

## TONBRIDGE AND MALLING BOROUGH COUNCIL

# CONSTITUTION

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### Part 5: Codes - Supplement

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The Protocol supports the implementation of virtual meetings as permitted by the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020. These temporary arrangements are in place until 7 May 2021.

**APPROVED:** May 2020

**REVIEWED:** April 2021

The Director of Central Services and Monitoring Officer is responsible for ensuring that the Constitution is kept up to date.

As part of the Council's environmental strategy, the Constitution is produced with recycled paper and available to view online.



## TONBRIDGE & MALLING BOROUGH COUNCIL

### PROTOCOL FOR THE USE OF VIDEO- CONFERRING FACILITIES

The following protocol shall be adopted in relation to the conduct of all meetings of the Council, Cabinet, Committees, Boards and Panels/Forums. Participation via video conferencing will be permitted in accordance with the following provisions.

<b>1.</b>	<b>Application of Rules</b>
These rules shall only apply until:	
(a)	7 May 2021;
(b)	In the event that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are amended to extend the period during which Council standing orders are suspended, such period as stated within those Regulations as amended; or
(c)	Such earlier date as may be determined by the Leader.

<b>2.</b>	<b>Prior to the Meeting</b>
2.1	In order to facilitate access to the virtual meeting, the following arrangements will apply:-
(a)	Members will be able to access all virtual meetings via a link in a meeting appointment.
(b)	Appointments will be sent to All Councillors via a three monthly programme. Every effort will be made to resend the appointment on the day of the meeting.
(c)	It will be assumed that Councillors will be in attendance at all meetings of Cabinet/ Committees/ Boards of which they are a member. Any Member who is unable to attend a meeting should give their apologies in the usual way.

	(d)	<ul style="list-style-type: none"> <li>i. All Councillors can attend any meeting of the Executive (Cabinet), Committee, Advisory Board, Panel or Forum of which they are not a Member. They may address the meeting on any item on the agenda when/if invited by the Chairman to do so.</li> <li>ii. For the benefit of any public who may be observing proceedings online Councillors should indicate when they are not Members of the Committee/Advisory Board etc.</li> <li>iii. As non-Members they cannot vote on any item.</li> </ul>
2.2		<p>Any other person who is in attendance at the meeting for the purposes of exercising a right to speak e.g. a member of the public speaking at an Area Planning Committee, must register with the Democratic Services Team as early as possible but, in any event, <b>no later than 5.00pm on the closest working day prior to the day of the meeting</b>. For example, any person wishing to speak at a meeting scheduled to take place on a Wednesday must give notice no later than 5pm on the Tuesday before the meeting. Notice should be given by email to <a href="mailto:committee.services@tmbc.gov.uk">committee.services@tmbc.gov.uk</a></p> <p><b>Anyone seeking to register to speak after this time will be refused.</b></p>
2.3		<p>Democratic Services will liaise with the relevant Chairman and Vice-Chairman and take steps to ensure that access to the meeting by Councillors, Officers and members of the public can be facilitated. If required IT support will be requested.</p>
2.4		<p>In the case of a number of requests being received for the establishment of multiple remote links for the same meeting such requests will be considered in chronological order of receipt. This applies to Area Planning Committees, where members of the public may be exercising their right to speak, and meetings where there are external representatives such as Parish Partnership Panel, Tonbridge Forum, Joint Transportation Board, Joint Standards Committee and the Overview and Scrutiny Committee.</p>
2.5		<p>All meetings of the Borough Council will start at 19.30 hours unless otherwise stated on the Summons/Agenda. On occasion, and following consultation with the relevant Chairman, it may be necessary for proceedings to start earlier if there is a significant amount of business to be completed.</p> <p>Any changes to a meeting start time will be set out clearly on the meeting Summons/Agenda, the website and all appointment links.</p>

