

<p>GOVERNANCE COMMITTEE SUPPLEMENTARY AGENDA</p>

11 September 2012

The following reports are attached for consideration and are submitted with the agreement of the Chairman as urgent matters pursuant to Section 100B (4) of the Local Government Act 1972

- 9 CHANGES TO THE STATUTORY RULES ON EXECUTIVE DECISIONS (Pages 1 - 4)**

- 10 REPORT OF THE MONITORING OFFICER - CHANGES TO THE CONSTITUTION
(Pages 5 - 8)**

**Ian Buckmaster
Committee Administration and
Member Support Manager**

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GOVERNANCE COMMITTEE

11 SEPTEMBER 2012

REPORT

Subject Heading:

Changes to Statutory Rules on Executive Decisions

Report Author and contact details:

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Policy context:

To comply with new legislation

Financial summary:

Any increased costs will be absorbed within existing budgets

The subject matter of this report deals with the following Council Objectives

- Ensuring a clean, safe and green borough
- Championing education and learning for all
- Providing economic, social and cultural activity in thriving towns and villages
- Valuing and enhancing the lives of our residents
- Delivering high customer satisfaction and a stable council tax

SUMMARY

The government has introduced new regulations governing the process of making executive decisions and increasing the amount of information that has to be published on decisions. The new rules took effect on the 10 September 2012 and apply to all executive decisions taken by members and staff.

RECOMMENDATIONS

That the report be noted

REPORT DETAIL

1. The Government has, at short notice and without apparent prior consultation, introduced new statutory rules relating to executive decision making and public access to information on those decisions. The statutory instrument was made in mid-August and came into effect on the 10 September 2012.
2. The new rules relate to decision making by the Cabinet, individual cabinet members and officers. It does not impact on decision making by non-executive bodies such as this Committee, Regulatory Services Committee or Licensing Committee.
3. The regulations make a number of minor detailed changes to existing procedures, but there are 3 major changes introduced.

a. Forward Notifications

While the requirement for a Forward Plan is abolished, it is replaced with a general requirement for at least 28 days prior notice of the proposed making of a Key Decision. The 28 day period is double the minimum notification time under the Forward Plan. To minimise the impact of this change it is proposed that there will be a 'rolling' notification system with prior notifications being published (primary on the website but also available for inspection at an agreed location) as and when they are ready, rather than publish them at set intervals or dates. There is still a procedure to enable decisions to be made without 28 days prior notification but it is very much for exceptional cases.

b. Recording and publication of Decisions by Individuals

Currently only Key Decisions have had to be formally registered and published. The new rules massively expand this requirement to all Executive Decisions made by individual Members and officers. The publication of all decisions currently recorded using the Executive Decision forms will be a very substantial increase of the amount of work to be undertaken. It will also require a much expanded section of the Council's website to accommodate this information – such decisions have to be available for public inspection for 6 years. Copies of the decisions will also have to be available for public inspection at a main office, although potentially this can be met by providing access to the relevant part of the website at a terminal in the office. The current intention is that access will be provided at Central Library rather than to go to the Town Hall as public facilities for web already exist there and it has long opening hours.

c. Inspection of background papers

Background papers relied upon in the preparation of all executive decisions must also be available for public inspection at the Council offices and on the website, this time for 4 years after the decision is

made. Currently the requirement is for just a list of background papers. This new requirement is for the actual documents to be published on the website and a set available for public inspection. Again this requirement will substantially increase the amount of work needing to be undertaken. In some cases, such as decisions on tenders, there could be several hundred pages of relevant documentation that will need to be reviewed, redacted (where appropriate, indexed and published).

IMPLICATIONS AND RISKS

Financial implications and risks:

There will clearly be a cost to the Council in the amount of extra time that staff will have to devote to preparation of the background documents for publication, but it is not possible to put a figure to that cost. Given the Council's overall financial position and the diverse range of staff involved in the drafting of reports the cost will have to be absorbed by services. Similarly while the changes will create additional work for Committee Administration, the work will have to be absorbed within the overall workload of staff.

Legal implications and risks:

These rules are statutory requirements which the Council has no choice but to comply with. Failure to comply with the statutory requirements could be a ground for challenge of the validity of a decision and would usually amount to maladministration

Human Resources implications and risks:

There are no direct human resource implications

Equalities implications and risks:

There are no direct Equalities implications as this is compliance with government legislation, but the steps taken to publish this documentation needs to provide for persons with limited or no sight and those unable to read English. This is the situation with the formal publication of other information and the same steps to meet the need, e.g. translation services, will be deployed.

