

**PROPOSED AMENDMENTS TO THE COUNCIL'S CONSTITUTION**

- To:** Constitution and Ethics Committee
- Date:** 28th April 2015
- From:** LGSS Director Law, Property and Governance
- Electoral division(s):** All
- Purpose:** To consider various proposed changes to the Constitution.
- Recommendation:**
1. That the Committee recommend to full Council that Part 4.1 of the Constitution (Council Procedure Rules) be amended as set out in Appendix A to this report:-
    - a) by the addition in Rule 1.3 (Selection of Councillors on Committees and Outside Bodies) of the appointment of the Chairman/woman of the Cambridgeshire Health and Wellbeing Board.
    - b) by the amendment of Rule 4 (Appointments to Committees), specifically Rule 4.1 and 4.2 relating to allocation of seats to substitutes.
    - c) by the deletion in Rule 7 (Chairman/woman) of the reference to application to committee meetings.
    - d) by the addition in Rule 9.4 (Petition Scheme):-
      - i. of a further exclusion from the petitions scheme relating to Traffic Regulation Orders (TROs) in the light of the proposal to establish a separate procedure for the management of petitions relating to TROs; and
      - ii. of wording to clarify within the section "Process at the Meeting" that petition organisers will receive confirmation of the outcome of their petitions from the Chairman/woman.
    - e) by the inclusion within Rule 15 (Voting) of provision for recorded votes at budget meetings in accordance with the statutory requirement.
    - f) by the re-numbering of any Rules required as a consequence of the above amendments.

2. That the Committee recommend to full Council that Part 4.4 of the Constitution (Committee Procedure Rules) be amended as set out in Appendix B to this report:-
  - a) by the addition of a new Rule 3 (Chairman/woman of Meeting) relating to the powers of the person presiding at the meeting.
  - b) by the addition of a new Rule 7 (Agenda Items Requested by Councillors) to formalise the procedure by which a Councillor can request the inclusion of an item on a committee agenda, together with consequential amendments to Rule 5 (Order of Business) and 22 (Attendance of Other County Councillors).
  - c) by the addition of a new Rule 10 (Petitions to Committees) setting out the Petition Scheme for Committees.
  - d) by the addition of a new Rule 17 (Previous Decisions and Motions) regarding a motion to rescind a previous decision/a motion similar to one previously rejected.
  - e) by the re-numbering of any Rules required as a consequence of the above amendments.
3. That the Committee recommend to full Council that Part 4.6 of the Constitution (Financial and Contract Rules) be amended as set out in Appendix C to this report.
4. That the Committee notes the change to the functions of the Service Appeals Sub-Committee as set out in paragraph 5.1 and Appendix D of this report.

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## **1. BACKGROUND**

- 1.1 The Committee is invited to consider a number of proposed amendments to the Constitution as detailed below.

## **2. COUNCIL PROCEDURE RULES**

- 2.1. The following changes are proposed to the Council Procedure Rules. Details of the suggested revisions are set out in Appendix A. Deletions are denoted by strike through text and additions/amendments are denoted by underlined text.

### **2.2 Annual Council Meeting – Appointment of Chairman/Chairwoman of Cambridgeshire Health and Wellbeing Board**

- 2.2.1. A minor amendment of Council Procedure Rule 1.3 (Selection of Councillors on Committees and Outside Bodies) is required to include within the provisions for appointments at the Annual Meeting, the appointment of the Chairman/woman of the Cambridgeshire Health and Wellbeing Board. This has been incorporated in the revised Rule 1.3 (vi) at Appendix A.

### **2.3. Substitutes**

- 2.3.1 Council Procedure Rule 1.3 (Selection of Councillors on Committees and Outside Bodies) provides for the Council, at the Annual Meeting, to decide the allocation of seats and substitutes to political groups in accordance with the political balance rules. The seats are then filled in accordance with the wishes of the political group. However there is a discrepancy in Rule 4.2 (Number) that provides that “for each committee, the council may appoint up to four named substitutes from each political group at the request of the Group Leader”. Given that the Council does not now appoint named substitutes (rather allocated substitute places are filled in accordance with the wishes of the political group), it is proposed to delete this rule and to update Rule 4.1 (Allocation) to reflect that the Council will simply allocate substitute seats rather than make named substitute appointments.

