

MINUTES

CONSTITUTION COMMITTEE
MONDAY, 12 JUNE 2017



COMMITTEE MEMBERS PRESENT

Councillor Lynda Coutts
Councillor Bob Sampson
Councillor Ian Stokes
Councillor Hannah Westropp (Vice-Chairman)

OTHER MEMBERS

Leader of the Council/Cabinet Member HR and Cultural Services
(Councillor Matthew Lee)
Deputy Leader/Cabinet Member Business Transformation and Commissioning
(Councillor Kelham Cooke)
Cabinet Member Major Projects (Jacky Smith)

OFFICERS

Executive Manager Corporate (Lucy Youles)
Democratic Officer (Lucy Bonshor)

22. APOLOGIES

An apology for absence was received from Councillor Brenda Sumner.

23. DISCLOSURE OF INTERESTS

None disclosed.

24. MINUTES OF MEETING HELD ON 22ND MAY 2017

The minutes of the meeting held on 22nd May were agreed as a correct record.

25. AMENDMENTS TO THE CONSTITUTION

Voting System

Your council working for you

Decision:

The Constitution Committee recommends to Council that the Constitution is amended at Article 4.13.3 to change the voting system in full Council meetings from the use of the electronic voting system to a show of hands by deleting Article 4.13.3 (i) and (ii) and inserting as a new Article 4.13.3:

Unless otherwise provided by law or in these procedure rules, the vote on any motion or amendment proposed at any meeting of the full Council shall be taken by means of a show of hands, for, against and abstentions. Where a physical restriction prevents any Member from making a show of hands, on notifying the Chairman of that restriction that Member may vote by voice. An electronic voting system will remain available for all other committees of Council to use in the Council Chamber if required. It will be for each committee of the Council to determine the voting system to be used.

Report LDS215 circulated to Members proposed a change to how votes were taken at Council meetings. Since the Constitution had been introduced the Council had determined that voting would be by means of the electronic voting system when meetings were held in the Council Chamber and the electronic voting system was in operation. Where meetings were held elsewhere or the electronic voting system was out of operation votes were taken by a show of hands and this tended to be how most Councils voted elsewhere in the Country. It was proposed that voting at Council meetings would be by a show of hands which would show transparency in the democratic process to any member of the public attending. The electronic voting system would remain available for use by other committees who used the Council Chamber as a meeting room.

An informal discussion had taken place with the Leaders of the other Groups about the proposed change where all Leaders present had suggested their support.

A discussion followed with Members expressing their view on the proposal. One Member asked why the change was taking place and how abstentions would be recorded. Transparency of the democratic process to members of the public in attendance at Council meetings was the major factor in the proposed change. Further questions were raised about the party whip and recorded votes. The party whip was referred to in respect of the function of overview and scrutiny Committee and the proposal did not affect the procedure for recorded votes. The accuracy of the voting system was referenced and it was stressed that there was no suggestion that the voting system was inaccurate in any respect. The Member who had proposed the recommendation was happy for abstentions to be included within the recommendation. The substantive proposal to include abstentions was seconded and agreed and the amended recommendation on being put to the vote was agreed.

Attendance at Cabinet Meetings

Decision:

The Constitution Committee recommends to Council that the Constitution is amended at Article 8.5.7 and 8.6.2 to allow any Member of the Council to attend an open meeting of the Cabinet as follows:

- *After Article 8.5.6 add new Article:*

8.5.7 Attendance at Open Meetings of the Cabinet

Any Member of the Council may attend any open meeting of the Cabinet, its Committees and Sub Committees. That Member may speak and ask the relevant Cabinet Member questions (but not vote) on any item on the agenda of the meeting. The Council Procedure Rule 4.11.4 relating to the length of speeches whereby no speech may exceed 5 minutes without the consent of the Leader or other chairman of the Cabinet meeting will apply.

(Consequential renumbering of subsequent clauses to be carried out)

- *Delete existing Article 8.6.2 and include the details of attendance at private meetings of the Cabinet by re-inserting the following wording at the new numbered Article 8.5.8 a) (iv):*

In addition to (iii) above, non-Cabinet Councillors will be permitted to attend private meetings of the Cabinet only by invitation of the Leader, and to speak in relation to specific items on the agenda only if the Leader's prior consent has been obtained. Requests for such consent to speak shall be made in writing and delivered to the Leader or Chief Executive or other proper officer no later than noon on the preceding working day.

Members had been circulated with report LDS221 which set out a proposed amendment to the Constitution relating to the attendance at and participation in Cabinet meetings and to widen the rights of non-cabinet Members of the Council to attend and speak at open Cabinet meetings without having to get permission from the Leader to speak.

A discussion on the proposal followed with all Member present supporting the proposed change. The recommendation was proposed, seconded and agreed.

26. CLOSE OF MEETING

The meeting closed at 5.55pm.



