

Full Council - 7 October 2008

Changes to the Constitution

Report of the Legal and Democratic Services Manager

(This matter is the responsibility of Councillor Ross Henley, Leader of the Council)

Executive Summary

This report details a number of further proposed changes to the Constitution following meetings of the Constitutional Sub-Committee held on 4 September 2008 and the Corporate Governance Committee which met on 15 September 2008.

1. Purpose of the Report

- 1.1 Full Council is required to approve the changes as set out in Appendix 1 to this report in order for the Constitution to be updated.

2. Background

- 2.1 Every Local Authority is required to have a Constitution and that Constitution should be kept up to date with all relevant information on how the Council operates and gives details of its political and management structures.

3. The current position

- 3.1 The Constitution has been undergoing a review for some time and as a result a number of changes have been suggested in order to ensure it properly reflects how this Council wants to operate.
- 3.2 The Full Council meeting on the 15 July 2008 approved a number of changes but required some other amendments to be further discussed at the Constitutional Sub-Committee before it would consider them further.
- 3.3 The Constitutional Sub-Committee met on the 4 September 2008 and discussed the amendments as detailed in Appendix 1 and recommended these changes to the Corporate Governance Committee on 15 September 2008.
- 3.4 The Corporate Governance Committee also supported the proposed changes and, accordingly, the approval of Full Council is now sought.

4. Recommendations

- 4.1 Council is recommended to approve the amendments to the Constitution as set out in Appendix 1.

ARTICLE 16

16.0 Suspension of the Constitution

(c) Rules capable of suspension

The following rules may be suspended in accordance with the above provision:

The council's procedure rules apart from SO22 and SO26 and financial procedure rules

PART I REPORTS OF EXECUTIVE COUNCILLORS

8. (1) An Executive Councillor shall submit a report to each Full Council meeting. The report shall be in two parts.
- (2) Part I shall contain recommendations and Part II shall contain reports as to current and future business for the information of and comment from the Council.
- (3) Each recommendation shall be proposed separately by the Executive Councillor, or, in his/her absence, by the Leader of the Executive; it shall not need to be seconded before being discussed.
- (4) The normal rules of debate will apply to the recommendations contained in Part I

PART II OF EXECUTIVE COUNCILLORS' REPORTS

9. (1) When Part II of an Executive Councillor's report is being considered, Councillors may, upon items referred to in that report :-

(a) submit written questions to be received by the Democratic Services Manager by 4pm 2 working days before the Council meeting;

(b) Responses will be given to these questions and 1 further supplementary question will be allowed related to the question arising from the answer to seek further clarification;

Comment [11]: As per amendment at full council 15/07/08

(c) Verbal questions will be allowed which may be answered verbally or in writing within 5 working days.

Comment [12]: As per amendment agreed at full council on 15/09/08

- (2) Part II items are for information, discussion and comment only and no motion shall be put to the meeting as to any such item - other than those closure motions described in Standing Order 13.
- (3) A councillor may not speak on Part II of a report if a recommendation relating to that same item has already appeared in Part I of a report submitted at that meeting.
- (4) The Executive Councillor may introduce Part II of his report and update the Council on developments that have taken place since the report was dispatched.

QUESTIONS FROM COUNCILLORS

- 15 (1) At a Full Council meeting any Councillor, upon giving 5 working days written notice to the Democratic Services Manager, may ask the Mayor a question on a matter which concerns the Council's functions, powers, duties and which affects the borough.
- (2) Any Councillor, upon giving 2 working days written notice to the Democratic Services Manager, may ask the Leader of the Council, a portfolio holder, chairman of a committee or another member who has been appointed to an outside body, a question which concerns the Executive's or committee's functions, powers and duties or the work of the outside body and which affects the borough.
- (3) The leader, portfolio holder, or committee chair may direct the question to be answered by the Chairman of the appointed sub-committee which has been delegated the subject matter of the question.
- (4) The member asking the question may ask a supplementary question related to the question or arising from the answer to seek further clarification.

- (5) Questions are to be asked and answered without further discussion by other members present. The Leader of the Council or a committee chairman to whom the question has been addressed may ask another member or officer to answer it if they are of the opinion that a discussion is required or they may refer it to another relevant meeting of the Executive or Committee.

TIME LIMITS FOR ALL MEETINGS*

29. (1) A meeting of full council or other committees/panels including Overview and Scrutiny committees shall not exceed three hours in duration except in accordance with SO 30 below.
- (2) If the business of the meeting has not been completed within that time the Mayor or Chairman will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.
- (3) No member will be able to address the meeting after the Mayor's or Chairman's interruption on any item appearing on the agenda.
- (4) Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.

SUSPENSION OF COUNCIL PROCEDURE RULES*

30. (1) A motion to suspend a particular procedural rule shall state the particular purpose and require a majority of at least half the total number of members appointed to that Council Meeting or Committee.
- (2) on occasions that rule 29(1) (guillotine) is being waived, the duration of the suspension shall not exceed 30 minutes and shall, if seconded, be put to the vote without discussion.
- (3) Rule 29(1) can only be suspended once per meeting. However the Mayor, Chairman of Planning Committee or Chairman of the Licensing Committee may decide otherwise in respect of the meeting they are chairing. This will generally only occur in exceptional circumstances.
- (4) Rules 22 and 26 cannot be suspended. But section 13 still applies.

