

Bath & North East Somerset Council

MEETING	Council	
MEETING DATE	12 th May 2022	
TITLE:	CONSTITUTION REVIEW – DISPUTED ISSUES	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix A – Research regarding Chair/Chairman terminology Appendix B - Business groups letter to Companies House		

1 THE ISSUE

1.1 As agreed at Council on 18th November 2021, the Monitoring Officer was tasked with refreshing the Constitution. Assisted by officers from Legal & Democratic Services and a Member working group, this exercise is nearly complete with consensus reached on most points. However, the working group requested the following 3 issues be brought to full Council for a decision, before subsequent inclusion in the final refreshed version scheduled for the July Council. These are;

- a) Chair/chairman terminology (paragraphs 3.1 – 3.4 below)
- b) Statements in writing in advance- (paragraphs 3.5 – 3.10 below)
- c) Motions to May Council – (paragraphs 3.11 – 3.14 below)

2 RECOMMENDATION

The Council is asked to;

- 2.1 consider the approach taken by other authorities and the recent letter from leading business groups (as set out in Appendices A & B) and decide whether to use the term Chair or Chairman within the revised Constitution;

- 2.2 confirm whether the full text of a statement from a member of the public or a councillor must be submitted in writing by the published deadline for registering this intention;
- 2.3 confirm if the existing principle of not considering political group motions at the annual meeting of Council is intended to cover the May meeting in any form, and therefore should not be compromised by holding an ordinary meeting following the annual meeting.

3 THE REPORT

CHAIR/CHAIRMAN TERMINOLOGY

- 3.1 Research was carried out to find out the approach taken by other Local Authorities, using those Authorities who form the “corporate nearest neighbours” group for BANES which is used by the Strategy and Performance Team for benchmarking purposes, plus those Local Authorities that border B&NES.
- 3.2 A post was also included on the ADSO (Association of Democratic Services Officers) forum asking which terms are used in other council constitutions and the responses received are included at Appendix A.
- 3.3 Appendix B refers to a recent letter from leading UK business groups calling on the government to remove the word “chairman” from the Companies House model articles “to show it is serious about gender equality in business”.
- 3.4 It is acknowledged that individual Chairs of bodies can choose how they wish to be addressed (eg; Madame Chair, Chair, Chairwoman etc) and this principle would remain. This recommendation refers to the default terminology that appears throughout the Constitution.

STATEMENTS IN WRITING IN ADVANCE

- 3.5 Members will be aware of the recent views that have been expressed on this issue. Clarity is now needed as to whether the full text of a statement is required to be submitted by the 2 clear working day deadline for registering intention to speak with Democratic Services.
- 3.6 The Constitution details the following requirements for submission of statements;

A submission under this Rule will not be accepted if

- *it seeks to address exempt or confidential matters;*
- *the subject matter is about an application for a legal consent or permission where there is an alternative process to challenge the decision or to appeal against it or where this Procedural Rule might prejudice the proper consideration of such an application or consent;*
- *it is about a matter which has already been lodged with the Council or with another statutory body as a formal complaint;*
- *it contains an allegation against, or comments about, the conduct of individual councillors or officers.*

- 3.7 When a statement is received, officers will check that it does not breach the above requirements and, if it does so and time permitting, work with the person to try and enable them to make a statement that complies with the rules.
- 3.8 Councillors have no involvement in vetting statements in advance of the meeting, and all Councillors on the committee/panel/body to which the statement will be made receive them at the same point before the meeting.
- 3.9 The rationale for having sight of statements in advance will enable councillors to have the opportunity to consider the issues raised, in order to respond in a meaningful way and ask pertinent questions, otherwise members have little option but to thank the speaker. It also enables the Monitoring Officer or his staff to check that statements comply with the rules above.
- 3.10 For those people who are disadvantaged through protected characteristics under the Equalities Act, Democratic Services are keen to fulfil their responsibilities under the Act and so will endeavour to assist and support as they have always done; discussing any specific particular difficulties with someone in this situation and finding ways to overcome those.

MOTIONS TO MAY COUNCIL

- 3.11 The Member Working group discussed the current rule [Part 4A, rule 14(8)] that political motions are **not** permitted at the February Budget Council and the May Annual Council Meeting following a decision at the July 2014 Council regarding this (which also, at that time, prevented councillor questions/statements to these meetings).
- 3.12 This was reviewed at Council in July 2016 when it was agreed that councillor questions and statements should be permitted at these meetings. The rationale given was that these do not take up much extra, but still enable a Councillor to address Council at each scheduled meeting. However, with regard to political motions, it was agreed that "Councillor agenda motions to remain prohibited from these 2 meetings." Political motions routinely take considerable time at a meeting.
- 3.13 Queries were raised at the working group as to whether political motions could be brought to an ordinary Council meeting in May, following the AGM.
- 3.14 It is, of course, possible to hold an annual and then an ordinary meeting in May, enabling political motions to be taken at the ordinary meeting. This would, however, undermine the principle of keeping the May Council meeting non-political. [Motions are permitted at the March, July and November Council meetings].

4 STATUTORY CONSIDERATIONS

- 4.1 A local authority is under a duty to prepare and keep up to date its constitution under s.9P Local Government Act 2000 as amended (Localism Act 2011).
- 4.2 The Constitution must contain:
- the standing orders/procedure rules;
 - the members' code of conduct;

- such information as the SoS may direct
- such other information (if any) as the authority considers appropriate

4.3 Clarity from Council on its wishes in regard to the disputed items will aid effective administration of Council proceedings.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

5.1 No specific implications.

6 RISK MANAGEMENT

6.1 No specific risk assessment related to the issue and recommendations has been undertaken.

7 EQUALITIES

7.1 Addressed in the above section.

8 CLIMATE CHANGE

8.1 Not applicable.

9 OTHER OPTIONS CONSIDERED

9.1 Members are invited to consider a preferred course of action.

10 CONSULTATION

10.1 The Council's Chief Executive, Monitoring Officer (Head of Legal and Democratic Services) and Section 151 Officer (Director - Finance) have had the opportunity to input to this report and have cleared it for publication.

10.2 Group Leaders have been consulted on relevant aspects of this report.

Contact person	Jo Morrison, Democratic Services Manager (ext 4358)
Background papers	The Council's Constitution
Please contact the report author if you need to access this report in an alternative format	