Constitution Committee

Report of: **Councillor Kelham Cooke** – Deputy Leader of the Council and Cabinet Member for Business Transformation and Commissioning including Governance

Report to:	Constitution Committee
Date:	12th June 2017
Subject:	Constitution Amendment – Attendance at Cabinet Meetings – LDS221

Decision Proposal:	Council Decision
Relevant Cabinet Member:	Councillor Kelham Cooke – Deputy Leader of the Council, Cabinet Member for Business Transformation & Commissioning.
Report author:	Lucy Youles – Executive Manager Corporate e-mail: l.youles@southkesteven.gov.uk , Tel: 01476 4016105
Reviewed by:	Beverly Agass – Chief Executive e-mail: b.agass@southkesteven.gov.uk , Tel: 01476 406100
Signed off by:	Councillor Kelham Cooke, Deputy Leader of the Council. e-mail: kelham.cooke@southkesteven.gov.uk

SUMMARY

The purpose of the report is to set out the proposed amendment to the Constitution Committee to rationalise the provisions in the Constitution relating to attendance at and participation in Cabinet meetings and widen the rights of non-cabinet Members of the Council to attend and speak at open Cabinet meetings.

RECOMMENDATION

It is recommended that the Constitution Committee recommends to Council that the Constitution is amended at Article 8.5.7 and 8.6.2 to allow any Member of the Council to attend an open meeting of the Cabinet as follows:

- After Article 8.5.6 add new Article:
8.5.7 Attendance at Open Meetings of the Cabinet
Any Member of the Council may attend any open meeting of the Cabinet, its Committees and Sub Committees. That Member may speak and ask the relevant Cabinet Member questions (but not vote) on any item on the agenda of the meeting. The Council Procedure Rule 4.11.4 relating to the length of speeches whereby no speech may exceed 5 minutes without the consent of the Leader or other chairman of the Cabinet meeting will apply. Consequential renumbering of subsequent clauses will be required.
- Delete existing Article 8.6.2 and include the details of attendance at private meetings of the Cabinet by re-inserting the following wording at the new numbered Article 8.5.8 a)(iv):
In addition to (iii) above, non-Cabinet Councillors will be permitted to attend private meetings of the Cabinet only by invitation of the Leader, and to speak in relation to specific items on the agenda only if the Leader's prior consent has been obtained. Requests for such consent to speak shall be made in writing and delivered to the Leader or Chief Executive or other proper officer no later than noon on the preceding working day.

1. BACKGROUND TO REPORT

- 1.1 Access to information for all Members of the Council is set out at Article 16 of the Constitution. In addition to those general rules which are established by legislation, it is for the Cabinet to determine if it wishes to extend those rules to allow other Members of the Council further rights in respect of Cabinet meetings.
- 1.2 The Constitution provides detail on the rights of other Members of the Council in respect of private meetings of the Cabinet. Private meetings would be held where exempt reports are to be considered. There is no intention in this report to change the rules in respect of such a private meeting. The rights permitted in respect of private meetings set out in the old clause 8.6.2. The provisions relating to private meetings will now be included at the new numbered Article 8.5.8. This change is intended to rationalise the provisions relating to attendance at Cabinet meetings in Article 8.5 and avoid separate provision being made at Article 8.6.
- 1.3 The Constitution currently makes provision for non-cabinet members of the Council to attend and speak at open meetings of the Cabinet with the consent of the Leader. The Leader has requested that all non-cabinet Members of the Council may attend and speak on any item of the agenda of open Cabinet meetings without first obtaining the consent of the Leader to do so. This right is proposed at the new Article 8.5.7 set out in the recommendation above.

2. OTHER OPTIONS CONSIDERED

Previous provision for Members to speak at open Cabinet meetings required the Leader's consent. The proposal removes the need for consent. It could be possible to consider a trial period without making change to the Constitution.

3. RESOURCE IMPLICATIONS

If any Member wishes to attend a Cabinet meeting in accordance with this proposed change to the Constitution whether or not they exercise the right to speak, that Member should be entitled to claim travel expenses for the journey made. Depending on the take up to attend, this may impact on the budget made available for Members' allowances. This will have to be reviewed, following a period of operation, to determine the budget required for future years.

4. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
None	

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY & DIVERSITY)

Considerations relating to access to any meeting to which Members are invited must be considered to ensure that no Member is excluded

6. CRIME AND DISORDER IMPLICATIONS

None.

7. COMMENTS OF FINANCIAL SERVICES

- 7.1** There may be a financial implication of this recommendation that may have an impact on the budgetary amounts for 2017/18. This will be reviewed during the year to determine whether there is a material implication and if so, then a virement of budget may be necessary in accordance with the Financial Regulations.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

It is a matter for the Leader to determine the rules relating to participation of Members at Cabinet meetings. Such rules comply with the general rules relating to access to information set out in Article 16 of the Constitution.

