

**CONSTITUTION COMMITTEE:**

**11 JUNE 2014**

---

**CONSTITUTION UPDATE – REMOTE ATTENDANCE; SENIOR  
OFFICER APPOINTMENTS; AND DEPUTY (OR ASSISTANTS TO)  
CABINET MEMBERS**

**REPORT OF THE COUNTY CLERK & MONITORING OFFICER**

**AGENDA ITEM: 5**

---

**Reason for this Report**

1. To enable the Committee to consider the Constitution amendments necessary to reflect:
  - (i) new Statutory Guidance on Members' remote attendance at meetings;
  - (ii) proposed new Standing Orders Regulations dealing with senior officer appointments; and
  - (iii) the appointment of Deputy (or Assistants to) Cabinet Members.

**Background**

2. The Constitution Committee's approved Terms of Reference are:

To review the Council's Constitution, and to recommend to Council and/or Executive any changes, except that the Committee will have authority (subject to the Monitoring Officer's advice) to make the following changes on behalf of the Council:-

- (a) Drafting improvements to enhance clarity and remove minor anomalies.
- (b) Updating to reflect legislative changes and matters of record.
- (c) Amendments to the Financial, Contracts and Land Procedure Rules (subject to the advice of the S.151 Officer being sought).

**Issues**

Remote Attendance

3. Members may recall that the Local Government (Wales) Measure 2011 (section 4) gives councils a power to permit remote attendance by Members

at Council meetings (not limited to meetings of full Council), that is, to attend by an audio visual link, rather than in person.

4. The legislation provides that a Member may only attend a meeting remotely *if* (i) there are facilities to enable them to see and hear, and to be seen and heard by, others at the meeting, as prescribed; and (ii) the Council's Standing Orders do not prohibit remote attendance.
5. The law also requires the Council to have regard to the Statutory Guidance when considering this matter. The final Statutory Guidance was issued on 4 April 2014 and is appended as **Appendix A**.
6. The Guidance confirms that it is up to each local authority to decide whether it wishes to make remote attendance available. The Council's Standing Orders must then be amended to either prohibit, or to allow, remote attendance (and if it is allowed, to make any necessary provisions, having regard to the Statutory Guidance).
7. Members will appreciate that remote attendance presents various technical, staffing and practical issues, with associated cost implications, which are recognised in the Statutory Guidance, and include:
  - a) The availability of adequate ICT facilities;
  - b) The risk and implications of technology failing part way through a transmission;
  - c) Training and support requirements for members and officers;
  - d) Privacy issues (at the remote location) for exempt business (ie. where press and public have been excluded under the Access to Information Regulations);
  - e) Welsh translation facilities;
  - f) Quorum provisions (the law requires at least 30% of the Members attending a meeting to be in actual attendance for quorum purposes, but the Council has discretion to require more than this); and
  - g) Deciding the types of meetings for which remote attendance may be permitted.
8. This matter has been given preliminary consideration by the Democratic Services Committee (in October and December 2013), prior to the issue of the Statutory Guidance. The prevailing view of that Committee was that remote attendance is not a priority for the Council due to the fallibility and cost of equipment and the relatively small geographical area covered by the Council. It was suggested that this provision may be more pertinent for rural authorities. Nevertheless, that Committee agreed to a 'pilot exercise' on remote attendance.
9. At the Democratic Services Committee meeting in February 2014, Members received information on the 'pilot exercise', where two members of the public, who were not residents of Cardiff, were given the facility to address the Public Protection Committee as complainants in relation to a taxi disciplinary matter. Officers from Democratic Services and ICT facilitated a video conference call using 'Skype' software. The complainants were able to address the

Committee in real-time and respond to questions from the Members of the Committee and from the taxi driver and his solicitor. However, officers emphasised that the 'Skype' solution was provided in response to specific requirements in this instance, and that whilst the concept had worked well on this occasion, this was not a permanent 'corporate' solution.

