



## CORNWALL ASSOCIATION OF LOCAL COUNCILS

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*Serving the parish and town councils of Cornwall*

### **CALC BRIEFING AND FAQ 9 – VIRTUAL MEETINGS**

May 11<sup>th</sup>, 2020

We have received numerous questions about the new regulations for local council meetings and parish meetings and associated matters. This bulletin updates previous advice on virtual meetings and a number of associated issues.

#### **Virtual meetings, Local Councillors and the Six Month Rule**

We have received a number of questions around the disqualification of members under the six month rule. We have sought advice from senior solicitors on the impact of the current changes to meeting formats, as we are aware of some councils have chosen not to meet or to delay meeting until necessary in the hope of returning to physical meetings.

The following has been confirmed :

- None of the regulations published regarding local council meetings in March and April affected the six month rule and period of absence.
- The six month period begins with the date of last meeting attended by a member.
- There is no way to vary the legislation and the six month rule therefore applies across council meetings regardless of their format.
- Where a council does not meet regardless of format, the six month rule continues to apply.
- Should the council not meet within six months of its last meeting, all members of the council will be subject to the six month rule which may affect their seat on the council.

We urge every councillor and clerk to be mindful of the impact of this point of law as it is possible that a member who had missed a couple of meetings before the emergency may now lose their seat unless the council meets within 6 – 8 weeks of losing their seat.

## Annual Meetings of the Council

We have also been asked a number of questions regarding the new regulations around annual meetings of the council.

- There is no need to hold an annual meeting until May 2021. A council may at a meeting decide to set a date for an annual council meeting before then if it wishes to do so.
- A council cannot change the membership of committees or outside bodies without holding an annual council meeting. Committee members can only be removed from a committee as a recommendation from the Monitoring Officer on a code of conduct decision and we believe that this also applies to membership of outside bodies.

## Virtual Meetings – Questions and Answers

Please find below a summary of the questions and answers asked since the virtual meeting regulations were published. If you have another question which has not been covered in the bulletin please email us so that we can help.

### Can we rely on our scheme of delegation and wait for the return of physical meetings?

The emergency scheme of delegation allowed councils to make decisions until such time as the council could start meeting again. Although you can still use the scheme between meetings, it should not be used as a way of avoiding the requirement to meet.

It is now lawful to hold a council meeting remotely, using IT with a dial in option for those without access to the internet. As there is no longer a legal barrier to holding meetings, the council are now expected to consider how to respond to the new format.

Feedback suggests that the new format is not as daunting as expected. Councils have found it helpful to practice meeting remotely before holding a full council meeting. They have hosted a number of informal sessions which are not meetings but enable members to catch up and discuss local matters during the restrictions. This gives a chance to use the technology and familiarise yourself with the format.

### Which package does CALC recommend for holding meetings?

There is no one size fits all answer to this question. We have been asked to recommend packages to use but the simple answer is that you should find the one which most suits your council. With all IT there are associated risks and it is for the council to work out

how it wishes to proceed. The Council may wish to try a number of different formats before selecting which package works best.

How can we hold meetings when some councillors are unable to access and/or use the technology?

Members without IT or without IT skills are reminded that all platforms allow a member to access the meeting on the phone. It is not as easy to join in if you cannot see the meeting but it does offer an alternative way of attending the meeting.

How can the Clerk support the Chairman when they are not able to communicate privately during a meeting?

You may find it helpful to have a secondary contact with between Clerk and Chairman of a meeting (mobile phone or similar) so that you can communicate for guidance etc. Where the Chairman dials into a meeting on their phone, another member can help collect the information about those wishing to speak and taking votes to assist the chairman. This help will not limit the authority of the Chairman who retains the casting vote. As the Chairman must chair if present at the meeting, it is not possible to 'hand over' chairmanship to a member who is comfortable with the IT.

Does the public have to be able to interact with the meeting, or is it sufficient to broadcast only?

