

SCRUTINY COMMITTEE

Tuesday, 9th June, 2020

11.00 am

Online





AGENDA

SCRUTINY COMMITTEE

Tuesday, 9th June, 2020, at 11.00 am

Ask for: **Joel Cook/Anna Taylor**

Online

Telephone: **03000 416892/416478**

Membership

Conservative (9): Mr A Booth (Chairman), Mr J Wright (Vice-Chairman), Mr M A C Balfour, Mr P V Barrington-King, Mrs P M Beresford, Mrs R Binks, Mr G Cooke, Mr R C Love, OBE and Mr A M Ridgers

Liberal Democrat (2): Mr R H Bird and Mrs T Dean, MBE

Labour (2) Mr D Farrell and Dr L Sullivan

Church Mr D Brunning, Mr J Constanti and Mr Q Roper

Representatives (3):

Parent Governor (2): Mr K Garsed and Mr A Roy

In response to COVID-19, the Government has legislated to permit remote attendance by Elected Members at formal meetings. This is conditional on other Elected Members and the public being able to hear those participating in the meeting. This meeting will be streamed live and can be watched via the Media link on the Webpage for this meeting.

County Councillors who are not Members of the Committee but who wish to ask questions at the meeting are asked to notify the Chairman of their questions in advance.

UNRESTRICTED ITEMS

(During these items the meeting is likely to be open to the public)

A - Committee Business

- A1 Chairman's Introduction
- A2 Apologies and Substitutes
- A3 Scrutiny Committee Virtual Meetings Protocol (Pages 1 - 6)
- A4 Declarations of Interests by Members in items on the Agenda for this Meeting

B - Any items called-in - None for this meeting

C - Any items placed on the agenda by any Member of the Council for discussion

- C1 Impact of Covid-19 Outbreak on 2020-21 and 2021-22 Budgets (to follow)
- C2 Scrutiny Committee Update (Pages 7 - 12)

EXEMPT ITEMS

(At the time of preparing the agenda there were no exempt items. During any such items which may arise the meeting is likely NOT to be open to the public)

Benjamin Watts
General Counsel
03000 416814

Monday, 1 June 2020

From: Ben Watts, General Counsel
To: Scrutiny Committee – 9 June 2020
Subject: Protocols for Virtual Meetings
Classification: Unrestricted

1. Introduction

- (a) In line with provisions in the Coronavirus Act, regulations have come into force giving local authorities the ability to take a more flexible approach to holding meetings.
- (b) However, the core governance requirements for meetings remain. Notice still needs to be given for meetings and the Agendas need to be made available online. The public's right to observe meetings remains the same and so provision needs to be made for the public to hear the discussion and see it where possible as well.
- (c) The regulations are written so that each local authority can tailor their ability to hold virtual meetings to the technology they are able to put into place. Use of the technology needs to ensure the business of the Council can be conducted fairly and without any participant or observer being unduly disadvantaged.
- (d) Formal meetings held virtually are still formal meetings, and while the procedures and rules remain the same as when all Members are present in the same room, it will be a different way of working.

2. Protocols for Virtual Meetings

- (a) Each Committee is being asked to adopt a set of supplementary protocols to guide how virtual meetings will be run. These are geared to explaining how the requirements of the Constitution will be put into effect in a virtual setting.
- (b) Adopting these Protocols will enable Members to have a common point of reference and to understand how business will be conducted. For members of the public observing our virtual meetings, this will improve transparency and understanding of the democratic process.
- (c) A set of Protocols for this Committee are attached as an Appendix to this report.

3. Recommendation:

That in order to facilitate the smooth working of its virtual meetings, the Committee agrees to adopt the appended Protocols.

