



Report of Deputy Head of Democratic Services

Report to City Solicitor

Date: 9th April 2020

Subject: Coronavirus Act 2020 – Interpretation of Constitution

Are specific electoral wards affected? If yes, name(s) of ward(s):	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. Main issues

- Legislation has been made and brought into force by the government in response to the Coronavirus pandemic. The Coronavirus Act 2020 and regulations made in accordance with the provisions of that Act impact on local government.
- It is necessary to amend the Council's practice and procedure in order to give effect to this legislation.
- It is proposed that Article 1 of the Constitution be amended for clarification to ensure that the constitution is read, construed and applied to give effect to such legislation as is in force at any given time.

Recommendations

- a) In her role as Monitoring Officer in order to give effect to legislation and for clarification only, the City Solicitor is requested to approve an amendment to Article 1 of the Constitution as shown attached.

1. Purpose of this report

- 1.1 This report recognises the coming into force of the Coronavirus Act 2020 (the Act) and regulations made under the Act.
- 1.2 This report also provides for clarification that the Council's Constitution will be read, construed and applied to give effect to legislation.

2. Background information

- 2.1 Article 1 of the Constitution provides for interpretation of the Constitution, and requires that the course of action will be chosen which most closely meets the purposes set out.
- 2.2 Article 15 of the Constitution provides authority for the Monitoring Officer make changes to the constitution where required as a result of legislative change or for the purposes of clarification.

3. Main issues

- 3.1 The Coronavirus Act 2020 was passed and came into force on 25th March 2020. The paragraphs below set out some of the implications of this legislation and the secondary legislation made under the Act's enabling powers.

Elections

- 3.2 Section 60 of the Coronavirus Act provided that elections due to take place on 7th May 2020 would be postponed until 6th May 2021, with provision for amendment to the term of office of Councillors due to retire in 2020, and those elected in their place in 2021.
- 3.3 It is noted that Article 2 of the Constitution provides for fallow years in 2021 and every fourth year thereafter and for the usual term of office for a Councillor to be four years.
- 3.4 The Local Government and Police and Crime Commissioner (Coronavirus) (Postponement of Elections and Referendums) (England and Wales) 2020 (The Postponement of Elections Regulations) came into force on 7th May 2020.
- 3.5 The Postponement of Elections Regulations provide for the deferral of elections in relation to casual vacancies and referendums.

Flexibility of Meetings

- 3.6 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 Meetings Regulations) were made¹ on 1st April and came into force on 4th April 2020 to provide a number of flexibilities around the legislative requirements for meetings.
- 3.7 It is noted that the Council's Constitution is predicated on pre-existing legislation which has been interpreted to require that
 - Elected Members in attendance at meetings are present together in the same room;

¹ Under Section 78 the Act

- Members of the public are able to attend public meetings of Council and Executive and to participate where the relevant legislation so requires and standing orders permit this.

3.8 Social distancing guidelines brought into effect in response to the Coronavirus pandemic mean that it is impracticable for local authorities to meet these requirements in respect of formal public meetings.

3.9 The Meetings Regulations make provision for remote meetings. In particular they provide for:

- Elected Members to attend meetings remotely;
- Members of the public to attend meetings remotely, and to participate where they are so entitled.

3.10 In addition the Meetings Regulations provide flexibility for Local Authorities to determine whether, and if so when, to hold an Annual Council Meeting in the 20/21 Municipal Year.

Accounts and Annual Governance Statement

3.11 The Accounts and Audit (Coronavirus) (Amendment) Regulations 2020 put back the deadline for publication of audited accounts and the accompanying Narrative Statement and Annual Governance Statement to 30th November 2020.

3.12 It is anticipated that further regulations will be made to refine those already in force and to meet other needs of Local Authorities during the course of the pandemic.

Clarification of Constitution

3.13 In order to give effect to the various provisions of the Coronavirus Act 2020 and regulations made under the Act; and to ensure that the Council's arrangements can be interpreted to give effect to any future changes in legislation it is recommended that an amendment to Article 1 (as shown in the Appendix attached) will provide clarification that the Constitution will be interpreted to give effect to legislation in force.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 The Council's Leadership team and Corporate Leadership Team will be consulted in relation to arrangements made to give effect to the Act and Regulations.

4.2 Equality and diversity / cohesion and integration

4.2.1 There are no implications for this report.

4.3 Council policies and the Best Council Plan

4.3.1 Application of the regulations to the Council's existing standing orders will enable the Council to continue to conduct meetings which are open and transparent.

4.4 Resources, procurement and value for money

- 4.4.1 Arrangements will be made within existing resources where possible; although it may be necessary to make additional arrangements in relation to necessary IT solutions.

4.5 Legal implications, access to information, and call-in

- 4.5.1 Arrangements made will ensure that meetings are held in accordance with all relevant legislation.

4.6 Risk management

- 4.6.1 Remote meetings will enable the Council to proceed with urgent business during the course of the Coronavirus pandemic.
- 4.6.2 A risk based approach will be used to determine which meetings should be held; and what business should be considered at each.

5. Recommendations

- 5.1 In her role as Monitoring Officer in order to give effect to legislation and for clarification only, the City Solicitor is requested to approve an amendment to Article 1 of the Constitution as shown attached.

6. Background documents²

- 6.1 None

² The background documents listed in this section are available to download from the council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.