

REPORT FOR DECISION

DECISION OF:	COUNCIL
DATE:	20 May 2020
SUBJECT:	Amendment of the Council Constitution – <ul style="list-style-type: none"> • Council Procedure Rules • Cabinet Portfolios
REPORT FROM:	The Monitoring Officer
CONTACT OFFICER:	Janet Witkowski – Acting Council Solicitor and Monitoring Officer
TYPE OF DECISION:	COUNCIL
FREEDOM OF INFORMATION/STATUS:	This paper is within the public domain.
SUMMARY:	<p>The Council Constitution will be reviewed in its entirety, including scrutiny arrangements that during the municipal year 2020/21. Prior to that review, and as an interim measure, it is necessary to amend the Constitution to include the following changes, namely;</p> <ul style="list-style-type: none"> • Amendments to the Council Procedure Rules and associated conventions/arrangements, • Amendments to the Cabinet Portfolios, including an increase the number of members, • Other amendments including those to public questions, as are necessary to enable the Council to undertake virtual meetings.
OPTIONS & RECOMMENDED OPTION	Council is recommend to agree the amendments to the Constitution as detailed in the body of the report.
IMPLICATIONS:	
Corporate Aims/Policy Framework:	<p>Do the proposals accord with the Policy Framework?</p> <p>The monitoring and amendment of the Constitution is an internal matter and any changes are a Council decision.</p>
Statement by the S151 Officer:	Additional members allowances costs totalling £25k per annum will be incurred as

Financial Implications and Risk Considerations:	a result of the proposal. These costs will be met from general reserves in the 2020/21 financial year and will be built into the budget from 2021/22 onwards.
Equality/Diversity implications:	<i>None as a result of this report.</i>
Considered by Monitoring Officer:	Yes The Council is required to comply with the Local Government Act 2000 (as amended) and subordinate legislation in the drawing up and subsequent operation of the Constitution, including keeping it up to date. This report sets out the most immediate amendments required to enable the Council to continue with its business, subject to a full review of the Constitution in the coming municipal year.
Wards Affected:	All
Scrutiny Interest:	None

TRACKING/PROCESS **DIRECTOR: Deputy Chief**
Executive/Director of Corporate Core Services

Joint Executive Team/CCMT	Cabinet Member/Chair Briefed	Ward Members (if necessary)	Partners
Scrutiny Committee	Other Committee	Council	Comms
	Democratic Arrangements 10 March 2020	20th May 2020	

1.0 Context

The Council is required under the Local Government Act 2000 (as amended) and subordinate legislation to draw up and subsequently operate in line with a published Constitution. This includes its constant review and updating, as it needs to be fit for purpose.

The Council Constitution has not been reviewed in its entirety for some time and this is now a priority. The review will therefore be undertaken during this municipal year 2020/21.

The current scrutiny arrangements will be the first to be looked at, with consideration given to a thematic based arrangement, alongside incorporation of the convention and other arrangements for meetings especially Council meetings

being incorporated into the Council Procedure Rules. These will be subject of a report to Council in July.

Other areas to be looked at closely will include the general process of decision making, the various Protocols and an overall assessment of clarity and consistency. Proposals for change will be considered by the Democratic Arrangements Forum, Standards and Overview and Scrutiny and other relevant committees as required, with reports to further Council meetings during the year as the review progresses.

However, prior to that review, and as an interim measure, it is necessary to make some immediate amendments to the current Constitution, namely;

- Amendments to the Council Procedure Rules, together with associated conventions and other arrangements
- Amendments to the Cabinet Portfolios for the municipal year 2020/2021
- Other amendments including those to public questions, as are necessary to enable the Council to undertake virtual meetings.

The existing Council's Constitution is available on the Council's external website (<https://www.bury.gov.uk/CHttpHandler.ashx?id=19129&p=0>)

2.0 Council Procedure Rules

The Democratic Arrangements Forum was convened on the 10th March 2020 in response to the recent trend of full meetings of the Council, failing to get through the business set out in the Summons. Leaders discussed the procedure for dealing with Council business.

The Four Leaders and the Council Chair, expressed concerns that at recent full meetings of Council, questions to the Leader have had little time for consideration and there has been no opportunity to ask questions of the representatives of Joint Authorities or consider a report from those representatives. During this municipal year, 2019/2020, the Closure Motion has been invoked and remaining business was approved/noted without the opportunity to discuss it.

