

Garden Committees in the Royal Borough of Kensington and Chelsea – Holding an AGM during Covid-19

INTRODUCTION

The COVID-19 pandemic and the associated government restrictions (e.g. social distancing, the rule of six, etc.), have made it harder for entities to hold meetings, with some private companies opting not to hold AGMs at all. Although the Kensington Improvement Act 1851 ("the Act") does not include an express requirement to hold an AGM, one should be held given that the following can only be effected at an AGM:

- Appointment of a sub-committee;
- Removal of a sub-committee;
- Approval of the accounts for the previous year;
- Approving the budget for the forthcoming year;
- Deciding the total amount of money to call for from the RBKC in the forthcoming financial year.

As regards holding the AGM, the Act does not impose many specifications. It is therefore advisable to draw on common sense and company law for indications and suggestions on procedure whilst making sure that Government health-related requirements are complied with. It will be important to consider the location of the meeting, the notice requirements for convening the meeting and the general conduct of the meeting.

LOCATION OF THE MEETING

Section 44 of the Act states that meetings can be convened at such time and place as is expressed in the notice given by the Secretary of the Garden Committee (or by five members of the garden). We would therefore advise that the sub-committee exercises the implied permission to hold the AGM electronically. Platforms such as Zoom, Microsoft Teams or Skype are all viable options. The following logistical issues should be considered:

- Platforms such as Zoom may apply time limits for free meetings hosted by unpaid accounts. If hosting the AGM on such a platform, you will need to ensure that time limits either don't apply or there is no risk of the meeting exceeding the platform-imposed maximum timeframe.



- Are there any individuals who might otherwise attend the meeting, but are unable to access the internet or are not internet capable? If so, will they be able to attend at the property of someone who is able to access the meeting via the internet (or attend in person in line with the point below)? It may also be possible for individuals to dial in by telephone.
- Will certain individuals attend the meeting in person (within Government restrictions) and the remainder attend via the online platform? If so, the group attending in person can be comprised of those with the most involvement in the running of the AGM and anyone without internet capability.

NOTICE TO CONVENE THE AGM

Section 44 of the Act sets out that notice of meetings must:

- be called by the Secretary of the Garden Committee normally following discussion by the sub-committee (or alternatively by at least five members of the garden);
- be affixed to all the gates and every entrance to the garden; and
- give at least seven days' notice.

Certain potential AGM attendees may be self-isolating or shielding and may therefore not see the notice. Therefore, while there is no technical obligation to do any more than affix the notice to the entrance gates of the gardens, it is worth considering other means to attempt to reach potential attendees. Potential solutions include giving notice by email or by letter, or providing a longer notice period to increase the likelihood of potential attendees seeing the notice or hearing about the AGM. If notice is given by letter or email, that communication can explain why notice is being given this way this year and how the AGM will be conducted (see below).

CONDUCT OF THE MEETING

- Aside from the appointment of a chairman, the Act provides few specifications for the conduct of the AGM. As above, practicality and common sense should therefore dictate how the chairman conducts the AGM.
- Given the restrictions created by having to hold the meeting electronically, rather than in person, we would suggest the following measures:
 - In advance of the AGM, circulate an explanation for why the meeting is to be held electronically and setting out the procedure for the meeting;
 - Request that any topics or questions from attendees, are submitted in writing beforehand;



- Collate the submitted topics and questions and incorporate them into an agenda for the meeting;
- Circulate this agenda in advance of the meeting;
- Explain that everyone will be muted by the chairman until either it is their turn to speak (in accordance with the agenda) or they have raised their hand/indicated that they wish to speak (perhaps by raising a sheet of white paper at chest height in front of the camera, as this should be easily identifiable by the chairman);
- The chairman can then unmute the relevant person and allow them to speak, provided that the topic is relevant and they are relatively concise; and
- Any voting required can either be done by poll vote by way of a poll cards setting out the relevant resolutions, filled out and returned to the chairman in advance of the AGM, or in a similar format to the request to speak, with the chairman asking those voting in favour/against a motion to raise their hands (or their pieces of paper).

The above means have been recently implemented by private companies and we would suggest that they are readily applicable to your situation. If you have any questions regarding any aspect of the above though, please do not hesitate to contact Robert Barham (robert.barham@forsters.co.uk).

Forsters LLP

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Robert Barham

Partner, Residential Property

T: +44 (0)20 7399 4789

M: +44 (0)7553 056 170

E: robert.barham@forsters.co.uk

