



GUIDANCE DOCUMENT

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations 2020 No.392

This guidance is produced by the Association of Democratic Services Officers (ADSO); Lawyers in Local Government (LLG) and the National Association of Local Councils (NALC) for the purpose of highlighting the changes brought in by the above regulations for the benefit of its members. It does not constitute legal advice and should not be relied upon in that capacity.

The effect of these regulations is to provide as much flexibility as possible to local authorities in organising their meetings going forward. They apply to all types of local authorities plus fire and rescue authorities and combined authorities.

The guidance is an immediate response to the above regulations and is based on the information available at the time. We are conscious that there are still a number of questions to be answered and we are in dialogue with relevant civil servants to seek more explanation and clarity around certain issues. Therefore, we will update the guidance when we have further information.

Part 1 - General

(Secs 1 & 2) - The regulations came into force on 4 April. They apply to local authority meetings in England (and in part to Wales) held before 7th May 2021.

Parts 1 and 4 apply to England & Wales
Parts 2 and 3 apply to England Only

Part 2 – Remote attendance at Local Authority meetings

r.3 – The regulations apply to all classes of local authorities including parish/town councils, the Greater London Assembly, Combined Authorities and National Park authorities. It also covers joint committees and sub committees. They do not refer to School Appeal Panels, but we understand that the Government is currently working on emergency regulations and guidance to establish flexible alternative arrangements, including remote panels together with an extension of timescales currently prescribed. The DfE also advises it will retain the need for a formal clerk during the proceedings.



r.4(1) – Local Authorities have flexibility to hold meetings at a time, day and frequency to suit their own needs, without the requirement for further notice. We are advised by MHCLG that this permits authorities to make changes to their meeting arrangements with immediate effect.

It should be noted however that the regulations do not contain additional provision in regard to the publication of an agenda and reports which means that a meeting can be called, but the same advance publication of reports is still required. Whilst the 5-day notice requirement can be circumvented by urgency provisions with consent of the Chair of Scrutiny, this would lengthen the process and place an additional hurdle into a provision the government's intent was to provide maximum flexibility on.

We are seeking clarity from MHCLG as to the exact meaning of this rule regarding the notice required for meetings. Until this is clarified, we recommend that the usual 5 working days' notice is given (3 days in parish/town councils). If this is not possible, use your normal urgency procedures for calling meetings at less notice.

r.4(2) – this allows appointments normally made at an annual meeting to be continued until the next annual meeting or until such time as the authority determines. This appears to cover the Mayor as well as committee appointments etc. Councils therefore have the option to hold annual meetings remotely or in person when the restrictions are lifted or to go through to the next meeting in 2021. If an Annual Meeting is delayed, then all positions remain as they are today.

Remote access is defined at regulation 5(6)(c) (see below)

Remote attendance is defined in accordance with regulation 5(2) and 5(3) (see below)

This is the main regulation that covers the holding of meetings without all, or indeed any, of the members physically present in a room. In effect, it replaces all legislation and standing orders with these provisions, allowing individual authorities to create subservient standing orders to fine tune the procedures for local circumstances and particular technologies.

r.5(1) – This regulation allows for remote meetings through “electronic, digital, virtual locations and telephone conferencing”. It defines ‘place’ broadly so as to remove it from the council building to more than one virtual location, but it leaves the option of meeting in person (“present in the same place”) once the restrictions are lifted if so desired. The ‘place’ at which the meeting is held may be a Council building or may be where the organiser of the meeting is located or an electronic or a digital or virtual location, a web address or a conference call telephone number. We have been advised by MHCLG that remote attendance by members counts for the purpose of the six-month rule on attendance, and for allowances. Where there is absence for illness the Council can continue to deal as now and pass the necessary resolution to approve the absence.



r.5(2) – To be classified as a ‘member in attendance’ and attend a meeting remotely, all conditions in regulation 5(3) below must be satisfied.

r.5(3)(a) - Members must be able to hear and (where practicable) see and be heard and (where practicable) be seen by other members in attendance at the meeting. This full requirement also extends to members of the public attending to exercise a right to speak at the meeting (b). All other members of the public must as a minimum be able to hear (but if practicable be seen as well) (c). In practice this means that if members and speaking members of the public can be heard and hear each other and other members of the public not speaking can hear, this would fulfil the minimum criteria.

r.5.4 - This clarifies that any reference to a member or the public attending a meeting includes remote access.

r.5(5) - The regulations contained in rule 5 override any existing procedure rules/standing orders or other rules authorities may have relating to the governance of meetings. In effect, they cease to have effect.

r5(6) – This gives local authorities the flexibility to make other procedure rules/standing orders relating to remote attendance in relation to voting, member and public access to meeting documents and the remote access of the public and press to meetings by electronic means, including by telephone conference, video conference, live webcasts and live interactive streaming. This has been drafted widely so as enable authorities to hold meetings regardless of existing restrictions and to match facilities to suit their circumstances.

