

Bath & North East Somerset Council		
MEETING	Council	
MEETING DATE	9 th November 2017	
TITLE	PROPOSED AMENDMENTS TO THE CONSTITUTION	
WARD	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: None		

1 THE ISSUE

- 1.1 The Constitution is a single point of reference which contains the principal governance structures and procedures of the authority. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people.
- 1.2 This report sets out various proposed amendments to the Constitution, which have been agreed with the Constitution Working Group.

2 RECOMMENDATION

The Council is asked to agree the following to be incorporated into the Council's Constitution:

- 2.1 Set a financial threshold for key decisions at £250k as set out in section 5.1;
- 2.2 Agree the proposed rules for managing Petitions for Debate as set out in section 5.2;
- 2.3 Amend the 'Closure Motions' section as set out in section 5.3;
- 2.4 Amend Part 3, Section 3, to update the references to the West of England Combined Authority, as set out in section 5.4; and
- 2.5 Make the deadline for submission of questions from members of the public to Cabinet and Council the same as the deadline for councillor question submission as set out in section 5.5.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 There are no financial, property or people implications directly arising from this report.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2011 and any other relevant statutory acts or guidance.

5 THE REPORT

5.1 Key Decision – Financial Threshold (Part 2, Article 3.4)

- (1) The Local Authorities (Executive Arrangements) (Access to Information) (England) Regulations 2000 set out a definition of a 'key decision' for executive decision making which requires all such proposed decisions to be published in a forward plan 28 days before being taken. The current definition of a 'key decision' is;

"A 'key decision' is defined in law as one which is likely to:

- (a) result in the local authority incurring expenditure which is, or the making of savings which are, significant having regard to the local authority's budget for the service or function to which the decision relates; or*
- (b) be significant in terms of its effects on communities living or working in an area comprising two or more wards or electoral divisions in the area of the local authority."*

- (2) It is the practice in this Council for all proposed executive decisions, whether deemed 'key' or not, to be published in advance in the Executive Forward plan.
- (3) The Council has never set a financial limit above which items are deemed 'significant'. A limit would assist officers in determining if a decision is significant and a key decision, and therefore required to be published in the Forward plan. For the sake of comparison with neighbouring Authorities, Bristol City Council's limit is set at £500k, as is South Gloucestershire. The Section 151 Officer has been consulted and recommended £250k.

5.2 Petitions for debate (suggest new rule 4A, rule 34a)

- (1) As petitions are becoming more common at Council, some rules and operating principles for handling debate on these items are proposed;
- a) Chair to explain the process at the outset;
 - b) Recognise that the Council does not need to form a resolution arising from the debate;
 - c) Establish a convention that the largest party is offered the first opportunity to present a motion, followed by amendments in the order of the size of group;

d) A maximum time limit of one hour for the debate is set.

[NB: for clarification - the time limit in rule 34 (Statements from the Public) does not apply to this item. Rule 34 refers to the one hour limit for the entirety of the 3 minute public statements. This is a separate agenda item so would need its own time limit.]

5.3 Closure motions and standing to vote for ‘the question to be put’

- (1) A clarification is proposed to rule 4A, 43 - *Closure Motions* to reflect current practice regarding moving to the vote without a summing up from the mover, as shown in point (b) of the extract below (new text in bold);
- (2) A suggestion has been made that it would be clearer to the public, and those in the Chamber, that if members are voting specifically that ‘the question be put’, this is done so by a clear majority standing, where possible*. The substantive vote would then be taken by counting hands as normal – making an obvious distinction between the vote on a closure motion and the vote on a substantive motion.

*[*If a Member is unable to or prefers not to stand, a raised hand will count.]*

“RULE 43 - CLOSURE MOTIONS

A member who has not spoken in a debate may move without comment at the conclusion of a speech of another member;

- *“That the meeting proceed to the next business”,*
- *“That the question be now put” (in effect “That the vote be now taken”),*
- *“That the debate be now adjourned”, or*
- *“That the meeting do now adjourn”,*

on the seconding of which the Chair shall proceed as follows:-

- (a) *On a motion “to proceed to next business”: unless in her/his opinion the matter before the meeting has been insufficiently discussed, the Chair shall first give the mover of the ~~original~~ **substantive** motion a right of reply, and then put to the vote the motion “to proceed to the next business”;*
- (b) *On a motion “that the question be now put”: unless in her/his opinion the matter before the meeting has been insufficiently discussed, the Chair shall first put to the vote the motion “that the question be now put”. If that motion is passed, the Chair will ~~invite the mover of the original motion to exercise her/his right of reply under Rule 38 before putting that original motion to the vote~~ **shall put the substantive motion to the vote without giving the mover of the original motion a right of reply;***
- (c) *On a motion “to adjourn the debate or the meeting”: if in her/his opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion, the Chair shall put the adjournment motion to the vote without giving the mover of the ~~original~~ **substantive** motion a right of reply.*

Votes on closure motions to be taken by Members standing. If a Member is unable to or prefers not to stand, a raised hand will be counted.

5.4 Responsibility for Functions & Delegations schemes - Part 3, Section 3

- (1) This section needs to be amended to update the references to the West of England Combined Authority, as set out below;

West of England Partnership Joint Waste and Joint Transport Committees and Planning, Housing & Communities board West of England Combined Authority and any bodies/groups it appoints	Relevant Cabinet Member (plus an Executive Member from each of the Authorities covered by the West of England Partnership) Leader, plus relevant Cabinet Members on Advisory Boards	To enable joint governance arrangements via delegated powers to take executive decisions on behalf of the 3 participating Authorities	Detail contained within the Terms of Reference
West Of England Joint Committee	Leader	To enable joint governance arrangements via delegated powers to take executive decisions on behalf of the 4 participating Authorities	Detail contained within the Terms of Reference

5.5 Question deadline for Council & Cabinet

Currently, Councillors submitting questions to Council and Cabinet must do so by the deadline of 4 working days before the meeting, whereas the public only need to give 2 clear working days' notice. As the time spent by officers and Cabinet Members in preparing responses is the same regardless of who submitted the question, it is proposed that the deadlines are made the same.

6 RATIONALE

- 6.1 Council is requested to agree the amendments to ensure that the Constitution is up to date with best practice and provides robust arrangements to facilitate effective debate and decision making. An updated Constitution will ensure the Council is less likely to be challenged on its procedures and processes.

7 OTHER OPTIONS CONSIDERED

- 7.1 If the Constitution is not amended, it will not be robust enough to support effective decision making processes at Council, or reflect the correct legal position.

8 CONSULTATION

- 8.1 Member Working group, Group Leaders, the Monitoring Officer and the Chief Executive.

9 RISK MANAGEMENT

- 9.1 Considered as part of the formulation of proposals.

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Background papers	The Constitution
Please contact the report author if you need to access this report in an alternative format	