

BROMSGROVE DISTRICT COUNCIL

CABINET

2ND SEPTEMBER 2009

MODERN.GOV – THE WAY FORWARD AND ACCESS TO INFORMATION

Responsible Portfolio Holder	Councillor G. N. Denaro
Responsible Head of Service	Head of Legal, Equalities and Democratic Services
Non-Key Decision	

1. SUMMARY

- 1.1 The Council has adopted an electronic committee administration system (Modern.gov) which is used for the production, collation and distribution of agenda, reports and minutes of meetings of the Council and its Committees.
- 1.2 For some time a small group of Members have been involved in a paperless project pilot, whereby they access Council and Committee documents by electronic means only, at home and during meetings at the Council House.
- 1.3 This report sets out proposals to reduce the volume of Committee papers circulated to Members with a view to achieving increased use of electronic access.
- 1.4 The report also sets out proposed new arrangements for access to Council and Committee documents containing confidential or exempt information.

2. RECOMMENDATION

- 2.1 That the Cabinet recommend the Council to approve the following:
 - (a) that, with effect from 1st October 2009, paper copies of agendas, reports and minutes be provided only for the Members of each Committee, the full Council meeting, potential public attendees at Council and Committee meetings, and for officer attendees on request, subject to the exclusion of those Members who opt to rely purely on electronic access;
 - (b) that any Members who wish to rely purely on electronic access to Committee documents may do so on a voluntary basis by notifying the Chief Executive;
 - (c) that, with effect from 1st October 2009, the electronic transmission of general Council correspondence including letters, decision notices, updates, the Forward Plan, notices of events and training sessions,

etc be confirmed as the standard method of delivery to Members. Any Member who wishes to continue to receive paper copies be required to submit a formal request to the Chief Executive before this date requesting exemption from electronic delivery;

- (d) that, with effect from January 2010, the Council cease the twice-weekly post to those Members who voluntarily agree to collect post from their pigeonholes.

2.2 That the Cabinet recommend to the Council that the access to information procedures be amended with effect from 1st October 2009 as follows:

- (a) that access to reports and background information containing exempt information be restricted to Members of the Cabinet or relevant Committee and appropriate officers only;
- (b) that attendance by a Member at a meeting of the Cabinet or Committee of which he/she is not a member following a resolution to exclude the public and press if the business to be transacted contains exempt information be permitted and that the Member be entitled to receive a copy of the exempt report and retain it;
- (c) that any requests from other Members for access in accordance with Members' statutory, constitutional and common law rights be considered on a case by case basis by the Council's Monitoring Officer in consultation with the Chairman of the relevant Committee;
- (d) that in the event the Cabinet is required to make recommendations to the full Council on reports containing confidential or exempt information, the full report be included as part of the private agenda pack for the relevant meeting of the Council;
- (e) that the Monitoring Officer be designated in the Council's scheme of delegation as the Proper Officer for the purposes of s100 of the Local Government Act 1972 and the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000.

2.3 That the Cabinet recommend the Council to authorise the Monitoring Officer to make any necessary alterations to the Council's Constitution arising from the above.

3. BACKGROUND

Modern.Gov/Paperless Project

3.1 The Council has adopted an electronic committee administration system (Modern.gov) which is used for the production, collation and distribution of agenda, reports and minutes of meetings of the Council and its Committees.

3.2 The Modern.gov system provides email alerts with links to Council and Committee documents as soon as they become available and are published on the website. Email alerts for each formal meeting are currently provided to all Members, relevant officers, the press and some other bodies. This has

enabled the number of paper copies to be reduced thus already achieving some savings in relation to paper, photocopying and postage.

- 3.3 At present paper copies of Committee documents are supplied to Members for every Committee on which they serve. In addition, all Members routinely receive the agenda book for meetings of the full Council, the Cabinet and Planning Committee. Members can also request to receive paper copies of other Committees on which they do not serve. Cabinet Members also receive copies of the agenda for the Performance Management Board. A paper copy of each Committee agenda is also made available in the Members' Room at the Council House.
- 3.4 For some months a small group of Members (Councillors Booth, Denaro, Hollingworth, Jones, Taylor and Webb) have been involved in a paperless project pilot, whereby they access Council and Committee documents by electronic means only, at home and during meetings at the Council House.
- 3.5 During the period of the pilot there have been a number of practical developments including the provision of long life batteries for the relevant Members' laptops and additional software which enables the Members to make notes on Committee documents which are produced by the Modern.gov system in Adobe PDF format.
- 3.6 Consideration now needs to be given to the way forward.

