

CONSTITUTION WORKING PARTY		
<b>Report Title</b>	<b>Constitutional Changes – Electronic Services</b>	
<b>Key Decision</b>		<b>Item No. 3</b>
<b>Ward</b>	<b>All</b>	
<b>Contributors</b>	<b>Head of Law</b>	
<b>Class</b>	<b>Part 1</b>	<b>Date: 10 February 2015</b>

## 1. Summary

This report brings to the attention of the Constitution Working party (CWP) changes to the law that allow electronic services of papers for Council meetings.

## 2. Purpose

The purpose of this report is to ensure that the CWP can make recommendations to full Council to amend the Constitution to reflect changes in the law, so that the Constitution remains fit for purpose.

## 3. Recommendation

- 3.1 That the Constitution be amended as set out in paragraph 4.7 of this report.

## 4. Background

Electronic service

- 4.1 The Local Government Act 1972 (as amended) makes detailed provisions about notice of Council meetings and access to reports about matters that will be discussed at the meetings of Council and its decision making bodies.
- 4.2 As part of its modernising agenda, on 7<sup>th</sup> January 2015 the Local Government (Electronic Communications) (England) Order SI 2015/5 was laid before Parliament. It came into force on 30<sup>th</sup> January this year.
- 4.3 It provides that at least five clear days before a meeting a notice of the time and place of the intended meeting must be published at the Council's offices and if the meeting is called by members it must be signed by those members. This re-iterates existing law.
- 4.4 However the Order also amends the law so that in future the summons for meetings may be served on members either

- (i) by post to, or leaving at, their usual place of residence, or a different address specified by the member; or
  - (ii) by sending in electronic form to a particular electronic address where the member has consented to electronic transmission to that address.
- 4.5 The upshot is that in future all papers for Council meetings may be served on members electronically should they so consent.
- 4.6 The summons must be “authenticated” , namely signed or otherwise authenticated in such manner as the proper officer thinks fit.
- 4.7 To give effect to this change in the law, officers recommend that Para C5 of the Constitution be amended to read as follows:-

***“5 Notice of place of residence or alternative***

*5.1 At least 5 clear days before a Council meeting, the proper officer will publish at the Council’s offices and on the Council’s website, notice of the time and place of the intended meeting and, where the meeting is called by members of the Council, the notice shall be signed by those members and shall specify the business proposed to be transacted at the meeting.*

*5.2 The proper officer will send to every member of the Council a summons to attend the meeting , specifying the business proposed to be transacted at the meeting and authenticated by the proper officer. The summons may be served by:-*

*(a) sending it to, or leaving it at the member’s usual place of residence; or*

*(b) where the member has specified an address other than their usual place of residence, by sending it to, or leaving it at, that other address; or*

*(c) where the member has given consent for the summons to be transmitted in electronic form to a particular electronic address (and consent has not been withdrawn) sending it in electronic form to that address.*

*5.3 In paragraph 5.2 above “authenticated” means signed or otherwise authenticated in such manner as the proper officer thinks fit”*

4.8 It is proposed that authentication should be by actual or electronic signature of the Chief Executive.

4.9 There are no changes to the public's access to information.

## **5. Legal implications**

5.1 The legal implications are set out in the body of the report. The Council is required to maintain its Constitution which contains the rules by which Council business is conducted. A copy will be available on the Council's website. The CWP has been established to advise the Council on any proposed changes, and it is for full Council to agree any amendment to the existing constitution.

5.2 The Equality Act 2010 (the Act) introduced a new public sector equality duty (the equality duty or the duty). It covers the following nine protected characteristics: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

5.3 In summary, the Council must, in the exercise of its functions, have due regard to the need to:

- eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- advance equality of opportunity between people who share a protected characteristic and those who do not.
- foster good relations between people who share a protected characteristic and those who do not.

5.4 The duty continues to be a "have regard duty", and the weight to be attached to it is a matter for the Mayor, bearing in mind the issues of relevance and proportionality. It is not an absolute requirement to eliminate unlawful discrimination, advance equality of opportunity or foster good relations.

5.5 The Equality and Human Rights Commission has recently issued Technical Guidance on the Public Sector Equality Duty and statutory guidance entitled "Equality Act 2010 Services, Public Functions & Associations Statutory Code of Practice". The Council must have regard to the statutory code in so far as it relates to the duty and attention is drawn to Chapter 11 which deals particularly with the equality duty. The Technical Guidance also covers what public authorities should do to meet the duty. This includes steps that are legally required, as well as recommended actions. The guidance does not have statutory force but nonetheless regard should be had to it, as failure to do so without compelling reason would be of evidential value. The statutory code and the technical guidance can be found at:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice-and-technical-guidance/>

5.6 The Equality and Human Rights Commission (EHRC) has previously issued five guides for public authorities in England giving advice on the equality duty:

- The essential guide to the public sector equality duty
- Meeting the equality duty in policy and decision-making
- Engagement and the equality duty
- Equality objectives and the equality duty
- Equality information and the equality duty

5.7 The essential guide provides an overview of the equality duty requirements including the general equality duty, the specific duties and who they apply to. It covers what public authorities should do to meet the duty including steps that are legally required, as well as recommended actions. The other four documents provide more detailed guidance on key areas and advice on good practice. Further information and resources are available at: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

## **6. Financial Implications**

There are no financial implications arising directly from this report, though if as a result there is a reduction in the need to produce paper copies of reports and agendas, this may reduce printing costs. The extent will depend on the level of take up by members of the alternative means of service.

## **7. Environmental Implications**

There are no specific implications

## **8. Equalities implications**

There are no specific implications arising.

For further details please contact Kath Nicholson: 020 8314 7648