

# TONBRIDGE & MALLING BOROUGH COUNCIL

## COUNCIL

4 November 2014

### Report of the Monitoring Officer

#### Part 1- Public

#### Matters For Decision

##### 1 CHANGE TO THE CONSTITUTION

**This report deals with a change to the Constitution to reflect the Openness of Local Government Bodies Regulations 2014.**

##### 1.1 Background

- 1.1.1 The Openness of Local Government Bodies Regulations 2014 came into force on 6 August 2014 and provide for members of the public to report and commentate on public meetings of local government bodies in England. In this context “reporting” means filming, photographing or making an audio recording of proceedings or using other means for enabling people not present to see or hear proceedings at a meeting as it takes place or later. This allows for reporting via social media such as tweeting and blogging.
- 1.1.2 A person attending a public meeting of a council for the purpose of reporting on the meeting must, so far as practicable, be afforded reasonable facilities for doing so. However a council is not required to permit oral reporting or commentary during a meeting as this would be disruptive to the good order of the meeting.
- 1.1.3 The new regulations also provide that where the public are excluded from a meeting for the purpose of considering matters containing confidential or exempt information, the council may prevent any person from reporting on the meeting using methods which can be used without that person’s presence at the meeting and which enable people not present at the meeting to see or hear the proceedings as they take place or later.
- 1.1.4 A further provision of the new regulations is to require a written record of certain decisions taken by officers under delegated powers, together with background papers, to be made available for public inspection.
- 1.1.5 The Department for Communities and Local Government has produced a guide for the press and public on attending and reporting meetings of local government, a copy of which is attached as an **Annex**.

## **1.2 Amendment of the Constitution**

1.2.1 In the light of the new regulations it will be necessary to amend Council and Committee Procedure Rules 10.2 and 10.3 which read as follows:

- *10.2 - Unless previously authorised by the Council, or as provided for in rule 10.3, no member, officer or member of the press or public shall be permitted to take photographs of any proceedings of the Council or its committees or sub-committees, nor shall they be permitted to make audio or video recordings of proceedings or make live commentaries on them.*
- *10.3 - When the Council is transacting business of a ceremonial nature, the Council's official photographer may, with the consent of the Mayor, take photographs of those proceedings.*

1.2.2 It is suggested that for clarity the restrictions permitted under the regulations in relation to live oral commentary and reporting of proceedings taken in private should be included in the procedure rules as follows:

- Rule 10.2 - No oral reporting or commentary during a meeting shall be permitted if the person reporting or providing the commentary is present at the meeting.
- Rule 10.3 - If the public are excluded from a meeting in circumstances where it is likely that confidential or exempt information would be disclosed, no person shall report on the meeting by methods which can be used without that person's presence at the meeting, and which enable persons not present to see or hear the proceedings at the meeting as it takes place or later.

## **1.3 Legal Implications**

1.3.1 The Openness of Local Government Bodies Regulations 2014 amend the Public Bodies (Admission to Meetings) Act 1960, the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 to allow entry to meetings of specified local government bodies for the purposes of reporting and to allow the results of the reporting to be published or disseminated. "Reporting" includes filming and providing commentary on proceedings and allows for the use of a wide range of methods including social media. The Regulations also provide for the making of a written record of certain decisions taken by officers and the publication of that record.

## **1.4 Financial and Value for Money Considerations**

1.4.1 None.

## 1.5 Risk Assessment

- 1.5.1 If the changes are not made to the Constitution, the current practice will be contrary to the new regulations.

## 1.6 Equality Impact Assessment

- 1.6.1 See 'Screening for equality impacts' table at end of report

## 1.7 Recommendations

- 1.7.1 RECOMMENDED: That the Monitoring Officer be authorised to amend the Constitution to give effect to the changes set out at paragraph 1.2.2.

Background papers:

contact: Claire Fox

Nil

Adrian Stanfield  
Monitoring Officer

Screening for equality impacts:		
Question	Answer	Explanation of impacts
a. Does the decision being made or recommended through this paper have potential to cause adverse impact or discriminate against different groups in the community?	No	The decision will not adversely impact any group.
b. Does the decision being made or recommended through this paper make a positive contribution to promoting equality?	N/A	
c. What steps are you taking to mitigate, reduce, avoid or minimise the impacts identified above?		

*In submitting this report, the Chief Officer doing so is confirming that they have given due regard to the equality impacts of the decision being considered, as noted in the table above.*