2.6	Any external participant must test their link in advance of the meeting and should (where practicable) join at least 15-20 minutes before the scheduled start, as set out on the Summons/Agenda, to ensure that any connectivity issues can be addressed.
2.7	<p>Councillors are encouraged to join the meeting at least 10 minutes before the scheduled start, as set out on the Summons/Agenda, to ensure that any connectivity issues can be addressed.</p> <p>Democratic Services may not be able to respond to or monitor emails requesting assistance at the start of a meeting, due to undertaking other priorities to facilitate the online meeting. These should be directed to the IT Helpline in the first instance. Once the meeting has commenced, Democratic Services will be available to offer assistance.</p>
2.8	The video-conferencing equipment must be arranged in such a way that the Chairman can hear and, where practicable, see the online Members in attendance, as well as any members of the public in attendance exercising their right to speak.
2.9	<p>All meetings held via video-conferencing will be livestreamed to YouTube so that members of the public can observe proceedings. These recordings are retained and will be available to view on the Borough Councils YouTube channel for a period of 6 months.</p> <p>Any member of the public registering to speak at an Area Planning Committee or wishing to ask a question at Council should be aware that their voice and/or face will be recorded and livestreamed to the Borough Council's YouTube channel.</p> <p>The Borough Councils <a href="#">Privacy Notice</a> for Virtual Meetings is available on our website.</p>

<b>3.</b>	<b>At the Meeting</b>
3.1	<p>Members and Officers should be aware that the virtual meeting is a public meeting and they will be visible and audible by the general public, either attending the meeting or observing the proceedings via livestream.</p> <p>All cameras should be turned off and microphones muted five minutes before the start of the meeting to avoid appearing on the livestream before the formal proceedings have commenced.</p>
3.2	<p>All Members (including external representatives) and Officers should conduct themselves accordingly, dress appropriately and conduct themselves as they would for a face to face meeting.</p> <p>Mobile phones should be switched off, or on silent, and not used during the</p>

	meeting unless they are being used to access the meeting or read committee papers.
3.3	Wherever possible, backgrounds should be free of distraction and care should be taken to ensure there are no sensitive or personal papers visible.  A neutral or blurred background should be used wherever possible.
3.4	A virtual 'meeting chat' will be established within the meeting between:
	(a) Members of the Cabinet, Board, Committee or other meeting (as appropriate) and the Chairman;
	(b) Key presenting officers, any council legal representative, and Democratic Services Officer present;
	(c) An appointed officer (either Democratic Services Officer or an appropriate presenting officer) and the meeting Chairman (or Mayor for Council);
	This enables participating Members to indicate a wish to speak; ensures that Council and Committee Procedure Rules are adhered to; ensures that the Chairman or Mayor is aware of any procedural issues or points of order requiring their attention which may require the meeting to be adjourned or postponed or officer advice is needed to be sought.
3.5	The 'meeting chat' should only be used for the purposes set out in (3.4) and not for any other reason. Any questions should be directed to the Chairman and raised as part of the meeting debate.  Members should proceed as if the content of the 'meeting chat' can be viewed by all participants and the wider public. It should not be used to discuss the substantive issue as this should be done verbally.
3.6	However, Members are entitled to request that an amendment to a motion be typed out in full in the 'chat' function and read out by the Democratic Services Officer. This ensures that there is no confusion about voting and for the benefit of anyone observing proceedings.
3.7	The Chairman will confirm at the start of the meeting that they can hear, and where practicable see, all participating Members and any members of the public in attendance exercising their right to speak.
3.8	When asked to do so by the Democratic Services Officer all Committee Members participating by a remote link must confirm their attendance and that they can hear and, where practicable see, the other participating members and any members of the public in attendance exercising their right to speak.  This will be undertaken at the start of the meeting by a formal roll call of

	Committee Members.
3.9	The formal roll call will be undertaken by the Democratic Services Officer to confirm attendance and for the benefit of anyone observing proceedings to confirm the number of Members eligible to vote.
3.10	This roll call shall be accepted by the Borough Council as the equivalent of signing the attendance sheet.
3.11	Where possible, non-Committee Members will be asked to double check cameras and microphones before the start of the meeting. The attendance of non-Committee Members will be noted by Democratic Services and entered into the Minutes. There will be no formal roll call of other Members in attendance unless requested by the Chairman as this may slow down proceedings.
3.12	All participating Members should ensure that their microphones and cameras are turned off unless they are speaking. This reduces the impact on the broadband network supporting the virtual meeting.
3.13	Should the Chairman or Democratic Services Officer become aware that any aspect of the video-conference link has failed for a significant number of Committee Members (to ensure that the meeting remains quorate) or the Cabinet Member required to make a Cabinet Member Decision, the Chairman (or in the case of the Chairman losing connection, the Democratic Services Officer) may call a short adjournment of up to 15 minutes to determine whether the link can be re-established and the meeting restarted.
3.14	Upon re-establishment of the meeting the Chairman will return to the item under discussion when the connection failure occurred.
3.15	If the link cannot be re-established, the meeting will be adjourned and all items of business with outstanding decisions will either be carried over to the next programmed meeting of the Council/Cabinet/Committee/Advisory Board or a newly scheduled meeting.
3.16	<p>If individual Members of the Committee lose internet connection, the meeting will continue as long as a quorum remains. Every effort will be made to re-establish the connection, although sometimes this may not be possible if there is an issue with the internet supplier that is out of the Borough Council's control.</p> <p>It is up to the discretion of the Chairman whether a short adjournment is required for individual Members of the Committee losing internet connection. If so, then (3.13) above will apply.</p> <p>Any Member who is absent for all or any part of the item in question will not be able to participate in the vote.</p>

