
Report To:	Inverclyde Council	Date:	21 April 2022
Report By:	Head of Legal & Democratic Services	Report No:	LS/037/22
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Subject:	Statutory Meeting – Location & Decisions by Lot		

1.0 PURPOSE

- 1.1 The purpose of this report is to seek the Council's approval for officers to make arrangements that a venue other than the Council Chamber is used for the holding of the statutory meeting of Inverclyde Council in May 2022. This decision is being sought due to the desire that the meeting be one at which all elected members can attend in person, but also taking account of the current high incidence of Covid-19 infections in Inverclyde. In addition, this report seeks the Council's approval to a process by which decisions will be taken by lot when, during a meeting which is being held on a remote or hybrid basis, there is equality of votes but the Provost has no casting vote.

2.0 SUMMARY

- 2.1 On 17 February 2022, the Council decided to revert to hybrid meetings. The holding of hybrid meetings has again been shown to generally work well.
- 2.2 By law, the Council must hold its first meeting within 21 days of the local government elections in May 2022. This meeting, commonly called the statutory meeting, is unlike normal Council meetings, in that it rarely deals with the types of business normally considered by full Council. Instead, it is focused on electing key office bearers, and the forming of the new Council Administration, with the associated decision-making arrangements.
- 2.3 There is currently a high incidence of Covid-19 infections within Inverclyde. Whilst it is anticipated the number of infections will start to reduce, the Council needs to take account of this in planning for the statutory meeting, and related induction arrangements for the new Council, including to ensure no members are disadvantaged in taking part, such as those who might be clinically vulnerable to Covid-19. Given the ongoing impact of Covid-19, the importance of the statutory meeting and the fact that there will be new elected members not familiar with the hybrid meeting technology, it is proposed that officers make arrangements for the statutory meeting to be held at a suitable venue at which all members could attend in person, together with relevant officers and potentially members of the public, something that would not currently be possible with the Council Chamber in Municipal Buildings. In addition, it is expected that members will want to be able to attend the meeting in person, and it is the recommendation of officers that all members should do so unless otherwise prevented by virtue of having contracted Covid-19. A provisional booking has been made for the meeting to be held at the Town Hall in Municipal Buildings on Thursday 19th May 2022. Approval is sought to delegate authority to the Chief Executive to make suitable arrangements for this meeting. If any member cannot attend in person, due to having contracted Covid-19, then the meeting would be held on a hybrid basis from either the Council Chamber or Board Room 1, as the Town Hall is not suitable for hybrid meetings. Use of the Council Chamber or Board Room 1 could introduce the need to allocate available seats amongst groups, due to capacity issues with those locations.

- 2.4 Given the decision of the Council on 17 February, and the intention that the meeting is held with all members attending in person, Council will be asked to suspend Standing Orders in order to consider this report.
- 2.5 Under the Council's Standing Orders and Scheme of Administration, where there is equality of votes on a particular matter but the Provost does not have a casting vote, then "the decision shall be by lot". Whilst the instances of decisions being by lot are rare, the Council does not have a written protocol for how such a process is to be administered, and it is clear that it would be helpful to have such a protocol. This is especially the case given that administering a decision by lot in a hybrid or remote meeting has additional complications. As such, a draft protocol has been prepared and the Council is asked to approve this.

3.0 RECOMMENDATIONS

- 3.1 That the Council agree as follows:-
- 3.2 To delegate authority to the Chief Executive to make suitable arrangements for the holding of the first meeting of Inverclyde Council following the May 2022 local government elections, which meeting may be held at a venue other than the Council Chamber at Municipal Buildings, Greenock, with the Chief Executive to undertake suitable consultation on this matter with the Strategic Leadership Forum following the elections, it being noted that the intention is for this meeting to be a physical meeting, failing which a hybrid meeting from either the Council Chamber or Board Room 1; and
- 3.3 To approve the Decisions by Lot Protocol included in Appendix 1 to this report.

