



GOVERNANCE COMMITTEE

9 September 2014

Subject Heading:

**MONITORING OFFICER NO 1
AMENDMENTS TO THE CONSTITUTION**
The Openness of Local Government
Bodies Regulations 2014

Report Author and contact details:

Andrew Beesley
Committee Administration & (Interim)
Member Services Manager
Andrew.beesley@onesource.co.uk

Policy context:

Amendments to the Constitution

Financial summary:

These changes are procedural and have
no specific financial implications

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

Clean, safe and green borough	□
Excellence in education and learning	□
Opportunities for all through economic, social and cultural activity	□
Value and enhance the life of every individual	□
High customer satisfaction and a stable council tax	□

SUMMARY

Part 2 Article 11.02(c) of the Constitution authorises the Monitoring Officer to amend the Constitution to correct errors or to comply with any legal requirement or to reflect organisational changes to the Council's structure.

The Constitution provides that this committee must be notified of any such amendment at the first reasonable opportunity.

The report advises of the implications for the Council following the introduction of regulations relating to the openness of Local Government Bodies and, as well as making relevant changes to the Constitution, also presents a protocol for reporting of meetings for approval which will be included within all Council, Cabinet and Committee agenda.

RECOMMENDATIONS

It is recommended that:

1. The report, including Appendix 1, be noted;
2. The protocol at Appendix 2 be approved.

REPORT DETAIL

1. On the 7 April 2014, the Secretary of State laid the Openness of Local Government Bodies Regulations 2014 (“the Regulations”) before Parliament under section 43 of the Local Audit and Accountability Act 2014. The Regulations came into force on 6 August 2014.
2. The Regulations allow reporting at meetings which are open to the public, be it the Council, Cabinet, committee or subcommittee meetings where the public are not excluded.
3. 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.
4. 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.
5. 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.
6. The Regulations also make provision for the recording of decisions. 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

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specific delegation or under a general authorisation and the effect of the decision is to:

- grant a permission or license;
 - affect the rights of an individual;
 - award a contract or incur expenditure which in either case, materially affects relevant Local Government Bodies financial position.
7. 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, 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.
 8. Written records must be retained and available for inspection for six years with background papers being retained for four years.
 9. The provisions relating to the provision of decisions does not affect confidential or exempt information.
 10. 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.

Implications for the Council

11. In relation to decision records, the Monitoring Officer oversees the process of posting Officer Decisions with reports on the website (if allowed under the access the Procedure Rules). To avoid the website becoming too large and difficult for the public to use, Committee Administration attach the report supporting the decision on the website and include on the database, information taken from a pro-forma "Delegated Decision" form. Any documents which are necessary as background papers should, under the procedure, be provided to Committee Administration.
12. In relation to the requirements in the Regulations to allow reporting, the Council Constitution currently does not permit filming of its meetings without the prior consent of the Mayor. The constitutional provision has to be amended so that persons attending meetings with the intention of reporting on them are afforded reasonable facilities for those reporting. The changes to the constitutional provision are attached as Appendix 1 to this report.
13. There is no definition provided as to what constitutes "reasonable facilities". It is arguably "reasonable" to facilitate reporting allowed by the Regulations without committing significant public funds and without disrupting the business of the meeting. Health and Safety considerations should also be taken into account. With these factors in mind it is proposed that the arrangements should be as follows:-
 - That persons should remain seated;

- That they be reminded that they cannot carry out oral reporting during the meeting or disrupt the meeting in any way
14. The Council webcasts meetings of Council and Cabinet (but not any other committees). The webcasting of such meetings accords with the Regulations and enables a person who is not present to see or hear proceedings at a meeting as it takes place or later if required.

IMPLICATIONS AND RISKS

Financial implications and risks:

None arising from this report

Legal implications and risks:

The legal implications are covered in the body in the report. The Council has a statutory responsibility to comply with the Regulations and the recommendations within the report seek to address them.

Human Resources implications and risks:

There will be a minor impact to resources as staff will be required to undertake some additional administrative duties to ensure that the Council is compliant with the new Regulations; this will however be met by existing resources.

Equalities implications and risks:

None arising from this report

BACKGROUND PAPERS

The Openness of Local Government Bodies Regulations 2014
'Open and Accountable Local Government': a guide for the press and public on attending and reporting meetings of local government – June 2014, Department for Communities and Local Government