
DALC Newsletter #15

1 message

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DALC Newsletter #15 2021

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Remote meetings update

Many of you have likely seen Government's announcement confirming that the **legislation enabling remote meetings will not be extended beyond the 6 May 2021**. This was confirmed in a [letter sent to Council Leaders](#) yesterday evening by Luke Hall MP.



We are extremely disappointed with this news, and are aware of concerns councils will have in not only conducting their usual business, but also for the wellbeing of councillors, staff and the public attending their meetings.

NALC chairman, Cllr Sue Baxter, has [responded](#) to express her disappointment, as has the Local Government Association in their [statement](#).

The government has also [updated the guidance on the safe use of council buildings](#) following this confirmation, aimed at helping councils operate safely and securely, including using existing powers to reduce the number of face-to-face meetings deemed necessary. We are aware that some suggestions are largely suited to larger authorities, and we hope to issue further guidance to support our smaller councils in due course.

A **12 week call for evidence** has also been launched about how remote meetings have been used to inform any potential future legislation regarding their use beyond the coronavirus pandemic. **I urge all our members to respond** to the consultation. NALC will be responding to this consultation and will be discussing this with other key stakeholders who have already been working with them on this issue.

There is still a glimmer of hope...

Hertfordshire County Council, Lawyers in Local Government and Association of Democratic Service Officers (supported by NALC) are continuing their pursuit of a court judgement on whether remote meetings are possible under existing legislation. A declaration is expected by the end of April.

So at the 11th hour - remote meetings may still be possible, but all councils must have a contingency plan in place should that not come through.

Our briefings are still going ahead next week, where we intend to provide the latest information and guidance. Tuesday's event is already oversubscribed, but there is space available on Wednesday at 10am (open to clerks and chairman only).

Best wishes

Cara Stobart, County Officer

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Face to face meetings

- **If remote meeting regulations end on the 7th May, how soon till we can hold a face-to-face meeting under the government's roadmap out of lockdown?**

Depending on the availability and suitability of your meeting venue, council meetings could resume as early as 7 May for councils with their own premises, 17 May if your hall allows your booking for up to 50% usual capacity, or from 21 June when all social contact restrictions are lifted.

The council may need to consider other options for decision-making until they are able to meet face-to-face. This may include deferring non-essential business until later in the year and/or delegating authority to the clerk to make essential decisions to keep the council functioning.

- **Can we hold hybrid meetings and would councillors attending remotely be able to vote?**

Once the legislation permitting remote meetings comes to an end on 6th May, councillors attending council meetings remotely won't be considered 'in attendance' and will not be able to vote. Members of staff or members of the public may be able to attend or observe remotely if your facility enables it.

- **Can we hold our meeting outside?**

There is nothing preventing a council from meeting outside although we would highlight potential problems such as unpredictable weather, background noise and social distancing making it difficult to hear, potential risks (such as cars in a carpark, or games being played on a recreation ground) and the discomfort of standing for a long period of time.

- **Could the council agree an extension to remote meetings?**

An extension to remote meetings can only be given via legislation.

- **Could the council choose not to meet for a while?**

Yes, that is a possibility. Councils have a statutory duty to meet 3 times per year plus the Annual Council Meeting in May. So you can lawfully have a period where no meetings take place. Please consider the public perception of the council not meeting for any considerable duration.

- **If the high court case agrees that councils can meet remotely, will councils still be able to meet face-to-face if they want?**

The court case is looking to redefine the meaning of 'place' in regard to council meetings. It is assumed, if successful, councils will have a choice for the 'place' of their meeting, either physical or virtual. But nothing can be assured until the court case is heard.

- **What about councillors who don't feel safe attending for any reason?**

Councils will need to consider their plans for face-to-face meetings to ensure they are as safe as possible. If councillors still feel unable to attend for any reason, they will need to send their apologies with a reason for their absence and the council consider whether to approve this reason.

- **What about the six-month rule?**

The six-month rule, whereby a casual vacancy arises in the seat of a councillor who does not attend a meeting for six months, still applies regardless of whether the council is meeting. If a council holds a meeting at the beginning of May, they will need to consider meeting again before early November to avoid their councillors becoming disqualified.

A council, if meeting, can approve the absence of a councillor if they have sent their apologies and provided a reason, before the end of the 6-month period to avoid disqualification, if they so wish.

- **Could Covid-19 lateral flow tests be made available to councils?**

We are not aware of any plans to make lateral flow tests available to councils and it is unlikely that there will be enough supply of lateral flow tests for them to be made available to councils.

- **What about staff that don't feel safe attending a meeting?**

As the council prepares to return to face-to-face meetings, it should ensure that staff are consulted on plans and that they feel comfortable. The environment should be made as safe as possible for staff. Their needs should be part of the council's risk assessment, with the council making any reasonable adjustments necessary.

- **Can we check whether attendees have had the vaccine?**

Attendees are under no obligation to inform councils whether they have had the vaccine or not. The vaccine rollout will help reduce the risks for everyone, even those who have not yet had the vaccine.

- **Can we refuse access to anyone not wearing a mask?**

Members of the public have a right to observe a council meeting so councils cannot refuse access. Your risk assessment process will identify ways to reduce the risks by using social distancing and hand sanitizer, and keeping the room ventilated for example, as per safer workplaces guidance.

- **Do members of the public have a right to speak at a council meeting?**

Members of the public only have the right to observe a council meeting although it is best practice to allow for public participation. The format of the public participation period is for your council to determine for itself.