9. COMMENTS OF OTHER RELEVANT SERVICES

None

10. BACKGROUND PAPERS

The Constitution

<http://moderngov.southkesteven.gov.uk/ieListDocuments.aspx?MId=3407>



Constitution Committee

Report of: **Councillor Kelham Cooke** – Deputy Leader of the Council and Cabinet Member for Business Transformation and Commissioning including Governance

Report to:	Constitution Committee
Date:	12th June 2017
Subject:	Constitution Amendment – Voting System – LDS215

Decision Proposal:	Council Decision
Relevant Cabinet Member:	Councillor Kelham Cooke – Deputy Leader of the Council, Cabinet Member for Business Transformation & Commissioning.
Report author:	Lucy Youles – Executive Manager Corporate e-mail: l.youles@southkesteven.gov.uk , Tel: 01476 4016105
Reviewed by:	Beverly Agass – Chief Executive e-mail: b.agass@southkesteven.gov.uk , Tel: 01476 406100
Signed off by:	Councillor Kelham Cooke, Deputy Leader of the Council. e-mail: kelham.cooke@southkesteven.gov.uk

SUMMARY

The purpose of the report is to set out the proposed amendment to the Constitution Committee relating to the voting system to be used by Members at full Council meetings.

RECOMMENDATION

It is recommended that the Constitution Committee recommends to Council that the Constitution is amended at Article 4.13.3 to change the voting system in full Council meetings from the use of the electronic voting system to a show of hands by deleting Article 4.13.3 (i) and (ii) and inserting as a new Article 4.13.3:

Unless otherwise provided by law or in these procedure rules, the vote on any motion or amendment proposed at any meeting of the full Council shall be taken by means of a show of hands. Where a physical restriction prevents any Member from making a show of hands, on notifying the Chairman of that restriction that Member may vote by voice. An electronic voting system will remain available for all other committees of Council to use in the Council Chamber if required. It will be for each committee of the Council to determine the voting system to be used.

1. BACKGROUND TO REPORT

- 1.1** In all ordinary instances, matters are decided at council meetings by the majority of members present and voting. The method of voting is not prescribed by statute. It remains for each council to determine which method of voting is used.
- 1.2** Since the introduction of the Constitution, this Council has determined that voting will be by means of the electronic voting system when meetings are held in the Council chamber and the electronic voting system is in operation. Where meetings are held elsewhere or the electronic voting system is out of operation, votes are taken with a show of hands. The recommendation is made to provide for the voting system at all full Council meetings to be by way of a show of hands.
- 1.3** A show of hands will also provide a means of voting which will be transparent to any member of the public attending. Members may be asked to indicate by a show of hands all those in favour of a proposal and a show of hands for all those against. Each Member will usually have one vote only (other than the Chairman's casting vote) and an incorrect vote cannot be corrected once the final declaration by the chairman of the outcome of the vote has been given.
- 1.4** Article 4.13.7 relates to voting on appointments. Currently, the electronic voting system is used in situations where there is more than one nomination for one appointment. The use of a show of hands should simplify the process.
- 1.5** The electronic voting system will remain available for use by other committees of Council using the Council chamber

2. OTHER OPTIONS CONSIDERED

The proposal is an alternative to the existing electronic system used and no other options other than the use of a show of hands have been considered. Other options available include casting a vote by voice or some other conduct such as a nod of the head. These options may not provide the clarity of a show of hands and could be difficult to interpret where all 56 Members are present and are able to vote.

3. RESOURCE IMPLICATIONS

The electronic voting system provides an automatic process for counting the votes cast. The use of a show of hands will require a clear understanding of the number of Members present and an accurate count of the votes cast. It is not anticipated that additional resource will be required.

4. RISK AND MITIGATION

Risk has been considered as part of this report and any specific high risks are included in the table below:

Category Risk	Action / Controls
None	

5. ISSUES ARISING FROM IMPACT ANALYSIS (EQUALITY & DIVERSITY)

Consideration must be given to those Members who may have a physical restriction which prevents them showing their hand either at all or for the time required for the votes cast to be counted. Members who have made such a physical restriction known to the Chairman should be permitted to cast their vote in some other way such as by voice.

6. CRIME AND DISORDER IMPLICATIONS

None.

7. COMMENTS OF FINANCIAL SERVICES

There are no financial impacts relating to the proposed amendment to the Constitution.

8. COMMENTS OF LEGAL AND DEMOCRATIC SERVICES

It is a matter for the Council to determine such an amendment. There is no statutory requirement relating to the method of voting for local authorities. A consistent method to be used in all meetings of the Council and its committees would be appropriate.

9. COMMENTS OF OTHER RELEVANT SERVICES

None

10. BACKGROUND PAPERS

The Constitution

<http://moderngov.southkesteven.gov.uk/ieListDocuments.aspx?MIId=3407>

