

BROMSGROVE DISTRICT COUNCIL

COUNCIL

17th JUNE 2015

REVIEW OF THE CONSTITUTION

Relevant Portfolio Holder	Cllr Denaro
Portfolio Holder Consulted	Yes
Relevant Head of Service	Claire Felton, Head of Legal, Equalities and Democratic Services
Ward(s) Affected	All
Ward Councillor(s) Consulted	N/A
Key Decision / Non-Key Decision	Non-key

1. SUMMARY OF PROPOSALS

- 1.1 This report asks the Council to consider proposed changes to the Constitution arising from recommendations of a working group, which met in the months preceding the elections.

2. RECOMMENDATIONS

It is recommended that

- 2.1 The work of the Standards Committee is merged with that of the Audit Board with immediate effect and is called the Audit, Standards and Governance Committee;
- 2.2 The terms of reference of the Audit, Standards and Governance Committee be agreed as enclosed at appendix 1;
- 2.3 the Decision-making structure, size and quorum of committees be as set out in appendix 2;
- 2.4 the terms of reference for the Appointments and Appeals Panels and the Officer Employment Procedure rules be approved as set out in appendix 3;
- 2.5 the Council procedure rules at appendix 4 be approved for implementation from the next meeting of the Council, whether Ordinary or Extraordinary;
- 2.6 the Cabinet Procedure Rules at appendix 5 be approved for implementation from the next meeting of the Cabinet;
- 2.7 the Civic Head and Deputy Civic Head roles be removed from the Council's constitution and the responsibilities for civic duties be included within the role description for the Chairman and Vice Chairman of the Council as set out in appendix 6;

- 2.8 the political balance of committees arising from the implementation of the changes and attached at appendix 7 be approved and group leaders appoint to places on each committee accordingly;
- 2.9 following the introduction of public speaking and the ability for members of the public to present petitions at meetings of the council, the petition scheme be removed from the constitution with immediate effect, to be replaced with a protocol for the handling of petitions;
- 2.10 the Head of Legal, Equalities and Democratic Services be authorised to make any consequential changes to the Council's constitution arising from this report.
- 2.11 the principle of substitute members on the Planning and Licensing Committees undertaking the same training as the full members of the Committee be approved;
- 2.12 that in view of further proposals for changes to the constitution being raised, a working group consisting of the Leader and Deputy Leader of the Council and leaders of the other political groups on the Council be established to review the constitution and report back to the Council at future meetings.

3. KEY ISSUES

Financial Implications

- 3.1 The Council reduced in size from 39 to 31 members following the local elections in May this year. If the proposal to merge the Audit Board and Standards Committee is approved, this will save £1000 per year in the Members allowances budget because of the reduction in the number of Special Responsibility Allowances.

Legal Implications

- 3.3 The Council is required by law to maintain a constitution which sets out how the Council makes decisions.

Service / Operational Implications

- 3.4 In 2014 a small working group was set up to review the Constitution. The membership comprised the Leader, Deputy Leader and Group Leaders from the Labour and Independent Alliance political groups. The Chief Executive and Head of Legal, Equalities and Democratic Services supported the work of the Group.
- 3.5 The Group concentrated on the following issues:

- Decision-making structure and Size of committees – arising from the change in the size of the Council;
 - Council procedure rules – the aim being to make these clearer and to review the content of the Council meeting to try and encourage more constructive behaviour and outcomes.
- 3.6 Prior to carrying out the review, the Independent Person for the Council provided an overview of the operation of full Council, in particular the relationship between Councillors and the impact this had on the running of the meeting. The Group took the Independent Person's observations and recommendations into account during the review.
- 3.7 Whilst the members of the Group reached consensus on most of the proposals in this report, there were a few areas where this was not possible:
- Some members proposed that it should be a constitutional requirement for the Chairman of the Audit, Standards and Governance Committee not to be a member of the controlling group on the Council;
 - In the Procedure Rules, some members considered that at Council meetings Councillors should be able to ask a supplementary question arising from a Question on notice.

