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L01-20 | THE LOCAL AUTHORITIES AND POLICE AND CRIME PANELS (CORONAVIRUS) (FLEXIBILITY OF LOCAL AUTHORITY AND POLICE AND CRIME PANEL MEETINGS) (ENGLAND AND WALES) REGULATIONS 2020

Introduction

The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (“the 2020 Regulations”) came in to force on 4 April. Broadly speaking, the 2020 Regulations enable local councils and parish meetings to hold remote meetings (including by video and telephone conferencing) for a specified period until May next year. They also remove the requirement to hold an annual meeting. The 2020 Regulations apply to local council meetings, committee, sub-committee meetings and to parish meeting meetings in England. Separate legislation is in place for Wales (The Local Authorities (Meetings) (Wales) Regulations 2020).

This briefing will summarise the detail of the 2020 Regulations and what they mean for local councils. The briefing should also be read in conjunction with the NALC guidance on remote meetings, which considers more practical issues around the holding of electronic meetings. The term “local council” will be used in this briefing to refer to parish councils, town councils and councils using alternative styles.

This briefing has been updated to take account of the changes made to the 2020 Regulations by the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) (Amendment) Regulations 2020 (“the Amendment Regulations”) – in force on 1 August 2020.

Background to the 2020 Regulations

The COVID-19/ Coronavirus pandemic and the unprecedented in peacetime Government measures in response to the crisis (e.g. prohibitions on gatherings, social distancing, self-isolation and shielding of those deemed to be the most vulnerable) have meant that the requirement for local authorities to hold public meetings in person with all members present in one place could not be met. The statutory requirements for meetings are mainly contained in the Local

Government Act 1972 (“the 1972 Act”) and the Public Bodies (Admission to Meetings) Act 1960 (“the 1960 Act”).

In recognition of the problem of holding and attending meetings, and further to the lobbying of NALC and others, the Government included s.78 in the Coronavirus Act 2020. This section gave the Secretary of State the power to make Regulations to make provisions for the holding of meetings. The 2020 Regulations set out those provisions.

What are the main provisions for local councils?

The relevant Regulations for local authorities are as follows:

Regulation 2 - the 2020 Regulations apply to local authority meetings that are required to be held, or held, before 7 May 2021. The date could be brought forward if Government rules are relaxed.

Regulation 3 - parish councils in England are included within the definition of “local authority” in the 2020 Regulations. The Amendment Regulations add parish meetings constituted under s.13 of the Local Government Act 1972 to the “local authority” definition.

Regulation 4 - this provides that where an appointment would otherwise be made or is required to be made at an annual meeting of a local authority, the appointment continues until the next annual meeting of the authority or until such time as that authority may determine (Regulation 4 (2)). This would apply to the election of the chairman, the first business at the annual council meeting. Therefore the current chairman will remain in place until an annual meeting is held (possibly next year) unless the council decide to elect a replacement earlier.

Regulation 5 - this permits the holding of remote meetings. The effect of the Regulation is that persons attending a local council meeting or parish meeting do not need to be in the same place. “Place” means more than one place including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers (Regulation 5 (1)). To attend a meeting remotely a member in remote attendance must meet specified conditions (see below).

Regulation 5 (6) also enables local councils to make standing orders to specify (i) how voting will be carried out, (ii) how members and the public can access documents and (iii) how remote access of the press and public by electronic means will take place. Councils should make these decisions based on their own

needs and capacity. Local factors such as broadband strength may also determine what methods they use. See also the NALC guidance on remote meetings.

Regulation 6 - confirms that being present at a local council meeting includes being present through remote attendance. The Regulation also disapplies paragraph 7 of Schedule 12 to the 1972 Act. This means there is no requirement for a parish council to hold its annual meeting although a council may do so if they so choose. However paragraph 8 of Schedule 12 has not been disapplied. Paragraph 8 requires a local council to hold in a year not less than three meetings in addition to the annual meeting. We believe this should also have been disapplied. The equivalent paragraphs have been disapplied for principal authorities (paragraphs 1 and 2 of Schedule 12).

The Amendment Regulations also amend Regulation 6 to the effect that paragraphs 10 (2) (a), 14(1), (3) and (4) and 15(2) to (4) of Schedule 12 to the 1972 Act are disapplied.

Paragraph 10 (2) (a) provides that three clear days at least before a meeting of a parish council notice of the time and place of the intended meeting shall be fixed in some conspicuous place in the parish and, where the meeting is called by members of the council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting. Three clear days' public notice is required under s.1 (4) (a) of the 1960 Act (see below).

The paragraph 14 changes remove:

- The requirement for the annual parish meeting to assemble on some day between 1 March and 1 June, both inclusive, in every year
- the requirement in a parish which does not have a separate parish council for the parish meeting to assemble at least twice a year
- the requirement for parish meeting proceedings to commence no earlier than 6.00pm.

The paragraph 15 changes mean that public notice provisions are disapplied, that is, the requirement not less than seven clear days, or, in specific cases not less than fourteen clear days, before a parish meeting, for public notice of the meeting to be given, specifying the time and place of the intended meeting and the business to be transacted at the meeting, and signed by the person or persons convening the meeting as well as the requirement to post a notice of the meeting in some conspicuous place/ places in the parish and in any other manner that

appears to the person(s) convening the meeting to be desirable for giving publicity to the meeting.

Regulation 13 – s.1 (4) (a) of the 1960 Act has been further amended by the Amendment Regulations so it now provides that public notice of the time and place of the meeting and details of remote access by public and press to that meeting by electronic means, including by telephone conference, video conference, live webcasts, and live interactive streaming shall be given by posting it at the offices of the body (or, if the body has no offices, then in some central and conspicuous place in the area with which it is concerned) or publishing on the website of the body or, for a parish council or for a parish meeting, on the website of the principal council within the meaning of the Local Government Act 1972 three clear days at least before the meeting or, if the meeting is convened at shorter notice, then at the time it is convened. In NALC's view the effect of the amendment is that it is not enough to give notice of a remote meeting and invite the press and public to make a request for the access information (e.g. the Zoom link). This information must be provided with the public notice when that notice is given. Councils should take account of social distancing requirements before deciding to put notices in physical spaces,

Regulation 17 – confirms that a local council complies with Regulation 8 of the Openness of Local Government Bodies Regulations 2014 (decisions and background papers to be made available to the public) by making the written record and any background papers available for inspection by publishing them on their website or by such other means that the council considers appropriate.

What are the specified conditions to enable local councils to meet remotely?

Regulation 5(2) of the 2020 Regulations provides that a member in remote attendance attends the meeting at any time if the member is able at that time:

- a) to hear, and where practicable see, and be so heard and, where practicable, be seen by, the other members in attendance,
- b) to hear, and where practicable see, and be so heard and, where practicable, be seen by, any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting, and
- c) to be so heard and, where practicable, be seen by any other members of the public attending the meeting.

All of the above conditions must be satisfied.

These conditions allow members to join via a video link system or by telephone so long as every member can be heard by every other member and the public.

All members, clerk and other staff, and any members of the public will be in attendance for the purposes of the 2020 Regulations if they are in remote attendance. The provisions in Regulation 5 will apply notwithstanding any standing orders or rules to the contrary.

Existing provisions that have not been specifically disapplied still apply, including notice requirements in Schedule 12 of the 1972 Act.

Summary

- The 2020 Regulations permit the holding of remote meetings, with conditions.
- Local councils and parish meetings can decide the methods they will use to facilitate the holding of remote meetings.
- There is no requirement to hold an annual meeting.

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