



Wednesday, 22 January 2025

Report of Councillor Philip Knowles,
Cabinet Member for Corporate
Governance and Licensing

Proposed amendments to the Council's Constitution

Report Author

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Purpose of Report

To consider amendments to the Council's Constitution.

Recommendations

The Governance and Audit Committee recommends to Full Council:

- 1. That the Overview and Scrutiny Procedure Rules at Part 4 (Rules of Procedure) of the Council's Constitution be amended, as set out in paragraph 3.6 of the report.**
- 2. That the Council Procedure Rules at Part 4 (Rules of Procedure) of the Council's Constitution be amended, as set out in paragraph 3.7 of the report.**
- 3. That Part 3(c) (Responsibility for Functions – Delegated Powers to Officers) of the Council's Constitution be amended under section 26 (Property, including land), as set out in paragraph 3.11 of the report.**

Decision Information

Does the report contain any exempt or confidential information not for publication?	No
What are the relevant corporate priorities?	Effective council
Which wards are impacted?	(All Wards)

1. Implications

Taking into consideration implications relating to finance and procurement, legal and governance, risk and mitigation, health and safety, diversity and inclusion, safeguarding, staffing, community safety, mental health and wellbeing and the impact on the Council's declaration of a climate change emergency, the following implications have been identified:

Finance and Procurement

1.1 There are no financial implications associated with this report.

Completed by: Richard Wyles, Deputy Chief Executive and Section 151 Officer

Legal and Governance

1.2 There are no significant legal or governance implications arising from this report which are not already referenced in the body of the report.

Completed by: Graham Watts, Monitoring Officer

2. Background to the Report

Overview and Scrutiny Procedure Rules

- 2.1 The Overview and Scrutiny Procedure Rules at Part 4 of the Council's Constitution provide Members with the ability to request items for inclusion on agendas for meetings of Overview and Scrutiny Committees.
- 2.2 It is normal practice for items included on agendas for Overview and Scrutiny Committees to be supported by a formal report. This requires the allocation of officer resource, sometimes at short notice, to ensure the respective Committee has sufficient information at its meetings to enable informed consideration and debate of the agenda item.

2.3 Concerns have been expressed that additional requests for agenda items outside of scheduled meetings can, in some cases, divert the Council's resources away from those items agreed in advance as part of the respective Committee's work programme or delivery of Corporate Plan objectives.

Recorded vote for adoption of the Local Plan

2.4 Paragraph 15 of the Council Procedure Rules at Part 4 (Rules of Procedure) of the Council's Constitution sets out the rules in relation to voting at meetings of the Council.

2.5 This includes provision for the calling of a recorded vote, which is set out at paragraph 15.5 of the Council Procedure Rules.

2.6 A recorded vote is required to be taken in respect of any decision relating to the making of calculations in accordance with the Local Government Act 1992 at any budget decision meeting of the Council. This is reflected at paragraph 15.6 of the Council Procedure Rules.

2.7 It is proposed that an additional provision be added to the Council Procedure Rules, ensuring that a recorded vote is also held when the Council takes a decision to adopt the Local Plan.

Letting of land and property – delegated authority

2.8 The scheme of delegation included in Part 3(c) of the Council's Constitution provides delegated authority to officers relating to short term and long term lettings of land and property.

2.9 In relation long term lettings (in excess of seven years), the scheme of delegation includes a cap of £100,000 for the entirety of the lease. This means that any decision to grant a lease exceeding £100,000 would currently need to be made by Cabinet. A number of recent examples have highlighted that operationally it would be more expedient for a delegation over and above the £100,000 threshold.

3. Key Considerations

Overview and Scrutiny Procedure Rules

3.1 The Overview and Scrutiny Procedure Rules currently make the following provision in respect of requests for agenda items:

4.2 *Any member of an Overview and Scrutiny Committee, or any five members of the Council, will be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of that Overview and Scrutiny*

Committee to be included on the agenda for the next available meeting of the Overview and Scrutiny Committee.

- 4.3 *Dependent upon the items already scheduled for inclusion on the agenda for the next meeting, as set out in the Committee's work programme, the Chairman of the relevant Overview and Scrutiny Committee may use their discretion to defer such a request to the subsequent meeting.*
- 4.4 *Between meetings, the work programme for the Overview and Scrutiny Committees will be determined by the Chairman of each Overview and Scrutiny Committee.*

3.2 Whilst the Constitution does provide the Chairman of the Overview and Scrutiny Committee with some discretion regarding management of the work programme relating to their Committee, it does not allow any meaningful consideration of the request or how the proposed item may fit into the items already scheduled for the next or subsequent meetings of the Committee.

3.3 It is therefore proposed that the Committee should have the ability to consider any requests for additional agenda items as part of the effective management of its work programme.