Iain Strachan
Head of Legal & Democratic Services

4.0 BACKGROUND

- 4.1 The Local Government (Scotland) Act 1994 stipulates that the first meeting of the Council must be held within 21 days of the ordinary election of councillors. This is commonly known as “the statutory meeting”. Whilst the date of the statutory meeting will be confirmed following the May elections, it is currently being planned for Thursday 19 May 2022.

5.0 CONSIDERATIONS

Location of the Statutory Meeting

- 5.1 At its meeting on 17 February 2022, the Council agreed to revert to hybrid meetings. This reflected a lessening of the impact of the Covid-19 pandemic, and the general direction across Scotland to remove an increasing number of the public health restrictions that had previously been in place.
- 5.2 The holding of hybrid meetings has been shown to generally work well. In particular this has been due to the positive approach of elected members and officers, and their now being much more familiar with the technology and the practice of holding such meetings. Meeting Protocols have also been developed, and approved by Council, which have in turn assisted the efficiency and effectiveness of the meetings.
- 5.3 The statutory meeting is unlike normal Council meetings, in that it rarely deals with the types of business normally considered by full Council. Instead, it is focused on electing key office bearers, and the forming of the new Council Administration, with the associated decision-making arrangements. In particular, at this meeting the Council will elect the Provost, the Leader and the Depute Leader.
- 5.4 There is a large amount of important business to deal with at the statutory meeting. It is also now known that there will be new elected members joining the Council, who will be unfamiliar with the technology used for remote and hybrid meetings, and it is very important that they are not disadvantaged in their being able to take part in the meeting. In addition, it is expected that members will want to be able to attend the meeting in person, and it is the recommendation of officers that all members should do so, unless otherwise prevented by virtue of having contracted Covid-19. As such, there is a need to identify a suitable venue that will enable a physical meeting to be held at which all members could attend in person, together with relevant officers and potentially members of the public, something that would not be currently possible with the Council Chamber in Municipal Buildings.
- 5.5 Under current guidelines, the Council Chamber could likely only hold a maximum of 16 elected members around the horseshoe, with limited space for additional people around the room. The Council Chamber is a relatively small space which is not particularly well ventilated, space to move around is restricted (which creates pinch points), and if fully attended it would be very crowded with little space to allow people to keep a reasonable distance from others and comply with the Distance Aware scheme. Whilst physical barriers could potentially be used between elected members and officers/the public they would likely cause more issues, as they would make it awkward to move around and potentially give the wrong impression. The Council Chamber does, however, permit the option of a hybrid meeting using technology that has been proven to work. Board Room 1 in Municipal Buildings would likely offer the potential for a higher number of attendees to be present and is a potential alternative, and in respect of ventilation and camera footage for hybrid meetings is actually preferable to the Council Chamber. However, in order to maximise the number of attendees and provide a safer environment that enables more to feel able to attend, it is recommended that a larger alternative venue is used. As ever, the risk of an attendee contracting Covid-19 cannot be eliminated, but this would assist in reducing the risk so far as is reasonably practicable.

