

	<p align="center">Full Council 9 July 2018</p>
	<p align="center">Report from the Director of Legal and HR Services</p>
<p>Changes to the Constitution</p>	

Wards Affected:	N/A
Key or Non-Key Decision:	N/A
Open or Part/Fully Exempt: <small>(If exempt, please highlight relevant paragraph of Part 1, Schedule 12A of 1972 Local Government Act)</small>	Open
No. of Appendices:	4
Background Papers:	None
Contact Officer(s): <small>(Name, Title, Contact Details)</small>	Debra Norman, Director of Legal and HR Services, 02089371578

1.0 Purpose of the Report

- 1.1 This report proposes a number of changes to the Council's Constitution, in respect of standing orders relating to Full Council meetings and exercise of executive functions.

2.0 Recommendations

- 2.1 To approve the changes to the Constitution proposed in this report and/or contained in the Appendices.
- 2.2 To authorise the Director of Legal and HR Services to amend the Constitution accordingly, including making any necessary incidental or consequential changes.
- 2.3 To note that, to the extent that the changes relate to executive functions of the Council, they have been approved by the Leader.

3.0 Detail

Full Council Meetings

- 3.1 The conduct of Full Council meetings is largely governed by standing orders (i.e. procedural rules set out in Part 2 of the Council's Constitution). Amongst other things, these rules allow 'backbench' Members and the public to ask

questions to Cabinet Members, political groups to propose motions, a Members' debate and Chairs of the Scrutiny Committees and the Vice-Chair of the Audit and Standards Advisory Committee to address all Members.

3.2 These rules have been reviewed following the outcome of recent local elections. In addition, having considered how to provide more and better opportunities for all Members to participate in meetings and to achieve the most effective use of the time available, the following changes are proposed:

- **SO 31: Report from Leader or Members of the Cabinet:** that a written report is submitted by Cabinet in advance and that at the meeting relevant Members of Cabinet may present the significant issues arising for up to 6 minutes in total and that non-Cabinet Members be given the opportunity to ask questions for up to 9 minutes or (if greater) the remainder of the 15 minutes set aside for this item.
- **SO 33: Questions from members of the public:** to reduce the time set aside from 20 to 15 minutes for both questions from members of the public and (at alternate meetings) questions from members of the Youth Parliament to a member of the Cabinet. Questions from the public are rare and the time saving off sets the additional time allocated to other items. It is clarified that the rules in Standing Order 33(m) (in so far as relevant) are also applicable to Member questions and to motions.
- **SO 34: Non Cabinet Members' Debate:** reduce the time individual Members can speak from 3 to 2 minutes (so that more Members can participate) and extend the overall time allocated from 21 to 30 minutes.
- **SO 35: Questions from the Opposition and Non Cabinet Members:** that the number of questions which can be notified in advance be reduced but to set aside 30 minutes in total so that there is a new opportunity to ask further questions without notice until the available time has been used up.
- **SO 36: Reports from the Chairs of the Scrutiny Committees:** at the meeting each Chair will have the opportunity to report on issues and questions arising from matters considered or reviewed by their committee. The report will be published in advance and taken as read. At the meeting for up to 3 minutes the Chair can highlight significant issues for the relevant Member of Cabinet to comment upon. During the remainder of the 20 minutes set aside for this item, 'backbench' Members can put questions to the Chairs about the issues discussed.
- **SO 37: Report from the Vice-Chair of the Audit and Standards Advisory Committee:** as this is a simple reporting function of the Council's audit activities, the allotted time has been reduced to 3 minutes to allow extra time to be allocated to the previous item.
- **SO 40: Motion:** allowing the Labour Group to propose 2 motions and the Conservative Group 1 motion to better reflect the composition of the Council.

- 3.3 Members are asked to note that the above items, together with other standing items, will be re-ordered in such a way to best manage the conduct of meetings. In the meantime, the tracked changes to the wording of the relevant standing orders are attached at **Appendix 1**.

The exercise of executive functions

- 3.4 All executive functions may be exercised by the Leader or may be delegated by the Leader to Cabinet, a Committee of Cabinet, an individual Member of Cabinet, or to an officer. Any individual Member who has delegated power to exercise a function, may delegate to an officer, unless the Leader has restricted this right when making his delegation.
- 3.5 Under the Constitution, all executive functions are currently delegated to Cabinet, to the Barham Park Trust Committee or to officers.
- 3.6 More recently, however, the Leader has decided to delegate specified categories of executive functions to individual Cabinet Members (see **Appendix 2**). These delegations will come into effect from 1 September 2018 to allow time for officer and members to familiarise themselves with the new process and any necessary training to take place.
- 3.7 In introducing individual member decision making, a new governance process will also be put in place to ensure compliance with the relevant legislation and with principles of transparency, accountability and other good governance arrangements. Some examples are set out below.
- 3.8 If an individual Member is to make a key decision, the same rules about giving notice 28 clear days before the decision is to be made, specifying details of the decision, who will take it, and when it will be taken, apply as is the case with key decisions to be made by Cabinet.
- 3.9 However, there is no requirement to publish a report 5 days in advance of the decision being made as would be the case in respect of a decision due to be made at a meeting. Nor do the advance publication requirements apply if the decision to be taken is not a key decision.
- 3.10 A key decision will be subject to the call-in scrutiny procedure.
- 3.11 In the case of both key and non-key decisions by an individual Member, there must be a record made of the decision once taken, detailing the decision, the reasons for it, and any alternative options considered but rejected. The record must also state any conflict of interest declared and any dispensation granted by the Head of Paid Service.
- 3.12 This record must be made public along with the report considered by the decision-maker (unless it is confidential or exempt i.e. this is the same rule that applies to Cabinet reports), a list of background papers and the background papers themselves.

- 3.13 In order to ensure that decisions are transparent and lawful, the same standard of reporting to inform the individual Cabinet Member who will be making the decision is required. This means an officer report, including legal, financial and other implications, to which full consideration is given by the individual Cabinet Member before making their decision.
- 3.14 The same Forward Plan notification and report clearance will apply for all individual Cabinet Member decisions as applies for Cabinet.
- 3.15 A relevant officer will be present when the decision is taken to provide advice to the Cabinet Member. A representative of Executive and Member Services will also be present to ensure a record of the decision is prepared.
- 3.16 If an individual Cabinet Member key decision is called in and is referred back to the decision-maker, it will be reconsidered by him/her in accordance with the above rules.
- 3.17 If a decision is required to be taken urgently (i.e. it has not been included in the Forward Plan), the urgency has to be agreed by the Chief Executive or her nominated deputy in addition to complying with the statutory requirements. The proposed change to the Access to Information Rules (at r39 (a) 1.1) will apply to all key decisions irrespective of the decision maker.
- 3.18 As with other delegations, it is proposed that individual Cabinet Member decision making arrangements are included in the Constitution and the draft changes are attached (see **Appendix 3**).
- 3.19 Finally, following the discontinuation of the Highways Committee the Leader has revised the Cabinet referral criteria so that those highways matters which were previously delegated to the Strategic Director Regeneration and Environment are fully reinstated (see **Appendix 4**).

4.0 Financial Implications

- 4.1 None directly arising from this report.

5.0 Legal Implications

- 5.1 These are contained in the body of the report.

6.0 Equality Implications

- 6.1 None directly arising from this report.

7.0 Consultation with Ward Members and Stakeholders

- 7.1 The proposals in this report have been considered by the council's Constitutional Working Group.

8.0 Human Resources/Property Implications (if appropriate)

8.1 None.

Background Papers

None

Report sign off:

**Debra Norman
Director of Legal and HR
Resources**