3.4 To support the submission of a request, and the Committee's consideration as to whether an item should be included on the work programme for meetings of their Overview and Scrutiny Committee, it is proposed that the requester should provide sufficient background information along with their request.

3.5 An instance recently occurred whereby a Member having requested an item for inclusion on an agenda for a meeting of an Overview and Scrutiny Committee was unable to attend the meeting when the item was considered. A request has therefore been made to amend the Constitution, ensuring that in such circumstances the Member(s) requesting the item are present at the meeting and if they are unable to attend, the item be deferred to the next scheduled meeting of the respective Overview and Scrutiny Committee.

3.6 The Governance and Audit Committee is therefore invited to consider the following provision to replace paragraphs 4.2 to 4.4 in the Council's Overview and Scrutiny Procedure Rules:

4.2 *Any Member of an Overview and Scrutiny Committee, or any five Members of the Council, will be entitled to give notice to the Chief Executive that they wish an item relevant to the functions of that Overview and Scrutiny Committee to be included on the Committee's work programme.*

4.3 Before issuing notice to the Chief Executive in accordance with paragraph 4.2, Members should:

- *research background information*
- *consult relevant Officers*
- *consult the relevant Cabinet Member(s)*
- *consult the relevant Chairman of the Overview and Scrutiny Committee*
- *produce a written report or note outlining the potential outcomes of the item and how it could contribute to the delivery of the Council's Corporate Plan*

4.4 Details of the request will be presented to the next scheduled meeting of the Overview and Scrutiny Committee under the work programme item to determine whether the item should be added to the work programme for consideration at a future meeting of the Committee.

4.5 Between meetings, the work programme for the Overview and Scrutiny Committees will be determined by the Chairman of each Overview and Scrutiny Committee.

4.6 Any item included on an agenda for a meeting of an Overview and Scrutiny which has followed the procedure outlined in paragraphs 4.2 and 4.3 above will require the attendance of the Member(s) who submitted the request. If they are unable to attend the meeting for any reason the item will be deferred to the next scheduled meeting of the Committee, unless they are content with the item being considered in their absence.

Record vote for the adoption of the Local Plan

3.7 It is proposed that the following new sub-paragraph be added to paragraph 15 of the Council Procedure Rules:

15.7 A recorded vote will be taken in respect of any decision to adopt the Local Plan.

Letting of land and property – delegated authority

3.8 The scheme of delegation at Part 3(c) (Responsibility for Functions – Delegated Powers to Officers) under paragraph 26 (Property, including land) currently provides the following delegated authority to the Chief Executive, Deputy Chief Executive, relevant Director and any other officers they authorise in writing as being appropriately qualified and trained:

- f) *To arrange short term (up to seven years) lettings of land and property not immediately required for other purposes at rent/licenses fees fixed by the Section 151 Officer*
- g) *To arrange lettings (in excess of seven years) of land and property not immediately required for other purposes at rent/license fees fixed by the Section 151 Officer, providing that the total cost of the lease in its entirety does not exceed £100,000*

3.9 To provide more operational flexibility and enable the Council to expediate commercial transactions when they arise it is proposed that the current delegated authority be extended beyond the £100,000 threshold. A commercial lease over a defined lease period is likely to exceed this financial threshold and progression of the lease negotiation is delayed whilst a decision is made. For example, the lease of a commercial unit at a rate of £5,500 per annum over a twenty-year period would currently require a decision by Cabinet. Such an operational decision with relatively low annual impact on the Council's income streams does not demonstrate the most effective use of Cabinet's time. Additionally, waiting for the next scheduled meeting of Cabinet to determine the award of a lease could impact the Council's ability to be proactive and act quickly, which the market often requires.

3.10 To provide reassurance to Cabinet, and the Council, it is proposed the delegation to the Council's Section 151 Officer be supported by an independent valuation and consultation with the Cabinet Member for Property for those leases where the total value over the period of the lease exceeds £100,000.

3.11 It is therefore proposed the following be added as a new sub-paragraph (h) under section paragraph 26 (Property, including land) of Part 3(c) of the Council's Constitution:

- h) ***Any Lease, agreement or letting where the total value over the period exceeds £100,000 must be supported by an independent valuation and undertaken in consultation with the Cabinet Member for Property.***

4. Other Options Considered

- 4.1 To maintain the existing arrangements.
- 4.2 To recommend any alternative amendments to the Council's Constitution.

5. Reasons for the Recommendations

- 5.1. To support the effective management and operation of the Council's Overview and Scrutiny Committees.

- 5.2. To adhere to a request regarding the provision of recorded voting in respect of the adoption of the Local Plan.
- 5.3 To provide greater operational flexibility in the letting of the Council's land and property.