

**EXPLANATORY MEMORANDUM TO**

**THE LOCAL AUTHORITIES AND POLICE AND CRIME PANELS  
(CORONAVIRUS) (FLEXIBILITY OF LOCAL AUTHORITY AND POLICE AND  
CRIME PANEL MEETINGS) (ENGLAND AND WALES) REGULATIONS 2020**

**2020 No. 392**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of Her Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 These Regulations make provision to enable local authorities to hold meetings remotely including by (but not limited to) telephone conferencing, video conferencing, live webcast, and live interactive streaming. The Regulations further modify existing legislative provisions to remove the requirement for local authorities to hold annual meetings, and to enable requirements for public and press access to local authority meetings and associated documents to be complied with through remote means and website access.
- 2.2 For the purposes of these Regulations, a local authority includes county councils, district councils, combined authorities, parish councils, joint committees constituted to be a local planning authority, fire and rescue authorities and national park authorities. The Regulations apply to meetings of a local authority, an executive of a local authority, a joint committee of two or more local authorities, and a committee or sub-committee of any of those bodies.
- 2.3 Part 4 of these Regulations makes provision to enable all Police and Crime Panels in England and Wales to hold meetings remotely including by (but not limited to) video conferencing, live webcast, and live interactive streaming, and to enable requirements for public and press access to Police and Crime Panel meetings to be complied with through remote means and website access.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 It is not possible in the case of these Regulations to comply with the 21-day rule which requires relevant instruments to be laid before Parliament for at least 21 days prior to coming into force. These Regulations were made as soon as practicable following the Coronavirus Act 2020 receiving Royal Assent and come into force on 4 April 2020.
- 3.2 In response to the Covid-19 virus the Government announced on 16 March 2020 that it would consider bringing forward legislation to remove the requirement for annual council meetings to take place and to allow local authority meetings to be held virtually for a temporary period.

- 3.3 These Regulations remove existing requirements for local authorities to hold annual meetings and allow meetings to be held remotely using video or telephone conferencing or by other remote means. Legislation is needed because existing primary legislation requires local authorities to hold annual meetings in the period March to May, and also that meetings must be in person, requiring attendance of all the members at a place together. The measures will help local authorities redeploy their resources to deal with the pandemic and ensure essential business continues whilst upholding democratic principles and protecting the health and safety of members, officers and the public in line with official public health guidance. The local authority sector has asked for the flexibilities to be in place as soon as possible and it is clearly vital that this is achieved.
- 3.4 The Regulations are time limited and apply in relation only to meetings taking place before 7 May 2021; it will be possible to make amending secondary legislation to bring forward this date if social distancing rules are relaxed or removed on the basis of medical and scientific advice.

*Matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business (English Votes for English Laws)*

- 3.5 As the instrument is subject to negative resolution procedure there are no matters relevant to Standing Orders Nos. 83P and 83T of the Standing Orders of the House of Commons relating to Public Business at this stage.

#### **4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales.
- 4.2 Parts 1 and 4 of these Regulations apply to England and Wales. Parts 2 and 3 of these Regulations apply to England only.

#### **5. European Convention on Human Rights**

- 5.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation no statement is required.

#### **6. Legislative Context**

- 6.1 Section 78 of the Coronavirus Act 2020 (“the 2020 Act”) provides that regulations can be made relating to requirements for local authorities in relation to holding meetings, the requirements on timing and frequency of meetings, the place at which meetings must be held, and the way in which people may attend, speak and vote. The Regulations may also make provision relating to public admission and access to meetings and the availability of meeting documents.
- 6.2 These Regulations modify or disapply the following provisions relating to local authority meetings and public and press access to such meetings:
- The Public Bodies (Admission to Meetings) Act 1960 provides for members of the public and press to attend meetings of certain public bodies, including local authorities within the meaning of these Regulations;
  - Paragraph 1 of Schedule 12 to the Local Government Act 1972 (“the 1972 Act”) provides that in an election year each principal council (including a county council, district council or London borough council in England) must hold an annual meeting within 25 days of the election taking place. In any

other year the annual meeting must take place on a date in March, April or May of that year;

