

GOVERNANCE COMMITTEE

23 JUNE 2014

REPORT OF THE MONITORING OFFICER

CONSTITUTION UPDATE 2014-15

1.0 PURPOSE OF THE REPORT

- 1.1 The Committee is requested to consider constitutional items and those agreed be referred to the Council for adoption in the Council's Constitution.

2.0 RECOMMENDATIONS

- 2.1 To consider whether to amend the Procedure Rule relating to quoracy as shown in red below so that the rule reflects the position with the Governance Sub Committees and refer the same to the Council for adoption and inclusion in the Council's Constitution :-

7. QUORUM

7.1 The quorum of a Council meeting will be at least half of the whole number of members. During any meeting if the Mayor counts the number of members present and declares there is not a quorum present, then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Mayor. If he/she does not fix a date, the remaining business will be considered at the next ordinary meeting.

7.2 *In respect of committees and sub-committees quoracy be a minimum of 4 members or 25% of the whole number of members, whichever is the greater **except in the case of the Governance Sub Committees 1 and 2 which are quorate with 3 Members.***

- 2.2 To consider whether to amend the Scheme of Delegation to the Head of Regulatory Services at items 48 and 49 as set out in Appendix A and refer the same to the Council for adoption and inclusion in the Council's Constitution

- 2.3 To consider whether to amend the Procedure Rule relating to the 'Recorded Vote' and should a change be agreed this be referred to the Council for adoption and inclusion in the Council's Constitution.

3.0 KEY ISSUES

- 3.1 Since the last review of the Constitution in April 2013 and the follow on items approved at Full Council on 17 July 2013, items are collated for each Committee's consideration. As the Constitution is a living document, such proposed changes will be brought to the Committee's attention as soon as these come to light to enable the Council's work to move forward rather than await an annual review.

- 3.2 The Committee is to refer its recommendations for amending the Constitution to the Full Council for adoption.
- 3.3 Following approval of the Guidance notes to the Member Complaints Process by the Full Council on 11 December 2013, there is reference to quoracy being 3 Members for the Governance Sub Committees that deal with each stage of the complaints process. Therefore it is proposed that 7.2 of the Procedure Rules be amended as shown in red below so that the rule reflects the position with the Governance Sub Committees for clarity :-

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- 7.2 *In respect of committees and sub-committees quoracy be a minimum of 4 members or 25% of the whole number of members, whichever is the greater **except in the case of the Governance Sub Committees 1 and 2 which are quorate with 3 Members.***
- 3.4 The proposed amendments to items 48 and 49 of the Scheme of Delegation to the Head of Regulatory Services as set out at Appendix A reflect a more generic approach to referring to areas of responsibility as opposed to specific pieces of legislation.
- 3.5 A request has been received from a member of the public involved in a wind turbine campaign as follows :-

'May I request that my suggestion be put before the Governance Committee at its next meeting on 23 June 2014 for the necessary constitutional changes to be made, with the emphasis being on a requirement for an individual member to justify why a vote should not be recorded. In other words, the default position would be to record all votes.

I would only add that openly recording a vote of each member automatically would be consonant with the ordinary democratic process, displaying each members' accountability to the electorate. Votes of members of Parliament are recorded, and I would respectfully invite the committee to consider that the same principle should apply in our local democracy too. It seems to me that there is really little justification for members not to agree to such transparency.'

- 3.6 With regard to the request at 3.5 above, the Council already has a Procedure Rule in place for recording votes which has been advised to the member of the public and to which their response is as stated. There is also provision to record individual votes upon request by a Member. The existing Procedure Rule is as follows :-

Recorded vote

15.5 *If three Members present at the meeting demand it, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot.*

Right to require individual vote to be recorded

15.6 *Where any Member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.*

3.7 It is the Council's normal practice as outlined in the relevant Procedure Rules 15 – 15.4 set out below to take a vote by 'show of hands'. It is neither a legal requirement nor is it this Council's practice to record the vote of all Members for Council, Committee and Sub Committee decisions in the manner suggested.

15. VOTING

Majority

15.1 *Unless the Constitution provides otherwise, any matter will be decided by a simple majority of those Members voting and present in the room at the time the question was put.*

Mayor's casting vote

15.2 *If there are equal numbers of votes for and against, the Mayor will have a second or casting vote. There will be no restriction on how the Mayor chooses to exercise a casting vote.*

Show of hands

15.3 *Unless a ballot or recorded vote is demanded under Rules 15.4 and 15.5, the Mayor will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.*

Ballots

15.4 *The vote will take place by ballot if three Members present at the meeting demand it. The Mayor will announce the numerical result of the ballot immediately the result is known.*

3.8 To accommodate such a request as outlined at paragraph 3.5 could elongate all Council, Committee and Sub Committee meetings with an extra layer of administration applied to every agenda item.

4.0 POLICY AND CORPORATE IMPLICATIONS

4.1 Due to the Constitution being a living document there are times when amendments are needed to enable the organisation to function efficiently. Therefore as well as an annual review, items will be referred to the Committee as required.

5.0 FINANCIAL AND OTHER RESOURCE IMPLICATIONS

5.1 Any financial and resource implications will be met from existing resources.

6.0 LEGAL IMPLICATIONS/POWERS

6.1 Any change in legislation overrides the current wording of the Constitution and the Monitoring Officer has delegated authority to make amendments as required by the law. Therefore such legal consequential changes will be put in place immediately and reported to the Committee as soon as possible thereafter.

7.0 COMMUNITY SAFETY

7.1 There are no community safety implications relating to this report.

8.0 EQUALITIES

8.1 Equalities Screening Assessments have been drafted on the items within the report and these are available on the Council's website.

9.0 RISKS

9.1 Any risk implications relating to each proposed amendment are taken into account when considering the relevant item.

10.0 CLIMATE CHANGE

10.1 The Constitution is available on the Council's website and electronically to Members and Officers to meet the Council's corporate commitment to meet green targets.

11.0 CONSULTATION

11.1 There has been internal consultation with Management Team to ensure the Constitution reflects the Council's current responsibilities and arrangements.

12.0 WARDS AFFECTED

12.1 All wards are indirectly affected by this report.

Contact Officers : Angela Tebbutt, Monitoring Officer/Sarah Evans, Senior Democracy Officer

Date : June 2014

Appendices : Appendix A – Proposed changes to HRS Delegations at items 48 and 49

Background Papers : Constitution 2014/15