<b>Declarations of Interest:</b>	
3.17	<p>Any Member participating by remote link who declares an interest (either a Disclosable Pecuniary Interest or Other Significant Interest) in any item of business is required to leave the meeting and shall not participate in any discussion or vote on the item in question. The Democratic Services Officer will confirm that the Member in question has withdrawn from the meeting.</p> <p>The Member will be 'invited' back into the meeting by the Democratic Services Officer once the item in question has been concluded.</p>
<b>Rules of Debate:</b>	
3.18	<p>The virtual meeting will operate under the rules of debate as set out in Part 4 of the Constitution:</p> <ul style="list-style-type: none"> <li>- CPR 6 (Rules of Debate for Council Meetings)</li> <li>- CPR 15 (Rules of Debate for Committees and Sub-Committees)</li> </ul>
<b>Confidential and Exempt Items:</b>	
3.19	<p>If the virtual meeting has to discuss confidential or exempt items under Part 2 Private the Chairman will make it clear that Members and Officers will be moving into a confidential discussion.</p> <p>Any members of the public present at the meeting will be asked to leave. If they do not leave they will be removed by the Democratic Services Officer. The Chairman will call a short adjournment to ensure that anyone who is not eligible to participate in a confidential discussion has left. The livestreaming will also be stopped.</p> <p>The meeting will be restarted in Private upon confirmation that everyone who is not eligible to participate has left and confirmation that the livestreaming has stopped.</p>
3.20	<p>In the case of an Area Planning Committee, before leaving the meeting, members of the public will be provided with a new link to a continuation of the livestreaming once the meeting has returned into public discussion.</p>
3.21	<p>Before the commencement of the confidential discussion, Members will be asked to confirm that they are alone to verify that no unauthorised person is able to see, hear or otherwise participate in the meeting.</p> <p>Members must also ensure that the venue from which they are participating is secure and that no recording of the proceedings is being made.</p>
3.22	<p>When the confidential discussion has finished the Chairman will call a short adjournment so that the livestreaming of the meeting can be re-established on a new link. The meeting will recommence once it has been confirmed that the livestreaming is recording.</p>



3.23	The majority of exempt (Part 2) items will be known in advance of the meeting and the appropriate online arrangements already made to ensure that the meeting can consider these in private. When the need to move into private only becomes apparent during the meeting, the item concerned should be adjourned to a later day.
<b>Voting:</b>	
3.24	Voting will be undertaken by either a formal roll call, or if there is no dissent during the debate, or the view of Members is clear, by general affirmation.
3.25	If voting is undertaken by way of formal roll call, the Chairman shall instruct Members of the Committee to record whether they are for, against or abstaining when asked by the Democratic Services Officer.  No response shall be taken as an abstention.
3.26	For the avoidance of doubt a vote conducted by way of roll call shall not be treated as a recorded vote for the purposes of the Council and Committee Procedure Rules set out in Part 4 (Rules) of the Constitution (CRP 8.5).
3.27	No votes shall be recorded in the Minutes unless requested by a Member under CPR 8.4 or CPR 8.6 set out in Part 4 (Rules) of the Constitution).
3.28	If there is general agreement of the recommendations (as set out in the report attached to the agenda) and where no objections have been made during the discussion, the Chairman can ask the Committee if this is agreed via general affirmation. The resolution will be recorded accordingly.
3.29	How the vote is conducted is up to the discretion of the Chairman, subject to procedural advice received from Legal and Democratic Services.
<b>Miscellaneous:</b>	
3.31	The Chairman may give direction to vary these Protocols to allow for the effective and democratic management of the meeting, subject to advice from Officers present.