- Paragraph 7 of Schedule 12 to the 1972 Act requires parish councils to hold an annual meeting, which in an election year must take place within 14 days of the date of ordinary elections of parish councillors, and in any other year must take place on a day in May determined by the parish council;
- Paragraph 4(1A)(a) of Schedule 12 to the 1972 Act requires notice of the time and place of a meeting of a principal council to be published at the council offices five clear days before the meeting;
- Section 9G of the Local Government Act 2000 provides that meetings of a local authority executive, or a committee of such an executive, are to be open to the public or held in private. Subject to regulations made under section 9GA(4), it is for a local authority executive to decide which of its meetings, and which of the meetings of any committee of the executive, are to be open to the public and which of those meetings are to be held in private.
- Part 5A of the 1972 Act requires meetings, including committee meetings, of principal councils as defined by section 100J of that Act, county councils, district councils and London borough councils to be open to the public, and for copies of agendas and reports for principal council meetings to be available for inspection by members of the public at council offices. The public and press may be excluded if an item of business includes confidential or exempt information, or to suppress or prevent disorderly conduct or other misbehaviour.
- The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 (S.I. 2012/2089) are made under section 9GA(4) of the Local Government Act 2000 and make equivalent provision to Part 5A of the 1972 Act for the executives of county councils, district councils and London borough councils operating executive arrangements.
- Section 36(9) of the Greater London Authority Act 1999 (the 1999 Act) disapplies section 54 (discharge of functions by committees or single members) in relation to the making of standing orders of the Greater London Authority. Section 47 of the 1999 Act (the annual State of London debate) requires in each financial year the Mayor to hold and attend the State of London debate, which is open to all members of the public. Section 48 of the 1999 Act (People's Question Time) requires the Mayor and the Assembly to hold and attend twice in every financial year the People's Question Time, which is open to all members of the public. Section 52(3) of the 1999 Act (meetings of the whole Assembly) requires ten meetings of the Assembly in each calendar year.
- Paragraph 1 of Schedule 2 to the National Park Authorities (England) Order 2015 (meetings and proceedings of a National Park authority) (S.I. 2015/770) requires an annual meeting of a National Park authority. Paragraph 2 further requires that a National Park authority hold at least three other meetings each year for the transaction of general business.
- Paragraph 2 of Schedule 3 to the Cotswolds Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (meetings and

proceedings of the Board) (S.I. 2004/1777) requires that the Board hold an annual meeting. Paragraph 3 further requires that the Board hold at least two other meetings each year for the transaction of general business. Paragraph 6(2)(a) requires notice of the time and place of a meeting of the Board to be published at the principal offices of the Board three clear days before the meeting. Paragraph 6(4) provides that where a member and the chief officer agree in writing, summonses to attend meetings of the Board may be given to that member by electronic communication.

- Paragraph 2 of Schedule 3 to the Chilterns Area of Outstanding Natural Beauty (Establishment of Conservation Board) Order 2004 (meetings and proceedings of the Board) (S.I. 2004/1778) requires that the Board hold an annual meeting. Paragraph 3 further requires that the Board hold at least two other meetings each year for the transaction of general business. Paragraph 6(2)(a) requires notice of the time and place of a meeting of the Board to be published at the principal offices of the Board three clear days before the meeting. Paragraph 6(4) provides that where a member and the chief officer agree in writing, summonses to attend meetings of the Board may be given to that member by electronic communication.
- Paragraph 2 of Schedule 1 to the New Forest National Park Authority (Establishment) Order 2005 (meetings and proceedings of the Authority) (S.I. 2005/421) requires that the Authority hold an annual meeting, and that the Authority hold at least three other meetings each year for the transaction of general business. Paragraph 5(2)(a) requires notice of the time and place of a meeting of the Authority to be published at the principal offices of the Authority three clear days before the meeting. Paragraph 5(4) provides that where a member of the Authority and the National Park officer agree in writing, summonses to attend meetings of the Authority may be given to that member by electronic communication.
- Paragraph 2 of Schedule 1 to the South Downs National Park Authority (Establishment) Order 2010 (meetings and proceedings of the Authority) (S.I. 2010/497) requires that the Authority hold an annual meeting, and that the Authority hold at least three other meetings each year for the transaction of general business. Paragraph 5(2)(a) requires notice of the time and place of a meeting of the Authority to be published at the principal offices of the Authority three clear days before the meeting. Paragraph 5(4) provides that where a member of the Authority and the National Park officer agree in writing, summonses to attend meetings of the Authority may be given to that member by electronic communication.
- Paragraph 36 of Schedule 6 to the Police Reform and Social Responsibility Act 2011 allows for regulations to be made that apply local government enactments to Police and Crime Panels in England and Wales.

## **7. Policy background**

### *What is being done and why?*

- 7.1 The Covid-19 pandemic is a severe public health emergency. Local authorities are being asked to undertake a number of essential and unusual functions in the face of the pandemic. This is alongside an expectation that they will contribute to local resilience planning for the pandemic through Local Resilience Forums and continue

the effective delivery of local services, including planning and licensing. Local authorities need to be mindful of the health and safety of their members, officers, and the public. We are, therefore, making regulations which would relax some requirements in relation to local authority meetings for a specified period of time.

