

Council

Date of Meeting: 23 May 2018

Report Title: Changes to the Council's Constitution: Recommendations of the Constitution Committee

Senior Officer: Acting Director of Legal Services

1. Report Summary

- 1.1. This report presents to Council the recommendations of the Constitution Committee, made on 22nd March 2018.
- 1.2. Council has the opportunity to consider these recommendations, and to agree changes to its Constitution where they are considered to be appropriate.

2. Recommendations

- 2.1. That Council agrees the Constitution Committee recommendations set out in paragraph 3.7 of this report, together with the additional proposal relating to the rounding up of quorums where appropriate.
- 2.2. That powers be delegated to the Acting Director of Legal Services to make such changes to the Council's Constitution as he considers are necessary to give effect to the resolution of Council.

3. Background

- 3.1 The Constitution Committee, which met on 22nd March 2018, considered a report on a number of proposed "living document" changes which had either arisen from issues raised by Members during the process leading up to the adoption of the new Constitution, or which had arisen following its adoption.
- 3.2 Assurances had been given to Members during the process which had led to the adoption of the Council's new Constitution that there would be further opportunities for matters to be considered following adoption of the document.
- 3.3 Recommendations were made to Council by the Committee, in respect of three separate issues:
 - 3.3.1 The quorum of committees and sub-committees.

3.3.2 The abolition of the Civic Sub-Committee and the Outside Organisations Sub-Committee.

3.3.3 Whether officers should be permitted to take “key decisions”.

3.4 Quorum of Ordinary Committees/Sub-Committees:

3.4.1 The Committee considered the quorum of the Licensing Committee which was x8 Members, out of the total membership of x15. However, other regulatory committee quorums were just 25% of their membership.

3.4.2 There had been a number of occasions upon which there had been problems in securing the required quorum for the Licensing Committee, right up until the commencement time of the meeting in question. Clearly, there had been a risk of the whole meeting becoming abortive on these occasions.

3.4.3 Given that a 25% quorum figure applied to other committees, and had worked well since the beginning of the life of the Council, the Committee considered whether the same figure should apply to the Licensing Committee.

3.4.4 Whilst it was accepted that the quorum for the Licensing Committee was too high, debate took place upon whether the 25% quorum figure, which applied to other committees and sub-committees, was appropriate.

3.4.5 The Committee concluded that, with the exception of the Licensing Committee the quorum for ordinary committees and sub-committees was too low, and made the recommendation to Council set out in paragraph 3.7 below.

3.5 Abolition of the Civic Sub-Committee and Outside Organisations Sub-Committee:

3.5.1 Bevan Brittan, the expert constitutional solicitors who advised the Council during the process leading to the adoption of its Constitution, recommended that these very little-used sub-committees be abolished with effect from the end of the Municipal Year, and that their responsibilities be taken on by the Constitution Committee.

3.5.2 The Committee heard that the Civic Sub Committee had not met for some years and, whilst the Outside Organisations Sub-Committee did intensive work at the beginning of the life of the Council, it has not been required to meet since March 2013.

3.5.3 Given the reassurance that the Constitution Committee would take on the responsibilities of these Sub-Committees, the Committee was content to recommend to Council that they be abolished, as set out in paragraph 3.7 below.

3.5.4 It should be noted that the Group Leaders and Whips have been consulted upon the abolition of these Sub-Committees, resulting in agreement that Council should accept the recommendations of the Constitution Committee in this regard. This is of key importance in that, based upon that agreement, the proportionality calculations which are set out in a report to Council as a later agenda item, are based upon the assumption that the two Sub-Committees will no longer exist after the end of the 2017/18 Municipal Year.

3.6 Whether officers should be permitted to take “key decisions”:

3.6.1 The Council’s old Constitution prevented officers from taking Key Decisions unless specifically delegated by Cabinet. This was stipulated in the officer scheme of delegation. Clarification was sought of the Constitution Committee as to whether this restriction should continue to apply, even when officer schemes of delegation might suggest that in certain circumstances such decisions could be taken by officers.

A “Key Decision” is defined as:

“an executive decision which:

is likely to result in the Council incurring expenditure which is, or the making of savings which are, significant having regard to the Council’s budget for the service or function to which the decision relates, and/or

is likely to be significant in terms of its effects on communities living or working in an area comprising one or more wards or electoral divisions in the area of the Council.”

For the purposes of the above, savings and expenditure are “significant” if they are equal to or greater than £1,000,000.

For clarification, no treasury management decision of the Council shall constitute a Key Decision.”

3.6.2 The Committee made the recommendation to Council, as set out in paragraph 3.7 below.

3.7 The following are the minuted recommendations of the Constitution Committee in respect of each issue:

3.7.1 Quorum of Committees/Sub-Committees: “it be recommended to Council that the quorum for all committees and sub-committees of the Council should be one third of the total membership subject to a minimum of three where the body in question comprises eight or fewer members”. It should be noted that the proposed quorum of 1/3 of the membership will be “rounded-up” where this cannot readily be divided by 3.

3.7.2 Abolition of the Civic Sub-Committee and Outside Organisations Sub-Committee: “it be recommended to Council that as recommended by Bevan Brittan during the review of the constitution, the Civic Sub-Committee and the Outside Organisations Sub-Committee be abolished and their functions be undertaken by the Constitution Committee”

3.7.3 Whether officers should be permitted to take “key decisions”: “that it be recommended to Council that the officer scheme of delegation be amended to clarify that officers may not take key decisions unless:

- (i) specifically delegated by members; or
- (ii) specifically provided for within the constitution”

4.0 Implications of the Recommendations

4.1 Legal Implications

4.1.1 The proposed constitutional changes set out in this report require the agreement of Council if they are to be put in place.

4.2 Finance Implications

4.1.2 Other than the financial threshold which applies to the definition of “Key Decision”, there are no direct financial implications of the recommendations relating to the related proposal.

4.1.3 The proposed abolition of the Civic Sub Committee and the Outside Organisations Sub-Committee would, if agreed, undoubtedly result in administrative and other savings. The work previously done by these Sub-Committees would, in future, be undertaken by the Constitution Committee; removing the need for separate committee meetings to take place with agendas, minuting, servicing by officers and claims for mileage allowances etc.

4.3 Policy Implications

4.3.1 Any agreed changes to the Council’s Constitution will be taken into account in the published version of the document, which will then govern the way in which the Council conducts its business.

4.4 Equality Implications

- 4.4.1 There are no direct equalities implications.

4.5 Human Resources Implications

- 4.5.1 The proposal to abolish two Sub-Committees will, if agreed, be beneficial in ensuring that support costs are minimised, and that resources are directed elsewhere for the benefit of the Council.

4.6 Risk Management Implications

- 4.6.1 The recommendations of this report minimise risk. A higher quorum for Committees and Sub-committees ensures that more members are involved in decision-making where the number of those in attendance is low. The abolition of two Sub-Committees brings the decisions of those bodies within the responsibilities of a larger Committee, which meets more frequently. Finally, clarity around the role of officers in taking Key Decisions is important and minimises risk.

4.7 Rural Communities Implications

- 4.7.1 There are no direct implications for rural communities.

4.8 Implications for Children & Young People

- 4.8.1 There are no direct implications for children and young people.

4.9 Public Health Implications

- 4.9.1 There are no direct implications for public health.

5 Ward Members Affected

- 5.1 All of the Council's wards are affected by the proposals contained within this report, as are all ward members.

6 Access to Information

- 6.1 There are no supporting documents other than those which are already in the public domain.

7 Contact Information

- 7.1 Any questions relating to this report should be directed to the following officer:

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