4. Background Documents

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) England and Wales) Regulations 2020 - SI 2020 392, <http://www.legislation.gov.uk/uksi/2020/392/contents/made>

5. Contact details

Report Author and Relevant Director:

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Draft – Protocol for Meetings of the Scrutiny Committee held under SI 2020 392

General

1. Part Three of the Constitution (Standing Orders) shall continue to apply for all virtual meetings except where there is a requirement, implied or otherwise, for Members to be physically present in the same location.
2. These Protocols supplement but do not replace the Standing Orders in the Constitution and exist to make meetings held under SI 2020 392 more effective and efficient.
3. Reference to Chair or Clerk relate to the Chair or Clerk of the specific virtual meeting.
4. The Monitoring Officer or his deputies are available to assist and advise the Chair and the Clerk as necessary.
5. Members are respectfully reminded to ensure that the electronic device through which they are attending the virtual meeting has sufficient battery charge.

Rules of Conduct

6. The Chair's ruling on the meaning or application of these Protocols or any other aspect of the proceedings of a meeting held virtually cannot be challenged.
7. The Chair may give any direction, or vary these Protocols, when they consider it appropriate to do so in order to allow for the effective and democratic management of the meeting but must take advice from the Clerk before so doing.
8. Immediately before the commencement of the virtual meeting, all participants must switch the video and microphone settings to "off" and only turn them on when invited to speak by the Chair.
9. Members are reminded that any member of the public may observe the meeting.
10. The conversation function referred to in the Protocols is also known as the 'meeting chat'. Members should proceed as if the content can be viewed by participants and the wider public and only use the function for procedural matters as set out below. It should not be used to discuss the substantive issue – this should be done verbally.

Attendance

11. Members must affirm their presence by typing the word 'Present' in the conversation function of the meeting. This shall be accepted by the Clerk as the equivalent of the Member having signed the attendance list.
12. Where a Member is leaving the meeting permanently or temporarily, the word 'Absent' shall be typed in the conversation function. Where the Member joins the meeting once more, 'Present' shall be typed once more.
13. Where a Member has declared a DPI or other interest which means they need to absent themselves for part of the meeting, the Member shall leave the meeting completely at the appropriate time. The Clerk shall email the

- Member when they are able to re-join. The Clerk will confirm the absence by checking the meeting attendees and confirming the same to the Chair.
14. The standard quorum of one third of the total voting membership applies and this number must have indicated they are 'Present' for the meeting to commence or continue. The Clerk will conduct electronic checks on quoracy periodically throughout the meeting.

Substitutes

15. In order to ensure that Members have access to the virtual meeting, it is requested that formal notification of substitutes to the Clerk be made at least 48 hours prior to the start of the meeting. The start time of the meeting will be affected if this is not done.

Speaking

16. Members and other participants in the meeting must wait to be called on by the Chair before speaking.
17. Attendees may indicate a desire to speak through use of the conversation function. The Clerk will ensure these are brought to the attention of the Chair in the order received.
18. Members not part of the Committee wishing to speak shall request permission from the Chair in advance so that the Clerk is informed 24-hours ahead of the meeting.

Motions and Amendments

19. Except where the motion before the Committee is set out in the Agenda, any Member is entitled to request that a motion or amendment before the Committee be typed out in the conversation function by the proposer. Where this is done, the Clerk shall read out the motion/amendment.
20. All proposed motions/amendments will need to be seconded by a Committee Member present in line with usual practice.
21. The Chair shall ask for Members' views on the motion/amendment. Where the view of the Committee is unclear, the Chair shall call for a vote.

Voting

22. Voting will be through a rollcall of all Members taken in alphabetical order, or through a poll overseen by the Clerk through the conversation function, with the Clerk announcing whether the motion/amendment was agreed or not agreed once this has concluded. The Chair will announce at the start of the meeting which of these methods is to be used.
23. Where a poll is the chosen method but is not able to take place, the Chair shall ask Members to record whether they are for, against, or abstaining in the conversation function. No response shall be taken as an abstention.
24. No votes shall be recorded in the Minutes unless sections 16.31 or 16.32 of the Constitution apply.

Clerking

25. There will normally be a minimum of two Officers supporting the Chair and Committee during a virtual meeting. One will act as a facilitator to support the Chair. The other will be taking minutes.