- 5.6 Given these considerations, officers have made a provisional booking of The Town Hall, Municipal Buildings, Greenock, for Thursday 19 May 2022. It is, however, recognised that in terms of the Council's Standing Orders and Scheme of Administration (SO4) all meetings of the Council shall take place at Municipal Buildings, Greenock "or such other place as the Council or the Proper Officer in consultation with the Provost may specify, it being declared that a virtual/remote or hybrid meeting arranged by the Council shall satisfy this". As such, and in the event there is a need to hold the meeting elsewhere, the approval of Council is sought to the holding of the statutory meeting at a suitable venue other than Municipal Buildings. The Strategic Leadership Forum has already been consulted on this proposal.
- 5.7 It is to be noted that whilst the Town Hall would be suitable as an alternative venue for a physical meeting with all elected members and relevant officers in attendance, it would still present significant challenges and uncertainty if it became hybrid, with some attendees looking to engage remotely. This is because of its size and the height of the ceiling, which means that those attending remotely would struggle to hear what was being said, even with the use of microphones in the room. The Saloon in the Municipal Buildings would have better acoustics, but it does not use the Council's ICT network, and it could not be guaranteed that the connection would be of sufficient strength given the number of potential users. There is also a need to ensure no members are disadvantaged in taking part in the meeting, such as those who might be clinically vulnerable to Covid-19. As such, if any member cannot attend in person, due to having contracted Covid-19, then the meeting would be held on a hybrid basis from the Council Chamber or Board Room 1. Use of either of these alternative venues could introduce the need to allocate available seats amongst groups, due to capacity issues. Council officers would, however, take all practicable measures to seek to optimise the number of attendees.
- 5.8 The Council would also need to ensure that the public had access to the meeting. This would be achieved by it being a physical meeting at which the public could also attend. If it was a hybrid meeting then it would be recorded for live and subsequent broadcast as meetings are currently.
- 5.9 In addition, it must also be noted that this proposal is only in respect of the statutory meeting. Given the resources involved in arranging this at an alternative venue, it would not be suitable for future normal Council/Committee/Board meetings. Officers will be exploring the options for the future holding of meetings, so that a suitable permanent solution can be identified, noting the challenges around the use of the Council Chamber. Officers would expect to bring a report back to Council later in 2022.

Decisions by Lot Protocol

- 5.10 The statutory meeting will deal with the appointment of members to particular offices and committees. It is to be noted that under the Council's Standing Orders and Scheme of Administration (SO43) where there is equality of votes on such matters the Provost does not have a casting vote, and instead "the decision shall be by lot". It is recognised that the instances of decisions being by lot are rare, and are not to be encouraged. However, the possibility of such a decision must be planned for. In light of this, and recognising that such meetings being held on a virtual/remote or hybrid basis add an additional layer of complexity, it is proposed the Council adopt the Decisions by Lot Protocol included in Appendix 1 to this report. Again, all elected members have already been consulted on the draft Protocol.

6.0 IMPLICATIONS

6.1 Finance

There are minor financial implications of the statutory meeting being held at another venue, but they can be contained within existing budgets.

Financial Implications:

One off Costs

Cost Centre	Budget Heading	Budget Years	Proposed Spend this Report	Virement From	Other Comments
N/A	N/A	N/A	£750	N/A	This is the estimated venue hire, exc VAT. There would be costs too, in terms of staff time. However, all costs would be contained within existing budgets..

Annually Recurring Costs/ (Savings)

Cost Centre	Budget Heading	With Effect from	Annual Net Impact	Virement From (if Applicable)	Other Comments
N/A	N/A	N/A	N/A	N/A	N/A

6.2 Legal

The proposals in this report will facilitate the Council complying with its statutory obligations around the holding of the statutory meeting.

6.3 Human Resources

There are no Human Resources implications arising from this report.

6.4 Equalities

(a) Has an Equality Impact Assessment been carried out?

YES (see attached appendix)

NO – This report does not introduce a new policy, function or strategy or recommend a substantive change to an existing policy, function or strategy. Therefore, no Equality Impact Assessment is required.

(b) Fairer Scotland Duty

If this report affects or proposes any major strategic decision:-

Has there been active consideration of how this report's recommendations reduce inequalities of outcome?

X

YES – A written statement showing how this report's recommendations reduce inequalities of outcome caused by socio-economic disadvantage has been completed.

NO

(c) Data Protection

Has a Data Protection Impact Assessment been carried out?

	YES – This report involves data processing which may result in a high risk to the rights and freedom of individuals.
X	NO

Repopulation

6.5 There are no repopulation issues.

7.0 CONSULTATIONS

7.1 The Strategic Leadership Forum met on 7th April 2022 and agreed that physical attendance should be maximised, if the meeting had to be held on a hybrid basis.