Decision –making structure – Standards Committee

- 3.8 The arrangements for dealing with Standards – the Code of Conduct and complaints about conduct of Parish and District Councillors – changed in 2012 under the Localism Act. Emphasis is now placed on early resolution of issues and fewer formal hearings. Since then, the workload of the Standards Committee has reduced – 2 out of 4 planned meetings in 2014-15 were cancelled.
- 3.9 The Working Group considered that the work of the Standards Committee remains important to the good governance of the Council but could be merged with another and that it would be most appropriate for it to be with the audit function. The Group recommends that the new Committee is called the Audit, Standards and Governance Committee. Proposed terms of reference are enclosed at Appendix 1.
- 3.10 As a consequence of the merging of the standards responsibilities into the one committee, it is recommended that the new Committee reviews the arrangements for standards hearings at an early meeting.
- 3.11 In addition, the group recommends that the new Committee maintains a “watching brief” of the democratic governance of the Council and this has been included in the summary of the duties of the Committee.
- 3.12 Whilst the Group agreed to recommend the new terms of reference to the Council, it did not agree on the chairing arrangements for this committee. Some

members considered that it should be a constitutional requirement for the committee to be chaired by a Councillor not from the controlling group. This approach was not agreed so is not shown in the draft terms of reference.

Decision – making structure – size of Committees etc

- 3.13 The recommended structure is enclosed at appendix 2. Apart from the merger of the Audit Board and Standards Committee, this is unchanged from last year.
- 3.14 The recommended size of Committees and Boards has been reduced from last year to reflect the reduction in the number of Councillors. However, the Group has noted that this is likely to lead to a demanding workload for Councillors, who may be appointed to two or more Committees.
- 3.15 The Group also considered the Quorum of Committees. Currently this is set at one quarter of the number of members. The groups considered that with the smaller number on each Committee this could be perceived as too small, particularly for the regulatory committees. It has therefore proposed that for each committee the quorum is increased from this figure to approximately half of the membership of each body. The recommended quorum is shown on the diagram in brackets.
- 3.16 Immediately prior to the elections the Local Authorities (Standing Orders) (England) (Amendment) Regulations were published and came into force immediately. These require the Council to change certain statutory standing orders for the discipline arrangements for the Chief Executive, Monitoring Officer and Chief Financial Officer (S101). Revised employment rules are enclosed at appendix 3; the content of these is set out in legislation and the Council is not able to change what is contained in them.
- 3.17 However, the Group proposes that instead of creating extra meetings/Panels to deal with this requirement, that current structures are amended to achieve this. Proposed terms of reference are enclosed at appendix 3. In short, it is proposed that the Council appoints to one Committee which will either sit as the appointments or Senior officers Disciplinary Panel. The Appeals Panel will remain as a separate body.

Council Procedure Rules

- 3.18 The Procedure rules have been reviewed with the aim of making them clearer.
- 3.19 The list below summarises the main changes that the Working Group has recommended:
- Increasing the quorum required for a Council meeting to proceed from 8 to 16;
 - Introducing an annual report from a portfolio holder at each Council meeting with the ability for Councillors to ask questions.
 - Introducing an opportunity for public participation at Council meetings;

- Enabling non-members of the Cabinet to speak at Cabinet meetings;
- Removing appointments to outside bodies from the Annual Council agenda – this item has been deferred in previous years due to the largely ceremonial nature of the Annual meeting;
- Simplifying definitions and the process for dealing with Notices of Motion and Questions.

The updated rules are enclosed at appendix 4 and the Council is asked to consider and approve these this evening. If approved, they will operate with effect from the next meeting of the Council – planned for 15th July. Where applicable they will also apply from the next meetings of each Committee this year.

- 3.20 In making the recommendations, the Group has tried to open up the decision-making process of the Cabinet, and Council in particular, to enhance the ability of all Councillors to participate at appropriate points. The introduction of a report from Portfolio holders increases the accountability of leading Councillors. It also gives them an opportunity to inform fellow Councillors and residents of important issues and developments in their areas of responsibility. The changes proposed to Questions and Notices of Motion aim to clarify the process and reduce the time spent on the administration of this by officers and the Councillors involved.
- 3.21 As referred to at paragraph 3.7 above, some members of the Group considered that procedure rule 9 (Questions from Councillors) should include the ability for a questioner to ask a supplementary question relating to the original question put. This was not agreed at the meetings of the Group so has not been included in the draft rules.

