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SCOTTISH BORDERS COUNCIL THURSDAY, 30 JULY, 2020

A MEETING of the SCOTTISH BORDERS COUNCIL will be held on THURSDAY, 30TH JULY, 2020 at 10.00 AM. The Convener has directed that this meeting will be conducted in accordance with Section 43 of the Local Government in Scotland Act 2003 and will be accessed remotely by all Members via MS TEAMS. The meeting will be live streamed to the public and a link will be on the Council website.

J. J. WILKINSON,
Clerk to the Council,
23 July 2020

BUSINESS		
1.	Apologies for Absence.	
2.	Declarations of Interest.	
3.	Standing Orders (Pages 3 - 10) Consider report by Chief Executive on amendments to the Council's Standing Orders. (Copy attached.)	15 mins
4.	Any Other Items Previously Circulated	
5.	Any Other Items Which the Chairman Decides Are Urgent	

NOTES

1. Timings given above are only indicative and not intended to inhibit Members' discussions.
2. Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.

Please direct any enquiries to Louise McGeoch Tel 01835 825005
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STANDING ORDERS – PROPOSED AMENDMENTS

Report by Chief Executive

SCOTTISH BORDERS COUNCIL

30 July 2020

1 PURPOSE AND SUMMARY

- 1.1 This report proposes amendments to the Council's Standing Orders in light of changes to the impact of the Coronavirus outbreak.**
- 1.2 At its meeting on 26 March 2020, Scottish Borders Council recognised the need to take steps to reduce the risk to its Members, staff and citizens of transmitting or contracting Coronavirus (Covid-19). It was therefore agreed to suspend formal meetings of the Council whereby members and officers previously gathered together in person, and to replace such formal face to face meetings with meetings held remotely to minimise the risk of infection.
- 1.3 In order to ensure the Council was still able to effectively exercise its essential functions, an interim decision-making process was also introduced and, to implement that process, some additions were made to Standing Orders.
- 1.4 At its meeting on 26 March 2020, Scottish Borders Council therefore agreed to amend Standing Orders to:
 - delegate to the Chief Executive additional emergency decision making responsibility; and
 - to provide that any formal Council meetings would be held remotely.
- 1.5 A further report was brought to Council on 25 June 2020 seeking to further adapt Standing Orders to ensure they reflected the operational practice that had developed as result of the experience gained in the operation of remote committees.
- 1.6 Scottish Borders Council has now been able to hold a variety of formal meetings of Council remotely. In light of that positive experience, it is recognised that Council has the ability to perform its functions appropriately in this way, and consequently the additional interim emergency decision making powers which were added as Standing Order 49(a)(ii) on 26 March 2020 are no longer necessary. This report therefore seeks to remove that Standing Order as of 10 August 2020, the day that schools are currently anticipated to return to full operation.

- 1.7 It is recognised that the threat from Coronavirus, although diminished, still continues and consequently that meetings will still have to be held remotely to comply with Covid legislation and Guidance in Scotland. It is therefore proposed to vary Standing Order 49(a)(iii) to apply it to all formal meetings which take place while that continues to be the position, and, that this provision should also apply to any future meetings should there be a public health or safety reason to do so. Any remote meetings will also be live streamed to public and press.
- 1.8 Members have also requested that officers look at the potential for holding “blended” meetings in future, whereby some Councillors would be able to join a meeting remotely. A further report will be brought to Council for consideration once an appropriate technical solution to facilitate blended meetings has been scoped and costed.

2 RECOMMENDATIONS

2.1 I recommend that Scottish Borders Council agrees:-

(a) that as of 10 August 2020 to:-

(i) revoke Standing Order Nos. 49(a)(ii) and (iv);

(ii) retain and amend Standing Order 49(a)(iii) to read:

“Where the Chief Executive, in consultation with the Convener or Chair of the Committee, considers it appropriate, , and with the reason being recorded in the Minute, meetings of Council and its committees may be conducted in the following manner:

- The Chair or Convener of the meeting (whom failing their Deputy) shall direct that the meeting will take place in accordance with Section 43 of the 2003 Act;**
- Elected Members who are to join the meeting will do so using on line video or audio functionality;**
- The meeting will otherwise be called in the usual manner, with the agenda and papers published on the Council website;**
- The meeting will be available to view via a livestream;**
- A minute of the meeting will be taken and published on the Council website”**

(iii) re-number Standing Order 49(a) accordingly; and

(b) to receive a further report from the Chief Executive in due course on the feasibility of using technology for holding “blended” meetings, whereby some Councillors are able to join a meeting remotely, and the meeting itself can be live-streamed.

