

OPEN

## **Corporate Policy Committee**

**21 March 2024**

## **PROPOSED CHANGES TO THE CONSTITUTION**

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**Report of: David Brown, Director of Governance and Compliance**

**Report Reference No: CP/77/23-24**

**Ward(s) Affected: all wards**

### **Purpose of Report**

- 1 The purpose of the report is to recommend the proposed changes to the Constitution, as agreed and recommended by the Council's Constitution Working Group, and to note other amendments made by the Monitoring Officer.
- 2 The proposed changes relate to various matters relating to notices of motions, committee terms of reference and delegations to the Executive Director Place.

### **Executive Summary**

- 3 The Constitution sets out the governance framework for decision-making within the Council. This provides for the consideration and recommendation for approval, of any proposed changes to Full Council.
- 4 The Council's CWG has received a series of reports detailing proposed changes to the Council's Constitution and the reasoning for such changes. These related to various matters that are in line with the Council's corporate priorities.
- 5 After careful consideration of each proposal, the CWG agreed with the proposals and that they should be recommended to the Corporate Policy Committee for consideration and in turn recommended to Full Council. These proposals relate to the following matters;
  - (a) Amendments to the provisions regarding notices of motion
  - (b) Amendments to the provisions regarding rescission of earlier resolution

- (c) Amendments to provisions regarding committee terms of reference for matters that cover more than one committee
- (d) Amendments by way of clarification as to the application of the 3 day Rule for Motions

6 In addition, the report advises the committee of proposed amendments to the Constitution to be made by the Monitoring Officer in respect of the delegations to the Executive Director Place, following the governments decision regarding the HS2 rail link.

## **RECOMMENDATIONS**

The Corporate Policy Committee is recommended to:

1. Approve the amendments to the provisions regarding notices of motion in Chapter 3 Part 1 Section 1 of the Council's Constitution as set out in paragraph 9 of the report.
2. Approve the amendments to the provisions regarding rescission of earlier resolution in Chapter 3 Part 1 Section 1 of the Council's Constitution as set out in paragraph 9 of the report.
3. Approve the amendments to committee terms of reference for matters that cover more than one committee in Chapter 2 Part 2 of the Council's Constitution as set out in paragraph 10 of the report.
4. Approve the amendments to the Rules of Debate for Motions and Amendments in Chapter 3 Part 1 Section 1 of the Council's Constitution as set out in paragraph 11 of the report.
5. Approve the amendments to the application of the 3 day rule for notices of motion of in Chapter 3 Part 1 Section 2 the Council's Constitution as set out in paragraph 12 of the report.
6. Note the proposed amendments to be made by the Monitoring Officer to the delegations to the Executive Director Place in Chapter 2 Part 5 of the Council's Constitution as set out in paragraph 13 of the report.

## **Background**

6 The Constitution sets out the governance framework for decision-making within the council.

7 On 5 February 2024 the Council's Constitution Working Group (CWG) received a series of reports detailing proposed changes to the Council's Constitution.

8 After careful consideration of each proposal, CWG agreed with the proposals and that they should be recommended for approval by the Corporate Policy Committee.

9 Chapter 3 Part 1 Section 1

The proposed amendments are set out in red below:

***Notices of Motion***

1.34 A Motion which, in the opinion of the Monitoring Officer;

- is inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;
- is related to a Council employment or staffing matter;
- is potentially defamatory; or
- **Subject to the provisions of Paragraph 1.58**, is substantially the same as any motion submitted to a meeting of Council during the preceding 6 months will be returned to the Councillor who submitted it along with an explanation in writing to the Councillor about why it will not be included on the agenda for the meeting.

***Rescission of Earlier Resolution***

1.57 Subject to paragraph ~~1.60~~**1.58**, no motion or amendment shall be moved at a meeting of the Council to rescind any resolution of the Council which was passed within the preceding 6 months, or which is to the same effect as one which has been rejected within that period.

1.58 Such a motion may be moved if:

1.58.1 it is recommended by a Committee, or

1.58.2 notice of such motion has been given under paragraph ~~1.33~~**1.31** and signed by at least 8 Councillors.