Other Provisions

26. Where the minimum legal requirements apply and Members are only able to hear each other and be heard, the Chair shall be responsible for identifying speakers etc., and will be supported in this by the Clerk as facilitator. A rollcall shall be held at the start of the meeting, and at other times as deemed necessary by the Chair, to establish quoracy in these circumstances.

Part Two Meetings

27. At the start of any formal meeting, or part of any formal meeting, from which the press and public have been excluded in accordance with section 15.17 of the Constitution, Members shall type the words 'Present - Alone' to verify that no unauthorised person is able to hear, see, or otherwise participate in the meeting.
28. A Part Two meeting will normally be anticipated and will be scheduled in advance as a separate virtual meeting. Where the need to move into a Part Two meeting only becomes apparent during the meeting, the item affected should be adjourned to a later date.

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From: Ben Watts, Monitoring Officer
To: Scrutiny Committee – 9 June 2020
Subject: Scrutiny Committee Update
Classification: **Unrestricted**

1. Introduction

- a. Part of Kent County Council's response to the COVID-19 pandemic was to move to protect Members, Officers and the public by suspending meetings held where people were physically co-located. A lot of hard work has gone into reintroducing a schedule of informal briefings and formal meetings held virtually.
- b. Throughout June, Kent County Council (KCC) will be hosting an unprecedented number of briefings and meetings. These include the Scrutiny Committee meetings on 9 and 23 June and the preparations for our first virtual County Council meeting planned for the second half of June.
- c. Unlike a number of other Councils, we have worked to develop a meeting solution that does not require attendance at County Hall to run the meeting. It is entirely virtual. However, work has already begun with our suppliers in exploring how we can conduct hybrid meetings where some Members and Officers attend remotely and some in person. This will allow us to respond to future changes in the Government advice.
- d. A range of assessments are currently taking place at the Council's key buildings (including Sessions House) around the changes required to ensure a safe system and place of work. Once those are completed, we will begin work on how to bring our two current meeting broadcast systems together. We are working very hard at this and it will take time for us to get this up and running. Once we have carried out the initial assessments and understand the costs involved, I will prepare a report for Selection and Member Services Committee with clear timescales and project milestones.
- e. In the meantime, the Scrutiny Committee can be assured that KCC has developed virtual meeting processes that comply with constitutional and legislative requirements. For decisions to remain lawful, reasonable and proportionate and for Members and Officers to remain safe and protected, it is vital that we continue to use the virtual platform until we can safely deploy the hybrid.

- f. My Officers and I are acutely aware of how much Members value meetings in person and how keen a number are to get back into County Hall. We are also aware that a number of Members have the opposite view and do not want to return or cannot return because of health/welfare concerns. Alongside the unprecedented activity now being conducted, we will continue to do all we can to make sure that Kent remains at the forefront of adapting our processes and meetings.
- g. The COVID-19 emergency has necessitated Members and Officers working differently and the wider context has also meant that priorities have changed or shifted in emphasis.
- h. However, the fundamentals of good governance have not changed, and the Scrutiny Committee has an important role in making sure that the proper lessons are learned as to how Kent County Council (KCC) prepared for, and responded to, the COVID-19 pandemic.
- i. Similarly, it is important to retain governance discipline about the activities that are conducted by all of the Council's Committees and informal groups. Simply put, in unusual circumstances, usual rules apply. As discussed at the briefing meeting in May, it is important that in scrutinising in such a dynamic environment that this Committee ensures that it addresses things in the right order. It is more vital than ever that the Committee operate without predetermining decisions that are yet to be made or are for others to make if scrutiny is to maximise impact.
- j. Members of the Scrutiny Committee had discussions about how to focus its activities to best achieve this. In coming up with the right approach, the following constraints need to be considered:
 - i. Virtual meetings/briefings are a more intensive use of Democratic Services' time. There is therefore a limit to how many meetings can be arranged over any one period and effectively supported.
 - ii. Best practice advice suggests that virtual briefings/meetings are most effective when there is a clear focus to the matter under discussion.
 - iii. As we move forward, it is vital that discussions and meetings are supported by Democratic Services to ensure the impartial clerking and recording of actions, recommendations and outcomes without fear or favour.
 - iv. Many Officers across the authority are directly involved in supporting or delivering KCC's frontline response to the pandemic and issues arising from it. That frontline response continues despite the fact that the peak has passed. Care needs to be taken when diverting Officer's time and effort away from this work.

