

CHANGES TO THE COUNCIL'S CONSTITUTION

Council	12 April 2018
Report Author	Committee Services Manager
Portfolio Holder	Cabinet Member for Corporate Governance and Coastal Development
Status	For Recommendation
Classification:	Unrestricted
Previously Considered by:	Constitutional Review Working Party – 20 February 2018 Standards Committee – 7 March 2018

Executive Summary:

This report suggests a number of changes to the Council's constitution covering the following areas: -

- 1) Amending Article 16 of the constitution
- 2) Amending Council Procedure Rule 3.3 and the introduction of a new paragraph regarding non-attendance by Councillors due to present a motion on notice
- 3) Amending Council Procedure Rule 14.6
- 4) Introduction of a new paragraph regarding non-attendance by Councillors due to ask a question at Council

The report goes on to explain the reasoning behind the proposed changes and gives the comments and recommendations of the Standards Committee regarding the proposed changes.

Recommendations from the Standards Committee:

- a) To amend paragraph 16.03 a) to read: "The Committee Services Manager will provide an electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council."
- b) To amend Council Procedure 3.3 to read: "The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received."
- c) To add a new Council Procedure Rule 3.4 to read "A member giving notice in writing (either by official TDC email or via letter) prior to the start of the meeting at which their motion is to be considered, may defer their motion to a later meeting or withdraw it if they are unable to attend the said meeting. If no such notice is received and the member is not present to move the motion it will automatically fall and will not be able to be re-considered for six months as per CPR 3.8 xi)."
- d) To amend Council Procedure Rule 14.6 to read: "The Monitoring Officer will reject a question if it is..."
- e) To add a new Council Procedure Rule 14.7 to read: "A member giving notice in writing

prior to the start of the meeting at which their question is to be considered, may defer their question to a later meeting or withdraw it if they are unable to attend the said meeting.”

- f) To add a new Council Procedure Rule 14.8 to read: “If such notice is not received and the questioner is not present the question shall not be put and shall be answered in writing. There will be no ability to ask a supplementary question.”
- g) To note that all subsequent numbering of the council procedure rules would be amended in order to accommodate the changes suggested above.

CORPORATE IMPLICATIONS									
Financial and Value for Money	There are no financial implications to report aside from the proposal to stop providing a paper copy of the constitution on the election of Councillors which would result in a small operational saving.								
Legal	Under section 37 of the Localism Act 2011, the Council must prepare and keep up to date a constitution. The proposed arrangements would not compromise this requirement.								
Corporate									
Equality Act 2010 & Public Sector Equality Duty	<p>Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.</p> <p>Protected characteristics: age, gender, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.</p> <p>There are no specific equalities implications from this report.</p> <table border="1" style="width: 100%;"> <tr> <td colspan="2">Please indicate which aim is relevant to the report.</td> </tr> <tr> <td>Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,</td> <td style="width: 50px;"></td> </tr> <tr> <td>Advance equality of opportunity between people who share a protected characteristic and people who do not share it</td> <td></td> </tr> <tr> <td>Foster good relations between people who share a protected characteristic and people who do not share it.</td> <td></td> </tr> </table>	Please indicate which aim is relevant to the report.		Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,		Advance equality of opportunity between people who share a protected characteristic and people who do not share it		Foster good relations between people who share a protected characteristic and people who do not share it.	
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CORPORATE PRIORITIES (tick those relevant)✓	
A clean and welcoming Environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

CORPORATE VALUES (tick those relevant)✓	
Delivering value for money	
Supporting the Workforce	✓
Promoting open communications	✓

1.0 Introduction and Background

- 1.1 This report allows the Standards Committee to consider a number of potential changes to the Council's constitution to address issues that have arisen over the past six months.
- 1.2 These proposed changes affect article 16 of the constitution, motions on notice and questions by Councillors at Full Council meetings.

2.0 Amending Article 16 of the constitution

- 2.1 Paragraph 16.03 a) states that "The Committee Services Manager will give a printed copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council."
- 2.2 Democratic Services are proposing to remove the word "printed" from the above paragraph. Councillors only receive a paper copy of the constitution at the start of their term and do not receive a printed copy of changes to the constitution as they are made throughout the period of each 4 year Council.
- 2.3 There are a number of reasons why democratic services are proposing this change. Generally the constitution can find itself out of date as soon as it is printed due to the ongoing amendment process, as a paper copy costs £6.90; a print run for all 56 Councillors costs the Council £386.40, which is considerable for a document that has potentially a very short shelf life. Councillors have access via the Modern.gov app which contains an electronic copy of the constitution which arguably is easier to search, certainly lighter and more convenient to use.
- 2.4 The Standards Committee recommended that amendment be clarified by suitable words to indicate that it was access to an electronic copy which was being provided. Officers are happy to clarify this. Therefore Paragraph 16.03 a) would read: "The Committee Services Manager will provide an electronic copy of this Constitution to each member of the authority upon delivery to him/her of that individual's declaration of acceptance of office on the member first being elected to the Council."

