

Appendix – Proposed Amendments to the Constitution on Signing and Sealing

- 11.18 On behalf of the Council and in support of their delegated Executive functions the Monitoring Officer has the following responsibilities: ...
- (k) Custody of the Common Seal of the Council. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which, in the opinion of the Monitoring Officer, should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer, or some other person authorised by them in writing to do so, provided that in any transaction relating to land to which The Regulatory Reform (Execution of Deed and Documents) Order 2005 applies, the Common Seal shall be attested by a Member of the County Council and an authorised signatory. The Common Seal of the Council may be affixed either by physical means or by such electronic means as the Monitoring Officer may from time to time authorise. The affixing of an electronic seal shall be of the same legal effect as affixing the Common Seal of the Council physically.
- ...
- 13.16 Any contract with a value in excess of £1m must be made in writing and either:
- (a) affixed with the common seal of the Council, and be attested by at least one authorised Officer ~~(as defined in 13.17 see section 13.18),~~ or
- (b) signed as a deed by at least one authorised Officer (as defined in 13.18) unless otherwise determined by the Monitoring Officer.
- 13.17 The common seal of the Council shall be affixed to any deeds (unless a specific statutory provision permits otherwise) and any document or agreement if the Monitoring Officer considers it appropriate for the purpose of transacting the Council's business or safeguarding its interests.
- 13.18 ~~The seal may be fixed and witnessed, or the document signed as a deed only by the Monitoring Officer or Officers authorised by them in writing to do so. The affixing of the Common Seal, either by physical or electronic means (as defined in section 11.18), may only be attested by the Monitoring Officer, or Officers authorised by them in writing to do so.~~
- 13.19 The Monitoring Officer shall ensure a register is maintained of all documents and agreements that are sealed including the name of the person who witnessed the affixing of the seal.
- ...
- 13.22 Where there is a requirement (legal or otherwise) for a 'wet ink' signature on legal agreements, they will be sealed and/or signed physically. Otherwise, section 13.23 may apply.

~~13.2213.23~~ ~~With the exception of charges and deeds that have to be registered at the Land Registry or Companies Registry in order to take effect or to have legal protection (where a 'wet ink' signature will still be required), electronic signatures will, in line with the Electronic Communication Act 2000, Where the law, and (where applicable) any additional requirements of a public registry (for example, HM Land Registry) allow, electronic signatures may be permitted, and will be accepted as a fair representation of a willingness to enter into a contract with the Council, insofar as the e-signature is a true representation of the authorised person's written signature and (a) and (b) below apply, in which case an e-signature and a signature will be referred to as the same. as long as the following apply:~~

(a) the Contract will be entered into in relation to being either under seal or under hand,

~~(b) the electronic signature is a true representation of the authorised person's written signature, and~~

~~(b)(c)~~ is supported with a contemporaneous document of authenticity and authorisation from the Supplier.

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