<b>4.</b>	<b>Area Planning Committees</b>
4.1	As the Borough Council must be able to demonstrate that decisions of a regulatory nature are taken on the basis of the same information being available to all Members involved in the decision, any additional papers tabled at a meeting of an Area Planning Committee must be emailed to the remote venue and time allowed, by a short adjournment if necessary, for these to be delivered to and read by remote Members.

4.2	<p>Supplementary reports must, therefore, be circulated in final form no later than 24 hours before the start time of the relevant meeting. These should also be published to the website for the benefit of anyone wishing to observe proceedings.</p> <p>Any additional updates required after that time will be in the form of an oral address by the relevant Officers at the meeting.</p>
4.3	<p>Planning Officer presentations should be shown in the MS Teams meeting so that these can be clearly followed by Members, any external participants and anyone viewing proceedings via the livestream.</p>
4.4	<p>All written representations in respect of a planning application to be considered by the Area Planning Committee must be made to <a href="mailto:planning.applications@tmbc.gov.uk">planning.applications@tmbc.gov.uk</a> no later than 48 hours prior to the start time of the relevant meeting.</p> <p>This is not the same as Members of the Public wanting to register to speak at the Area Planning Committee, the deadline of which is 1700 hours on the day before the meeting and should be made to <a href="mailto:committee.services@tmbc.gov.uk">committee.services@tmbc.gov.uk</a></p>
4.5	<p>The Chairman will conduct the meeting in accordance with the Interim Rules for Public Speaking at Area Planning Committees, as set out at Annex 1 to this Protocol.</p>
<b>5.</b>	<b>Licensing and Appeals Panel:</b>
5.1	<p>Rules (4.1) to (4.3) apply</p>
5.2	<p>Note that Rules (4.1) and (4.3) will also apply to any other person <u>who is required to take part in a Licensing Hearing.</u></p>
5.3	<p>All written representations related to a Licensing and Appeals Hearing must be made in sufficient time before the start time of the relevant meeting. These should be made to <a href="mailto:licensing.services@tmbc.gov.uk">licensing.services@tmbc.gov.uk</a></p>
5.4	<p>Late material will only be accepted on agreement of all parties and will be emailed as necessary to all participants and/or presented in the meeting. Any queries relating to a Licensing and Appeals Panel should be made to <a href="mailto:licensing.services@tmbc.gov.uk">licensing.services@tmbc.gov.uk</a></p>

<b>6.</b>	<b>Amendment of Protocol:</b>
6.1	<p>The Monitoring Officer is authorised to make any amendments to this Protocol and/or the Interim Rules for Public Speaking at Planning Committee in consultation with the Chief Executive and Leader.</p>

**TEMPORARY RULES FOR PUBLIC SPEAKING IN RESPECT OF  
PLANNING APPLICATIONS DURING THE CORONAVIRUS OUTBREAK**

<b>1.</b>	<b>Application of Rules</b>
1.1	<p>These rules shall only apply until:</p> <p>(a) 7<sup>th</sup> May 2021;</p> <p>(b) In the event that the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 are amended to extend the period during which Council standing orders are suspended, such period as stated within those Regulations as amended; or</p> <p>(c) such earlier date as may be determined by the Leader</p> <p>These rules apply to the consideration of planning and allied applications that may be determined by the Borough Council where the application is to be determined by an Area Planning Committee (or by Council in accordance with Council and Committee Procedure Rule 15.23 or 15.24), but do not apply to applications where the Council is a consultee and not the determining authority.</p>
1.2	The right to speak does NOT apply to reports relating solely to enforcement matters or any other business of the Area Planning Committees than that in 1.1 above.
<b>2.</b>	<b>Procedure before Committee</b>
2.1	Where these rules apply, the Applicant's Acknowledgement Letter will indicate that, in the event that the matter is to be determined by a Committee, members of the public will be given an opportunity to speak at the Committee.
2.2	Once the Director of Planning, Housing & Environmental Health has determined that an application will be determined by a Committee, the applicant will be sent written notification stating the date, time and manner of accessing the Committee's meeting.
2.3	The Neighbours' Consultation Letter will state that, in the event that the matter is to be determined by a Committee, members of the public or a representative of the relevant Parish Council will be given an opportunity to speak if they have made a written representation.