Part IV – Public Question Time

16. (1) Subject to paragraph (10) of this Standing Order, questions from Taunton Deane electors shall be taken in accordance with the procedure in this Standing Order at the beginning of each meeting.
- (2) The period allowed for questions and answers shall not exceed 15 minutes except with the consent of the Mayor; each individual questioner shall be restricted to speaking for a total of four minutes.
- (3) Questions shall be directed to the Mayor, who may request the appropriate member or officer to reply.
- (4) Every question shall relate to matters over which the Council has powers or duties and which particularly affect the Borough and shall be put and answered without discussion.
- (5) However, if a question relates to a ward-based issue, the Mayor shall invite a contribution from one councillor representing that ward before calling for the formal reply.
- (6) Questions shall not be disallowed merely because advance notice in writing has not been given. Such questions may not be answered immediately but later in writing. However it is always preferred that questions are put in writing in order to assist members and officers to be able give answers at the meeting.
- (7) An answer may take the form of:-
 - (a) an immediate oral answer; or
 - (b) a written answer where the necessary information is not readily available.
- (8) Subject to the time limit in paragraph (2) above, and to the discretion of the Mayor, the questioner shall be permitted to ask one supplementary question relating to the issue raised.
- (9) Any question shall be disallowed which the Mayor believes to be scurrilous, offensive, improper, repetitious, capricious, irrelevant or otherwise objectionable.

Comment [I3]: Discussed and agreed at Constitutional Sub committee 4/09/08

(10) The procedure for taking questions or statements from members of the public at meetings of the Planning Committee shall follow such pattern as agreed from time to time by that Committee to best take account of its needs for public involvement.

19. (1) All motions and amendments, unless the law otherwise requires, shall be decided by affirmation or by a show of hands, as the Mayor shall choose.

(2) If before the Mayor calls for the vote, either,

- (a) the mover and seconder of the motion - or of the amendment, or,
- (b) any councillor supported by the votes of at least a quarter of the councillors present,

request that a Recorded Vote be taken, then votes shall be publicly declared, and recorded in the minutes.

(3) In addition to the option under SO 19(2), any member may require - immediately after a vote is taken - that the manner in which that member's vote was cast (for, against or abstaining) shall be recorded in the minutes.

(4) Where a vote is taken upon the choice of more than two candidates for an appointment and there is not an absolute majority in favour of one candidate, the candidates receiving the least number of votes shall be excluded and a further vote taken, the procedure being continued until there is an absolute majority in favour of one candidate.

(5) (a) in the case of an equality of votes, the Mayor shall have a second or casting vote.

(b) The Mayor shall have unfettered discretion as to its use for
or against the proposition.

Comment [I4]: 5(a) has been amended to clarify the position with second and casting vote for the mayor.

PART I – MEETINGS OF THE COUNCIL

ORDER OF BUSINESS

1. At meetings of the Council, the order of business shall be as follows:-
 - (1) To elect a councillor to preside if the Mayor and Deputy Mayor are absent;
 - (2) To transact any business required by statute to be done before any other business;
 - (3) To receive the minutes of the preceding meeting and, if agreed, to order that they be signed as a correct record;
 - (4) To receive any communications;
 - (5) To deal with questions from Taunton Deane electors under Standing Order 16;
 - (6) To receive petitions or depositions from Taunton Deane electors under Standing Orders 17 & 18;
 - (7) To transact any business adjourned from previous meetings;
 - (8) To consider Motions received under Standing Order 4;
 - (9) To consider reports from Executive Councillors;
 - (10) To consider any reports submitted by the Review Board, a Review Panel, Standards Committee or from an Officer;
 - (11) To deal with questions asked under Standing Order 15(2);
 - (12) To transact any other business which the Mayor is prepared to certify as of such urgency that it must be disposed of at this meeting.

Comment [I5]: O&S committees?

Comment [I6]: Agreed at Constitutional sub committee 4/09/08

MOTIONS DURING A DEBATE *

5. (1) The only proposals which may be moved during a debate are:-

- (a) to amend the motion;
- (b) to postpone consideration of the motion;
- (c) to adjourn the meeting;
- (d) to adjourn the debate;
- (e) to proceed to the next business;
- (f) that the question be now put;
- (g) that Councillor _____ be not further heard;
- (h) that Councillor _____ do leave the meeting;
- (i) that the (identified) recommendation be referred back for further consideration;
- (j) that the press and public be excluded;
- (k) to suspend any one or more Standing Orders during all or part of the meeting;
- (l) to refer a petition which has been presented to a meeting of the Council to a Panel for consideration;

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5 (2) A councillor who has not previously spoken in the debate may, at the conclusion of a speech of another councillor, move without comment one of the following closure motions:-

- (a) "that the meeting do now adjourn"
- (a) "that the debate be adjourned",
- (b) "that the meeting do now proceed to the next business", or
- (d) "that the question be now put".

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(3) If the closure motion is seconded then (subject to the proviso set out in (c) below) the Mayor shall proceed as follows:-

- (a) the closure motion shall be put to the vote forthwith and without discussion;
- (b) then - subject only to the right of reply of the councillor who either presented the report or who proposed the original motion - the closure motion shall be immediately acted upon;

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(c) The Mayor shall have the discretion not to accept such a closure motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.

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Comment [17]: This is an amalgamation of clause 5 and 13 in the existing constitution