**Reasons for Recommendations**

- a. The Constitution makes provisions for how Notices of Motion should be dealt with by Full Council. The currently worded provisions of Chapter 3 Part 1 Section 1 paragraph 1.34, give the Monitoring Officer power to return and therefore refuse motions and includes a motion if it covers matters which have been decided within the last six months. Rule 1.58 states that a decision of Council can be considered.
- b. within six months if (a) a committee recommends this reconsideration or (b) a motion is submitted under rule 1.32 to Council that is signed by 8 councillors. This results in a conflict. The proposed amendments therefore provide further clarity as to the power of the Monitoring Officer, by making that power subject to the provisions of 1.58.

- c. In addition, due to a typographical error, changes are required to the numbering of Chapter 3 Part 1 Section 1 paragraphs 1.57 and 1.58, so as to provide for the correctly numbered paragraphs as referenced.

## 10 Chapter 2 Part 2

### **Introduction to Decision Making**

The current wording of Chapter 2 Part 2 paragraph 3 states;

*Where a matter covers numerous Committee Terms of Reference or there is any dispute or disagreement between Committees on:*

- *Whether something falls within a Committee's Terms of Reference; or*
- *A proposed course of action;*

*the matter shall be referred to the Corporate Policy Committee (or full Council if more convenient) to resolve and decide upon a way forward.*

The proposed new wording is;

*Where a matter covers more than one Committee's Terms of Reference or there is any lack of clarity, dispute or disagreement as to which is the appropriate committee on:*

- *Whether something falls within a Committee's Terms of Reference; or*
- *A proposed course of action;*

*The matter shall, in consultation with the relevant Committee Chair, vice chair and main opposition group member, be placed on the agenda of the Committee where the majority of the matter, report or recommendations/s fall within a particular Committee's terms of reference or where there is the greatest impact on the budget for which the Committee has responsibility ('the majority committee'). Prior to the matter being placed on the agenda, the report on the matter will be circulated to the non-majority committee members ('the minority committee') for comments, which will be provided by way of a verbal update to the majority committee, when the matter is presented. The Chair or any other member of the minority committee may attend that meeting to speak on the item and the Chair of the majority committee will exercise their discretion in favour of allowing them to do so, subject to time constraints and the effective conduct of the meeting. In the event of a failure to agree to the matter being placed upon the agenda of the majority committee, the matter will be placed upon the agenda of the Corporate Policy Committee (or full Council if more convenient) to resolve. This provision shall also apply to matters referred from external bodies and/or partners.*

### **Reasons for Recommendations**

- a. The Council's Constitution makes provision for matters that cover the terms of reference of various committees, or if there is a dispute or disagreement between

committees, to be referred to Corporate Policy Committee (CPC) or Full Council 'if more convenient'. This would appear to also cover where a matter is presented by external bodies and/or partners.

- b. This provision has proved problematic and caused confusion and in addition, places a burden on CPC, which is already a very busy committee and may lead to matters going to Full Council unnecessarily. The proposal is to amend the provisions within the Constitution to provide further clarity as to when and where such matters should be referred and provide that referral to CPC or Full Council should be as a last resort.

## 11 Chapter 3 Part 1 Section 1

The proposed amendments are set out in red below;

### **Rules of Debate**

#### ***Motions and Amendments***

*No ~~motion or~~ amendment shall be discussed unless it has been proposed and seconded. Except where the Mayor determines that a proposed amendment is exceptional (for example, where the proposer of the amendment could not reasonably have foreseen that they would wish to propose the amendment until after the deadline set for submission), ~~motions or~~ amendments shall be put in writing and submitted to the Monitoring Officer not less than three clear working days before the Council meeting. The Monitoring Officer will be responsible for validating the amendment as lawful, in which case the amendment may be proposed and seconded as part of the debate upon the agenda item in question. The Monitoring Officer may only disallow an amendment on the grounds that it is unlawful. Where the Mayor determines that a proposed amendment is exceptional, it may be proposed at the Council meeting and, if seconded, will be debated and voted upon at the Council meeting. The Mayor may require the amendment to be submitted in writing to him or her during the meeting unless the Mayor has concluded that the wording of the amendment is understood by all members of the meeting.*

### **Reasons for Recommendations**

## 12 Chapter 3 Part 1 Section 2

The proposed amendments to rule 2.30 are set out in red below;

### **Rules of Debate at Committees and Sub-Committees**

*Rules of debate shall be the same as for Council meetings **except that the requirement for amendments to be submitted to the Monitoring Officer not less than three clear days before the meeting shall not apply to meetings of committees and sub-committees.***

