

DECISION ITEM

REPORT OF	MEETING	DATE	ITEM NO
MONITORING OFFICER	COUNCIL	10 DECEMBER 2018	14
CONSTITUTION AMENDMENTS – REMOTE ACCESS TO MEETINGS			

PUBLIC ITEM

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

SUMMARY

This report brings forward a piece of work undertaken by the Constitution Review Working Group with respect to remote access attendance at meetings. The Working Group has considered amendments to the Council Procedure Rules to allow access by such means, and has put forward wording to the Audit and Standards Committee (ADC), at its meeting held on 15 November 2018, for review. The ASC commends an amendment to the procedure rules to allow remote access to the council for approval.

Work undertaken by the Member Development Steering Group to pilot technology to allow access in this manner has run in parallel to the work of the Constitution Review Working Group. The Member Development Steering Group undertook this review as a part of its remit to promote member wellbeing.

The technology has been tested through a number of differing means including the attendance of Councillor Mark Bamforth at meetings of the Member Development Steering Group (latterly as a member of the Group), attendance at Learning Hours and a trial attendance at meetings of the Environmental, Health and Housing Committee. The culmination of this work resulted in the Finance and Democracy Committee, at its meeting on 26 November, signing off the technology for official use, subject to two suggested amendments to the Procedure Rule. These are outlined in the main body of the report.

RECOMMENDATION

To note the progress made with respect to remote access arrangements and to bring the matter back to the 11 February Council meeting, with a recommendation from the Audit and Standards Committee about whether it supports its initial recommendations as set out in Appendix 1 or the Procedure Rule set out in Appendix 2 as now proposed by the Finance and Democracy Committee.

SUMMARY OF PREVIOUS DECISIONS

Member Development Steering Group Notes - 2017/2018

Council - 3 April 2017

Finance and Democracy Committee - 19 June 2017, 19 March and 26 November 2018

Audit and Standards Committee - 15 November 2018

Finance and Democracy Committee - 26 November 2018

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

THE PROPOSED NEW PROCEDURE RULE

1. For some time, 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 at 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.

PROCEDURAL CONTEXT

5. Council is asked to consider adding the proposed new council procedure rule to the constitution. Under article 13.05 of the Constitution changes to the Constitution can only be made after consideration of a recommendation from Audit & Standards Committee (“ASC”) or a proposal from the Chief Executive or the Monitoring Officer, or through a notice of motion.
6. Members will also wish to consider Council Procedure Rule 27.2, which reads: *‘Any motion to add to, vary or revoke these standing orders, when proposed and seconded, stand [sic.] adjourned without discussion to the next ordinary meeting of the Council’*. It is presently a matter for interpretation whether this standing order applies to a proposed change placed before the council following a recommendation by the ASC.

DEVELOPMENT OF THE PROPOSAL

7. Once MDSG was satisfied that participation by remote access was practicable, 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 ASC. ASC endorsed the proposed new rule at its meeting held on 15 November.
8. Finance and Democracy Committee (‘FDC’) deliberated the proposed rule at its meeting on 25 November and proposed certain changes to its wording. The new rule as settled by ASC is set out in appendix 1 at the end of this report, with the rule incorporating the changes recommended by FDC set out at appendix 2. The changes recommended by FDC would result in the following differences from the proposal as it originally stood:
 - Remote access would be available only at council meetings, but not meetings of committees; and

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.

- Only a member who had received a ‘dispensation’ from the ‘six-month rule’², could take advantage of the provision.
9. Since ASC has within its terms of reference the remit to consider constitutional changes and recommend them to council, it is suggested that members may wish to defer consideration of the proposed new rule by full council until ASC has had the opportunity to consider the changes recommended by FDC.
 10. Members should also be aware Councillor Mark Bamforth has indicated that he would wish to take advantage of the opportunity to attend council meetings remotely as soon as practicable.

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 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.
Community Safety	No direct implications
Human Rights and Equalities	No direct implications
Sustainability and Environmental Impact	No direct implications
Health & Safety and Risk Management	No direct implications

LEAD AUTHOR	CONTACT DETAILS	DATE
Tracy Manning	01253 658521	29 November 2018

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

² See note 1 above. A ‘dispensation’ means the approval of a reason for absence for the purposes of section 85.

Appendix One

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 remotely 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.

Appendix Two

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 remotely 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;
- (ii) The council has approved a reason for M's failure to attend meetings of the authority pursuant to section 85(1) of the Local Government Act 1972; and
- (iii) 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.

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