'Big Bang' Option

- 3.7 It has been suggested that paper copies cease to be provided to Members and that Committee documents be made available by electronic means only. This would require Members to use their laptops at all Council and Committee meetings.
- 3.8 Officers consider that such a 'big bang' approach would be impractical as the level of ICT input and support to Members and Committee meetings would be unmanageable and would significantly compromise the level of ongoing ICT support which needs to be provided to the organisation as a whole. Inadequate ICT support would present a clear risk of disruption to the decision-making process.
- 3.9 The ICT support required would include doing a health check of every Member's laptop, including any resultant rebuilding to meet requirements or the issue of a new laptop. There would also be significant training and development issues given the varying levels of ICT skills and competencies amongst Members. One-to-one training would be the desired approach so as to enable training to be tailored to individual needs. An ICT presence would be required at every Council and Committee meeting to deal with any technical issues which arose.

3.10 Furthermore, the Council's Committee structure includes a number of regulatory and quasi-judicial Committees where it is particularly important for Members to focus on the matters under consideration without being distracted or being perceived as being distracted by their laptops.

Proposed Way Forward

3.11 In view of the impracticality of the 'big bang' approach as referred to above, it is proposed that a more manageable approach be pursued to achieve a reduction in the number of paper copies of Committee documents and greater use of electronic access, as set out below.

Phase 1	From 1st October 2009	<p>Paper copies of agendas, reports and minutes be provided only for:</p> <ul style="list-style-type: none"> ➤ the Members of each Committee ➤ the full Council meeting ➤ potential public attendees at Council and Committee meetings ➤ officer attendees on request <p>Members of the Paperless pilot would continue to rely on electronic access only, together with any other Members who request to be paperless.</p> <p>A paper copy of each public agenda would continue to be made available in the Members' Room</p>
Phase 2	January 2010	<p>Twice weekly post to Members ceases to those Members who agree to collect their own post from the pigeonholes at the Council House (collection of post would <u>not</u> qualify as an approved duty for travel claim purposes).</p>

3.12 It is recognised that some Committee agenda items (such as strategy documents) can be particularly lengthy. It is suggested that officers keep Committee reports as succinct as possible and, where appropriate, submit an executive summary of lengthy documents. Alternatively, it may be possible to submit a summary of changes to a refreshed strategy document rather than the full version of the revised document. Officers would need to

ensure that Members and the public had separate electronic access to the full versions of such documents.

- 3.13 Historically the Council has provided paper copies of letters and other documents in relation to the business of the Council. In recent years there has been an increasing shift towards the use of electronic transmission and it now seems appropriate for the Council to confirm formally that electronic transmission is the standard method of delivery to Members. It is proposed that any Member who wishes to opt out would need to submit a formal request
- 3.14 It is recognised that levels of competencies with regard to ICT varies significantly between Members. It is important that individual Members take personal responsibility for developing their awareness and skills and ensure that they attend the training provided by the Council.

Access to Information

- 3.14 Access to information is governed by legislation. As a general principle, the public has access to all documents containing material relating to any business to be transacted at a public meeting unless the document contains confidential or exempt information. Confidential information has a statutory definition, and Schedule 12A to the Local Government Act 1972 (as amended) defines the categories of exempt information.
- 3.15 Similarly, all documents containing material relating to any business to be transacted at a public meeting shall be available for inspection by any Member of the authority. However, legislation provides that Committee and Cabinet reports, documents containing exempt information need not be open to inspection by any Member unless the information is exempt because:
- a) it discloses any terms proposed or to be proposed by the council in the course of negotiations for a contract; or
 - b) because it reveals that the council proposes to serve a statutory notice etc.
- 3.16 Currently, the Council does not provide copies of reports containing confidential or exempt information to the public or press. Modern.gov is able to produce a public and private version of an agenda and only the public version is published on the Council's website.
- 3.17 Historically it has been the Council's normal practice to provide copies of confidential or exempt reports (pink reports) to Members other than those sitting on the relevant Committee, with the exception of some regulatory reports.
- 3.18 In order to bring the Council's practice in line with legislation, it is therefore proposed that the Council's access to information procedures be amended with effect from 1st October 2009 as follows:

