or committee in England is not considered in law as attending the meeting, even where they participate by remote access. This means that they cannot validly vote at the meeting, cannot be counted towards the quorum, and would be counted as not having attended it for the purposes of the 'six-month rule'¹. These limitations are statutory or common law rules, which cannot be changed by the council. However, this does not preclude a member attending a meeting by remote access means, although it should be noted that any attendance of a councillor at a committee meeting by remote access must be limited to participating in discussions and debates.
4. The proposed new procedure rule would therefore allow the chairman of a meeting to make arrangements, in the circumstances set out in the rule, for a member to participate in a meeting by remote access, to the extent permitted by the law.
5. The Constitution Review Working Group (CRWG) considered amendments to the Council Procedure Rules to facilitate and govern its use. CRWG put forward wording for a new procedure rule for discussion by the Audit and Standards Committee (ASC). The committee endorsed the proposed new rule at its meeting held on 15 November 2018.
6. Finance and Democracy Committee ('FDC') deliberated the proposed rule at its meeting on 25 November 2018 and proposed certain changes to its wording.
7. Since ASC has within its terms of reference the remit to consider constitutional changes and recommend them to council, council referred the matter back to the ASC for further deliberation giving it the opportunity to consider the changes recommended by FDC, and those suggested by Councillor Clayton, Vice-Chairman of the Member Development Steering Group.
8. Following a full discussion at the ASC meeting held on 16 January 2019 it was agreed to recommend to Council that the Council Procedure Rules contained within the Constitution be amended to allow for remote access at Councils meeting as follows:-

2 REMOTE ATTENDANCE:

2.1 Arrangements for remote attendance

(a) Subject to 2.3 and 2.4, the chairman may make arrangements to allow (as far as the law permits) a member ('M') to participate in a meeting of the council including any committee (s) of which that Councillor is a member, if the following circumstances apply

- (i) M has notified the Director of Resources in writing no later than one week before the meeting of their wish to participate remotely; and
- (ii) M reasonably believes that it would be detrimental to their physical or mental wellbeing to attend the meeting in person.

(b) Any arrangements must ensure so far as possible that any person attending the meeting is able to hear M's contributions as easily as those of members attending in person.

2.2 Substitutes

M may be represented by a substitute under rule 22 or 23 but not by remote access means.

2.3 Exempt and confidential items

M may not participate remotely in any part of a meeting in which the public have been excluded under section 100A of the Local Government Act 1972.

2.4 Maximum number of members participating remotely

The maximum number of members who may participate remotely in a council meeting is 2.

¹ Section 85 of the Local Government Act 1972. The effect of the rule is that a member automatically ceases to be a member of the council if they fail to attend council meetings, or a committee of which they are a member, for a period of six months or more, unless their absence is due to a reason approved by the council.

Revised Terms of Reference for Audit and Standards Committee

9. CIPFA have recently issued Audit Committees – Practical Guidance for Local Authorities and Police 2018 which sets out the functions, operations, roles and responsibilities of audit committees and represents best practice.
10. The latest guidance incorporates a suggested terms of reference for audit committees. Internal Audit have carried out an assessment of the new requirements and although they are more detailed and prescriptive, particularly in relation to Internal Audit, it was found that the Audit and Standards Committee is already largely operating in line with the model contained within the guidance.
11. Included within the current terms of reference for ASC are some specific requirements for Fylde Borough Council in relation to the regulatory framework and the arrangements of the committee and these will remain unchanged.
12. The suggested terms of reference, for ASC, has been presented to the Constitution Working Group, who had no objections to the proposals. The standards aspects of the remit of the committee will remain unchanged at this present time.
13. Following a full discussion at the ASC meeting held on 17 January 2019 it was agreed to adopt the revised Terms of Reference for the ASC committee as shown at appendix A.

IMPLICATIONS	
Finance	Enabling remote access requires specialist equipment and support from the IT Team. To date it has been possible to contain the cost of this from existing approved budgets. However, if demand for remote access were to grow exponentially an increased staffing resource within the IT Team may be required in the future.
Legal	The legal implications are covered within the body of the report.
Community Safety	No direct implications
Human Rights and Equalities	The Public Sector Equality duty set out in section 149 of the Equality Act 2010 applies to the council. This means that the council must, in the exercise of their functions, have due regard to the need to eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act, advance equality of opportunity between people who share a protected characteristic and those who do not, and foster good relations between people who share a protected characteristic and those who do not. While it is not clear whether the Public Sector Equality Duty applies to member participation in council and committee meetings (because holding council and committee meetings could be characterised being part of the council's administrative machinery for making decisions rather than being a function of the council), the council is acting in line with the duty in developing its proposals for remote access.
Sustainability and Environmental Impact	No direct implications
Health & Safety and Risk Management	No direct implications

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	01253 658521	21 January 2019

BACKGROUND PAPERS

Name of document	Date	Where available for inspection
Council Minutes	3/4/17	https://fylde.cmis.uk.com/fylde/Committees.aspx
Finance and Democracy Minutes	19/06/17 and 19/03/18	https://fylde.cmis.uk.com/fylde/Committees.aspx
MDSG notes	2017/2018	Democratic Services Section
Audit and Standards Minutes	19/11/18	https://fylde.cmis.uk.com/fylde/Committees.aspx
Finance and Democracy Minutes	26/11/18	https://fylde.cmis.uk.com/fylde/Committees.aspx
Council Minutes	10/12/18	https://fylde.cmis.uk.com/fylde/Committees.aspx
Audit and Standards Minutes	17/1/19	https://fylde.cmis.uk.com/fylde/Committees.aspx

Attached Documents

Appendix A - Revised Terms of Reference for the Audit and Standards Committee