

Decision Maker: Council

Date: 21st July 2014

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **MINOR AMENDMENTS TO THE CONSTITUTION - THE OPENNESS OF LOCAL GOVERNMENT BODIES REGULATIONS 2014**

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Chief Officer: Mark Bowen, Director of Corporate Services

Ward: All

1. Reason for report

- 1.1 On 2nd July 2014 the Government published a draft Statutory Instrument "The Openness of Local Government Bodies Regulations 2014." These regulations are expected to be made on 30th July and to come into effect on the day after – 31st July 2014. The regulations have two main effects – (i) requiring Councils to make available reasonable facilities for members of the public to report on both executive and non-executive meetings using any communication method, including the internet; and (ii) requiring significant officer decisions, both executive and non-executive, to be recorded and published. This report recommends minor changes to the Council's constitution to ensure that it accords with the new requirements.

2. **RECOMMENDATIONS**

- (1) That the amended Standing Order 6 relating to the recording of meetings, as set out in paragraph 3.3, is approved.**
- (2) That the Director of Corporate Services be authorised to make arrangements for the requirements regarding officer decisions to be implemented when they come into effect, pending further consideration by the Constitution Improvement Working Group.**

Corporate Policy

1. Policy Status: New policy. Minor changes are required to remain in step with new legislation.
 2. BBB Priority: Excellent Council.
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £373,410
 5. Source of funding: 2014/15 Revenue Budget
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Staff

1. Number of staff (current and additional): 10 (8.75)
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory requirement. The Openness of Local Government Bodies Regulations 2014
 2. Call-in: Call-in is not applicable. Full Council decisions are not subject to call-in
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? N/A.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 The Government published the draft Openness of Local Government Bodies Regulations 2014 on 2nd July 2014. The final regulations will come into effect on the day after they are made; the Under Secretary of State Brandon Lewis M.P. has given an undertaking that they will not be made for 28 days after publication, meaning that they are likely to take effect on 31st July 2014. The Council therefore needs to take action immediately to ensure that its Constitution is amended in time to accord with the new requirements.

Recording of Meetings

- 3.2 Much of the new regulations merely repeat and reinforce existing arrangements requiring that meetings are held in public (unless there are specific reasons why particular issues need to be dealt with in private) and that meeting documents are published. However, they do increase the rights of the public to film, audio record, take photographs and use social media and the internet to report on any meetings that are open to the public and require councils to make reasonable facilities available to facilitate such reporting. The rules do not permit oral commentary as this would be disruptive, and do still allow for people undertaking these activities to be removed if they act in a disruptive manner. There is no legal requirement for meetings to be webcast.
- 3.3 In November 2012 the Council amended its standing orders to facilitate audio or visual recording of its meetings, subject to prior notification and to the Chairman's absolute discretion to order any recording to be stopped, regardless of whether it was causing disruption or not –

“6. Audio or Visual Recording

The Chairman may permit recording of a meeting by mobile phone or other devices. Anyone wishing to record a meeting must agree not to use any material to the detriment of the Council or any particular member or officer and sign an undertaking to this effect. The Chairman may at his or her absolute discretion order the recording to be stopped at any point whether or not it is causing disruption.”

(Constitution, Appendix 2: Standing Orders)

This provision has actually only been used on one or two occasions. To accord with the new regulations, it is proposed that this standing order is amended to read –

“6. Audio and Visual Recordings

Members of the public may film, audio-record, take photographs and use social media to report on meetings as they are taking place and the Council will make reasonable provision for this to take place. Members of the public are advised to contact the Council in advance so that necessary arrangements can be made. Any person whose recording activities are disruptive to the meeting may be required by the chairman to stop recording and may be removed from the meeting.”

Publishing Officer Decisions

- 3.4 The new regulations also require that certain decisions made by officers under both executive and non-executive delegated powers are recorded and published (unless they contain exempt or confidential information) in much the same way that Executive Portfolio Holder decisions are currently published. Draft plain English guidance accompanying the draft regulations gives the following examples -

“Examples of decisions that should be recorded could include:

- Decisions about awarding contracts above specified individual/total values (the values will vary according to the relevant council or local government body)
- A decision to carry out major road works
- Decisions to issue tree preservation orders
- Building control decisions and notices
- Decisions to give listed building consents

Decisions that do not need to be recorded might include the following examples:

- Routine administrative and organisational decisions
- Decisions on operational matters such as changes to services and charges
- Decisions to give business relief to individual traders
- Decisions to review the benefit claims of an individual applicant “

3.5 The exact scope of the new regulations is therefore quite hard to determine, but no changes to the Constitution are required for the Council to implement the new requirements. However, Members would probably consider that it would be appropriate for the Constitution to be extended to explicitly cover this area of decision making. Therefore, it is recommended that the Director of Corporate Services is authorised to put in place arrangements to comply with the new regulations when they take effect, probably at the end of this month, but that the Constitution Improvement Working Group be asked to consider the matter and come forward with recommendations as necessary to place the new requirements in the Constitution.

4. FINANCIAL IMPLICATIONS

4.1 The financial impact of the requirement to record and publish officer decisions has not yet been assessed, and will depend on the scope of decisions considered to be captured by the new regulations. The modern.gov system can be used to record and publish such decisions so no major new systems are required.

5. LEGAL IMPLICATIONS

5.1 The Council will, at short notice, have to comply with the final Openness of Local Government Bodies Regulations 2014 when they are made under Section 40 of the Local audit and Accountability Act 2014. The new regulations amend a number of previous statutes, including the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972, the Local Government Act 2000, the Localism Act 2011 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Non-Applicable Sections:	Personnel/Policy
Background Documents: (Access via Contact Officer)	Draft Statutory Instrument - The Openness of Local Government Bodies Regulations 2014 “Open and accountable local government” – DCLG (June 2014)