

# COUNCIL

26 MARCH 2019

## REPORT OF THE MONITORING OFFICER

### A.4 REVIEW OF THE COUNCIL PROCEDURE RULES (PART 4 OF THE COUNCIL'S CONSTITUTION)

(Report prepared by Lisa Hastings and Ian Ford)

#### PART 1 – KEY INFORMATION

##### **PURPOSE OF THE REPORT**

This report asks Council to approve the changes to the Council Procedure Rules (Sections 1 and 2), as contained within Part 4 of the Council's Constitution, recommended by the Cabinet, following Council's decision taken on 22 January 2019.

The key changes to each of these documents are highlighted within the body of this Report.

##### **EXECUTIVE SUMMARY**

Council will recall that, at its meeting held on 22 January 2019, it had considered Cabinet's recommendations in relation to proposed changes to the Council's Constitution and the sizes of the Council's Committees and decided, inter alia, that:-

- (a) the start time of 7.30pm for Ordinary Full Council meetings remains unchanged recognising that a proportion of elected councillors are employed; and*
- (b) the alternative procedure for changes relating to dealing with Motions on Notice, as set out in the report, is agreed in principle only and that revised Council Procedure Rules be produced for approval to the next practicable meeting of Full Council, so that the same can come into effect on 1<sup>st</sup> May 2019.*

Revised Council Procedure Rules (Sections 1 and 2) which included the alternative procedure for dealing with Motions on Notice were submitted to the meeting of the Cabinet held on 8 March 2019. Group Leaders had been consulted on the contents of the revised Council Procedure Rules and their comments together with the Finance and Corporate Resources Portfolio Holder's comments and recommendations in response thereto were also submitted to that Cabinet meeting.

At that meeting held on 8 March 2019 Cabinet decided that:-

- (a) Cabinet recommends to Council that Part 4 of the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices A1 and A2 attached hereto (subject to Council Procedure Rule 36.1 in Appendix A2 being further amended in accordance with the Portfolio Holder's recommendation in Appendix A3) and that those changes come into effect from 1<sup>st</sup> May 2019; and*
- (b) a mandatory review of the revised arrangements be undertaken, commencing six months from 1st May 2019.*

Appendices A1 and A2 to this report contain, respectively, the Cabinet's recommended

changes to Sections One and Two of the Council Procedure Rules (Part 4 of the Constitution).

A summary of the changes compared to the existing Council Procedure Rules are provided under each heading in the Current Position section of this report and in each case, the content has been revised to provide greater clarity, ensure effectiveness and efficient working practices for Members and Officers and checked to ensure it is in accordance with legislation, where necessary.

## **RECOMMENDATION**

**(a) That Part 4 of the Council's Constitution be amended to reflect the proposed changes, as set out in Appendices A1 and A2 attached hereto and that such changes come into effect from 1<sup>st</sup> May 2019;**

**(b) That Council notes that a review of the revised arrangements will be undertaken, commencing six months from 1st May 2019.**

## **PART 2 – IMPLICATIONS OF THE DECISION**

### **DELIVERING PRIORITIES**

Agreeing the proposed changes will ensure that the Council demonstrates good governance and operates efficiently in pursuit of its priorities.

### **FINANCE, OTHER RESOURCES AND RISK**

#### **Risk**

Providing clarity through clearer and consistent procedure rules contained within the Constitution prevents confusion and different interpretation and enhances the Council's overall governance arrangements.

### **LEGAL**

In accordance with Section 37 of the Local Government Act 2000, as amended, a local authority operating executive arrangements must prepare and keep up to date a document which contains a copy of the authority's standing orders for the time being and such other information as the authority considers appropriate.

Schedule 1 to the Local Authorities (Functions and Responsibilities) Regulations 2000 ("Functions Regulations"), as amended, sets out functions which must not be the responsibility of the Executive and therefore rests with Council or its committees. The power to make amendments to the standing orders and the Constitution rests with full Council.

Article 15 of the Council's Constitution provides that changes to the Constitution are approved by Full Council after receiving a recommendation from Cabinet following consideration of a proposal from the Monitoring Officer and a recommendation via the Portfolio Holder with responsibility for corporate governance.

Article 13 of the Constitution provides the principles of Decision Making ensuring that due consideration is given of all the relevant factors and options, taking account the results of

any consultation undertaken and the professional advice of Officers.

Subject matters of motions may comprise of either Executive or Non-Executive Functions as determined by the Function Regulations.

Article 12 of the Constitution provides that the Council's Monitoring Officer will ensure the Constitution is up to date. This function takes into account legislative requirements and best practice.

#### **OTHER IMPLICATIONS**

Consideration has been given to the implications of the proposed decision in respect of the following and any significant issues are set out below.

**Crime and Disorder / Equality and Diversity / Health Inequalities / Area or Ward affected / Consultation/Public Engagement.**

Equality and Diversity implications were considered when taking into account the outcome of the consultation with Members on the proposed changes to the Council Procedure Rules. One of the matters raised was what consideration had been given to the implications of the Equalities Act with regards to those members who find it difficult to stand at Council meetings?

