

COUNCIL

TUESDAY, 16 SEPTEMBER 2014

REPORT OF THE SOLICITOR TO THE COUNCIL & MONITORING OFFICER

THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014

EXEMPT INFORMATION

None

PURPOSE OF THE REPORT

To advise Council of the implications and updates required to the Constitution following the Openness of Local Government Bodies Regulations 2014 having come into force on 6 August 2014. This report seeks approval of the Council to the changes required to the Constitution as a result.

RECOMMENDATIONS

That Council

1. endorse the report and
2. approve the changes to the Constitution at Appendix 1
3. approve the changes to the Constitution at Appendix 2

EXECUTIVE SUMMARY

The Monitoring Officer is required to monitor and review the operation of the Constitution to ensure that the aims and principles thereof are given full effect. The Council is required to review the Constitution regularly and when appropriate update in accordance with legislative requirements.

As a result of the Openness of Local Government Bodies Regulations 2014 coming onto the statute books, significant changes need to be made to the Constitution to meet the requirements of the legislation which must be approved to ensure that effect is being given to the regulations, a summary of which is provided below.

The Regulations, which came into force on 6 August 2014, allow reporting at meetings which are open to the public, be it the Council, Cabinet, Committee or Sub Committee meetings where the public are not excluded. The Regulations do not require a Council to permit oral reporting or commentary on a meeting as it takes place if the person reporting or providing the commentary is present at the meeting. This is to prevent the business of the meeting being disrupted.

Any person attending a meeting must, so far as is practicable, be afforded reasonable facilities for reporting and may use any communication method, including the Internet, to publish, post or otherwise share the results of their reporting activities. Publication and dissemination may take place in the meeting or afterwards. Reporting means:-

- filming, photographing or making an audio recording of proceedings at a meeting;
- using any other means for enabling a person who is not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

The Regulations also make provision for the recording of decisions made by Officers.

Decisions made by Officers are not limited to those made under Delegation by the Executive and must be recorded, whether made by an officer or on behalf of another Committee/Subcommittee or Joint Committee in which the Authority participates, where the decision has been delegated to an officer either under a specific delegation or under a general authorisation, and the effect of the decision is to:

- grant a permission or licence;
- affect the rights of an individual;
- award a contract or incur expenditure which in either case, materially affects a relevant Local Government Body's financial position.

Background papers are to be made available to the public as soon as reasonably practicable after the decision is made, at all reasonable hours at the offices, on the website and by such other means the Council considers appropriate. The Regulations also contain obligations to provide copies subject to the payment of postage, copying or other necessary charges for transmission. If a request is appropriately made, a copy of the written record and any background papers must be provided.

Written records must be retained and available for inspection for six years with background papers being retained for four years.

The provisions relating to the provision of decisions do not affect confidential or exempt information.

Anyone who has custody of a document which is required to be produced and, without reasonable excuse, intentionally obstructs or refuses access, commits an offence.

In relation to the requirements in the Regulations to allow reporting, the Council Constitution currently does not permit recording of its meetings. The Regulations require that the constitutional provision needs to be amended, and persons attending meetings with the intention of reporting on them, must be afforded reasonable facilities for doing so. There is no definition provided as to the definition of reasonable facilities. However the guidelines available to the public indicate that we must provide space to view and hear the meeting, seats and ideally a desk. We currently provide adequate facilities of this nature thus there is no additional burden placed on the authority in this regard.

With these factors in mind it is proposed that the arrangements should be as follows:-

- That persons attending any meeting should remain seated;
- That, in order to avoid accidents, it will not be possible for persons attending any meeting to use electric sockets for their equipment;
- That persons attending any meeting be reminded that they cannot carry out oral reporting during the meeting or disrupt the meeting in any way.

It is therefore proposed that a new paragraph 4.22 (page 129) and a new paragraph 14 (page 137) are inserted in the Constitution at Part 4 Council Procedure Rules and Schedule 1- Non Regulatory Committee Procedure Rules respectively as set out in **Appendix 1** to this report are approved.

In relation to decision records, the Monitoring Officer oversees the process of publicising all Decisions including Officer Delegated Decisions with reports on the website. Accordingly the Council is compliant in this regard. However in order to publish the process followed and to ensure that Access to Information Procedure Rules are up to date, Schedule 2 has been reproduced with tracked changes for approval as set out in **Appendix 2** to this report.

OPTIONS CONSIDERED

In relation to the regulations the only option is to implement as required by law. However the Council has already implemented the reporting of officer decisions on the web site through Mod.Gov so this requirement was already being met.

The only other option is to decide which platform to use to record meetings. This does not mean that there is a legal requirement for the Council to webcast its public meetings but it does mean that steps should be taken to at least make recordings of what is being said at meetings. This is particularly important as it will be possible for a recorded meeting to be edited which in turn could result in a misquote or inaccurate information being made available on a social media website.

At present we believe that we have a facility to record sound on DVDs in the Chamber and in Committee Room 1. There are no recording facilities at the Town Hall. To this end sound recording of meetings will commence using the current facility to test its adequacy. Running alongside this activity the Director Technology and Corporate Programmes will investigate the methods available to record meetings, the cost in relation to each, and report to Cabinet at a later date the findings of this exercise along with recommendations for approval.

RESOURCE IMPLICATIONS

Additional resource will require to be found to implement a reasonable method of recording meetings and to install a facility at the Town Hall. At this stage until a report on the cost is available it is not known what this could amount to, however cost will be dictated by the recording equipment chosen.

LEGAL/RISK IMPLICATIONS BACKGROUND

Any legal risk would arise from non implementation of the regulations and thereafter the interpretation thereof as implemented by the Council.

SUSTAINABILITY IMPLICATIONS

It is imperative that the Council operates in a manner that is open, transparent, inclusive and embodies good governance by endorsing and operating a system to enable member of the public to attend, record and report meetings of the Council.

BACKGROUND INFORMATION

On the 6 August 2014, The Openness of Local Government Bodies Regulations 2014 came into force. DCLG consider that the rules will make Councils more transparent and accountable to their local communities.

REPORT AUTHOR

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LIST OF BACKGROUND PAPERS

The Public Bodies (Admission to Meetings) Act 1960

The Local Government Act 1972

The Local Authorities (Executive Arrangements) (Meetings and Access to Information)(England) Regulations 2012

The Openness of Local Government Bodies Regulations 2014

DCLG Guide entitled Open and Accountable Local Government

APPENDICES

Appendix 1 Proposed changes to Part 4 Rules of Procedure, Council Procedure Rules and Part 4 Schedule 1 Non-Regulatory Committee Procedure Rules to comply with Members of the Public Reporting of Meetings Requirement.

Appendix 2 Proposed Schedule 2 Access to Information Procedure Rules