- access to reports and background information containing exempt information be restricted to Members of the Cabinet or relevant Committee and appropriate officers only;
- that attendance by a Member at a meeting of the Cabinet or a Committee of which he/she is not a member following a resolution to exclude the public and press if the business to be transacted contains exempt information be permitted and that the Member be entitled to receive a copy of the exempt report at the meeting and retain it;
- that any requests from other Members for access to exempt reports in accordance with Members' statutory, constitutional and common law rights be considered on a case by case basis by the Council's Monitoring Officer in consultation with the Chairman of the relevant Committee;
- that in the event the Cabinet is required to make recommendations to the full Council on reports containing exempt information, the full report be included as part of the private agenda pack for the relevant meeting of the Council.

3.19 Reports containing information which is confidential but not exempt information will continue to be made available to all Members.

3.20 The proposals referred to in the report will require consequential changes to the Council's Constitution and it proposed that the Council authorise the Monitoring Officer to make the necessary amendments.

4. FINANCIAL IMPLICATIONS

4.1 As the paperless project is rolled-out there will be incremental savings for the Council in terms of reduced paper use, less photocopying and postage costs.

4.2 It is not possible to quantify the levels of savings accurately as the costs per Council/Committee meeting vary according to the size of the agenda. However, the total printing cost for Council/Committee papers during the three month period May to July 2009 was £1756. This equates to an estimated total annual printing cost of £7024.

4.3 An exercise undertaken earlier in the year identified some illustrative printing and postal costs in relation to a sample of Committee agenda as set out in the table below:

Meeting	Size of agenda (no. of sides)	No. copies of agenda*	Cost of photocopying & paper	Postage Costs	TOTAL COST
Cabinet 4 March 09	492	51 (including 12 colour copies**)	£375.20	£3.65 per copy x 33 Members = £120.45	£495.65
Overview Board 3 March 09	124	26	£19.77	£0.99 per copy x 13 Members = £12.87	£32.64

Planning Cttee 2 March 09	144	55	£48.57	£0.99 per copy x 33 Members = £32.67	£81.24
Cabinet 4 February 09	238	51 (including 10 colour copies**)	£163.49	£1.44 x 33 Members = £47.52	£211.01
Overview Board 3 February 09	442	26 (including 13 colour copies**)	£288.87	£3.65 x 13 Members = £47.45	£336.32
Planning Cttee 2 February 09	76	55	£23.30	£0.69 per copy x 33 Members = £22.77	£46.07

* Includes copies for Members, officers on request and spare copies for the public etc

** Colour photocopying cost 0.04p per side compared to 0.0038p for black & white photocopying

4.3 There are sufficient resources within agreed budgets to meet the cost of any replacement laptops and routers that may be required for Members and the supply of a pool of long life batteries for Members.

4.4 The software currently used by Members in the paperless pilot to enable notes to be made on PDF documents is free of charge. This software can occasionally be unreliable but the cost of acquiring more reliable software has not been budgeted for.

5. LEGAL IMPLICATIONS

5.1 As a general principle, the public has access to all documents containing material relating to any business to be transacted at a public meeting unless the document contains confidential or exempt information. Confidential information has a statutory definition, and Schedule 12A to the Local Government Act 1972 (as amended) defines the categories of exempt information.

5.2 Members' access to committee reports is governed by s100F of the Local Government Act 1972 as amended. This provides that Members who do not sit on the relevant committee are not entitled to access to reports containing exempt information except information which is exempt:

5.2.1 under paragraph 3 of Schedule 12A, ie it relates to the financial or business affairs of any particular person (including the authority holding that information);

However, information relating to any terms proposed or to be proposed by or to the Council in the course of negotiations for a contract is not open to inspection by Members not sitting on the relevant committee;

5.2.2 under paragraph 6 of Schedule 12A, ie it is information which reveals that the Council proposes either to give under any enactment a notice under or by virtue of which requirements are imposed on a person, or to make an order or direction under any enactment.

