

STANDARDS COMMITTEE

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| Date of Meeting | Monday, 21 September 2020 |
| Report Subject | Ethics and Governance During Lockdown |
| Report Author | Chief Officer, Governance |

EXECUTIVE SUMMARY

Until this year local authority meetings operated under legislation requiring the majority of Members to be physically present. As well as being unsafe, the coronavirus restrictions on movement and assembly effectively made such meetings impossible. On 17 March 2020 the Council was forced to cancel all of its Council, Cabinet and Committee meetings for the remainder of the month, and then again for the whole of April. Town and Community Councils likewise cancelled their Member meetings.

Member meetings were gradually restored from May as new models of governance were put into place, and later legislation was passed, that enabled meetings to be held without any physical attendance. Meetings are now taking place via video conference and a full calendar of meetings is due to be restored from September.

The requirement on Councillors to observe the Code of Conduct and, in particular, to declare interests has been operated continuously throughout the temporary governance arrangements. For example, in remote meetings, where a Member declares a personal and prejudicial interest, facility exists to temporarily suspend a Member's participation in a meeting to mirror the effect of leaving the room.

RECOMMENDATIONS

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| 1 | That the Committee is assured that ethical arrangements have been maintained during the response phase of the emergency. |
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REPORT DETAILS

| 1.00 | EXPLAINING THE ETHICAL ARRANGEMENTS DURING THE EMERGENCY |
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| 1.01 | Local authority meetings take place in accordance with legislation laid down in the 1970s. In essence meetings must take place with Members physically present, and meetings are inquorate if the number of Members drops too low. This was modified by the Local Government (Wales) Measure 2011 which permitted attendance by remote means provided at least 30% of Members were physically present. |
| 1.02 | Physical presence at meetings became unsafe due to the risk of catching the virus. Welsh Government passed legislation requiring people to work from home wherever possible, not to meet indoors with anyone from outside of their household (except carers) and not to travel except for limited reasons. All of these factors made Member meetings impossible and from the 17 March the Council was forced to cancel its meetings for the remainder of that month as it responded to the virus. This was then extended to April. |
| 1.03 | During that time, officers focussed on responding to the emergency through the regional civil contingency hierarchy, accountable ultimately to Welsh Government. Regular informal teleconferences and video conferences also took place with Cabinet Members and political Group Leaders to ensure that Councillors were consulted and remained engaged in oversight of activity, albeit without formal decision making powers. |
| 1.04 | In April, officers devised means of permitting urgent decisions to be made by drawing up a protocol for single executive Members to make a limited range of very urgent decisions. The protocol is attached at Appendix 1. These decisions were made by the Cabinet Members who were advised over the telephone by officers. Five such decisions were made in April and May. The Committee will see that Executive Members were required to declare interests as part of this process and the Monitoring Officer attended every "meeting" to ensure this was observed. |
| 1.05 | Legally, only Executive Members can make a decision on their own, and non-executive decisions must be made by Committee (i.e. 2 or more Members meeting collectively). During April it was necessary to make some urgent planning decisions and so officers devised a virtual meeting protocol whereby the Chief Officer Planning, Environment and Economy consulted all Members of the Planning Committee before reaching a decision under emergency delegated powers. The protocol is attached at Appendix 2. Two such meetings took place. |
| 1.06 | At the end of April, Welsh Government passed legislation permitting meetings to take place remotely by telephone or video conference with no Members physically present. This enabled the Council to restore some Member meetings. Due to the time commitments of managing the emergency, a small, but growing, range of meetings were initially restored. The "Response Phase" is now coming to an end and the Council is moving |

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| | in to the Recovery Phase. The range of meetings will continue to grow and full resumption of all meetings will take place in September. |
| 1.07 | Although there was a relatively low level of Member activity during the Response Phase, Councillors continued to seek and be given ethical advice. When making Individual Cabinet Member decisions each Councillor was asked to declare any interests prior to considering the report, and Members sought/were given advice on ethical issues, planning matters etc. |
| 1.08 | Members must also declare interests at remote meetings in the usual way. If a Member declares a personal and prejudicial interest in an item then she/he will be “moved to the lobby” during that item. This temporarily suspends their ability to participate in the meeting, thereby mirroring the effect of leaving the room. When that item is concluded, the Member is restored to full participation. |
| 1.09 | Town and Community Councils operate under the same legislation as the County Council. They therefore suspended their Council and Committee meetings as well. When the legislation was passed enabling meetings to take place by telephone or video conference many did not immediately have the technical expertise or capacity to arrange remote meetings. They have started to hold meetings more frequently as they have got to grips with the technology. However, for most Town and Community Councils, meetings have resumed more slowly than at the County Council. |
| 1.10 | The reduction in the number of Member meetings has seen a corresponding reduction in the need for dispensations. No requests for dispensation were received from any Councillors prior to the end of August. |

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| 2.00 | RESOURCE IMPLICATIONS |
| 2.01 | Officer capacity and resources have been stretched meeting the demand for new governance methods and legislation during the emergency. It would not have been possible to have managed the workload without the reduction in Member meetings. |

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| 3.00 | CONSULTATIONS REQUIRED / CARRIED OUT |
| 3.01 | None. |

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| 4.00 | RISK MANAGEMENT |
| 4.01 | During the Response Phase the risk of non-compliance with the Code of Conduct has been greatly reduced by the absence of Member meetings. The Monitoring Officer and Deputy Monitoring Officer have also continued |

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| | to provide advice so that the governance arrangements were appropriate and compliant with the Code. |
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| 5.00 | APPENDICES |
| 5.01 | Appendix 1 – Individual Cabinet Member Meeting Protocol Appendix 2 – Virtual Planning Committee Protocol |

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| 6.00 | LIST OF ACCESSIBLE BACKGROUND DOCUMENTS |
| 6.01 | None Contact Officer: Gareth Owens, Chief Officer, Governance Telephone: 01352 702344 E-mail: Gareth.Legal@flintshire.gov.uk |

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| 7.00 | GLOSSARY OF TERMS |
| 7.01 | Response Phase: Under civil contingency legislation the period when the risk to life and property is at its highest, and public services are focussed on tackling the immediate effects of the emergency, is known as the Response Phase Recovery Phase: The period following the Response Phase when public services seek to return service delivery to “normal” (or as close to normal as possible) and when they begin to address the long term implications of the emergency. |