3 BACKGROUND

- 3.1 At its meeting on 26 March 2020, Scottish Borders Council recognised the need to take steps to reduce risks for its Members, staff and citizens arising from the Coronavirus (Covid-19). In order to ensure the Council was still able to exercise its essential functions, an interim decision-making process was introduced and, to implement that process, some additions were made to Standing Orders. Those additions delegated additional decision-making responsibility to the Chief Executive on a temporary basis and provided that any formal meetings which needed to be held would be done so remotely.
- 3.2 Following implementation of the new procedures, it became apparent that Standing Orders required to be further amended to reflect emerging operational practice. Therefore, further changes were made to those Standing Orders at the Council meeting held on 25 June 2020. The current detail contained in Standing Order No. 49(a) is attached as an Appendix to this report as an aide memoir.
- 3.3 The Council has now successfully held a range of formal Meetings online using Microsoft Teams and at the same time made them available to the public and press by streaming them as a Live Event. These include meetings of Council itself, the Audit and Scrutiny Committee, Common Good Sub - Committees and regulatory meetings such as Planning and Building Standards Committee, Local Review Body, and the Civic Government Licensing Committee. Those meetings have all been held successfully and it is therefore evident that Council can effectively conduct its business using appropriate on-line functionality.
- 3.4 It is therefore considered that need for the additional emergency decision making responsibility placed on the Chief Executive since 26 March can be revoked with effect from 10th August 2020, the day that the schools are due to return to full operation. The changes would therefore be coming into effect towards the end of the summer committee recess period.
- 3.5 Current Scottish Government guidance on activity during the Coronavirus outbreak together with the Health Protection (Coronavirus) (Restrictions) (Scotland) Regulations mandate that meetings must continue to be held remotely at the present time. There may also be a time in future, where it is necessary to hold meetings remotely to ensure the health or safety of participants or officers, and a change is therefore being sought in Standing Order No. 49(a)(iii).

4 PROPOSED CHANGES TO STANDING ORDERS

- 4.1 It is therefore proposed that with effect from 10 August:-
- (a) Standing Order 49(a)(ii) and (iv) which were added on 26 March 2020 are now revoked in their entirety;
 - (b) Standing Order 49(a)(iii) which was also introduced in March is retained and changed to read:

“Where the Chief Executive, in consultation with the Convener or Chair of the Committee, considers it appropriate, and with the reason being recorded in the Minute, meetings of Council and its committees may be conducted in the following manner:

- The Chair or Convener of the meeting (whom failing their Deputy) shall direct that the meeting will take place in accordance with Section 43 of the 2003 Act;
- Elected Members who are to join the meeting will do so using video or audio functionality;
- The meeting will otherwise be called in the usual manner, with the agenda and papers published on the Council website;
- The meeting will be available to view via a livestream;
- A minute of the meeting will be taken and published on the Council website.”

4.2 It is still intended to hold all Council and committee meetings remotely. The position will be reviewed on 30 September 2020. It should also be noted that if there is a resurgence of Covid 19 - either nationally or locally - it may once again create significant pressure on officer resource and that in turn could mean that formal meetings of Council may need to be delayed or cancelled. Members will be aware that Standing Orders continue to contain Emergency Decision making powers by the Chief Executive through Standing Order No. 49(a)(i). It is considered that this original Emergency Power may need to be utilised in such an eventuality.

4.3 By amending the above Standing Order No. 49(a)(iii), this gives Members the opportunity to still hold Council and committee meetings remotely after 30 September 2020, and in circumstances other than a Covid outbreak. Any such meetings would also be live-streamed to public and press.

5 FUTURE DEVELOPMENTS

5.1 Members have also asked officers to consider the opportunities to hold “blended” meetings in the future; that is meetings which are largely held in person but where Members may have the opportunity to attend remotely. This is a practice adopted in some other Local Authority areas. Officers have started to explore how this can be achieved with the Council’s IT provider, CGI. A further report will be brought to Council for consideration once an appropriate technical solution to facilitate blended meetings has been scoped and costed.

6 IMPLICATIONS

6.1 Financial

There are no costs attached to any of the recommendations contained in this report.

6.2 Risk and Mitigations

The current decision making process was put in place to mitigate against the risks of COVID 19. There is a risk to the reputation of the Council if it seeks to continue the Chief Executive’s extended Emergency Decision making process longer than it is necessary. The application of technology has however demonstrated the ability to modernise the way that council meetings are conducted, and the changes made to conduct meetings online

should continue in a way that accords with current legislation and government guidance.

6.3 Integrated Impact Assessment

No Integrated Impact Assessment has been completed as the previous one still applies. It is felt that live streaming remote committees will allow members of the public greater opportunity to view the decision-making process of Council in operation.

6.4 Acting Sustainably

There are no economic, social or environmental effects resulting from approval of the recommendations in this report.

6.5 Carbon Management

Holding remote meetings of the formal Council committees, should reduce Member and officer travel across the area and thus reduce the Council's carbon emissions.