- 5.3 The rights of non-Cabinet Members to access Cabinet reports are governed by the Local Authorities (Executive Arrangements) (Access to Information) Regulations 2000 as amended. These provide that non-Cabinet members are not entitled to access to documents containing exempt information except information which is exempt for the reasons set out in 5.2.1 and 5.2.2 above, mirroring the provisions relating to committees.
- 5.4 The Local Government Act 1972 section 100A defines confidential information as:
- (a) information furnished to the Council by a government department upon terms (however expressed) which forbid the disclosure of the information to the public; and
 - (b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court;
- and, in either case, the reference to the obligation of confidence is to be construed accordingly.
- 5.5 Legislation does not restrict Members' rights to access to confidential information, only to exempt information.
- 5.6 Legislation is not specific as to whether or not Members of the Council who are not members of the Cabinet or a Committee are treated as members of the public for the purposes of attending meetings at which exempt or confidential information is to be transacted. However, it is a logical extrapolation that if those Members are not entitled to access to the exempt information they are treated on a par with members of the public and so are also not entitled to attend the part of the meeting from which the public and press are excluded at which the exempt information is discussed.
- 5.7 However, this is difficult to reconcile with the rights of members of overview and scrutiny committees and the rights of members to see information on a "need to know" basis. The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 grant additional rights to members of an overview and scrutiny committee to a copy of any document and which contains exempt or confidential information if it is relevant to an action or decision that he /she is reviewing or scrutinising or which is relevant to any review contained in any programme of work of such-committee of the overview and scrutiny committee. The general common law grants a right to Members to see information on a "need to know" basis in order to properly conduct their business as a Member.
- 5.8 The principle in paragraph 5.6 is also difficult to reconcile with the right of call-in in relation to executive decisions taken by the Cabinet. This Council's Constitution permits call-in of an executive decision by notice signed by the Chairman of Scrutiny Board, by any other 3 members of the Scrutiny Board or by any 5 members of the Council who are not members of the Cabinet. Some degree of access to meetings at which exempt business

is discussed and access to the reports on which the decisions are based would be required to enable Members to exercise their rights of call-in.

6. COUNCIL OBJECTIVES

- 6.1 The proposals set out in the report link to the Council's Improvement objective.

7. RISK MANAGEMENT

- 7.1 The risk of any potential disruption to the Council's decision-making processes would be minimised through the adoption of the proposed phased implementation of the proposals rather than a 'big bang' approach.

8. CUSTOMER IMPLICATIONS

- 8.1 The use of the Modern.gov computer software package enables the efficient and rapid electronic transmission of Committee agenda, reports and minutes to Members, the press and the Council's website for access by the public.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

- 9.1 An Equality Impact Assessment has been undertaken with regard to the further roll-out of the Modern.gov/paperless project which is appended to the report. The assessment has been based on the limited data available in relation to the access needs of elected Members. In the circumstances it is suggested that the introduction of a paperless environment is incremental and that whilst Members will be able to opt out of receiving paper copies, that there is still an ability for Members to receive Council documentation in alternative formats when required. There will always be a need for the Council to balance the sustainability and efficiency issues against the access requirements of individual Members.

10. VALUE FOR MONEY IMPLICATIONS

- 10.1 This proposal will deliver incremental savings as referred to in section 4. of the report and thereby greater value for money with regard to the Council's decision-making processes.

11. OTHER IMPLICATIONS

Procurement Issues – None
Personnel Implications – None
Governance/Performance Management – Referred to in the body of the report
Community Safety including Section 17 of Crime and Disorder Act 1998 – None

Policy – The proposals would represent a change in policy as referred to in the body of the report
Environmental – None

12. **OTHERS CONSULTED ON THE REPORT**

Portfolio Holder	Yes
Chief Executive	At CMT
Executive Director - Partnerships and Projects	At CMT
Assistant Chief Executive	At CMT
Head of Service	Yes
Head of Financial Services	At CMT
Head of Legal, Equalities & Democratic Services	Yes
Head of Organisational Development & HR	At CMT
Corporate Procurement Team	No

13. **WARDS AFFECTED**

All Wards

14. **APPENDICES**

Appendix 1 Equality Impact Assessment

15. **BACKGROUND PAPERS**

None

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