

BROMSGROVE DISTRICT COUNCIL

Council

14th March 2012

CONSTITUTION CHANGES

Relevant Portfolio Holder	Councillor M. A. Bullivant, Portfolio Holder for Policy, Performance, Communications, Customer Services, Legal, Equalities, Democratic Services and Human Resources
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Wards Affected	All
Ward Councillor Consulted	
Non-Key Decision	

1. SUMMARY OF PROPOSALS

- 1.1 Council is asked to approve the amendments to the Constitution outlined in this report.

2. RECOMMENDATIONS

It is recommended that:

- 2.1 Council considers and approves the proposed amendments of the Constitution as referred to in the Appendices to this report in relation to the following issues;**
- (a) Planning Committee Procedure Rules and Code of Practice**
 - (b) Overview and Scrutiny Rules**
 - (c) Council Procedure Rules**

3. KEY ISSUES

Financial Implications

- 3.1 There are no direct financial implications arising from this report.

Legal Implications

- 3.2 Review and Revision of the Constitution is governed by Article 15 of the Constitution.

Service / Operational Implications

- 3.3 The Constitution is a working document which is regularly amended and updated to reflect changes to the way in which the Council operates and carries out its functions.
- 3.4 As a result of the latest review of the Constitution carried out by the Monitoring Officer, and following consultation with the Leaders of both the Conservative and Labour Group it has been identified that certain updating needs to be carried out to Part 10 the Planning Procedure Rules and Part 20 the Planning Code of Practice. Copies of the revised versions of these documents are attached at Appendix 1 and Appendix 2. The Leader and the Leader of the Labour Group (being the largest non controlling group) have put forward other suggestions for amendments to Part 8, the Overview and Scrutiny Procedure Rules and to Part 4, the Council Procedure Rules. A copy of the Overview and Scrutiny Procedure Rules in the amended format is attached at Appendix 3. A summary of the changes proposed by the Leader of the Opposition is attached at Appendix 4.

Part 10 – Planning Procedure Rules

- 3.5 It is proposed that this part of the Constitution be amended to give greater clarity around the procedure for public speaking at Planning Committee. Members are referred to the revised version of the Planning Procedure Rules at Appendix 1 to this report, and in particular to section 8 of the document. The key changes are:-

- Clarification of the four categories of interested parties who may exercise the opportunity to speak at Planning Committee.
- Clarification of the role of the Ward Councillor in speaking at Planning Committee including the introduction of the ability of the Ward Councillor to nominate another member to take their place in order to represent the views of the local residents if they are unable to attend Planning Committee.
- Clarification of the role of the Chairman in deciding the order of speakers and for the time limits for public speaking to be extended in very exceptional circumstances.
- Confirmation that public speaking rights may only be exercised once in the lifetime of any planning application.
- Confirmation that it will be the role of the representative of the Head of Planning to correct any factual inaccuracies in the speeches of the public speakers. This is to ensure that Members of the Planning Committee are not influenced by any inaccurate information when making their decisions.

Part 20 – Code of Practice – Planning Services

3.6 The review of this document has identified a number of changes that are needed. There are a variety of reasons for this including changes to the planning regime nationally, changes that are soon to be made to the way in which Members declare interests under the Localism Act and the need for clarification around the process for site visits and the processing of Member and staff planning applications. A copy of the revised Code of Practice - Planning Service is attached at Appendix 2. In relation to Site Visits for Planning the proposed changes include:-

- Clarification of the purpose of site visits and the need to ensure that Members are not “lobbied” during visits or using the visit to form a collective view on the application.
- Clarification of the process to request a site visit, including that the final decision will rest with the Development Control Manager

Part 8 – Overview and Scrutiny Procedure Rules

3.7 There are two proposals for Members to consider in relation to the Overview and Scrutiny Procedure Rules. Firstly, it is proposed by the Leader that the Overview and Scrutiny Procedure Rules be amended to permit the use of substitutes to sit on the Overview and Scrutiny Board. Currently substitutes are not permitted for the purposes of the Overview and Scrutiny Board meetings. It is hoped that by introducing substitutes there will be a greater degree of flexibility around meetings which will allow the Board to carry out its role more effectively. Members are asked to note that substitutes would have to have had the requisite training in order to carry out this role. A copy of the proposed change to the Overview and Scrutiny Procedure Rules is attached to this report at Appendix 3.

3.8 Secondly, the Labour Group are putting forward a proposal that paragraph 8 of Part 6 of the Overview and Scrutiny Procedure Rules be amended to require the Chairman of Overview and Scrutiny to be selected from the largest non controlling party. This is the position adopted in many Councils and is thought to reflect good practice with regard to encouraging the scrutiny function.

Part 4 – Council Procedure Rules

3.9 The proposed changes to the Council Procedure Rules put forward by the Leader relate to section 11 of Part 4 – Notices of Motion. The proposals are :-

- a That that the number of motions to be debated at each ordinary meeting of the Council should be limited to four; and

Council

14th March 2012

- b That a Notice of Motion which relies on factual information will be rejected unless when it is submitted the author provides a report setting out the basis of the factual details and the sources from which that information was obtained.
- 3.10 The proposed changes to the Council Procedure Rules put forward by Labour Group are set out at paragraphs 1 to 7 of Appendix 4. To summarise these are :-
- a. That the deadline for delivering Notices of Motion to the Monitoring Officer be moved back to allow Members more time to submit them (para11.1)
 - b. That the ability to reject a Notice of Motion if it is not “ of a strategic nature” be removed from the Constitution (para 11.6)
 - c. That there be clarification around the use of para 11.8 – referral of a motion to Cabinet or another committee on the basis that this should only take place in advance of the item being placed on the agenda.
 - d. That the time limit for debating Notices of Motion should be extended to two hours (para 11.12)
 - e. That the ability to amend a Notice of Motion to refer it to “ an appropriate body or individual for consideration or re-consideration” should be removed from the Constitution (para 13.11 (c))
 - f. That the ability for Members to move that a matter be put to the vote during debates be more strictly defined to exclude the proposer or seconder of the motion under debate (para 13.11 (c))
 - g. That there should be greater clarification of the procedure around Leaders Announcements (para 10.3)
- 3.11 Members are asked to note that as a result of other decisions made by Council and Cabinet in recent months there are some other updates which need to be made to the constitution to give effect to those decisions. A full pack of updates including those which are agreed as a result of this report and the other updates will be issued to Members as soon as possible.

Customer / Equalities and Diversity Implications

- 3.9 The recommendations will have minimal impact on internal/external customers. No Equality and Diversity implications have been identified.

Council

14th March 2012

4. RISK MANAGEMENT

- 4.1 The main risks associated with the details included in this report are failure to comply with governance requirements which may expose the Council to the risk of challenge by way of judicial review or appeal which may result in awards of damages and costs against the Council and loss of reputation

5. APPENDICES

Appendix 1 : Revised Planning Committee Procedure Rules (Part 10)

Appendix 2 : Revised Code of Practice – Planning Services (Part 20)

Appendix 3 : Revised Overview and Scrutiny Rules (Part 8)

Appendix 4 : Proposed amendments to the Constitution: Labour
Group suggestions

6. BACKGROUND PAPERS

Council's Constitution

7. KEY

N/A

AUTHOR OF REPORT

Name: Claire Felton

E Mail: c.felton@bromsgroveandredditch.gov.uk

Tel: 01527 881249