Council Procedure Rule 23.1 states a Member must stand if possible and traditionally, the Chairman of the Council has readily granted a dispensation from the requirement to stand to those Members who would find this difficult. Research has demonstrated that the approach adopted by the Council is equality compliant and follows best practice; therefore no changes are recommended to the Council procedure Rules in respect of Rule 23.1.

### **PART 3 – SUPPORTING INFORMATION**

#### **BACKGROUND**

Cabinet will recall that the Portfolio Holder presented the outcome of the first phase of CRWP to Cabinet in November 2018. Cabinet subsequently **RECOMMENDED TO COUNCIL** that:

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices B to N attached to item A.3 of the Report of the Finance and Corporate Resources Portfolio Holder; and*
- (b) all changes to come into effect immediately following approval.*

In respect of the proposed changes to the Council Procedure Rules Cabinet **RESOLVED** that wider consultation be undertaken with all Members of the Council prior to further decisions being taken. That consultation was subsequently carried out and a summary of that feedback, together with other related matters, was reported to Cabinet, via the CRWP, at its meeting held in January 2019.

At the meeting of full Council held on 26 November 2018, the CRWP were requested to:

- *provide further clarity and assurances on the Member Referral Scheme, referred to within the Planning Committee's Terms of Reference; and*
- *look at the terms of reference of the Local Plan Committee (and also its title) with a view to enabling that Committee to produce procedures, protocols and also planning conditions that could be put on every planning application that was granted*

*approval in order to avoid any detriment to local neighbourhoods.*

The six month review previously requested by Full Council on the revised committee structure was also undertaken and the findings and recommendations of that review were submitted to Full Council in January 2019.

At its meeting held in January Cabinet **RECOMMENDED TO COUNCIL** that –

- (a) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to E, attached hereto;*
- (b) the changes as set out in appendices A to D to come into effect immediately following approval;*
- (c) the changes as set out in Appendix E to the sizes of committees to come into effect from 1<sup>st</sup> May 2019;*
- (d) the start time of 7.30pm for Ordinary Full Council meetings remains unchanged recognising that a proportion of elected councillors are employed; and*
- (e) the alternative procedure for changes relating to dealing with Motions on Notice, as set out in the report, is agreed in principle only and that revised Council Procedure Rules be produced for approval to the next practicable meeting of Full Council, so that the same can come into effect on 1<sup>st</sup> May 2019.*

At its meeting held in January Council subsequently **RESOLVED** that –

- (c) the Council's Constitution be amended to reflect the proposed changes as set out in Appendices A to E attached hereto, subject to the agreed amendment to Appendix A.2 in relation to the Members' Referral Scheme for Planning Applications;*
- (d) the changes as set out in Appendices A to D to come into effect immediately following approval;*
- (e) the changes as set out in Appendix E to the sizes of committees to come into effect from 1<sup>st</sup> May 2019;*
- (f) the start time of 7.30pm for Ordinary Full Council meetings remains unchanged recognising that a proportion of elected councillors are employed; and*
- (g) the alternative procedure for changes relating to dealing with Motions on Notice, as set out in the report, is agreed in principle only and that revised Council Procedure Rules be produced for approval to the next practicable meeting of Full Council, so that the same can come into effect on 1<sup>st</sup> May 2019.*

#### The Alternative Procedure

At the meeting of the Constitution Review Working Party (CRWP) held on 6 December 2018, when it reviewed the outcome of the consultation with all Members of the Council on the proposed changes to the Council Procedure Rules, the Finance and Corporate Resources Portfolio Holder after consulting the Monitoring Officer, had suggested an alternative approach to dealing with Motions on Notice at Full Council meetings which could be summarised as the following procedure:

- (i) *The Motion is moved and seconded, and thereafter the member who moved the motion would be permitted to explain their motion and give reasons why they felt it would be appropriate for it to be dealt with on the night;*
- (ii) *The Leader, Portfolio Holder or relevant Chairman of the Committee would be permitted to respond either agreeing with the motion being dealt with on the night or setting out reasons why it would be appropriate to stand referred to the appropriate body for further consideration;*
- (iii) *The Chairman after hearing both representations and receiving professional advice makes a ruling on whether the motion should be debated or referred; and*
- (iv) *In making the Ruling the Chairman must give consideration to Article 13 of the Constitution and the Executive Functions Regulations and provide a short explanation of the reasons for their decision.*

Cabinet had then formally endorsed that alternative procedure at its meeting held on 18 January 2019 and had recommended it, in principle, to Full Council. As set out above, Full Council at its meeting held on 22 January 2019 had agreed, in principle, to the alternative procedure for dealing with motions on notice subject to revised Council Procedure Rules being produced for approval to the next practicable meeting of Full Council, so that they could come into effect on 1<sup>st</sup> May 2019.

