

**EXPLANATORY MEMORANDUM TO
THE LOCAL GOVERNMENT (ELECTRONIC COMMUNICATIONS)
(ENGLAND) ORDER 2015**

2015 No. 5

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.
2. **Purpose of the instrument**
 - 2.1 To allow local authorities to use electronic facilities (i.e. e mail) to send their members summonses to attend meetings, if that is what their members wish.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None
4. **Legislative Context**
 - 4.1 Schedule 12 of the Local Government Act 1972 details the procedures for the meetings and procedures of local authorities. Paragraphs 4 and 10 prescribe the means by which summonses must be delivered to members for “principal councils” and “parish councils”, respectively. They do not allow for summonses to be sent to members electronically.
 - 4.2 Paragraphs 4 and 10 are to be amended to allow for summonses to be sent to members, should they so wish.
 - 4.3 The changes mentioned in 4.2 are made under section 8 of the Electronic Communications Act 2000, which allows for the modification of any enactment for the purpose of facilitating the use of electronic communications, by order.
5. **Territorial Extent and Application**
 - 5.1 This instrument applies to local authorities in England only.
6. **European Convention on Human Rights**
 - 6.1 Parliamentary Under Secretary of State for Communities and Local Government Kris Hopkins has made the following statement regarding Human Rights:

In my view the provisions of the Local Government (Electronic Communications) (England) Order 2015 are compatible with the Convention rights.

7. Policy background

7.1 Schedule 12 to the Local Government Act 1972 covers meetings and proceedings of local authorities. At present, paragraph 4(2)(b) requires principal and parish councils to send summonses to attend meetings by post to their members' home addresses, or under 4(4), by post, to an alternative address specified. In practice, this covers all the papers to be considered at meetings, not just the agenda. There are similar requirements elsewhere in Schedule 12 for parish council meetings.

7.2 Government considers it will be beneficial to put beyond doubt that local authorities, including parish and town councils, may send their members summonses including agendas and related papers, to meetings electronically if this is their preference. Modern communication methods, combined with local authority support for making this change, will enable councils to conduct business in the most efficient way possible.

7.3 Members will only receive summonses electronically where they consent to it being transmitted by this method and may at any time withdraw their consent. In such cases, agendas for that member would revert to being sent by post in the usual way.

7.4 The Order made under Section 8 of the Electronic Communications Act 2000 will amend Schedule 12 of the Local Government Act 1972 to put beyond doubt that local authorities may send their members summonses to attend meetings, including agendas and related papers, to meetings electronically if the member indicates this is their preference. Section 8 of the Electronic Communications Act 2000 allow for the modification of this Act in such a way that the Minister sees fit for the purpose of authorising or facilitating the use of electronic communication.

7.5 The electronic communication may include attachments, such as a meeting agenda or papers, or a web-link enabling a local authority member to view meeting papers.

8. Consultation outcome

8.1 The Department of Communities and Local Government shared a draft of the Order introducing these new arrangements with the Local Government Association, the National Association of Local Councils and the Association of Democratic Services Officers. The informal soundings exercise commenced on Thursday 10 April and concluded on Friday 25 April.

8.2 The Local Government Association responded supporting the policy and remarking that "It is particularly helpful that the Order ensures that members will only receive agendas where they consent to it being transmitted by this method and they may at any time withdraw their consent" and that

“Enabling the delivery of electronic summonses to local authority meetings will be much welcomed by local residents as another opportunity to reduce their operating costs and provide value to their residents through the use of appropriate technology”.

8.3 The Association of Democratic Services Officers (ADSO) also welcomed the proposal as “a real step forward into the digital age which should contribute to efficiencies within the local government democratic arena”. ADSO requested that the Order specify that the default position for councillors should be the electronic delivery of council agenda/summons unless the councillor withdraws that consent.

8.4 The Government welcomes support for the proposal, but did not agree that receiving summonses by e mail should be the default position for local authority members. Recognising that many parish councils in particular may not have the means of sending summonses electronically, and that some local authority members may not wish to receive their summons electronically, the Government considers that it is sensible and proportionate that each authority and its members decide on an individual basis which method of communication best fits their individual circumstances.

8.5 The Department consulted with the Welsh Government on whether they wished the new flexibilities to extend to councils in Wales; they declined the offer.

9. Guidance

9.1 This Order is self-explanatory and we will not be issuing any guidance.

10. Impact

10.1 The impact on local authorities will be positive as they will have the freedom to send their members summonses, as well as agendas and papers, for meetings electronically if the member indicates this is their preference. This is likely to increase the efficiency of council business.

10.2 There will be a slight impact on traditional mail carriers due to councils not having to pay postage charges incurred as a result of sending agendas and papers for meetings by post in the traditional way.

10.3 An Impact Assessment has not been prepared for this instrument as it has no significant impact on business, charities or voluntary bodies.

11. Regulating small business

11.1 The legislation does not apply to or affect small business.

12. Monitoring & review

12.1 The Department for Communities and Local Government will not be undertaking a review of these arrangements. However, we have an open dialogue with key partners and will look at any issues caused as a result of these new arrangements on a case by case basis.

13. Contact

13.1 Steve McAllister at the Department for Communities and Local Government (0203 44 42582) or stephen.mcallister@communities.gsi.gov.uk can answer any queries about the instrument.