

CHESHIRE EAST COUNCIL

Constitution Committee

Date of Meeting: 26th November 2012
Report of: Democratic and Registration Services Manager
Subject/Title: Notice of Motion - Motions to Council

1.0 Report Summary

- 1.1 This report responds to a motion, referred from Council on 19th July to the Constitution Committee, and seeks a recommendation back to Council.
- 1.2 The Committee had considered the main proposals within the report at its previous meeting and had then deferred the report for further consideration.

2.0 Recommendation

- 2.1 That the recommendations contained in paragraph 9 of the report be considered by the Committee, and that if Council is recommended to make changes to the Constitution, the Borough Solicitor be authorised to make such changes to the Constitution as she considers are necessary to give effect to the wishes of Council.

3.0 Wards Affected

- 3.1 There are no direct ward implications and therefore no direct implications for ward members.

4.0 Policy Implications

- 4.1 Any decision by Council to make changes to the way in which motions are dealt with would need to be reflected in changes to the Constitution.

5.0 Financial Implications

- 5.1 No financial implications would appear to directly arise from the issues addressed in this report.

6.0 Legal Implications

- 6.1 If any changes are to be made to the way in which motions are dealt with, these would need to result in a recommendation from the Committee to Council, following which constitutional change would be required.

7.0 Risk Management

- 7.1 No risks would appear to arise directly from the issues addressed in this report although a more focussed and succinct process for dealing with motions would result in fewer risks of motions being overlooked or delayed.

8.0 Background and Options

- 8.1 At the Council meeting on 19th July 2012, the following motion was proposed by Councillor Arthur Moran, and was seconded by Councillor David Brickhill:

“That all motions that are referred by Council to a Committee or Cabinet must be put on the agenda of the next meeting of that body or brought back to the next Council meeting for vote on a final decision.”

- 8.2 As this motion related to a non-executive matter, it stood referred without discussion to the decision-making body in question (in this case the Constitution Committee), in order for advice to be offered to Council on the matter.
- 8.3 The motion would appear to seek to address the need for motions to be dealt with quickly in order to respond to Member concerns. This touches on the speed with which officers respond to motions from Council, and the procedure which applies to motions.

9.0 Procedure

- 9.1 Appendix 2 to the Council Procedure Rules (pg 209 of the Constitution) deals with the procedure relating to motions. Once a motion has been referred to a body for consideration, the mover of the motion is notified of the meeting at which it will be considered and is provided with a copy of the report. The mover is invited to attend the meeting in order to explain the motion. The mover and seconder are informed of the outcome in writing or by email.
- 9.2 Paragraph 1 requires signed notices of motion to be given in writing to the Monitoring Officer seven clear working days before the Council meeting.

Recommendation: it is recommended that these provisions should be retained, except that:

- the Democratic and Registration Services Manager should also be a nominated recipient of notices of motion in order to enable Members to lodge them when the Monitoring Officer is on leave;
- given that Members often need to submit notices of motion by email, a signature should not be a requirement of the process;

- 9.3 Paragraph 2 requires motions to be listed in the Council “summons”.

Recommendation: it is recommended that the Rules should be amended to make it clear that the full text of motions will be reproduced in the agenda papers for each Council meeting.

- 9.4 Paragraph 3: permits the mover of a motion to withdraw it if the seconder consents in writing.

Recommendation: it is recommended that the consent of the seconder to the withdrawal of the motion should be permitted to be given orally at the meeting, rather than being required to be given in writing.

- 9.5 Paragraph 4: says that a motion will be treated as withdrawn if not moved by or on behalf of the Member who gave notice of it.

Recommendation: It is recommended that that a motion should be treated as withdrawn if it is not also seconded.

- 9.6 Paragraph 5: seeks to deal with those motions which refer to non-executive (ie “regulatory” or non-Cabinet/Portfolio matters) functions. This paragraph is complicated by the fact that reference is made to the Cabinet within the text of the paragraph. The Rules go on to require the Mayor to determine which Council body should deal with the motion and says that the views of that body will be sought before a report is brought back to Council on the matter.

The Rule presumes that the matter will stand referred to that body without discussion unless the Mayor considers it “conducive to the despatch of business” for the motion to be determined at the initial Council meeting.

It could be said that the procedure for non-executive functions is problematic in that it results in delay. Unless motions are dealt with at the initial Council meeting (which is very much the exception) the matter must await the research and writing of a report by officers; the presentation of the report to a committee or other body of the Council; the recommendations of that body, and then for the matter to be presented back to Full Council. As is explored in the next piece of commentary relating to Paragraph 6, there is also a question as to why motions should have a different procedure depending upon whether they are “executive” or “non-executive” in nature.

Paragraph 6: seeks to deal with those matters which refer to executive (ie Cabinet/Portfolio matters) functions. These motions stand referred to Cabinet, but are allowed to be debated for up to 15 minutes at the Council meeting, following which the appropriate Portfolio Holder may respond.

Recommendations:

- That there should be no distinction in the Rules between executive and non-executive functions. There should be one Rule, which simply requires

the motion in question to be referred to the relevant decision-making body, which will be announced at Council by the Mayor.

- That each motion, should simply be referred to the relevant decision-making body for determination.
- That the relevant decision-making body determines the issues referred to in the motion rather than these being referred back to Council (in those cases where the existing Rules would currently require this); the only circumstances in which a report being required to be made back to Council would be when Constitutional change was recommended by the Constitution Committee.
- That, following the motion being moved and seconded at Council, the motion stands referred without debate to the appropriate decision-making body.
- That a decision be made upon whether a provision should be built into the Rules that, once moved and seconded, Council could decide to take no further action whatsoever on a motion if this is moved, seconded, and resolved. If it is proposed that this should be built into the Rules, recommendations would be required as to how this Rule should operate eg that debate would be allowed.
- That, unless it is agreed with the Chairman of the appropriate decision-making body that there are good reasons to the contrary (eg the need for extensive research or consultation with other bodies), motions must be referred to the appropriate decision-making body within two meeting cycles (ie to enable the officers to report to two meetings, taking into account reporting deadlines).
- That the existing provision which allows the Mayor to determine that it is conducive to the despatch of business for a motion to be dealt with in full at the initial Council meeting should be retained.

10.0 Access to Information

The background papers relating to this report can be inspected by contacting the report writer:

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