This report seeks Council's approval to amend the Constitution to incorporate the following agreed changes:

1. That the Leader and Cabinet question time be renamed "Member Question Time". 40 minutes will be allocated for this item and will include questions on the Cabinet items, the number of questions will be limited to two questions per Member, with a maximum of ten per group.
2. That Member questions for Member Question Time should be submitted to Democratic Services in writing, 6 clear working days immediately prior to the day of despatch.
3. Members may ask one supplementary question without notice to the Member to whom the first question was asked, at the meeting. The supplementary question must arise directly out of the original question or the reply.
4. That the Leaders statement time be reduced from 20 minutes to 10 minutes

5. Joint Authority Reports and Questions be renamed "Combined Authority update" and will include questions to the Joint authority representatives.
6. Joint Authority representatives will be required to attend Overview and Scrutiny on a rolling basis to provide an update.
7. That the time limit to move a motion be reduced from 10 minutes to 5 minutes
8. Speakers on Notices of Motion be limited to two per group, Mayor to exercise his/her discretion
9. Any exceptions to any of the above to be agreed by the Mayor.
10. That the closure motion be amended the Mayor would request that standing orders be suspended and manage business still left to be considered. These items would be moved, seconded and put to the vote. With regards to outstanding notice of motions the mover of the motion will be given the option to defer the item till the next meeting.
11. That the day prior to the Council meeting, Group Leaders and the Mayor will meet to discuss Council business/share amendments.

3.0 Changes to the Cabinet Portfolios

That the Constitution be updated to reflect the following changes to the Cabinet portfolios and number of Cabinet members:

Position
Leader, Finance and Growth
Deputy Leader, Children, Young People and Skills
First Deputy, Health and Wellbeing
Communities and Emergency Planning
Environment and Climate Change
Corporate Affairs and HR
Transport and Infrastructure
Cultural Economy
Housing Services

4.0 Public Questions and Virtual meetings

At the meeting on 16 April 2020 of the Emergency Powers Group (EPG) it was agreed to use national legislative flexibilities to resume a proportionate amount of municipal governance virtually.

Under the Local Government Act 1972 9as amended), meetings and therefore decisions of a local authority had to involve persons present at the same time and voting. Subsequent legislation has made provision for access to agendas, reports, minutes and the attendance of the press and public at meetings. The current Covid 19 pandemic has revealed that it is not always possible to physically attend meetings and ensure access

hard copies of documents. The Government has therefore passed The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 which came into force on 4 April 2020, to deal with those issues.

The regulations provide for flexibility as to when meetings take place and their frequency. However, more importantly the Regulations allow for persons attending meetings to be in different locations and for Members to be deemed to be in attendance at the meeting as long as they can hear and be heard by other Members and the public present; and where practicable, be seen by all present. Local authorities can amend their standing orders to make further provisions for voting, Member and public access to meetings and documentation

Members have agreed that the meetings cycle will be resumed in a managed way in order that appropriate democratic decision making is returned. In order to run those meetings, amendments are required to the Constitution to take into account the increased flexibility that virtual meetings enable, whilst taking account of certain limitations in available technology.

The proposed amendments are to the following:

- Public Questions – At all meetings where the Constitution provides for public questions, the public will be invited to submit one question and one related supplementary question in writing. The questions must be received by Democratic Services by midday two days clear calendar days before the date of the meeting.
- Declaration of interest – At all meetings, Members declaring an interest in any item should do so by notifying to Democratic Services prior to the meeting in writing, or verbally when the Chair requests such declarations at the appropriate time on the agenda, where a written declaration has not been possible. Anyone declaring a pecuniary or prejudicial interest must leave the meeting entirely.
- Voting – At all meetings, unless available technology provides otherwise, voting should, as required, take the form of a roll call and the officer from Democratic Services will read out the names of those present and ask for an indication of their vote. This will be purely for recording votes cast for, against and abstentions, and the usual process will be followed for formal Named Votes.
- Planning Control Committee – Public Speaking at Committee - members of the public wishing to speak at a meeting will be able to do so, unless available technology prevents this. This will continue to be in accordance with the Probity in Planning Code of Conduct, but the one speaker for and one against, will be entitled to make written submissions, prior to the meeting.
- Planning and Control Committee – Committee Site Visits – Protocol For Site Visits – where a site visit cannot safely take place in accordance with the Protocol, a virtual site visit will be undertaken and the same process for actual site visits will be followed as far as reasonably practicable. A decision following such a virtual site visit will be made in accordance with the provisions of the last paragraph of the Protocol namely, that the members themselves should consider whether probity in planning is being upheld and whether in the circumstances they feel they are able make an informed, objective and appropriate decision on the basis of the information before them.

Recommendations;

Council is recommend to agree the amendments to the Constitution as detailed in the body of this report.

List of Background Papers:-

Minutes from the meeting of the Democratic Arrangements Forum
Deputy monitoring Officer – Briefing Note COVID 19 Regulations

Contact Details:-

Janet Witkowski – 0161 253 5219