### **2.4. Chairman/woman of Meeting**

- 2.4.1 Council Procedure Rule 7 (Chairman/woman of Meeting) contains reference to application of the rule to committee meetings. Given that separate procedure rules have now been introduced for committees, this reference is redundant and can be deleted as indicated in Appendix A.

### **2.5. Petition Scheme**

- 2.5.1 As Members will recall, the Council, upon the recommendation of this Committee, approved the delegation of authority to determine Traffic Regulation Orders (TRO) where objections have been received, to the Head of Local Infrastructure and Street Management, in consultation with the Local Member for all districts except Cambridge City.
- 2.5.2 As a consequence of that decision it is necessary to prepare a separate procedure to cover arrangements for handling petitions in respect of TROs. Work is in hand to develop such a procedure. As the standard provisions of the Council petition scheme will no longer apply to petitions submitted in respect of TROs, it is proposed

to amend the “Exclusions” section of the petition scheme as indicated in revised Rule 9.4 (Petition Scheme) at Appendix A.

- 2.5.3 A general amendment is also proposed to the petition scheme to clarify that the feedback on the outcome of consideration of a petition will come from the Chairman/woman of the Council.

## **2.6 Recorded Votes at Budget Meetings**

- 2.6.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into force on 25th February 2014 and require the recording of votes at local authorities’ budget decision meetings. Authorities are required to amend their procedure rules to provide that immediately after any vote is taken at a budget decision meeting of an authority there must be recorded in the minutes of the proceedings of that meeting the names of the persons who cast a vote for the decision or against the decision or who abstained from voting. The Regulations require that a recorded vote is taken in respect of the substantive motion setting the budget, council tax or issuing precepts and any amendments that are proposed to it.
- 2.6.2 The Council already has provision for a recorded vote requisitioned by 14 members at a meeting in Council Procedure Rule 15 (Voting). It is recommended that this Procedure Rule 15 be amended by the addition of a new Rule 15.6 (Recorded Vote at Annual Budget Meeting), as outlined in Appendix A, to reflect this new statutory requirement. Additionally, for completeness, a cross reference to the procedure should be added to Rule 15.3 (Method of Voting) and to Rule 23.1 (Suspension).

## **3. COMMITTEE AND SUB-COMMITTEE PROCEDURE RULES**

- 3.1. The following changes are proposed to the Committee and Sub-Committee Procedure Rules. Details of the suggested revisions are set out in Appendix B.

### **3.2. Chairman/woman of Meeting**

- 3.2.1. The Committee Procedure Rules do not currently include a specific provision relating to the powers of the person presiding at the meeting. It is proposed that a new Rule 3 (Chairman/woman of Meeting), as set out in Appendix B, be added providing that the person presiding may exercise any power of duty of the Chairman/woman. Additionally, it would be logical to transfer to the new Rule 3 the section in Rule 2 (Arrangements for Meetings) providing that the ruling of the Chairman/woman on the interpretation of procedure rules will be final.

### **3.3 Procedure for Members to place items on Committee agenda**

- 3.3.1 The Constitution is presently silent on the arrangements by which a Member can request the inclusion of an item of business on the agenda of a Committee. In practice, the route by which Members should seek to include an item on an agenda is via their relevant Committee spokesman/woman. The spokesman/woman should then raise the item at the meeting of committee spokesmen/women. The relevant Director, in consultation with the spokesmen/women, could then be authorised to determine whether to include the item on the Committee agenda. It is suggested that this arrangement be formalised within the Committee and Sub-Committee Procedure Rules.

- 3.3.2 A suggested form of wording is set out in a new Rule 7 (Agenda Items Requested by Councillors) at Appendix B. Consequential amendments are also proposed to Rule 5 (Order of Business) and 22 (Attendance of Other County Councillors). The latter amendment is proposed on the anticipation that the Committee may wish to provide for a Councillor who requests the inclusion of an item on a committee agenda to be able to attend and speak upon the item when it is considered.

