



**DORSET & WILTSHIRE
FIRE AND RESCUE
AUTHORITY**

Item 21/40

MEETING	Dorset & Wiltshire Fire and Rescue Authority
DATE OF MEETING	30 September 2021
SUBJECT OF THE REPORT	Exceptional decision-making arrangements – proposed changes to Members’ Handbook
STATUS OF REPORT	For open publication
PURPOSE OF REPORT	To consider and approve
EXECUTIVE SUMMARY	<p>In April 2020, as part of the response to the coronavirus pandemic, the Government made regulations (the Flexibility Regulations) to enable fire and rescue authorities and local authorities to meet remotely (online).</p> <p>The Flexibility Regulations expired on 6 May 2021 and were not capable of being extended due to a “sunset clause” contained in the Coronavirus Act 2020 under the provisions of which the Flexibility Regulations had been made.</p> <p>The Government has consulted on the introduction of primary legislation to give authorities the flexibility to choose to meet remotely. In the meantime, should the need arise, there is no legal basis for authorities to hold formal, remote meetings at which Members make decisions.</p> <p>Pending legislation to address the point, it is proposed that the Scheme of Delegation for Officers within the Members’ Handbook should be amended so that</p> <ul style="list-style-type: none"> • in exceptional circumstances and • after consulting with the Chair, Vice-Chair and the Chief Fire Officer,

	<p>the Clerk & Monitoring Officer may convene an informal, remote meeting of the Authority in order to enable the Chief Fire Officer to consult all Members before making any necessary decisions under delegated powers.</p> <p>The proposed changes would provide a lawful mechanism for Members to meet online and to express their views about the decision that they would have been minded to make, had they been able to meet in person. The Chief Fire Officer would then make their decision under delegated powers to act in exceptional circumstances.</p>
RISK ASSESSMENT	The proposed delegations would enable decisions to be made in circumstances where Members would not otherwise be able to physically meet, helping the Authority to maintain good governance and efficient decision-making arrangements.
COMMUNITY IMPACT ASSESSMENT	None for the purposes of this report
BUDGET IMPLICATIONS	None for the purposes of this report
RECOMMENDATIONS	Members are asked to consider and approve the exceptional decision-making arrangements described in this report and to approve the making of consequential changes to the Officer Scheme of Delegation.
BACKGROUND PAPERS	None
APPENDIX	None
REPORT ORIGINATOR AND CONTACT	<p>Name: Jonathan Mair, Clerk & Monitoring Officer</p> <p>Email: jonathan.mair@dorsetcouncil.gov.uk</p> <p>Tel no: 01305 224181</p>

1. Introduction

- 1.1 As part of the Governments' response to the coronavirus pandemic, fire and rescue authorities and local authorities were provided the ability to hold formal meetings remotely/ online. The Flexibility Regulations which enabled this to happen were time limited and expired on the 6 May 2021.
- 1.2 The High Court has since confirmed that without new legislation, formal Member decision-making meetings cannot be held remotely. Instead, Members must be present in the same physical location. That decision rules out both fully remote meetings at which all Members attend online and hybrid meetings where some Members attend in person at the same location and other Members attend remotely. It does not though, rule out remote attendance by an Officer or third party, as happened at the last Finance & Audit Committee meeting when Members and some Officers met in person in the conference room and were joined from a remote location by the external auditor.
- 1.3 The Government has consulted on giving authorities the flexibility to choose to hold formal Member meetings online. Pending the outcome of that consultation, and in line with guidance published by Lawyers in Local Government and the Association of Democratic Services Officers, some authorities have put in place arrangements to enable chief officers to consult elected Members at informal remote meetings.
- 1.4 Such meetings would take place in much the same way as the formal remote meetings arranged under the Flexibility Regulations. This means that:
 - Public notice would be given in advance
 - The agenda and any reports that were not confidential would be published
 - Members of the public would be able to follow the meeting online
 - Members would debate the issue and there might be a vote
 - Minutes would be kept as a record of the meeting
- 1.5 The difference would come at the point of decision. Any vote by Members would be nonbinding and would be an indication of the decision that the Authority would have been minded to make. The Chief Fire Officer, having heard the Member debate would then make their own decision.

- 1.6 Whilst there is no wish to use these arrangements, it is important that the Authority should have the flexibility to move online in exceptional circumstances. An example might be where there is a need for an urgent decision to be made, but at the same time a significant increase in covid transmission in the area of the Authority, such that it was not safe to meet in person.

2. Scheme of Delegation to Officers

- 2.1 The Chair and Clerk & Monitoring Officer are proposing an additional paragraph within section 6.1.7 (Powers Delegated to the Clerk & Monitoring Officer) of the Scheme of Delegation to Officers to enable the Clerk & Monitoring Officer, in exceptional circumstances and after consulting with the Chair, Vice Chair and Chief Fire Officer to convene an online meeting.
- 2.2 It is also proposed that in such exceptional circumstances the Chief Fire Officer would then have the delegated power to make decisions, after consulting Members during an online meeting.
- 2.3 The changes proposed to the Scheme of Delegation to Officers are:

Delegations to the Clerk and Monitoring Officer, 6.1.7 (h)

In exceptional circumstances and after consultation with the Chair, Vice-Chair and the Chief Fire Officer to replace a formal in person meeting of the Authority or a committee with an online meeting or to convene an additional online Authority or committee meeting.

Delegations to the Chief Fire Officer, 6.1.3 (h)

At an online meeting convened by the Clerk & Monitoring Officer in exceptional circumstances under Delegation 6.1.7 (h); to make any decision taking into account the views expressed by Members about the decision that they would have been minded to make had it been possible to hold a formal decision making meeting in person.

3. Summary

- 3.1 Subject to Members approval this amendment will be updated on the electronic handbook available on the Service's website.

September 2021