- **Can we limit the numbers of members of the public who are attending?**

The council needs to make provision for members of the public to attend. When planning for face-to-face meetings, be aware of your maximum capacity of your venue and plan what you will do if you go over that.

- **What do we need to consider if we are streaming or broadcasting our meetings to members of the public?**

Councils will need to monitor the livestream or broadcast to ensure that members of the public are able to observe the meeting and will need to adjourn the meeting if there are any problems. You will need to ensure your privacy notice and publication scheme has been updated to reflect these new records (where appropriate). Your chairman at the meeting may also wish to highlight to participants that the meeting is being broadcast.

- **What do we do if our venue has no broadband?**

Some councils may find it harder to manage remote attendance of members of the public depending on the venue and will need to consider this when planning their face-to-face meetings. Some councils have been able to get free broadband from Airband.

- **Any advice on equipment?**

We can't advise on what technical equipment might be required since every room and meeting is different. Councils may want to share their recommendations between themselves.

Annual Council Meetings

- **Does the annual council meeting have to be held in May and do we have to hold it?**

The annual council meeting must be held in May 2021. Our suggestion is to hold it remotely before 7th May.

- **Can we defer some business from the annual meeting until later in the year?**

Councils can decide to defer non-essential business until later in the year. The first order of business at an annual meeting must be the election of a chairman.

- **Can we have a meeting on a bank holiday?**

Councils may meet on any day of the week, including Saturday, Sunday and bank holidays. Bank holidays and Sundays do not count when calculating the 3 clear days notice period for the agenda.

Annual Parish/Town Meeting

- **Can you have the annual council meeting and annual parish meeting at the same time?**

The annual parish meeting and the annual council meeting can take place on the same day, with one following the other, but make sure it is clear that they are two separate meetings.

- **Who can call an annual parish meeting?**

Parish meetings can be convened by the chairman of the parish council, any two parish councillors, or any six local government electors. If there is no parish council, the chairman of the parish meeting or any personal representing the parish on the district council may convene the parish meeting.

- **Do we legally need to convene an annual parish meeting?**

There is a requirement for the parish meeting to assemble between 1st March and 1st June. Since the parish council is required to set the time and date of the meeting, this is a responsibility for the council. We would suggest calling the annual parish meeting remotely before 7th May.

- **Can annual parish meetings be held remotely?**

The legislation permitting parish meetings to meet remotely comes to an end on 6th May so from the 7th May, parish meetings will not be able to meet remotely. We recommend holding a remote annual parish meeting before 7th May.

- **Can we just not call the annual parish meeting?**

This is a decision for the council to make, although councils will want to consider who may challenge that decision.

End of Year Accounts and Finances

- **Does the period for the exercise of public rights have to occur for the AGAR**

Yes, the period still applies but you may need to consider how you can safely meet with anyone who wants to view the accounts. The end of year accounts will be treated normally this year.

- **Will the council still be able to make online payments after the 7th May?**

Councils will still be able to make online payments after the 7th May, in line with their financial regulations.

- **Does the council need to wait for the internal audit report before approving the Annual Governance and Accountability Return?**

Councils will need to wait for the internal audit report before approving the Annual Governance and Accountability Return so that they are able to agree the assertions in the Annual Governance Statement.

Delegation of decision making

- **Does DALC have a template scheme of delegation?**

No we don't. All councils are different, and therefore need to consider their own circumstances before considering delegation to officers.

- **Can we delegate everything to the clerk?**

Some decisions cannot be delegated such as approving the Annual Governance and Accountability Return, and co-option of councillors. These must be approved by the full council. We also do not encourage all decision making to be devolved to officers, as this is the least democratic form of decision making. In addition, it is inadvisable for clerks to make potentially controversial decisions especially those which may impact their impartiality. We advise thinking carefully, and consulting your officers as to what is reasonable under delegated authority.

- **Can we delegate to a councillor?**

No, you cannot delegate any decision making to an individual or pair of councillors. Delegation can only be made to a committee, sub-committee, and officer or another authority.

- **What about one-off planning applications?**

A clerk with delegated authority can make decisions on a planning application on behalf of the council. You could include a requirement to consult with a minimum number of councillors prior to their making a response. Alternatively, councillors can simply respond as individuals.

- **Can the council delegate powers to the clerk, with the clerk consulting with members at a remote meeting?**

A few councils have considered holding 'advisory' meetings of the parish council. NALC's view is that a meeting of councillors is a council meeting, regardless of the label. The council should consider whether this may cause confusion over the decision-making process. Another consideration is the pressure on clerks; clerks will be making decisions but expected to decide as instructed by the council which may cause some discomfort.

Risk Assessments

- **Do we still have to do a risk assessment for meetings after the 21st June?**

You will need to check the government guidance, and check with your insurer, nearer the time.

- **Can councils return to face-to-face meetings earlier if they have their own venue?**

Councils with their own buildings may not need to secure another venue but will still need to make their own decision about whether to re-open, including staff safety.

- **Will social distancing/wearing masks/using hand sanitiser still be necessary?**

In line with the roadmap and your council's risk assessment.

- **Are there any templates for a council meeting risk assessment?**

On NALC's website there is a guide to [Covid-19 Risk Assessments](#) along with some templates. Your insurer may also be able to provide some guidance and templates.

- **Who carries out a risk assessment?**

Normally an officer will carry out a risk assessment, although this could be done by a councillor. Councils will need to work with their staff to ensure that staff are comfortable with plans put in place.