

Southend-on-Sea Borough Council

Agenda
Item No.

25

Report of Corporate Director for Corporate Services
to
Council
on
17th July 2014

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Changes to the Constitution

Executive Councillor: Councillor Woodley

Part 1 Public Agenda Item

1. Purpose of Report

- 1.1 To make changes to the Constitution and procedures to comply with the requirements of "The Openness of Local Government Bodies Regulations 2014"
- 1.2 To consolidate a number of Working Parties and make a consequential change to the terms of reference of the General Purposes Committee.
- 1.3 To make a minor amendment to the terms of reference of Appeals Committees A and B.

2. Recommendations

- 2.1. **That Council Procedure Rule 16 in Part 4a of the Constitution be amended to include the following additional provision to comply with the requirements of The Openness of Local Government Bodies Regulations 2014 ("the 2014 Regulations");**

"16.3 In accordance with the provisions of the Openness of Local Government Bodies Regulations 2014, any person attending a Council meeting which is open to the public, may report on proceedings and publish or disseminate the results. "Reporting" includes filming and providing comments on proceedings and the 2014 Regulations allow for a wide range of methods including social media."

- 2.2 **That decisions made by officers of the Council under delegated powers which fall within either Regulation 7.2 of the 2014 Regulations or Regulation 13 of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 (termed "Prescribed Decisions") shall;**

- Be recorded in writing in a format that meets the requirements of the 2014 and 2012 Regulations (with background papers attached) ; and
- Be held on a central register (utilising the AKS Committee system if possible) and made available for public inspection at the Council's offices and on the Council's website unless they contain exempt or confidential information.

A "Prescribed Decision" means;

- (a) An executive decision taken by an officer under a specific delegation from a meeting of Cabinet; or
- (b) An executive decision taken by an officer under Standing Order 46 (this will necessitate adding specific sections entitled "Reason for Decision" and "Other Options" in SO 46 letters); or
- (c) An executive decision taken by an officer pursuant to the Delegation Scheme in Part 3 Schedule 3 to the Constitution, where a key decision is involved (as defined in Article 13.03 in Part 2 of the Constitution); or
- (d) A non-executive decision taken by an officer to grant a permission or licence; or which affects the rights of an individual; or to award a contract or incur expenditure which in either case materially affects the Council's finances.

2.3 That Cabinet Working Parties be consolidated and a consequential change made to the terms of reference of the General Purposes Committee, as set out in Appendix 1. Arising from this, nominations be made to the Cultural, Tourism and Events Working Party and the People Management, Accommodation, and Digital Strategy Working Party in the proportion 3 Conservative, 2 Independent, 1 Labour, 1 Liberal Democrat and 1 UKIP Member.

2.4 That a minor amendment be made to the terms of reference of Appeals Committees A and B as set out in Appendix 1.

3. Background

3.1 The Government has published the Openness of Local Government Bodies Regulations 2014 ("the 2014 Regulations") which will come into force at the end of July. The 2014 Regulations will allow any person attending a public local government meeting to take photographs, film and audio record the proceedings and to report on the meetings.

The 2014 Regulations also require the Council to record and publish certain prescribed decisions taken by officers and the background papers. These obligations are in addition to obligations contained in the Local Authorities (Executive Arrangements) (Meetings and Access to Information) Regulations 2012 ("the 2012 Regulations").

3.2 Filming and Recording of meetings

In July 2013, the Local Government Secretary published a guide encouraging local authorities to allow the public to film and report on their meetings. At that time the Council had already introduced the webcasting of Council meetings. Furthermore the Council's Standing Orders did not prohibit the filming or recording of proceedings or the use of social media or tweeting.

3.3 The 2014 Regulations will require local authorities to specifically permit any person to film or record any meeting of Council, a Committee, Sub-Committee or the Cabinet, save where the public have been excluded for the consideration of exempt or confidential business. The new rules will allow for the reporting of meetings via social media of any kind. Therefore bloggers, tweeters, and for example, Facebook, YouTube users and individuals with their own website, should be able to report meetings. The Council must also provide reasonable facilities to facilitate reporting.

3.4 A suggested addition to Council Procedure Rule 16 is proposed to meet the requirements of the 2014 Regulations. Clearly in exercising such rights a person must not disrupt the proceedings and the draft Guidance issued by the Government which accompanies the 2014 Regulations provides examples of what is disruptive. This includes moving outside the area designated for the public, making excessive noise, intrusive lighting/flash or asking a councillor to repeat a statement. The Guidance also implies that members of the public should not be filmed if they raise an objection to this activity.

3.5 Recording of Officer Decisions

On 18th April 2013, Members considered a report proposing changes to the Constitution to reflect the requirements of the 2012 Regulations. The 2012 Regulations regulated processes and procedures, including the recording of some officer decisions and amendments were duly made to the Constitution.

3.6 The 2014 Regulations now impose further requirements and the recommendations in this report address these.

In particular certain significant decisions made by Council Officers (which we have termed "Prescribed Decisions") must be recorded in a specific way and made available for public inspection (together with background papers), unless the decision contains exempt or confidential information.

While some Officer decisions are already made available e.g. decisions made under SO 46, some changes to the Council's procedures are now required.

3.7 Working Parties

A review of Cabinet Working Parties has been undertaken with the objective of achieving some consolidation. Such consolidation is designed to raise the profile of Working Parties and extend their terms of reference (so that ad hoc matters can be taken on board as they arise).

This task has been carried out and the revised Working Parties have been aligned to one of the seven portfolio areas – see details at **Appendix 1**.

Those Working Parties which are considered best retained in their current form are also listed for completeness.

3.8 Committees

The review of the Working Parties has resulted in a consequential change to the terms of reference of the General Purposes Committee. This change is also identified in **Appendix 1**.

- 3.9 A minor amendment is proposed to the terms of reference of Appeals Committees A and B by removing the reference to “Housing Allocations Policy” as the Committees no longer deal with this area of work.

4. Corporate Implications

4.1 Contribution to Council’s Vision & Corporate Priorities

Becoming an excellent and high performing organisation

4.2 Financial Implications

None

4.3 Legal Implications

Amending the Constitution is a function reserved to the Council

4.4 People Implications

None

4.5 Property Implications

None

4.6 Consultation

Internal consultation

4.7 Equalities and Diversity Implications

None

4.8 Risk Assessment

N/A

4.9 Value for Money

N/A

4.10 Community Safety Implications

None

4.11 Environmental Impact

None

5. Background Papers

- The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014.
- The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

6. Appendices

Appendix 1 – Revised Cabinet Working Parties/Amendments to Committee Terms of Reference.