Part 3 – Modification of meeting and public access requirements

Frequency of meetings

r6(a) & (b) - Schedule 12 of the Local Government Act 1972 now applies to remote meetings with any reference to “being present” to include remote attendance (as defined above). Reference to where a meeting “is held” includes different virtual locations.

r6(c) - This disapplies paragraphs 1 and 7 of Schedule 12 which removes the requirement to have an annual meeting this year. This means that the council can still have an annual meeting if it wishes, just that it doesn't have to, giving flexibility to simply keep the status quo until next year or review the situation as the national position changes.

r6(d) removes the requirement for ten meetings of the Assembly to take place in each calendar year; this is substituted by a requirement to hold such Assembly meetings ‘on up to ten occasions in each calendar year as the Assembly may determine following consultation with the Mayor’



r6(e) changes notices required for meetings under the 1972 Act to include publication on the council's website.

r7 to r12. – These sections relate to the Greater London Assembly (GLA), National Park Authorities and Areas of Outstanding Beauty (Conservation Boards). They remove the requirement to have the GLA annual State of London debate. The GLA Peoples' Question Time can be cancelled where the Head of the Authority's Paid

Service feels it is not reasonably practicable to hold it in the event of a serious imminent threat to public health posed by the incidence and spread of coronavirus.

Under the Greater London Authority Act 1999, the GLA was required to meet 10 times in each calendar year. That has now been changed to allow that authority to meet "...on such occasions in each calendar year as it may determine following consultation with the Mayor."

Public and Press – Access to meetings and documents

r.13 - The Local Government Act 1960 applies to meetings of parish and town councils. This changes the requirements for community and parish and town councils. It replaces the duty to post notices of meetings with a definition to allow for the publication of details on websites. It was the intention of parliament to enable publication of said notices on principal council websites but not that it would be mandatory to do so if the community, parish or town council could publish on their own websites.

It also states that meetings being "open to the public" now mean remote meetings as set out in r.3 above. It also confirms that the term "being present" at a meeting and "open to the public" includes access by remote means (this is also particularly important for members voting).

The regulations are silent in respect of the requirement for members to attend at least one meeting in every 6 months under section 85 of the 1972 Act. Remote attendance could satisfy this requirement, as could the local authority granting dispensation as already exists. Members can, however, still be disqualified under the 6-month rule and we are expecting regulations soon in regard to by-elections. If (as expected) they are formally suspended, such seats will remain vacant.

r.14 - This relates to meetings of Executives (or their committees) and access to information relating to those meetings as set out in Sec 9G of the Local Government Act 2000. It supplements section 9G with the explanation that references to the executive meetings being "open to the public" includes access through remote means.

r.15(1) & (2) - This section refers to Part VA of the Local Government Act 1972 (Access to meetings and documents of certain authorities, committees and sub-committees) and adds a new clause to that section (known as 100L) to provide that:



- meetings being open to the public include access by remote means. Such access includes through remote means including (but not limited to) video conferencing, live webcast, and live interactive streaming and where a meeting is accessible to the public through such remote means the meeting is open to the public whether or not members of the public are able to attend the meeting in person. For clarity, a meeting recorded and then posted online after the event would not satisfy this requirement.
- being present at a meeting includes access to that meeting by remote means
- documents being open for inspection includes them being posted on the Council's website
- publication, posting or making available a document at offices of the Council include publication on the Council's website.

r.16 1) to (3) – The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (the “2012 regulations”) require Executive Meetings to be held in public. Regulations (2) & (3) provides for meetings to be open to the public through remote means (see r15 above for definition of remote access).

r16(4) - Regulation allows meeting notices, agendas and reports to be available on the authority's website in addition to the council offices

r16(5) - sets out the elements of the 2012 regulations which apply to regulation 4 above.

r.17 - provides for compliance with the Openness of Local Government Bodies Regulations 2014(1) (decisions and background papers to be made available to the public) by making the written record and background papers available for inspection through either:

- (a) publishing on the authority's website or
- (b) by such other means that the authority considers appropriate.

r18 - amends the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 to insert the 'The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority Police and Crime Panel Meetings) (England and Wales) Regulations.

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