## Reasons for Recommendations

- a. As part of the Annual Review of the Committee System, consideration was given to the wording and operation of parts of the Constitution. One part in was that relating to motions and amendments as set out in the Rules of Procedure in Chapter 3 Part 1 Section 1 and specifically rule 1.41, which deals with Motions and Amendments. Amendments were approved by Full Council on 19 July 2023, which in particular included a requirement for three clear days notice.
- b. However, it has now been noted that Rules of Procedure in Chapter 3 Part 1 Section 2 rule 2.30 states that the rules of debate shall be the same as for Council meetings. This means that the 3 days requirement applies to committees and sub-committees. As this was not intended, the proposed amendments mean that the 3 days requirement only applies to amendments of matters to be dealt with by Full Council.
- c. In addition, rule 1.41 refers to 'Motions and Amendments' and the timescale now conflicts with that in 1.31, which provides for 7 clear days notice. It is therefore proposed, to avoid confusion, that that the reference in paragraph 1.41 to 'motions' and 'motion' is removed.

## 13 Chapter 2 Part 5

The Monitoring Officer has powers under Chapter 1 paragraph 40, to make minor adjustments to the Constitution. The proposed amendments he proposes to make to paragraph 53 are set out in red below;

### Delegations to Executive Director Place

#### Infrastructure and Highways

- Strategic Transport Planning and Local Transport Pla Infrastructure and Highways
- Strategic Transport Planning and Local Transport Plan
- Public Transport including local bus and rail services
- Walking, Cycling and Active Trave Parking Services - Operations and Enforcement
- Traffic Management • Highways Management and Maintenance
- Highways Service Contract Management
- Highways and Transport Capital Programme
- Flood Risk Management
- ~~HS2 Crewe Hub Railway Station~~ Redevelopment
- ~~HS2 Line of Route~~
- ~~HS2 Schedule 4 approvals and consents~~
  - Northern Powerhouse Rail
  - Network North

## Reasons for Recommendations

- a. At the meeting of Full Council on 13 December 2023, a report was considered regarding the cancellation of HS2 and the implications for Cheshire East.

The decision of Council was;

### **RESOLVED:** *That Council*

*1 note the implications of the HS2 cancellation and introduction of Network North for Cheshire East.*

*2 continue to support the principles of HS2 as a catalyst for growth across the North.*

*3 authorise the Executive Director of Place, in consultation with the HS2 Member Reference Group, to negotiate with central government for an appropriate compensation and alternative investment package for Cheshire East to deliver transport improvements and unlock regeneration across the Borough.*

*4 approve the amendments to the remit of the HS2 Member Reference Group proposed in the report.*

The decision to add these to the list of delegations ensures that they become constitutional officer delegations enabling the officer to act quickly to make decision in the best interests of the Council.

## Consultation and Engagement

- 14 All proposed changes have been considered and approved for recommendation to committee by the Constitution Working Group or noted in relation to those made by the Monitoring Officer.

## Reasons for Recommendations

- 15 As set out above.

## Other Options Considered

- 16 Another option would be to leave the constitution unchanged and not achieve the outcomes identified within the reasons for the recommendations.

Option	Impact	Risk
1. Do nothing	This is not considered to be a suitable alternative option as there needs to be clarity within the constitution to enable the effective and	Failure to achieve the outcomes identified and impacts stated.

<p>2. Adopt only some of the proposed amendments.</p>	<p>efficient operation of the organisation and its committees. The Constitution is a living document, which needs to be kept under review to ensure that it is fit for purpose and that it meets the needs of the Council. As for option 1.</p>	<p>As for options 1.</p>
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## Implications and Comments

### *Monitoring Officer/Legal*

17 The legal implications are as set out in the report.

### *Section 151 Officer/Finance*

18 There are no financial implications arising directly from the report.

### *Policy*

19 The recommended changes to the Constitution will, if agreed, result in constitutional change. They will facilitate an open and enabling organisation and ensure that there is transparency in all aspects of council decision making.

#### **An open and enabling organisation**

Ensure that there is transparency in all aspects of council decision making

The council to be seen as being a fair open and transparent organisation and able to demonstrate it

To increase local democracy



*Equality, Diversity and Inclusion*

*Human Resources*

20 There are no direct implications arising from this report.

*Risk Management*

21 There are no risks arising from the report.

*Rural Communities*

22 There are no implications arising from the report.

*Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)*

23 There are no implications arising from the report.

*Public Health*

24 There are no implications arising from the report.

*Climate Change*

25 There are no implications arising from the report.

<b>Access to Information</b>	
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Appendices:	N/a
Background Papers:	N/a