

MEMORANDUM

MEMO



Chuig/To	Owen Keegan Deirdre Ní Raghaihaille	Ó/From	Yvonne C. Kelly Acting Law Agent Law Department Block 3 Floor 4/5 Civic Offices
Ref:		Ref:	YK/LAW001/3508
Dáta/Date	6 April 2020		

RE: Holding Council Meetings Remotely Emergency - COVID 19 2020

Owen, Deirdre,

The elected members are concerned to uphold local democracy during this crisis while ensuring compliance with the government guidelines on social distancing and the limitations that apply to public gatherings. The provisions in either the standing orders of Dublin City Council or the legislation governing the holding of meetings in the Local Government Act 2001 do not in my view permit holding meetings remotely. The provisions that are applicable are:

- Local Government Act 2001 - Part 6 Sections 44, 45, 46 and 47
- Local Government Act 2001 - Schedule 10 Meetings and Proceedings
- Standing Orders of Dublin City Council 2018 Version 1

Local Government Act 2001 – Part 6

Section 44(1) provides that Part 6 and Schedule 10 apply and have effect in relation to meetings and proceedings of local authorities and to connected matters.

Section 45 provides for the attendance of public and media at meetings.

Section 45(3) provides that the authority may by resolution decide to meet in committee for the whole or part of a meeting where they are of the view that this is desirable because of the special nature of the meeting or of an item to be or about to be considered at a meeting. At least one half of the total number of members must vote in favour for such a resolution to pass.

Section 45(5) provides that the members are entitled through standing orders to regulate the entitlement of members of public and the media to be present with regard to taking account of available space and other matters.

Local Government Act 2001 - Schedule 10 Meetings and Proceedings:

Rule 1

A local authority is obliged to hold an annual general meeting and a local authority budget meeting and such other meetings as are necessary for the transaction of business referred to as ordinary meetings.

Rule 2

Provides for the *place*, date and time of meetings.

2(1) provides that the local authority is to provide or arrange accommodation for the holding of meetings

2(2) provides that in so far as is practicable the place for holding meetings is to be in the principal offices

2(3) meetings to be held on such days as appointed by standing orders

2(5) provides that different days, times and *places* may be appointed from time to time by resolution or fixed by standing orders.

Rule 7

Concerns the notification of meetings and agenda

7(1) (c) provides that a notification to attend a meeting shall specify the *place*, date and time of meeting.

Rule 8

Concerns public notice of meetings

8(1)(a) provides that Notice of the *place*, date and time of a meeting shall be displayed not less than 3 clear days before the day of the meeting.

Rule 12

Concerns doing of acts and determination of questions

12(1) provides that each member present at a meeting has a vote

Rule 16 – Standing Orders

16(1)(a) A local authority shall subject to this act and by resolution for which at least one half of the total number of members of the authority vote in favour make standing orders for the regulation of its meetings and proceedings

16(1)(b) A local authority may include all such incidental, consequential or supplementary provisions as may appear to the local authority to be appropriate for that purpose.

16(2) A local authority may by resolution for which at least one half of the total members of the authority vote in favour amend or revoke standing orders and make new standing orders.

The Elected Members Standing Orders 2018 Ver 1

Relevant provisions

No 8 – must specify the date time and *place* of meeting

No 11 – Procedure where there is no quorum – contemplates the counting of the names of those *present* at a time and *place* appointed for such meeting.

No 52 – questions determined by a *show of hands* or recorded electronically on electronic voting system

No 54 – Each member *present* has a vote

Opinion

The legislative provisions and standing orders contemplate a “*place*” for the holding of meetings. The rules require public notification of the *place* of the statutory meetings which is normally the Principal Office of the Local Authority and provisions are there for the attendance of members of the public and press at the place of the meeting. There is no provision that could be construed as providing for the holding of remote meetings where the members would be at multiple locations.

Regarding voting and decision making; questions are to be determined by a show of hands or recorded electronically on the electronic voting system. The provisions in standing orders concerning voting do not contemplate remote voting or how it would be done. As such it is not possible at a remote meeting to vote on reserved functions and motions before Council in a way that would not be open to legal challenge.

The elected members are entitled to amend their standing orders. Schedule 10 Rule 16(5) provides that the Minister may issue *general directions* to local authorities in relation to standing orders and the provisions to be included in them. The Minister therefore is entitled to issue general directions re standing orders. However, in my view a direct legislative provision is needed to permit remote meetings.

It is advisable as such that Ministerial direction and legislative provision is sought so that a consistent approach is adopted across all local authorities and in order to provide a legal basis for the holding of remote meetings, voting on statutory matters and subsequent amendment of standing orders.

Yvonne C. Kelly
Acting Law Agent