



Report of the Monitoring Officer

Council - 26 March 2020

Remote Attendance at Meetings and Emergency Provisions

Purpose:	To consider whether to allow Remote Attendance at Meetings in view of the Covid-19 pandemic and further amendment to Constitution.
Policy Framework:	Local Government (Wales) Measure 2011 as amended.
Consultation:	Access to Services, Finance, Legal.
Recommendation(s):	It is recommended that: 1) Remote Attendance at Meetings be approved; 2) The procedure for Remote Attendance at meetings attached at Appendix 1 be approved and the Constitution be amended accordingly; 3) Council delegate to the Monitoring Officer any further amendments to be made to the Constitution to allow Remote Attendance at Meetings.
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1. Introduction to Remote Attendance

- 1.1 In light of the Covid-19 virus being classed as a pandemic and as a result of changing UK and Welsh Government advice together with advice from Public Health Wales there is a real possibility that in future weeks / months a number of Councillors may have to self-isolate. Self-isolation could lead to a Councillor being absent for a period of many months.

- 1.2 Councillors may recall that the Local Government (Wales) Measure 2011 (section 4) as amended gives Councils a power to permit Remote Attendance by Members at Council meetings. Council meetings will include Full Council, Cabinet and Committees (including Sub-Committees).
- 1.3 Remote attendance will allow Members to attend the Committee by an audio visual link, rather than in person. It is for each Council to decide whether or not it wishes to allow remote attendance.
- 1.4 Council in 2014 voted not to implement remote attendance at meetings. However Council may now wish to reconsider that decision in light of Covid-19 with a view to allowing an additional option to ensure that decision making continues within the Authority.
- 1.5 Section 4 of the Measure sets a number of conditions that must be met to allow a member to attend remotely. The conditions are:
 - (a) The member in remote attendance is able at that time:
 - (i) To see and hear, and be seen and heard by, the members in actual attendance,
 - (ii) To see and hear, and be seen and heard by, any members of the public entitled to attend the meeting who are present in that place and who exercise a right to speak at the meeting, and
 - (iii) To be seen and heard by any other members of the public so entitled who are present in that place;
 - (b) The member in remote attendance is able at that time to hear, and be heard by, any other member in remote attendance in respect of whom the condition in paragraph (a) is satisfied at that time;
 - (c) Use of facilities enabling the conditions in paragraphs (a) and (b) to be satisfied in respect of the member in remote attendance is not prohibited by the standing orders or any other rules of the authority governing the meeting.
 - (d) The standing orders of a local authority must secure that there is no quorum for a meeting of the local authority at any time when the number of members in actual attendance constitutes less than 30% of the total number of members in attendance at the meeting.
- 1.6 In relation to the quorate number, the Measure provides it can be no less than 30% in actual physical attendance. It is not advised to increase that percentage as that may make it more difficult to call quorate meetings at a time when some Councillors may not be in a position to physically attend a meeting.
- 1.7 The Council must also have regard to the statutory guidance of the Welsh Government issued on 2nd April 2014 in respect of remote attendance at Council meetings. The guidance is attached to this report at **Appendix 2**.

2. Addition to the Constitution

2.1 The Constitution as presently drafted does not contain any provision for council decisions to be made in an emergency situation such as Covid-19. Executive decisions can be made by the Executive / Cabinet, the Leader of the Council and individual Cabinet Members. It would assist in exceptional emergency circumstances if the following were added to Article 12 (4):

“d) In cases of emergency which would be exceptional but would include a pandemic situation, authorise the Chief Executive to consult with the Leader of the Council and other Political Group Leaders to make a decision where this is necessary to comply with legislation and / or time restriction provided that it is in the public interest to do so. It will be up to the Chief Executive and Leader of the Council as to how the decision is made.”

3. Financial Implications

3.1 There are no financial implications associated with this report but there will be staffing issues in ensuring that Welsh language translation facilities, where required, are provided and in ensuring IT support for the remote attendance.

4. Legal Implications

4.1 There are no additional legal implications other than those set out in the report.

5. Equality Implications

5.1 The Council is subject to the Public Sector Equality Duty (Wales) and 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.
- Foster good relations between people who share a protected characteristic and those who do not.

Our Equality Impact Assessment process ensures that we have paid due regard to the above.

Background Papers: None

Appendices:

- Appendix A Procedure for Remote Attendance at Meetings
Appendix B Welsh Government Statutory Guidance – Remote Attendance at Meetings

Procedure for Remote Attendance at Meetings

**Amendment to the Council Constitution, Part 4 “Rules of Procedure”,
Council Procedure Rules, Council Procedure Rule 50 “Remote Attendance
at Meetings”**

- 1) Delete Council Procedure Rule 50 “Remote Attendance at Meetings”.
- 2) Replace with:
 - “a) In normal circumstances members are expected to physically attend meetings. However in exceptional circumstances provision for Remote Attendance may be made available to ensure urgent or time critical decisions can be made at Cabinet, any Committee or Sub-Committee and full Council. Exceptional circumstances will include a pandemic situation.
 - b) The decision to allow remote attendance will be made by the Chair of the Committee having consulted the Group Leaders, the Chief Executive and Monitoring Officer. The Chair’s decision will be final. In the absence of the Chair/Vice Chair the decision will be made by the Group Leaders, the Chief Executive and Monitoring Officer.
 - c) If the Chair agrees to remote attendance then any such attendance will be in accordance with the Local Government (Wales) Measure 2011 and relevant Statutory Guidance.
 - d) There will be no quorum for a meeting at any time when the number of Members in actual attendance is less than 30% of the total number of Members in attendance at the meeting.
 - e) In the event that a Member who is attending remotely loses their connection to the meeting and is unable to participate further then the meeting will not be adjourned.
 - f) Any vote on an item will take place simultaneously by those in physical attendance and those attending remotely.

