

From: Ben Watts, General Counsel

To: County Council – 10 March 2022

Subject: Document Signing: Constitutional Amendments

Status: Unrestricted

Past Pathway of Paper: Selection and Member Services Committee -  
24 February 2022

Future Pathway of Paper: N/A

Electoral Division: All

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Summary: This report sets out a request to amend the Constitution as it relates to the signing and sealing of documents. The proposed changes are set out in the Appendix.

The Selection and Member Services Committee discussed the changes on 24 February 2022 and are recommending to County Council that they be approved.

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## 1. Introduction

- a) The Office of the General Counsel (OGC) is responsible for arranging the sealing and signing of the Council's deeds and significant contracts. In doing so, they reconcile the proposed documents with earlier political decision making to ensure that appropriate direct or delegated authority is in place.
- b) Since March 2020 and the onset of the Covid-19 pandemic, it has become clear that the process for the sealing and signing of contracts is inefficient and of limited flexibility. This project is the first of a number that will be coming forward seeking to optimise and modernise the Council's arrangements in line with our learning during the pandemic and to improve efficiency.
- c) The Legal Support Team within OGC do excellent work managing this process on the Council's behalf and other staff across Governance, Law, and Democracy are involved as authorised signatories of the Council, checking the paperwork as well as physically signing the documents and applying the common seal where appropriate. The team within the service are independent and act impartially to protect the best interests of the Council and to ensure compliance with political decision-making.
- d) Under our current arrangements, many of the documents require a signature from a KCC Member, and Cabinet Members have worked their way through hundreds of documents. After the contracts/deeds have been completed, Invicta Law and other legal firms will return them to OGC Legal Support Team for storing in the Legal Archive.

- e) This consumes many hours, has involved considerable use of couriers, and brings associated cost. With the shift to virtual working in many other areas of the Council's work, the current system is looking increasingly like an anachronism.
- f) At the same time, Members will know that outside the Council a range of other like documents and contracts are now signed electronically with consequential time and resource savings for the organisations involved.

## **2. Electronic Signing and Sealing**

- a) We have been exploring different alternatives to the current paper-based system and have identified a cloud-based e-signature service as the best solution for preparing and executing documents electronically. This is a secure service with multiple safeguards to ensure only the authorised people can sign/seal documents and ensure that at each stage only the relevant information/documents can be viewed. This allows an end-to-end process with a document's 'journey' tracked through the different stages. The information generated is automatically pulled through to the SharePoint sealing register/repository, thereby saving OGC's Legal Support time in manually inputting the information.
- b) Longer term, our ultimate objective is to move to complete digitisation of the contracts and deeds that we sign, seal and archive and to automate processes wherever possible. This includes a proposal to digitise all of the physical records held within the basement at Sessions House. This will allow quick searchability and retrieval and save on building storage space.
- c) In addition to the technological change, the process can be simplified. There is no legal requirement for Members to sign the document as they do in the current process. Members provide strategic direction through their decision-making or delegations and checks are made at different stages of the process, both within Governance, Law and Democracy and through externally appointed lawyers. The ability of the Council's authorised signatories to also independently review the documents will remain under this system.
- d) Removing the administrative Member signing process will reduce cost, increase agility in concluding these documents, remove the burden on Cabinet Members and free up capacity. The accountability to comply with Member decision-making is unaffected by the change.
- e) Signing and sealing is the formal end of the decision-making process leading up to the deed and/or contract being required. In accordance with the decision-making procedures and rules of the Council, Members will have been involved and authority granted where necessary, for example through a Cabinet Member signing a Record of Decision and other Members involved as part of the key decision process. This is unaffected by the change.

## **3. Amendments to the Constitution**

- a) The sections in the Constitution covering the signing and sealing of documents are set out in section 11, under the duties of the Monitoring Officer, and in section 13, financial procedures. These were drafted when 'wet ink' signing was not only commonplace, but the only viable option. Even if we were not proposing to move to a physical paper-free system, the amendments being

proposed bring these sections of the Constitution up to date and allow for the full range of options.

- b) The proposed amendments are set out in the Appendix as track changes to the current wording as set out in the Constitution. They allow for electronic signing to be valid under our Constitution and remove the requirement for a Member to counter-sign certain documents.
- c) The Selection and Member Services Committee discussed the changes on 24 February 2022 and are recommended to County Changes that they be approved.

#### **4. Recommendation:**

That the County Council approve the changes to the Constitution related to the signing and sealing of documents as set out in the Appendix to the report.

#### **5. Background Documents**

None.

#### **6. Report Author and Relevant Director**

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