- 7.2 To allow local authorities to manage their resources, the Regulations allow local authorities to determine not to hold their annual meeting. Where meetings are held, the Regulations provide that local authorities have the flexibility to hold meetings at any time of day and on any day, to alter how frequently meetings can be held and to move or cancel meetings without requiring further notice. This will ensure that local authorities can divert resources to other efforts and have the flexibility to reallocate officers and members.
- 7.3 At annual meetings, the first order of business is appointments. As local authorities are not required to hold annual meetings under these Regulations, current appointments will continue until the next annual meeting of the authority or when the local authority determines. This provides, in the absence of an annual meeting, continuity of membership.
- 7.4 Being able to hold all meetings flexibly, including annual meetings, executive meetings, and committee meetings, allows local authority business to continue while adhering to official public health guidance. It also allows the public the same flexibility to attend whilst adhering to the guidance. The Regulations provide for meetings to be held remotely. For the purposes of any statutory requirement, members of the local authority will be considered as attending a meeting if they can hear, and where practicable see, and be heard and, where practicable, be seen by other members and the public. This allows for meetings to be held by remote means including via telephone conferencing, video conferencing, live webchat and live streaming.
- 7.5 The Regulations also provide for local authorities to make standing orders about remote attendance at meetings in relation to voting; members and public access to documents; and what facilities are to be employed to allow the meeting to be held remotely to suit their own circumstances. These arrangements can be made by the local authority without any restrictions contained in any standing order or any other rules of the local authority governing the meeting. This gives the local authority flexibility to arrange and hold such meetings regardless of such existing restrictions.
- 7.6 By virtue of these Regulations the “place” at which a local authority meeting is held is not confined to the council building. The “place” may be where the instigator or arranger of the meeting is, or electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers. By virtue of these Regulations, a person is attending a meeting in a specific place if they are attending at different types of location, including physical, electronic, digital or virtual locations. These Regulations also provide for requirements for a meeting being “open to the public” to be satisfied by a local authority holding the meeting remotely. This provides the local authority with the flexibility to facilitate remote meetings outside of the council offices and to hold meetings entirely by remote means. It also provides for members of the public to attend remotely rather than in person which may breach the Government’s public health advice.
- 7.7 Where it is stipulated that documents are “open to inspection”, the Regulations provide that this requirement is satisfied by the documents being published on the council’s website. Documents include notices, agendas, reports, background papers,

minutes etc. The publication, posting or making available of documents at council offices includes publication on the website of the council, or in the case of a parish council, on their principal council's website. This provides for local authority members and officers, and the public, to have access to documents without attending council buildings and therefore without breaching the government's public health advice.

- 7.8 These Regulations also amend the Police and Crime Panels (Application of Local Authority Enactments) Regulations 2012 (S.I. 2012/2734) to provide for meetings of Police and Crime Panels in England and Wales to be held remotely, allowing Police and Crime Panels to continue undertaking their statutory duties. In England these panels are usually committees or joint committees of local authorities and therefore most of the provisions made in Parts 2 and 3 of these Regulations apply directly to those panels. In Wales (and in relation to some English panels) they are separate bodies constituted by the Secretary of State and Part 4 therefore amends the 2012 Regulations to apply the relevant provisions of these Regulations to the panels as if they were local authorities.

## **8. European Union (Withdrawal) Act/Withdrawal of the United Kingdom from the European Union**

- 8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

- 9.1 This instrument does not consolidate any legislation.

## **10. Consultation outcome**

- 10.1 These Regulations have been drafted following engagement with representatives from local government including the Local Government Association.

## **11. Guidance**

- 11.1 The Government does not intend to issue guidance. Ministers and officials from the Department for Education, Department for Food and Rural Affairs, Home Office and Ministry of Housing, Communities and Local Government will continue to engage with the authorities concerned on the issues covered by these Regulations.

## **12. Impact**

- 12.1 There is no, or no significant, impact on business, charities or voluntary bodies.
- 12.2 The impact on the public sector is that local authorities will have more flexibility as to how they can respond and deploy their resources during the pandemic.
- 12.3 An Impact Assessment has not been prepared for this instrument. The Regulations have effect for a temporary period up to and including 6 May 2021 in order to minimise the risks to public health arising from Covid-19.

## **13. Regulating small business**

- 13.1 The Regulations do not apply to activities that are undertaken by small businesses.

#### **14. Monitoring & review**

- 14.1 The approach to monitoring of this legislation is to engage with local government to review whether further regulations are needed. This could include amending or revoking these Regulations and the Government will keep this under review.
- 14.2 The Regulations do not include a statutory review clause and have effect for a temporary period up to and including 6 May 2021.

#### **15. Contact**

- 15.1 Megan McKibbin at the Ministry of Housing, Communities and Local Government Telephone: 07824452227 or email: [megan.mckibbin@communities.gov.uk](mailto:megan.mckibbin@communities.gov.uk) can be contacted with any queries regarding the instrument.
- 15.2 Paul Rowsell, Head of the Governance Reform and Democracy Unit at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Simon Clarke, Minister of State at the Ministry of Housing, Communities and Local Government can confirm that this Explanatory Memorandum meets the required standard.