BACKGROUND PAPERS

Notes: Analysing the regulations

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GOVERNANCE COMMITTEE

REPORT

11 SEPTEMBER 2012

Subject Heading:	AMENDMENTS TO THE CONSTITUTION
Report Author and contact details:	Ian Burns Acting Assistant Chief Executive, Legal & Democratic Services – 2442
Policy context:	Constitutional amendments
Financial summary:	There are no relevant financial implications

The subject matter of this report deals with the following Council Objectives

Clean, safe and green borough	<input type="checkbox"/>
Excellence in education and learning	<input type="checkbox"/>
Opportunities for all through economic, social and cultural activity	<input type="checkbox"/>
Value and enhance the life of every individual	<input checked="" type="checkbox"/>
High customer satisfaction and a stable council tax	<input checked="" type="checkbox"/>

SUMMARY

While the Monitoring Officer has the power to make amendments to the Constitution in certain limited circumstances other amendments are dealt with under Part 1 Article 4.02 paragraph (a) of the Constitution, which provides that only the Council will exercise the function of adopting and changing the Constitution.

Part 3 Section 1 paragraph 1.2 of the Constitution provides that this Committee will:

- Monitor and review the operation of the Constitution to ensure that the views and principles of the Constitution are given full effect.
- Make recommendations to the Council about amending the Constitution

Recent applications of the Constitution have identified a number of areas where small amendments or additions to various delegated powers would assist the delivery of the Council's work.

RECOMMENDATIONS

The Committee **RECOMMEND** to the Council for approval the amendments as set out in the body of this report.

REPORT DETAIL

3.7.6 Head of Development & Building Control

1. Proposed new delegated powers 3.7.6 (dd)

Section 127 of the Localism Act was enacted on the 6th April and introduces new Sections 225A-K to the Town and Country Planning Act.

These new provisions allow a local authority to serve a "removal notice", where advertisements are being displayed without consent, requiring the person responsible to remove the advertisement within at least 22 days. The local authority can remove those advertisements subject to a removal notice that have not been removed and recover the costs of doing so.

These powers appear to be more straightforward than current powers under the London Local Authorities Act.

It would be beneficial for these to be delegated to the Head of Development and Building Control so that prompt action against unauthorised adverts can be taken.

Reason for proposed delegation

- (i) Serve Removal Notices under Section 225A of the Act;
- (ii) Remove unauthorised advertisements which have not been removed in accordance with a removal notice;
- (iii) Deal with appeals against removal notices under Section 225B of the Act;
- (iv) Issue removal notices on operational land in accordance with Section 225K of the Act.

3.3 Powers of Members of the Corporate Management Team

1. Proposed changes to text of delegated powers 3.3. Finance (d)

To authorise the making of ex-gratia payments to individuals where the Local Government Ombudsman has recommended that such payment be made in local settlement of a complaint.

Reason for change

The Local Government Ombudsman on occasions recommends to the Council the payment of a relatively modest sum to a complainant as a way of settling a matter locally, i.e. without a full Ombudsman investigation. Currently the relevant delegation limits the amount that can be authorised to a figure set by the Head of Finance and Procurement. This is an unnecessary bureaucratic requirement, so it is proposed to delete this restriction.

It should be noted that in the event of a finding of maladministration by the Ombudsman the finding and the compensation will still have to be reported to members as at present.

3.5.6 Head of Children and Young People's Services

1. Amalgamation of two delegated powers 3.5.6 (m) & (q).

To approve payments for children in need, or of their families, and for children and young people in care and leaving care, in accordance with Part III of the Children Act 1989, and to make grants and/or loans to children and their relatives, up to the limit specified from time to time by the Head of Finance & Procurement; otherwise payment must be made in consultation with the Group Director Finance & Commerce.

Reason for change

Currently the Head of Children & Young People's Services has two delegated powers for the provision of financial assistance, once of which is up to a set limit and the other about that limit. There is no logical reason for such an arrangement, which probably relates to a historical sub-division of responsibilities which is no longer relevant. It is therefore proposed to amalgamate the two powers into one.

IMPLICATIONS AND RISKS

*There is a **corporate** requirement to set out the implications and risks of the decision sought, in the following areas*

Financial implications and risks:

There are no specific financial implications

Legal implications and risks:

There are no relevant legal implications

Human Resources Implications and risks:

There are no relevant HR implications

Equalities implications and risks:

There are no relevant equality implications

BACKGROUND PAPERS

There are none