### **3.4. Petition Scheme at Committee Meetings**

- 3.4.1 The Council Petition Scheme is set out in Council Procedure Rule 9.4. The scheme sets out the general provisions around petitions and the process for speaking at meetings. Separate provisions are set out for speaking at full Council meetings for petitions containing at least 3,000 signatures and where the Petition Organiser has asked for it to be debated at Council.
- 3.4.2 There is currently no reference to petitions within the Committee and Sub-Committee Procedure Rules and, for completeness, it is appropriate to include the relevant sections of the petition scheme which apply to committees within those Rules. Accordingly a new Rule 10 (Petitions to Committees) is proposed as indicated in Appendix B. The opportunity has also been taken to provide within the new Rule 10 that the feedback on the outcome of consideration of a petition will come from the Chairman/woman of the Council, in line with the amendment to the Council Procedure Rules recommended at paragraph 2.5.3 above.

### **3.5. Motion Similar to One Previously Rejected**

- 3.5.1. Rule 14 (Previous Decisions and Motions) of the Council Procedure Rules provides as follows:-

#### **14.1 Motion to Rescind a Previous Decision**

A motion or amendment to rescind a decision made at a meeting of the Council within the past six months cannot be moved unless the notice of motion is signed by at least 14 members.

#### **Motion Similar to One Previously Rejected**

- 14.2 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least 14 members. Once the motion or amendment is dealt with, no one can propose a similar motion or amendment for six months.

- 3.5.2 The current Committee and Sub-Committee Procedure Rules do not contain any similar provisions to control a motion the effect of which would be to rescind a previous decision passed within the last six months or a motion or amendment in similar terms to one that has been rejected within the past six months. In the interests of improving the efficiency of the transaction of business the Committee may therefore wish to consider including a similar provision in the Committee and Sub-Committee Procedure Rules. If the Committee is minded to recommend inclusion of such a provision, a new Rule 17 (Previous Decisions and Motions) could be added to the Committee Procedure Rules as indicated in Appendix B.

- 3.5.3 Proposed Rule 17 allows a motion to rescind a decision or to submit a motion in similar terms to a previous one only in circumstances where new information has come to light. It does not replicate the provision in the Council Procedure Rules which provides for a specified number of members to submit a motion but this could be added should the Committee consider this desirable.

#### **4. FINANCIAL AND CONTRACT PROCEDURE RULES**

- 4.1 The Financial and Contract Procedure Rules (Part 4.6) refer to Contract Regulations. It is proposed to change any reference to Contract Regulations to Contract Procedure Rules, to match the actual title of the document.
- 4.2 The Council's Financial Regulations and the Contract Procedure Rules are not currently readily available to the public. It is therefore proposed to include them in the Constitution as annexes to the Financial and Contract Procedure Rules (Part 4.6), with a covering sentence added at Rule 1.3.
- 4.3 The General Purposes Committee has decided that a minor change ought to be made to the treatment of underspends and overspends at the end of the financial year. Any underspend should be retained within a Directorate Reserve at year end, as currently set out in Rule 3.3, but the utilisation of the sum should be agreed by the end of June of the following financial year. It is therefore proposed to insert an additional section into Rule 3.3.
- 4.3.1 Because the final sentence of Rule 3.3 states that 'Any changes to this carry forward rule must be approved by the Council, except where they arise from a statutory requirement', Committee is asked to recommend to Council that this change be made (see Appendix C).

#### **5. SERVICE APPEALS SUB-COMMITTEE**

- 5.1. The Committee is invited to note a minor amendment to Part 3B 11.1 of the Constitution (Service Appeals Sub-Committee). In the light of the approval by the General Purposes Committee, at its meeting held on 1 July 2014, of the revised Grievance Policy and Procedure, a consequential amendment has been required to Section 11.1 by way of the deletion of the reference to authority to determine grievances under the Council's grievance procedures (see Appendix D)

<b>SOURCE DOCUMENTS</b>	<b>LOCATION</b>
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Constitution	<a href="http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution">http://www.cambridgeshire.gov.uk/info/20050/council_structure/288/councils_constitution</a>
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