The regulations require the public to have access to the meeting, but your council's standing orders provide for public participation – the right to address the council and make a short statement. If you permit public participation at the meeting then live streaming only will not provide for this.

Can we use livestreaming to make the meetings available to the public?

We are aware that Cornwall Council will be live streaming meetings without a facility for public speaking. The CALC does not advise that the public access is limited to 'seeing' a meeting, and local councils should choose the most appropriate format for their own meetings. Many platforms have links to Facebook to provide live streaming to allow the meeting to be 'viewed' but not participate in the public session which will complement remote access to the meeting which ensures that the public can address the council.

## Virtual meeting top tips for public access and participation at meetings

A number of councils have now held virtual meetings and have been sharing their experiences. In particular we have been working with them to investigate how to use the public session effectively and safely. You may find the following system helpful.

- Public participation is limited to items on the agenda to insure at this time that it is relevant to the agenda items for discussion.
- The agenda offers a link to the council's website giving a link to accessing the livestream on Facebook on the night.
- Members of the public wishing to speak are asked to contact the Clerk for information to join the meeting on the night.
- A confirmation email to the public on registering will also confirm that
  - the meeting could be recorded
  - their telephone number may be visible during their participation
  - that at the end of the public participation agenda item, the live link will be closed and to access the live streaming.

The Council of the Isles of Scilly example can be found [here](#).

### **Parish Meetings (areas without a separate parish council)**

We have received some requests for clarification of the procedures for parish meetings. It is important to recognise that this does not relate to meetings of your parish council; it is only for areas where there is no separate council for the parish.

Technically parish meetings are still required to meet physically as they were omitted from the virtual meeting regulations. This creates a problem for the audit process and it is recognised that this was an oversight. Auditors are expected to take a pragmatic approach to those who have been unable to meet due to restrictions on physical meetings with the lack of virtual meeting provision. Government has today advised that it will review the guidance if the restrictions remain in place and make it impossible for a parish meeting to conclude audit before the end of August and we would recommend monitoring the situation until June to see what happens. In the meantime you may wish to contact PFK Littlejohn to request an extension of audit to end August in case the government amends the regulations.

## **Audit and completing the AGAR annual return**

PFK Littlejohn (PFKL), external auditor to local councils in Cornwall, has now circulated information relating to the completion of audit for the financial year 2019/20. We have been asked to advise on the approval of the council's accounts and Annual Return. We can confirm that the emergency scheme of delegation does not allow an officer of the council to sign off the audit on behalf of the council. The Clerk/RFO is responsible for the management of the council's accounts during the year and cannot be responsible for approving them as accurate at the year end.

### **Councils with a turnover over £25000**

The date for conclusion of audit is **August 31<sup>st</sup>, 2020** PFKL has asked that the completed AGAR and accounts are returned by **July 31<sup>st</sup>, 2020**. The resolution of the council to agree the AGAR and accounts must be made at a meeting of the council; this is a statutory requirement and at the current time this can only be achieved at a virtual meeting of the council held before July 31<sup>st</sup>, 2020. The Clerk/RFO is responsible for managing the council's accounts during the financial year; it is not appropriate for them to complete and sign off the annual statement of accounts. The council is therefore required to hold a public meeting for completion of the Audit AGAR.

*At this time the emergency scheme of delegation does not cover the completion of the audit and the AGAR annual return.*

### **Councils with a turnover less than £25000**

A council with a turnover of less than **£25,000** must complete the audit process outlined above up to and including internal audit and the approval of the Annual Return. It may then resolve that it is below the threshold for audit and exempt, but this must be done at a meeting of the council.

*At this time the emergency scheme of delegation does not cover the resolution of exemption from audit* which must be taken in public as it forms part of the AGAR process.

Finally, the latest date for submission to PFKL is July 31<sup>st</sup>, 2020 and if you think that your council will be unable to meet that date, you should contact the auditor for an extension.

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