2.4	<p>Anyone who has made a written representation on an application, and the applicant/their agents, must notify the Council in advance that they wish to take advantage of the opportunity to speak at Committee.</p> <p>Anyone who wishes to do so must register with the Democratic Services Officer contact as early as possible but, in any event, no later than <b>5.00pm on the closest working day prior to the day of the meeting</b>. For example, any person wishing to speak at a meeting scheduled to take place on a Wednesday must give notice no later than 5pm on the Tuesday before the meeting. Notice should be given by email to <a href="mailto:committee.services@tmbc.gov.uk">committee.services@tmbc.gov.uk</a> Anyone seeking to register to speak after this time will be refused.</p>
2.5	<p>A person wishing to address committee but who does not wish to appear “live” at the virtual meeting may either provide a video or audio recording of their statement (limited to 3 minutes), no later than <b>5.00pm on the closest working day prior to the day of the meeting</b>.</p> <p>The statement, whether presented live or pre-recorded must not be accompanied by any additional material (such as photographs or power point presentations). “Screen sharing” by speakers will not be permitted. Any statement which contravenes this rule will not be accepted.</p> <p>Anyone wishing to address the committee whether in person or otherwise is encouraged to provide a written copy of their statement, which may be read out in the event of a technical issue preventing the person connecting to the meeting or the pre-recorded statement being played. Whether or not written statements will be read out is at the discretion of the Chairman of the committee.</p>
2.6	<p>Where a recorded statement is being provided, the representor is encouraged to state their postal address at the beginning of their statement for the committee’s reference.</p> <p>Potential speakers are encouraged to indicate (for the purposes of the Data Protection Act 2018 and/or any other relevant data protection legislation) if they agree to their contact details being shared with other representors to enable them to get in contact with each other and to encourage them to select a single spokesperson.</p>
3.	<p><b>Procedure at Committee</b></p>
3.1	<p>In the introduction to the meeting the Chairman will explain the composition of the virtual “top table”. The Chairman will also explain the need for speakers to only deal with planning matters and the need to guard against making defamatory statements. The Chairman will remind speakers that their face and voice may appear on the live stream, and the archived recording of the meeting</p>

3.2	The Chairman will indicate the order in which the Agenda is to be dealt with, this will ordinarily be as the Agenda, but is at the absolute discretion of the Chairman (on advice of officers where needed).
3.3	The Chairman will explain the speaking time limitations. Each speaker will be limited to 3 minutes for each application. Where there is more than one application for a site, for example an application for planning permission and listed building consent, the time allowed will be limited to 3 minutes for each application i.e. 6 minutes in total.
3.4	Where the Chairman has suggested at the Chairman's briefing that an initial officer presentation is required, that presentation will be the first step in consideration of the Committee item, and will occur before the speakers are invited to speak.
3.5	<p>The speakers shall be taken in the following order:</p> <p>The representative of the relevant Parish (where they have registered in advance to speak);</p> <p>Individual speakers will then be invited to come forward by the Chairman, by name;</p> <p>Any pre-recorded statements shall then be played (or written statement read out where technical issues have prevented the statement from being played);</p> <p>Finally, the applicant and/or their agent will then have an opportunity to address the committee where they have registered to do so in advance.</p> <p>Where any written statement or pre-recorded statement exceeds 3 minutes, only the first 3 minutes shall be read or played.</p>
3.6	Committee Members will not be able to question speakers on any matter
3.7	At the conclusion of their presentation, the speaker will be asked to turn off their video feed and mute their microphone.
3.8	At the conclusion of the public speaking, the Chairman will invite members of the public to leave the "Teams" meeting and watch the debate on the live stream to save bandwidth. Members will then debate the application. The members will indicate their wish to address the meeting through the virtual meeting platform and the Chairman will invite each member to speak in turn. All other microphones will be muted and video feeds switched off.

3.9	After Members have debated the item, Officers will answer questions, summarise the debate or clarify points, including any matters arising from the points raised by speakers, and to give any necessary professional advice before Members reach their decision.
3.10	If the case is deferred for a site inspection or for a further report speakers will be permitted to speak again at a subsequent meeting.