

Agenda item 8

Council Issues

The Constitution

- 1. Increase in the number of proper officers for the purposes of countersigning declarations of acceptance of office by newly elected councillors.**

Those persons elected to become Councillors at the next County Council Election are required to sign a Declaration of Acceptance of Office to be witnessed by the holder of certain offices, one of whom is a proper officer of the Council. Arrangements for the May 2021 elections are progressing but induction arrangements may need to take place in stages and they are likely to need to take place in a socially distanced way. It is proposed that the Chief Executive, the Director, Legal and Assurance and the Head of Democracy and Transparency are formally appointed as proper officers to increase the number of persons who can countersign declarations of acceptance of office.

Recommended

That there be an amendment to the Constitution paragraph to read:

'4.4 Statutory Officers

Full Council has designated the following posts as shown:

Post	Designation
Chief Executive	Head of the Paid Service under Section 4 of the Local Government and Housing Act 1989 and a proper officer for the purposes of section 83 of the Local Government Act 1972 (declaration of acceptance of office)
Executive Director, Finance and Technology	Chief Finance Officer appointed under section 151 of the Local Government Act 1972
Executive Director, Children and Families	Director of Children's Services appointed under Section 18 of the Children Act 2004
Executive Director, Adult Social Care	Director of Adult Social Services appointed under section 6 of the Local Authorities Social Services Act 1970
Director, Legal and Assurance	Monitoring Officer under Section 5 of the Local Government and Housing Act 1989 and a proper officer for the purposes of section 83 of the Local

	Government Act 1972 (declaration of acceptance of office)
Director, Well-being, Public Health and Communities	Director of Public Health under section 73A of the National Health Service Act 2006
Head of Democracy and Transparency	Scrutiny Officer under Section 9FB of the Local Government Act 2000 and a proper officer for the purposes of section 83 of the Local Government Act 1972 (declaration of acceptance of office)

The Post titles as shown in the first column of the above table may be varied by the Chief Executive.'

2. Remote Meetings

Remote meetings have been a success. Members have worked hard and adapted to the new technology. Remote meetings are more accessible to the public and better attended by the public and members alike. They are easier to arrange and save time and money on travel times. They have also had significant public health benefits and avoided the expenditure which would have been needed to meet in person during the pandemic, given that our Council Chamber has a 'covid secure' capacity of 49 people. ECC's experience is shared by other local authorities. Whilst there is no desire to move to a fully remote method of operating, it would significantly improve flexibility and agility and reduce cost if ECC retained the power to meet remotely.

Unfortunately, the emergency legislation to facilitate meetings to be held remotely expires on 6 May 2021. The Government is understood to be working on extending this power. The Secretary of State has the power under section 16 of the Local Government Act 1999 to allow remote meetings to continue, but is understood to be reluctant to do so because this power does not extend to parish Councils and some other bodies. We continue to exert pressure on MHCLG to clarify the law as quickly as possible.

Meanwhile we have been investigating the existing law. We have sought legal advice from leading counsel who considers that the Cabinet, which operates under different legislation to full Council and Committees, can continue to meet remotely. The safest way to allow this would be for the meeting to take place in a physical location County Hall but with the constitution amended to make it clear that some or all members of the Cabinet can participate in the meeting remotely.

In the absence of a clear national solution, it is proposed that the constitution is varied to facilitate this.

Recommended:

That a new paragraph 17.4 be inserted in the constitution as set out below and that paragraphs 17.4 and 17.5 are renumbered to 17.5 and 17.6 and all cross-references are updated.

17.4 Remote participation

Notwithstanding any provision in the constitution to the contrary, any Member of the Cabinet (including the Leader) may participate in a meeting of the Cabinet and vote on any item of business notwithstanding that they are not present at the place where the meeting takes place, if:

- (a) the agenda for the meeting includes instructions on how members may participate in the meeting remotely
- (b) the Member concerned has been able to hear and, where practical, see the meeting; and
- (c) persons present at the meeting have been able to hear and, where practical, see the member during all or most of the discussion of the item; and
- (d) the Member concerned is able to indicate how they wish to vote
- (e) the Member is not prevented by the Code of Conduct from being present or voting.

3. Approved Bodies

Appendix 3 of part 26 of the Constitution is a list of Approved Bodies. Members appointed as County Council representatives to Approved Bodies may claim expenses from the Council for attending meetings if they do not receive payment from any other organisation.

Amendments to the list are frequently required as new Approved Bodies are created, names of Approved Bodies change, requirements for elected representation is amended, or they cease to operate.

1. The Basildon Bus Forum continues to operate but an Essex County Councillor is no longer required to attend.
2. The name of the Regional Flood and Coastal Committee Anglian (Central) has changed its name to the Regional Flood and Coastal Committee Anglian (Great Ouse).

Recommendations:

That the list of Approved Bodies in Appendix 3 of Part 26 of the Constitution be amended as follows:

1. Remove the reference to the Basildon Bus Forum.

2. Amend the reference to the 'Regional Flood and Coastal Committee Anglian (Central)' to the 'Regional Flood and Coastal Committee Anglian (Great Ouse)'.

4. Date of annual meeting 2021

The County Returning Officer has agreed that the count of the elections need not take place overnight on election night, which means that it will be difficult to make the necessary arrangements to take place to issue summons to all members for the annual meeting on Monday 10 May, which would be necessary for the meeting to take place on Tuesday 18 May. Accordingly it is proposed to move the date of the annual meeting.

We do not yet know whether or not it will be lawful to meet remotely and we have not determined a suitable physical venue, since if social distancing requirements are still in place in May we will not be able to accommodate all members in the Council Chamber.

Recommended:

That the annual meeting of the Council for the 2021/22 municipal year be held at 10 am on Tuesday 25 May at such venue or by such remote means as the Chairman may determine.