## **CURRENT POSITION**

The following changes are recommended (note that references to Part numbers relate to the Constitution prior to any amendments):

### **(a) Council Procedure Rules – Section 1 (Full Council)(Part 4.1 to 4.20):**

#### Rule 1 – Annual Meeting of the Council:

To include the appointment of up to four Member Representatives to General Assembly of the Local Government Association at the Annual meeting.

#### Rule 9 – Duration of Meeting:

Propose a later finish time of 10.30pm.

#### Rules 10 and 11– Questions by the Public and Members:

Proposed changes to provide consistency between the scope of questions submitted by the public and Members and reasons for rejection. The same consistency to apply to questions and motions.

#### Rules 10.1 and 11.2 – Time allocated to Questions by the Public and Members:

Overall time for questions to be reduced to allow further time at the meeting for debating motions that are to be dealt with on the night. The allocated time for questions allows up to a maximum of 3 from the public and a further 3 from Members to be dealt with.

#### Rules 11.6 & 7 – Response and Supplementary Questions:

Electronic or written responses given by Members to questions to be provided to the Committee Services Manager on the day of the meeting to allow the response to be circulated to the questioner, Chairman, Leader and relevant officers.

Supplementary Questions must solely relate to the response received. This will enable more control over the permissibility of supplementary questions. The content of supplementary questions will no longer be included minutes to prevent this rule

being abused.

Rules 12 and 14 – Motions on Notice and Not Permitted:

Proposed changes to provide consistency between the scope of motions and those not permitted with the scope of questions and reasons for rejection.

Rule 12 – Motions:

A maximum of 3 motions shall be accepted for inclusion in the agenda for an Ordinary Meeting of the Council. At the meeting the motion once moved and seconded, will be dealt with in accordance with Rule 12.4, that is the mover and seconder of the motion will each have a maximum of three minutes to explain the motion and to put forward a case as to why the motion should be dealt with at the meeting. The Leader/relevant Portfolio Holder or Committee Chairman will then have a maximum of three minutes to either agree with the mover's request or to put forward reasons why the motion should be referred to the appropriate body. The Chairman of the Council will then make a ruling on whether the motion should be dealt with at the meeting or stand referred.

If the motion is dealt with on the night a maximum of 30 minutes debate will be allowed with all speakers being allowed 3 minutes.

Rule 12.5 sets out how referred motions will be dealt with allowing an opportunity for further work to be undertaken prior to decisions being made, if necessary.

Rule 16 – Rules of Debate:

Removal of the reference to an appropriate body or an individual from amendments to motions, as this was not considered appropriate for motions with the Cabinet and relevant Committee remaining, as the suitable decision making bodies.

Any amendments to the Budget proposals must be submitted to the Council's Chief Financial Officer at least two working days before the budget meeting of Council to enable them to consider the implications for the budget.

Remove the requirement to seek the meeting's consent to alter or withdraw (unless an amendment is pending) a motion because this has not been the practice of Full Council for several years.

Closure motions to include referral to Cabinet or a Committee.

Rule 32 – Application to Committees

Rule 23.2 – Chairman standing during debate to apply to Committees and Sub-committees, so that any member speaking at the time must stop and the meeting must be silent. This application to Committee meetings is to demonstrate further respect to the role of Chairman at Committees and Sub-Committees.

*Rule numbers throughout the Council Procedure Rules shown attached in **Appendix A1** have been amended to reflect the proposed changes.*

**(b) Council Procedure Rules – Section 2 (Committees)(Part 4.21 to 4.24):**

Rule 33 – Appointment of Members of Committees and Sub-Committees:

The Rules relating to eligibility requirements for membership of Committees and Sub-Committees be reordered. Additional requirements following good practice and guidance such as:

- Local Plan and Planning Committee membership remaining separate prior to a Local Plan being adopted;
- Membership of the Audit Committee following CIPFA Guidance; and
- How often mandatory training must be undertaken to remain a member of certain committees.

**Rule 36 – Attendance at Meetings:**

Make clear in paragraph 36.1 that Members’ rights to attend meetings do not include the right of attendance at Portfolio Holder Working Parties.

**Rule 38 – Questions on Notice at Committees:**

Remove the ability for members to submit Questions on Notice to Sub-Committees (such as Licensing and HR) due to the terms of reference of the sub-committees it was not considered appropriate to allow questions at sub-committees, which could be directed to the main committees.

*Proposed changes to Section 2 of the Council Procedure Rules are shown attached as **Appendix A2**.*

**BACKGROUND PAPERS**

Related reports and minutes of the meetings of the Cabinet held on 9 November 2018, 18 January 2019 and 8 March 2019 and of the meetings of the Council held on 26 November 2018 and 22 January 2019.

**APPENDICES**

**A.4**

<b>APPENDIX A1</b>	<b>Part 4</b>	<b>Proposed changes to Section One of the Council Procedure Rules</b>
<b>APPENDIX A2</b>	<b>Part 4</b>	<b>Proposed changes to Section Two of the Council Procedure Rules</b>