10. Enquiries have been made with other Welsh authorities on their approach to remote attendance. Information collated by colleagues in Anglesey indicates the following responses:

Authority	Remote Attendance Available? Yes/No	Comments
Caerphilly	No	
Rhondda	No	
Flintshire	No	
Blaenau Gwent	No	Will make reference in the Constitution as to how it would operate if it came in.
Vale of Glamorgan	Under consideration	
Neath Port Talbot	No	
Bridgend	No	
Anglesey	Under consideration	

11. As remote attendance is discretionary, Members are asked to consider the information above and to instruct officers on how they wish to proceed. The suggested options are:
  - (i) To reject remote attendance and recommend amendment to Standing Orders to confirm that remote attendance is not available in Cardiff;
  - (ii) To permit remote attendance in exceptional circumstances only, on a case by case basis, at the discretion of the Chair, and to recommend the adoption of a new Standing Order to this effect – a draft Standing Order is appended as **Appendix B**; or
  - (iii) To instruct officers to investigate the ICT, staffing and cost implications of implementing remote attendance for all or certain specified Council meetings and report back to a future meeting of this Committee.
12. Members should note that any recommended amendments to Standing Orders will require the approval of full Council.

#### Proposed Standing Orders Amendment Regulations – Senior Officer Posts

13. The Council is required by law to adopt Standing Orders governing the recruitment, appointment and dismissal of its staff (and other matters) in accordance with the Local Authorities (Standing Orders)(Wales) Regulations 2006 ("the 2006 Regulations"). The Employment Procedure Rules set out in

Part 4 of the Council's Constitution reflect the staffing provisions of the 2006 Regulations.

14. The Welsh Government has announced its intention to make amendments to the staffing provisions of the 2006 Regulations. Draft Amendment Regulations were issued for consultation in March 2013, but have not yet been issued in final form. It is expected that the Amendment Regulations will be issued very soon, and will come into effect two months after they are issued.
15. It is understood that the proposed amendments are likely to:
  - (i) Require all 'Chief Officer' posts (or possibly, all posts with a salary of £100k or more) to be externally advertised. (The definition of 'Chief Officers' includes all Cardiff officers on Chief Officer / Assistant Director grade and above.) Current regulations allow such posts to be filled internally, ie. from existing employees, without necessarily requiring an external advertisement. The Welsh Government takes the view that it is no longer appropriate for such senior posts to be appointed without public advertisement.
  - (ii) Give statutory employment protection to the Head of Democratic Services post. This 'protection' requires certain procedures to be followed, including the involvement of a 'designated independent person', in the event of an investigation into allegations of misconduct. This extends the protection currently available to the Head of Paid Service, the Monitoring Officer and the Section 151 Officer, to include the new Head of Democratic Services post established under the 2011 Local Government Measure.
  - (iii) Possibly require any decision on the remuneration of Chief Officers to be taken by full Council. This proposal was not included in the consultation draft regulations, but was announced by the Welsh Government Minister for Local Government in February 2014 as one of a number of measures intended to promote transparency and accountability in the area of senior officers' remuneration. Currently, the remuneration of Chief Officers is a matter which the Council has lawfully delegated to the Employment Conditions Committee, subject to compliance with the Pay Policy Statement approved by full Council.
16. The proposals set out above will, once enacted in legislation, require amendments to be made to the Council's Employment Procedure Rules. Members are invited to note the proposals and instruct the Monitoring Officer to bring a report to a future meeting of this Committee once the Amendment Regulations have been issued.

## Deputy (or Assistants to) Cabinet Members

17. The Constitution, Article 7.5, makes provision for Assistants to Cabinet Members, as follows:

‘The Cabinet may appoint Councillors to act as assistants to the Cabinet as the Cabinet considers necessary and appropriate. Their role will be:

- (a) To assist the Cabinet collectively;
- (b) To liaise with the Chairs and members of relevant Scrutiny Committees; and
- (c) To act as observers at meetings of the Cabinet or a committee of Cabinet.

Assistants to the Cabinet may not vote on any matters before the Cabinet, neither may they substitute for a Cabinet Member at a meeting of the Cabinet nor in any decision making role.’

18. In order to widen Member participation in Council business and provide additional support to Cabinet Member portfolios, the Cabinet has appointed three Deputy Cabinet Members to work with the relevant Cabinet Member/s and deputise for any function (including taking forward particular projects or programmes), with the exception of decision-making functions which remain with the appointed Cabinet Member (Cabinet minute CAB/13/00130, Minute no. 161).
19. The Constitution, Article 7.5, requires amendment to reflect the new title given to Assistants to Cabinet Members, as follows:

‘7.5 **Deputy (or Assistants to) Cabinet Members**’

## **Legal Implications**

20. The relevant legal provisions are set out in the body of the report.

## **Financial Implications**

21. There are no direct financial implications arising from the recommendations of the report. However, financial implications may arise if and when the matters under consideration are implemented and further advice will be provided at that stage.

