

**Report to Overview and Scrutiny
Committee
Date of meeting: 16 October 2012**

**Subject: Electronic Delivery of Agenda and Other
Information**

**Chairman of Panel: Councillor M Sartin
Officer contact for further information: Simon Hill (Ext 4249)**

Committee Secretary: Mark Jenkins (Ext 4607)



Recommendations/Decisions Required:

- (1) That Counsel's advice that the Council's current distribution procedures are lawful and compliant be noted;**
- (2) That it be noted that wholly electronic notification and service would not be lawful and that this applied to Council and committees and sub-committees;**
- (3) That Counsel's advice that a Council member may not lawfully opt out of hard copy deliveries be noted;**
- (4) That the addition of a formal summons to notices of meetings as implemented by officers be noted;**
- (5) That a joint approach with other Councils to the Secretary of State for Communities and Local Government seeking permissive statutory provisions to allow members to receive such electronic agenda and papers lawfully be pursued;**
- (6) That the proposal to implement a summons based system relying on a move to members receiving supporting papers electronically be not implemented at this time pending this approach;**
- (7) That the existing Members connectivity agreement be amended by the removal of term 1(iv) from that agreement pending further review after (5) above;**
- (8) That further research be undertaken with members of the Council on their social media use to support a bid for funding to continue the Mod. Gov App on a permanent basis;**
- (9) That the Cabinet be requested to approve further DDF bids as follows:**
 - (a) A sum of £4,000 for 2013-14, to fund the installation of electrical outlet sockets in the Council Chamber; and**
 - (b) A sum of £1,000 for 2013-14 to continue funding the Mod Gov App for a further year to facilitate (8) above;**
- (10) That the Portfolio Holder for Support Services be notified of current accounting procedures in respect of recovery of Reprographic Section costs by**

means of re-charges to internal service users and asked to review and report to the Cabinet and the Audit and Governance Committee.

Report:

Background to the requirements for change

1. The Council introduced its Committee Management System (CoMS) in April 2005. Prior to that time agendas were manually compiled and circulated and not made available on our website. The system is provided by a company called Modern Mindset based in Hampshire. It has been recently acquired by the Council's electoral software provider, Xpress Solutions.
2. In November 2011 the Overview and Scrutiny Committee asked us to: examine how agendas were sent to members, how new technology might be used to distribute papers, seek Counsel's Opinion on whether using new distribution technology was lawful given current legislative constraints; and for a review of officer agenda distribution arrangements to take place.

Progress since 2005

3. The Council's CoMS system has been continually developed over time. It now contains details of nearly 21 years of agenda, reports and minutes. Latterly it has been used to provide live reporting of election results on the website and contains election results for the last ten years, linked to user profiles.
4. During the same period, members have received training on the use of the Council's Virtual Private Network (VPN) system giving them access to all meeting papers supporting the democratic process. From a position where not many members had email and computers at home, virtually no members remain digitally disconnected. The emphasis is now on connectivity on the move and receiving documents electronically.
5. This year has seen two major developments:
 - (i) its migration to the Council's new website; and
 - (ii) the development of 'App' based end user software for Apple and android devices. This App was demonstrated to members at the meeting.

Legislative position

6. The Local Government Act 1972 (LGA), Schedule 12 Paragraph 4 provides that "a summons to attend the meeting, specifying the business proposed to be transacted thereat shall ... be left at or sent by post to the usual place of residence of every member of the Council." In the case of Committees, this would apply to members of that body. This must be carried out five clear days before the relevant meeting (Section 100B, LGA). This means a physical distribution. A paper copy is also required to be made available for the public at the offices, including material background papers (Section 100F, LGA)

Counsel's opinion

7. At the request of members a legal opinion has been sought on:
 - (a) whether the Council's current arrangements comply with the requirements of the Local Government Act 1972 ("LGA") and other relevant legislation;
 - (b) whether moving to either of the following methods of delivery would comply with the requirements of the LGA (and other relevant legislation):

- (i) wholly electronic notification and delivery methods; or
- (ii) part electronic notification and delivery (by way of a summary front sheet agenda and not full reports);
- (c) whether a Council member opting out of the physical delivery of agendas is able to do so legally;
- (d) whether a Council member can insist upon physical delivery.

8. The full opinion is attached to this report as Appendix A. Discussed below are the issues that have arisen from the opinion.

Restrictions on paperless operation

8. The opinion has confirmed:

(a) The Council's current procedures are lawful and compliant. In fact, in some ways, exceeds that required.

(b) Wholly electronic notification and service would not be lawful – this applies to Council and committees and subcommittees.

(c) A Council member may not lawfully opt out of hard copy deliveries.

(d) A Council member may not rely on legislation to insist upon physical delivery of any document other than the summons to a meeting i.e. we could introduce a system whereby a member only received the formal summons by post but accessed all other documents electronically.