**Statutory Guidance made under Section 4 of the Local Government
(Wales) Measure 2011**

Remote Attendance at Council Meetings

1. Part 1 of the Local Government (Wales) Measure 2011 (“the Measure”) was intended to strengthen local democracy by, in particular, introducing reforms which support councillors outside of the executive or executive members when acting in a non-executive capacity. One of these reforms, at section 4 of the Measure, was the introduction of the possibility of remote attendance at council meetings. This was intended to make it easier for those who, for instance, may have to travel long distances, those with domestic responsibilities and those in employment to attend.
2. This guidance is statutory guidance under section 4(6) of the Measure, to which a local authority must have regard, in relation to meetings of an authority attended remotely in accordance with section 4.

What section 4 of the Measure says

3. Section 4 provides that attendance at a council meeting is not limited to a meeting of persons who are all present in the same place. By “council meeting” we include any committee or sub-committee of the council as well as the full council itself. However, the section places certain limitations as to what constitutes remote attendance.
4. Any member attending a meeting remotely (“remote attendee”) must, when they are speaking, be able to be seen and heard by the members who are attending the meeting at the place where the meeting is held (“members in actual attendance”) and the remote attendee must, in turn, be able to see and hear those in actual attendance. In addition, a remote attendee must be able to be seen and heard by, and in turn see and hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting. If there is more than one remote location, all the members attending remotely must be able to hear – but not necessarily see – the other remote attendees.
5. Meetings can only take place remotely if not prohibited by the local authority’s standing orders/rules of procedure. It is therefore up to each local authority to decide whether it wishes to make remote attendance available. The standing orders/rules must also secure that any meeting with remote attendees is not quorate if there are less than 30% of those eligible to attend present at the main meeting place. Authorities may set a higher quota for attendance at the main meeting place if they wish.
6. Each local authority may make other standing orders/rules in relation to remote attendance at meetings and must have regard to any guidance given by Welsh Ministers. Our intention is to publish this guidance at the same time as the section of the Measure is brought into force.

Supporting remote attendance

7. The Welsh Government accepts that there are technical and staffing implications connected with the introduction of remote attendance. Where a number of councillors are expected to attend remotely at the same location, probably though not necessarily in a different council office from the place where the meeting is held, there may be a need for an officer to be present, both to support the members attending remotely but also to ensure that the equipment needed for remote attendance to function is operating correctly.
8. Local authorities will need to decide whether or not they wish to permit members of the public to be able to be present at a remote location. If so, an officer presence may be required to make arrangements for them.
9. There will clearly be a need to provide appropriate training for officers who might become involved in remote attendance, both to familiarise them with the requirements of the legislation and to cover the practical issues involved. The WLGA should be able to assist in this process.
10. The need to recognise equality between the Welsh and English languages has great significance when considering remote attendance. Local authorities will have their own Welsh language schemes but it is likely that facilities will exist – or could be made available – to cater for members who are unable to understand Welsh. It will be for each authority to ensure that any use of remote attendance is in keeping with their Welsh Language Scheme.
11. It is also important for authorities to ensure that the needs of any disabled members are taken into account when considering the practicality of a remotely attended meeting.
12. It is proposed that standing orders should contain a provision that members should, whenever possible, be able to participate at a remotely attended meeting in either Welsh or English. However, it is the Welsh Government's policy that remote attendance should not be permitted if, for technical or other reasons, it would not be possible to provide simultaneous interpretation for non-Welsh speakers attending a meeting where both Welsh and English will be used. As such, local authorities may wish to ask members to note their language preference (in terms of speaking at meetings) and whether or not they would require simultaneous interpretation should any other participant speak in Welsh.
13. The Welsh Government does not take for granted that local authorities will possess the equipment or technological know-how to make remote attendance work to suit everyone. Someone attending remotely at home or work may have bandwidth limitations which affect their ability to take part fully. Local authorities will need to decide for themselves the extent to which they will invest or assist members to have the necessary facilities to attend remotely.

14. There are times when council meetings are not open to the public, when confidential, or “exempt” issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It would be important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings. Any member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of their Code of Conduct responsibilities.
15. Local authority standing orders can determine which types of meetings can be attended remotely. In the first instance, practical issues might dictate that the number of meetings which could enjoy this facility would be quite limited, though over time it would be hoped that the number of meetings where remote attendance were possible would increase.
16. The Measure requires that, for a remotely attended meeting to be quorate, a certain proportion of councillors must be in actual attendance at the meeting. Should this be disturbed by members in actual attendance at the main meeting place leaving the meeting before it is finished, bringing about a higher than permitted proportion of councillors attending remotely, the chair would have no choice but to close the meeting.
17. Standing orders should also make provision about what should happen if a technical difficulty results in the breakdown of the communications facility. Such occurrences are not unknown in video conferenced meetings. If this occurred, it is the Welsh Government’s view that the chair should declare a recess while the fault is addressed. If necessary, the meeting would have to be abandoned and the meeting should not continue without the involvement of the remote members. Standing orders could, however, make different provision for different types of meetings etc, for example that a meeting taking an urgent decision or one which is time-limited, might either not be allowed to take place with remote attendees or that the meeting would proceed in the event of a communications failure, so that those attending remotely would be aware and accept that the meeting would continue and a vote would be taken without their attendance in the event of a communications failure.
18. Finally, there is the issue of voting. Local authorities will have to build into standing orders arrangements to provide for voting to take place simultaneously at the main and remote location(s). It may not always be possible for remotely attending members to vote electronically even if that is the norm in council meetings. Standing Orders will need to cover this issue so that chairs of meetings are aware of the correct procedure to follow.