## **Recommendations**

The Committee is recommended to:

- (l) Note the provisions regarding remote attendance at Council meetings and instruct Officers on how to proceed, with reference to the three options set out in paragraph 11 of this report;

- (II) Note the proposed amendment of the Standing Orders Regulations in respect of senior officer posts and instruct the Monitoring Officer to bring a report to a future meeting of this Committee once the Amendment Regulations have been issued;
- (III) Approve the amendment of Article 7.5 'Assistants to Cabinet Members' as set out in paragraph 19 of the report.

**Marie Rosenthal**  
**County Clerk and Monitoring Officer**  
Date: 3 June 2014

## **Appendices**

- Appendix A - Statutory Guidance 'Remote Attendance at Council meetings', Welsh Government, April 2014
- Appendix B - Draft Standing Order on Remote Attendance

## **Background papers**

Minutes of Democratic Services Committee, October 2013, December 2013 and February 2014  
Consultation Document 'Local Authorities (Standing Orders)(Wales) Regulations 2006 (Amendment) Regulations 2013, Date of issue: 08 March 2013  
Minister for Local Government and Government Business, Lesley Griffiths AM, Announcement on Senior Officers' Remuneration, February 2014  
Cabinet Report dated 15 May 2014 entitled 'Deputy Cabinet Members and Member Champions'



Llywodraeth Cymru  
Welsh Government

[www.cymru.gov.uk](http://www.cymru.gov.uk)

# **Statutory Guidance made under Section 4 of the Local Government (Wales) Measure 2011**

Remote attendance at council meetings





## **REMOTE ATTENDANCE AT COUNCIL MEETINGS**

### **Statutory Guidance made under Section 4 of the Local Government (Wales) Measure 2011**

1. Part 1 of the Local Government (Wales) Measure 2011 (“the Measure”) was intended to strengthen local democracy by, in particular, introducing reforms which support councillors outside of the executive or executive members when acting in a non-executive capacity. One of these reforms, at section 4 of the Measure, was the introduction of the possibility of remote attendance at council meetings. This was intended to make it easier for those who, for instance, may have to travel long distances, those with domestic responsibilities and those in employment to attend.
2. This guidance is statutory guidance under section 4(6) of the Measure, to which a local authority must have regard, in relation to meetings of an authority attended remotely in accordance with section 4.

#### **What section 4 of the Measure says**

3. Section 4 provides that attendance at a council meeting is not limited to a meeting of persons who are all present in the same place. By “council meeting” we include any committee or sub-committee of the council as well as the full council itself. However, the section places certain limitations as to what constitutes remote attendance.
4. Any member attending a meeting remotely (“remote attendee”) must, when they are speaking, be able to be seen and heard by the members who are attending the meeting at the place where the meeting is held (“members in actual attendance”) and the remote attendee must, in turn, be able to see and hear those in actual attendance. In addition, a remote attendee must be able to be seen and heard by, and in turn see and hear any members of the public entitled to attend the meeting and who exercise a right to speak at the meeting. If there is more than one remote location, all the members attending remotely must be able to hear – but not necessarily see – the other remote attendees.
5. Meetings can only take place remotely if not prohibited by the local authority’s standing orders/rules of procedure. It is therefore up to each local authority to decide whether it wishes to make remote attendance available. The standing orders/rules must also secure that any meeting with remote attendees is not quorate if there are less than 30% of those eligible to attend present at the main meeting place. Authorities may set a higher quota for attendance at the main meeting place if they wish.
6. Each local authority may make other standing orders/rules in relation to remote attendance at meetings and must have regard to any guidance

given by Welsh Ministers. Our intention is to publish this guidance at the same time as the section of the Measure is brought into force.