3.0 Amending Council Procedure Rule 3.3 and the introduction of a new paragraph regarding non-attendance by Councillors due to present a motion on notice

- 3.1 Paragraph 3.3 of the Council Procedure Rules states: "The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received unless the member giving notice states, in writing, that they propose to move it to a later meeting or withdraw it save that"
- 3.2 Democratic Services are proposing to delete the "save that" at the end of the sentence as this is erroneous and to amend the paragraph to reflect that Members can withdraw or defer a motion after the agenda has been published, say for example if a member is unwell. Therefore Democratic Services are proposing the following:
 - "3.3 The Monitoring Officer shall include all notices of motion and accompanying statements in the agenda for the next relevant meeting of Council in the order received.
 - 3.4 A member giving notice in writing prior to the start of the meeting at which their motion is to be considered, may defer their motion to a later meeting or withdraw it if they are unable to attend the said meeting. If no such notice is

received and the member is not present to move the motion it will automatically fall and will not be able to be re-considered for six months as per CPR 3.8 xi).”

3.3 This gives greater clarity for Members who have submitted a motion but cannot attend a meeting and allows them two options to retain the right to put that motion to a future meeting when they are available to attend.

3.4 The Standards Committee recommended that consideration should be given to specifying “by official TDC email or in a letter” to provide clarity on the meaning of ‘notice in writing’. Officers are happy to clarify this. Therefore paragraph 3.4 will now read:

“A member giving notice in writing prior to the start of the meeting at which their motion is to be considered, may defer their motion to a later meeting or withdraw it if they are unable to attend the said meeting. If no such notice is received and the member is not present to move the motion it will automatically fall and will not be able to be re-considered for six months as per CPR 3.8 xi).”

4.0 Amending Council Procedure Rule 14.6

4.1 Council Procedure Rule 14.6 currently states:

“A question shall not be:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council.”

4.2 This paragraph whilst clear in the sense that there are defined rules about what is and what is not acceptable when submitting questions it does not state who decides that. In practice this has been the Council’s monitoring officer. Democratic Services are proposing amending the wording of CPR 14.6 as follows:

“The Monitoring Officer will reject a question if it is:

- defamatory, frivolous or offensive;
- substantially the same as a question which has been put at a meeting of the Council in the past six months;
- such as to require the disclosure of confidential or exempt information;
- related to an individual planning or licensing application; or
- related to the ethical conduct of individual Members of Council unless the conduct relates to the Member acting as a Member of the Council.”

4.3 This amendment mirrors the same proposed rejection method as questions from the press and public as outlined at paragraph 4.0 above.

5.0 Introduction of a new paragraph regarding non-attendance by Councillors due to ask a question at Council

5.1 It has come to the attention of democratic services that there is no section with CPR 14 that covers what should happen to questions put by Councillors who subsequently do not attend the meeting at which the question is due to be put. This is unlike CPR 13.0 regarding questions from the press and public which has a detailed process for when the questioner is not present.

5.2 It is proposed to include a new paragraph in CPR 14 which outlines the process and options for Councillors who have submitted a question, but then cannot attend to put the question. The suggested wording is:

“14.7 A member giving notice in writing prior to the start of the meeting at which their question is to be considered, may defer their question to a later meeting or withdraw it if they are unable to attend the said meeting.

14.8 If such notice is not received and the questioner is not present the question shall not be put and shall be answered in writing. There will be no ability to ask a supplementary question.”

5.3 This helps to bring clarity for members if they have submitted a question but cannot attend the meeting. The proposed wording allows members to withdraw or defer a question if they wish to retain the right to ask a supplementary question at future meeting or if an answer is needed rapidly for the question to remain on the agenda and for an answer to be given in writing.

5.4 The Standards Committee did consider whether to amend the deadline for withdrawing questions, however after discussion the Committee did not change the suggested deadline of prior to the meeting.

6.0 Options

6.1 Council has an opportunity to comment on the recommendations from the Standards Committee regarding the proposed changes and to make further amendments if Council deem necessary.

Contact Officer:	Nicholas Hughes, Committee Services Manager
Reporting to:	Tim Howes, Director of Corporate Governance

Annex List

None	
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Background Papers

Title	Details of where to access copy
None	

Corporate Consultation

Finance	Ramesh Prashar, Head of Financial Services
Legal	Tim Howes, Director of Corporate Governance