8.0 LIST OF BACKGROUND PAPERS

8.1 None.

APPENDIX 1

DECISIONS BY LOT PROTOCOL

For inclusion in approved Remote and Hybrid Meetings protocols and procedures for Committees and Boards

Remote Meeting Protocol - Insert new 4 (F)

In the case of equality of votes, and where the Provost does not have, or does not wish to exercise, a casting vote, and the Standing Orders stipulate that the decision shall be by lot, then the following procedure shall apply:-

- The decision shall be determined by a packet of cards being cut;
- The principle is that the mover of the motion/amendment whose cut of the cards reveals the highest value card shall be successful, with their motion/amendment being the decision;
- In the cards being cut, the Jokers shall first be removed- and the pack shuffled, Aces shall be treated as "high" and all suits shall have equal value;
- The cards shall be cut by the Chief Executive on behalf of the mover of the motion/amendment(s), as the case may be. As with a roll call vote, where a motion and two or more amendments have been moved and seconded, the cutting of the cards shall be taken in the first instance between the amendment last proposed and the amendment second last proposed. The successful proposal from that cutting of the cards shall then be taken against the amendment third last proposed- and so on until there remains only one amendment to be taken against the motion, and whichever of those is successful under this protocol shall be the decision of the Council.
- As with a roll call vote, the cards shall be cut in the following order, namely (i) on behalf of the mover of the amendment last proposed (or the amendment where there is only one amendment) and (ii) on behalf of the mover of the amendment second last proposed (and so on, where there are more than two amendments moved and seconded) and/or on behalf of the mover of the motion (as the case may be).
- Upon the cards being so cut, after each cut the Chief Executive shall show the card so selected to the camera on their laptop, with the Clerk calling out the identity of the card and recording it for the minute.
- After the cards have been cut, the Clerk shall call out the highest card and the respective mover, and declare the decision of that vote.
- If after the cards have been cut both cards have the same value (i.e. equally high), then the above process shall be repeated until such time as there is a single card which has a value higher than the other cut at that time.
- The Provost, taking the advice of the Clerk and the Chief Executive, shall determine any matters of procedure not expressly provided for above.

Hybrid Meeting Protocol - Insert new 4 (F)

In the case of equality of votes, and where the Provost does not have, or does not wish to exercise, a casting vote, and the Standing Orders stipulate that the decision shall be by lot, then the following procedure shall apply:-

- The decision shall be determined by a packet of cards being cut;

- The principle is that the mover of the motion/amendment whose cut of the cards reveals the highest value card shall be successful, with their motion/amendment being the decision;
- In the cards being cut, the Jokers shall first be removed and the pack shuffled, Aces shall be treated as “high” and all suits shall have equal value;
- The cards shall be cut by the mover of the motion/amendment(s), as the case may be, where such movers are **all** physically present in the room in which the meeting is being held and wish to do so, failing which or otherwise the cards shall be cut by the Chief Executive on behalf of the mover of the motion/amendment(s), as the case may be. As with a roll call vote, where a motion and two or more amendments have been moved and seconded, the cutting of the cards shall be taken in the first instance between the amendment last proposed and the amendment second last proposed. The successful proposal from that cutting of the cards shall then be taken against the amendment third last proposed- and so on until there remains only one amendment to be taken against the motion, and whichever of those is successful under this protocol shall be the decision of the Council.
- As with a roll call vote, the cards shall be cut in the following order, namely (i) on behalf of the mover of the amendment last proposed (or the amendment where there is only one amendment) and (ii) on behalf of the mover of the amendment second last proposed (and so on, where there are more than two amendments moved and seconded) and/or on behalf of the mover of the motion (as the case may be).
- Upon the cards being so cut, after each cut the member in question or the Chief Executive (as the case shall be) shall show the card so selected to those members present and the camera on a laptop that is in the room, with the Clerk calling out the identity of the card and recording it for the minute.
- After the cards have been cut, the Clerk shall call out the highest card and the respective mover, and declare the decision of that vote.
- If after the cards have been cut both cards have the same value (i.e. equally high), then the above process shall be repeated until such time as there is a single card which has a value higher than the other cut at that time.
- The Provost, taking the advice of the Clerk and the Chief Executive, shall determine any matters of procedure not expressly provided for above.

For a meeting that is being held with all members physically present in the same room, the Hybrid Meeting Protocol above shall be used, adapted as required, to deal with a situation where a decision is to be by lot.