Cabinet Procedure Rules

- 3.22 The Working Group discussed the potential to enable non-members of the cabinet to speak at its meetings. The current procedure rules allow the following to speak:
- Members of the cabinet;
 - A member who has asked for an item to be included on the agenda for the cabinet meeting – to speak to that item;
 - The proposer and seconder of a motion which has been referred to the cabinet
- 3.23 The Group noted that the Leader has invited the Chairman of the Overview and Scrutiny Board to present recommendations and comments from the Board to the cabinet at its meetings. It also noted that other authorities allow non-members to speak at cabinet meetings to enable areas of concern or query to be addressed at the point the decision is being made.
- 3.24 The changes proposed to the Cabinet procedure rules at appendix 5 expand the list of those entitled to speak – but not vote - at cabinet meetings to include all

councillor non-members of the cabinet. The way in which this is handled at the meeting will be at the chairman's discretion – this will usually be the Leader.

Substitute Members

- 3.25 Currently the Council has a scheme for substitute members to attend meetings of a committee in the absence of a full member. In order that substitutes are able to fulfil this role most effectively, Council is asked to approve the principle that Councillors who are appointed as substitutes to the Planning and Licensing Committees (and sub-committees) will be trained.

Chairman of the Council

- 3.26 The Council reviewed the role of the Chairman in June 2011 and split the responsibilities between chairing the Council meetings and carrying out civic duties. The posts of Civic Head and Deputy Civic Head of the Council were introduced to undertake the civic aspects.
- 3.27 The Council Chairman receives an allowance of £4110 per year which increases at the same rate as any increases agreed for the level of basic allowance. The Civic Head does not receive an allowance but has access to a budget of £3,500 to meet incidental personal costs of the office. Both budgets were agreed at the time of the review in 2011. The Council also maintains a separate budget to support the costs of the civic role generally, such as paying for wreaths for Remembrance day, etc.
- 3.28 By law the Council must appoint a Chairman and Vice-Chairman at its Annual meeting. The Chairman's role as set out in law is to chair the Council meetings with the ability to exercise a casting vote.
- 3.29 The Working Group suggested that with immediate effect the chairing and civic roles could be combined once again. It is suggested that the Vice-Chairman could take on the majority of civic aspects of the role, in order that the Chairman can concentrate on ensuring that Council meetings and associated processes run smoothly and in accordance with the revised procedure rules.
- 3.30 The Group considered that the role of the Chairman of the Council is crucial in fostering positive working relationships across the Chamber and the office holder must be neutral when dealing with debate in the Council meetings. To support this role, the Group proposed that it should be a constitutional requirement that the Chairman cannot sit on Overview and Scrutiny Board or the Audit, Standards and Governance Committee.

Other Issues

- 3.31 The Working group was not able to consider other proposals for changes to the constitution; for example the Overview and Scrutiny Board asked it to consider including the procedures for task groups in the Board's procedure rules. Some members of the group would like to explore the possibility of including a

requirement for the chairman of the Overview and Scrutiny Committee to be a member not from the controlling group. Other aspects of the constitution have not been reviewed for some time and would benefit from updating. It is therefore suggested that the Group continues to meet in this municipal year to consider proposals for changes for onward recommendation to Council.

4. Customer / Equalities and Diversity Implications

There are no specific customer or equalities implications arising from this report.

5. RISK MANAGEMENT

4.1 In making the proposals in this report, the Working Group aimed to increase the ability for all councillors to be included in the decision-making processes of the Council.

4.2 Proposals to make some of the procedure rules less prescriptive than previously risk lengthening the Council meetings and making them less effective. To manage this, time limits are proposed for new elements such as public speaking and the operation of this will be kept under review. Also, the proposal to enable all members to speak at Cabinet meetings should reduce the demand to ask questions of clarification at subsequent Council meetings when the minutes are received.

5. APPENDICES

1. Terms of reference and procedure rules for Audit, Standards and Governance Committee;
2. Decision-making structure chart;
3. Officer employment procedure rules; terms of reference of the Appointments/Statutory Officer Disciplinary Action Panel; and Appeals Panel
4. Council procedure rules;
5. Cabinet procedure rules
6. Proposed role descriptions for Chairman and Vice-Chairman of the Council
7. Proposed political balance of Committees etc

6. BACKGROUND PAPERS

Report to Council, 22nd June 2011, regarding the review of Council Chairman and Vice-Chairman.

7. KEY

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