#### Supporting remote attendance

7. The Welsh Government accepts that there are technical and staffing implications connected with the introduction of remote attendance. Where a number of councillors are expected to attend remotely at the same location, probably though not necessarily in a different council office from the place where the meeting is held, there may be a need for an officer to be present, both to support the members attending remotely but also to ensure that the equipment needed for remote attendance to function is operating correctly.
8. Local authorities will need to decide whether or not they wish to permit members of the public to be able to be present at a remote location. If so, an officer presence may be required to make arrangements for them.
9. There will clearly be a need to provide appropriate training for officers who might become involved in remote attendance, both to familiarise them with the requirements of the legislation and to cover the practical issues involved. The WLGA should be able to assist in this process.
10. The need to recognise equality between the Welsh and English languages has great significance when considering remote attendance. Local authorities will have their own Welsh language schemes but it is likely that facilities will exist – or could be made available – to cater for members who are unable to understand Welsh. It will be for each authority to ensure that any use of remote attendance is in keeping with their Welsh Language Scheme
11. It is also important for authorities to ensure that the needs of any disabled members are taken into account when considering the practicality of a remotely attended meeting.
12. It is proposed that standing orders should contain a provision that members should, whenever possible, be able to participate at a remotely attended meeting in either Welsh or English. However, it is the Welsh Government's policy that remote attendance should not be permitted if, for technical or other reasons, it would not be possible to provide simultaneous interpretation for non-Welsh speakers attending a meeting where both Welsh and English will be used. As such, local authorities may wish to ask members to note their language preference (in terms of speaking at meetings) and whether or not they would require simultaneous interpretation should any other participant speak in Welsh.
13. The Welsh Government does not take for granted that local authorities will possess the equipment or technological know-how to make remote attendance work to suit everyone. Someone attending remotely at home or work may have bandwidth limitations which affect their ability to take

part fully. Local authorities will need to decide for themselves the extent to which they will invest or assist members to have the necessary facilities to attend remotely.

14. There are times when council meetings are not open to the public, when confidential, or “exempt” issues – as defined in Schedule 12A of the Local Government Act 1972 – are under consideration. It would be important to ensure that there are no members of the public at remote locations able to hear or see the proceedings during such meetings. Any member in remote attendance who failed to disclose that there were in fact persons present who were not so entitled would be in breach of their Code of Conduct responsibilities.
15. Local authority standing orders can determine which types of meetings can be attended remotely. In the first instance, practical issues might dictate that the number of meetings which could enjoy this facility would be quite limited, though over time it would be hoped that the number of meetings where remote attendance were possible would increase.
16. The Measure requires that, for a remotely attended meeting to be quorate, a certain proportion of councillors must be in actual attendance at the meeting. Should this be disturbed by members in actual attendance at the main meeting place leaving the meeting before it is finished, bringing about a higher than permitted proportion of councillors attending remotely, the chair would have no choice but to close the meeting.
17. Standing orders should also make provision about what should happen if a technical difficulty results in the breakdown of the communications facility. Such occurrences are not unknown in video conferenced meetings. If this occurred, it is the Welsh Government’s view that the chair should declare a recess while the fault is addressed. If necessary, the meeting would have to be abandoned and the meeting should not continue without the involvement of the remote members. Standing orders could, however, make different provision for different types of meetings etc, for example that a meeting taking an urgent decision or one which is time-limited, might either not be allowed to take place with remote attendees or that the meeting would proceed in the event of a communications failure, so that those attending remotely would be aware and accept that the meeting would continue and a vote would be taken without their attendance in the event of a communications failure.
18. Finally, there is the issue of voting. Local authorities will have to build into standing orders arrangements to provide for voting to take place simultaneously at the main and remote location(s). It may not always be possible for remotely attending members to vote electronically even if that is the norm in council meetings. Standing Orders will need to cover this issue so that chairs of meetings are aware of the correct procedure to follow.

**DRAFT STANDING ORDER**

**X. Remote attendance**

- a. Due to the relatively small geographical area over which the Council's wards are spread, in normal circumstances Members are expected to physically attend meetings. However, in exceptional circumstances provision for remote attendance may be made available to Members.
- b. Any Member who wishes to attend a meeting remotely should notify the Monitoring Officer of their desire to do so at least 10 Working Days prior to the date of the meeting. The Monitoring Officer shall inform the Chair of the request. The Chair, in consultation with the Monitoring Officer, will decide whether the request shall be granted at least 5 Working Days prior to the date of the Meeting. In making that decision the Chair shall have regard to the reasons given by the Member for making the request and the costs involved in providing remote attendance facilities.
- c. If the Chair determines that remote attendance should be permitted, then such equipment and facilities as are necessary to enable remote attendance shall be provided to the Member and the meeting. The facilities should comply with the requirements of the Statutory Guidance relating to remote attendance as issued by Welsh Government under the Local Government (Wales) Measure 2011.
- d. Unless the Chair decides otherwise, if for technical reasons any Member who is attending remotely loses their connection to the meeting, the meeting shall not be adjourned.
- e. Any Member attending remotely will not be counted when determining whether a quorum is present (unless the Chair decides otherwise).