6.6 Rural Proofing

Live streaming remote meetings of formal Council committees will allow members of the public to view the Council's decision making process in operation without the need to travel to a venue.

6.7 Changes to Scheme of Administration or Scheme of Delegation

Changes are required to the Council's Standing Orders and these are detailed in the report. No changes are required to either the Scheme of Administration or the Scheme of Delegation as a result of the proposals in the report.

7 CONSULTATION

7.1 The Executive Director Finance and Regulatory, the Chief Officer Audit and Risk, the Service Director HR, and Corporate Communications have been consulted and any comments received have been incorporated into the report.

Approved by

Tracey Logan
Chief Executive

Signature

Author(s)

Name	Designation and Contact Number
Nuala McKinlay	Chief Legal Officer/Monitoring Officer
Jenny Wilkinson	Clerk to the Council, Tel: 01835 825004

Background Papers: N/A

Previous Minute Reference: Scottish Borders Council, 25 June 2020

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. Jenny Wilkinson can also give information on other language translations as well as providing additional copies.

Contact us at Jenny Wilkinson, Scottish Borders Council, Council HQ, Newtown St Boswells, Melrose, TD6 0SA. Tel: 01835 825004 Email: jjwilkinson@scotborders.gov.uk

Extract from current Standing Orders – approved 25 June 2020

Emergency Powers

- 49.(a) (i) Notwithstanding the terms of Standing Orders and the Scheme of Administration, including in relation to delegated matters, where a situation or condition arises which is, in the opinion of the Chief Executive, whom failing another Director appointed by the Chief Executive, of such urgency as to make it unwise to delay a decision until the next meeting of the committee concerned with the function in question or the next Ordinary Meeting of the Council, a system of Emergency Powers shall be exercisable. In such circumstances, the appropriate Officer specified shall, following consultation with (a) the Convener, whom failing the Vice-Convener, (b) the Leader of the Council, whom failing one of the Depute Leaders of the Council, and (c) a member of the Executive having the Portfolio for the matter concerned, whom failing any other member of the Executive, have power to take all steps and make any decisions considered necessary to deal with the situation, which steps and decisions shall be binding upon the Council.
- (ii) As a result of the Coronavirus outbreak, where an essential decision of the Council is required, all legally delegable decisions will be delegated to the Chief Executive until 30 September 2020. In the event that the Chief Executive is unavailable to exercise this function, it will be exercised by an Executive Director. The decisions will be made once the following consultation process has taken place:
- The Chief Executive, one of the Executive Directors or relevant Service Director shall prepare a briefing note with details of the decision required;
 - This note shall be circulated via email to the Leader, the Convener, and the Leader of the Opposition. The Leader shall take reasonable and proportionate steps to sight Members of the Administration of the note. The Leader of the Opposition will take reasonable and proportionate steps to sight Members of all of the opposition parties of the note. The Leader, the Convener, and the Leader of the Opposition will have 3 days to respond to the note. For the avoidance of doubt, in the event that the Leader, the Convener, or the Leader of the Opposition become unable to fulfil their role under this consultation process, they shall nominate a deputy to act on their behalf;
 - The note will also be sent, as appropriate, to the Executive Director Finance and Regulatory Services, the Chief Legal Officer, the Service Director HR and Communications, Chief Officer Audit and Risk and such other as is appropriate having regard to the decision being made. Such officers will respond as soon as possible and certainly within 3 working days.
- (iii) As a result of the Coronavirus outbreak, where an essential decision of Council or one of its committees is required in respect of a matter

which cannot legally be delegated, the following procedure shall be adopted until 30 September 2020:

- The Chair or Convener of the meeting (whom failing their Deputy) shall direct that the meeting will take place in accordance with Section 43 of the 2003 Act.
 - Elected Members who are to join the meeting will do so using video or audio functionality;
 - The meeting will otherwise be called in the usual manner, with the agenda and papers published on the Council website;
 - The meeting will be available to view via a livestream;
 - A minute of the meeting will be taken and published on the Council website
- (iv) Standing Orders 49(a)(ii) and (a)(iii) can be revoked before the 30th September 2020 (or such different date as may have been substituted by Council from time to time for their continued operation) only in accordance with this paragraph. Either
- a. The Chief Executive prepares a report seeking the revocation of either or both said Standing Orders; or
 - b. Any Member submits a written motion to the proper officer, which motion is signed by that Member and 10 other Members seeking the revocation of either or both of said Standing Orders.

When the proper officer receives such a report prepared by the Chief Executive or a duly signed Motion in accordance with this paragraph, a meeting of Council will be convened within 5 working days to consider said Report or Motion. For the avoidance of doubt that meeting will be held in accordance with Standing Order 49(a)(iii) unless that Standing Order has been earlier revoked.