Summons to Council meetings

9. Counsel suggested that the wording of Committee and Subcommittee agenda should be more in line with that used for Council. This suggestion has already been implemented by officers as good practice. See paragraph 31 of the opinion for more information.

Potential for change

10. The LGA in 1972 could not have foreseen the radical advancements in electronic documents and their transmission. Forty years later the law has not yet been revisited to reflect effective electronic methods of service. Counsel has indicated that this matter has not been tested in case law.

11. Officers are of the view that the position of an individual member opting for physical delivery of papers should remain, but there does seem to be scope to introduce provisions to allow members to opt into electronic delivery if they so wish (a permissive provision). This would need new statutory provision.

12. From officer contacts with other local authorities it is apparent that this is an issue facing a number wishing to roll out effective replacements to paper distribution. Officers from Epping Forest have suggested nationally that, if members were to consider it a good idea, an approach could be made to the Government Minister to seek such a change to the law in their next Local Government Bill. Initial indications are that this approach would be supported by at least a further seven large authorities. This forms part of our recommendations.

13. It has also been suggested by Counsel that the Authority could move to a position of

only sending a summons (having sufficient detail of the business to be transacted) to members. However, bearing in mind the limited nature of the print savings that could be achieved, against the likely democratic deficit; we consider this step too far at this stage. It is suggested that this step be held for future review once the legislative position is clarified.

Funding bids for consideration for 2013 - 14

14. The lack of sufficient electrical outlets in the Council has been highlighted as a barrier to greater use of IT during meetings. At present there are no electrical outlets on any of the members' benches. Investigations carried out by Facilities Management have shown that work is possible to provide outlets. Members considered that this work should be undertaken, and are recommending to Cabinet that this work be included in their draft budget as an additional DDF sum for 2013-14.

15. We also received a demonstration of the new Mod Gov App which enables users to receive papers that can be electronically annotated directly to a tablet device. We noted that to continue this would require a further sum for 2013/14 to extend the current trial period. During this extension we have asked for a further assessment of member use of technology so that we can look at this again at a later meeting. We are recommending a bid in the sum of £1,000 for this purpose.

Printed Distribution Review

16. Officers have continued reducing the printed output this year with further work being undertaken to:

- (i) Discontinue the printing of large documents, relying on electronic publishing via the CoMS system;
- (ii) Reviewing the internal printed distribution to officers and reducing these further where it has been possible;
- (iii) Work with Parish Council's to seek a greater degree of electronic publication of agenda rather than sending them via the weekly dispatch; and
- (iv) Revision to the print distribution lists to attempt 'smarter' printing run totals across the committees to avoid wastage.

17. We are suggesting that our Member Connectivity Agreement be amended to give Councillors greater options to receive hard copy agenda for two major Council committees, those being Cabinet and Overview and Scrutiny. We have asked also that the 'opt-in' sheet be circulated again in the members bulletin.

Printing Costs

18. All Council agenda printing is carried out by our in-house Print Unit. By April 2005 expenditure on agenda printing had reached £79,000 per annum.

19. Last year (2011-12) Month 12 printing expenditure was £33,700 on a budget of £49,900, some £16,000 under budget. This reduction was due to a number of factors,

- (a) new bulk printing machines acquired by our Print Section mean much less printing costs,
- (b) the general reductions in printed copy circulation and shorter (on the whole) agendas;
and

(c) lastly the move to electronic distribution methods offered by the technology.

20. This budget, however, is a mix of fixed and variable costs. The Print Unit overall ended the year with a cost centre deficit (or an element of under recovery) and therefore these were reallocated from the print unit back to the services based on usage of the service. This charging back meant that, overall, print spending for Democratic Services was approximately £2,000 overspent last year.

21. We have therefore asked that the Portfolio Holder for Support Services be notified of current accounting procedures in respect of recovery of Reprographic Section costs by means of re-charges to internal service users and be asked to review and report to the Cabinet and the Audit and Governance Committee.

Conclusion

22. The Counsel's Opinion has given the current distribution methods a clean bill of health. Scope for change is limited at present by the law. The Council could seek to extend its use of IT to members, but given the internal budgeting of the Council, only limited variable cost savings could be effectively achieved. However, the driver for change could be better services, not only for members, but to the public as well. Proposed infrastructure improvements will require some financial investment.

Resource implications:

Budget provision:

Budget provision exists for the continuation of the Committee Management System. This is an IT Service budget.

At the meeting members noted that the Government had given the Council a sum of £6,000 to fund the transition to a new EPetitions system which remains unspent. This sum remains in the Council's DDF fund.

Personnel: All developments have been made from existing staff provision
Land: Nil

Community Plan/BVPP reference: Nil
Relevant statutory powers: LGA 1972 as detailed above

Background papers: Counsel opinion dated 29 March 2012

Environmental/Human Rights Act/Crime and Disorder Act Implications: The greater use of paper would represent an environmental impact

Key Decision reference: (if required) – Not a key decision