- v. The pandemic is an evolving situation and there is a need to focus on producing recommendations in a timely manner rather than carrying out a more open-ended review.
- k. Members, in particular the Chairman and Spokespeople, of the Scrutiny Committee have already expressed the view that strong consideration should be given to temporarily suspending the Select Committee work programme in order to free up some capacity necessary to carry out shorter and more focused pieces of work. The planned Topic Review work programme, and the next item scheduled (Climate Change and its effect on Kent) would commence later, subject to the Committee agreeing a resumption of the planned work programme.

2. Delivering Short, Focused, Inquiries

- a. There are several options as to how this work could be carried out:
 - i. *Advisory Sub-Committees.* The Scrutiny Committee has the power to establish Sub-Committees to carry out functions on its behalf. The Sub-Committee would have its Terms of Reference set by the Scrutiny Committee and would be for the purposes of advising the Committee on possible recommendations. The membership would likely be smaller in number than the Scrutiny Committee. Once the membership was agreed, the Sub-Committee would meet several times to gather evidence and would disband once it had reported to the Scrutiny Committee. It should be noted that formal notice periods and public access rules would apply to meetings of such a sub-committee which may result in time pressures.
 - ii. *Informal briefings/evidence sessions.* These would be set up as any other informal briefing or evidence session and those Members involved would be able to ask questions and draw up suggested recommendations to report back to the Scrutiny Committee. It would need to be decided whether to open the briefings to all Members or the Scrutiny Committee alone, and how recommendations would be agreed. This informal evidence gathering focus would likely offer the most rapid review process.
 - iii. *Refocused Select Committees.* While the Select Committee work programme is suspended, a Select Committee could be established to look at an issue over a much shorter timeframe and holding fewer evidence sessions than would normally be the case. In addition to risks around confusion over terminology and output expectations, there are also specific rules and procedures for Select Committees which are geared more to deep-dive enquiries over many months, meaning that this might not be the most suitable approach at hand.
 - iv. *Additional/extended Scrutiny Committee meetings.* Once the topics had been agreed, these could be added to the agendas of Scrutiny

Committee meetings, or additional meetings established. This would add to the demands on the time of all Scrutiny Members and Officers specifically, where the other options would allow a wider range of Members to become involved and contribute.

- b. In all the above options, the focus would need to be on the recommendations being made and the main reasons for putting them forward. It might make sense to capture these in a simple, standard, template.
- c. For the reasons set out above, it would not be possible to investigate more than one topic at a time, or for the inquiries to be too broad. To put it simply, a short, focused, inquiry does not mean getting the same output as a full Select Committee would deliver but in a fraction of the time. Linked with this, consideration of timeframes for any inquiry must take into account the operational pressures on both Executive Members and Officers as the pandemic response continues.
- d. The Scrutiny Committee therefore needs to be clear, when establishing an inquiry in some format, about:
 - i. The focus of the inquiry.
 - ii. The key questions it needs to answer.
 - iii. The maximum number of sessions it expects to take place as part of the inquiry.

3. Recommendation:

That the Scrutiny Committee agrees to:

- a. Note the current Governance approach to virtual meetings.**
- b. Agree a work programme of focussed enquiries to be carried out.**
- c. Delegate to the Scrutiny Officer the development and delivery of the best option for this programme, in consultation with the Chair.**
- d. Temporarily Suspend the current Select Committee Topic Review Work Programme.**

4. Background Documents

None.

5. Report Authors and Relevant Director

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