

CITY OF
WOLVERHAMPTON
COUNCIL

Governance and Ethics Committee

24 November 2022

Report title	Changes to the Constitution – Rules of Debate	
Cabinet member with lead responsibility	Councillor Paula Brookfield Cabinet Member for Governance and Equalities	
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Report to be/has been considered by		

Recommendation for action or decision:

The Governance and Ethics Committee recommend to Council that:

1. The Changes in the Constitution, particularly the Rules of Debate, are made at the next Council meeting as set out in the report.

1.0 Purpose

- 1.1 To provide a recommendation on changes to the constitution, the constitution remains a living document that should be updated and revised as and when needed.

2.0 Background

- 2.1 The Governance and Ethics Committee regularly receives reports seeking to update the Constitution where it is necessary, the last such report was on 23 March 2022.
- 2.2 Changes have been brought forward previously following a full review of the Constitution. These changes are brought forwards following the meeting of the Council on 2 November 2022.
- 2.3 As the Committee is aware the constitution has been reviewed in totality and remodelled based on the model produced for local authorities by a national firm of solicitors, Bond Dickinson model. This is to ensure the constitution is clear and concise and that the decision-making processes can be followed by all.
- 2.4 Only those parts of the constitution listed below are amended, the other parts will remain unchanged.
- 2.5 This is part of a series of reports – there will be additional reports brought forwards to review the other parts of the constitution. A further report will be brought forward shortly covering Part 3 delegations to officers, this is currently being updated. The report is due to come to the January meeting of the Committee and will include changes to the planning delegations.

3.0 Changes to the Constitution

- 3.1 **Leader's report – winding up** – the issue was raised that there is no right of reply to the Leader's report. The previous rules had no time limit and provided merely for leader's report followed by questions and answers by any Councillor. The new approach limits it to simply having leader's report (10 mins) and opposition response (5 mins). It is recommended that, in line with the practice for other reports/questions and motions, that there is a right of reply. It is recommended that there is an amendment to introduce a 2 minute right of reply from the leader.

Adding in 10.3 –

The Leader will have a right of reply to the opposition response(s). The right of reply will last no more than 2 minutes.

This will need a consequential amendment to para 5.2 to make it clear that Leader's report item is now 17 minutes.

- 3.2 **Extensions of time of the meeting** – there was some challenge to an extension of time of the meeting – at the meeting on 2.11.22 the time was extended beyond the guillotine of 3 ½ hours. It was extended for a period of 15 minutes and there was then a

question as to whether at the end of that there could be a further extension. The relevant rule (para 14.1(l) – simply provides that a motion can be moved

“(l) that the meeting continue beyond 3 ½ hours in duration”

- 3.3 There is nothing in the rules preventing this or indeed allowing the option to extend the time beyond an agreed amount. We can clarify this in the rules by stating, for example that:

“(l) that the meeting continue beyond 3 ½ hours in duration – for the avoidance of doubt this can include a motion to extend by a certain amount of time, in which case further motions could be brought forwards to extend the time if the earlier extension proves insufficient and the meeting wishes (by vote) to continue beyond that extended time”

- 3.4 Alternatively, it can just be that we adopt the practice of simply extending the meeting and not extending by a fixed amount of time, but rather give an indicative time.

- 3.5 **Voting** - presence in the chamber – there was some debate on the named votes at Council on the motion. The relevant rule provides:

“16.1 Majority

Unless the constitution provides otherwise any matter will be decided by a simple majority of those Councillors voting and present at the time the question was put”

- 3.6 Previously there was a provision in the constitution that only those Councillors present for the whole debate could vote, that was removed following a number of requests on the basis that it caused issues for those with disabilities or with prayer requirements. This is very distinct for decisions of a Planning/Licensing Committee where they exercise a “quasi judicial” function and need to be present for the whole of the relevant item.

- 3.7 The question then follows as to whether when there is a named vote a Councillor can vote provided they are there for when their name is called (through the roll call).

- 3.8 The law is stated as follows in Knowles on Local Authority Procedure:

7.121 The answer is that a member present at a meeting is entitled to vote at any time before the chairman declares the outcome of the voting in a final way. Thus, where a requisition is demanded after a show of hands (and, as indicated above, it must be demanded immediately), a decision has not yet been made and there is nothing to stop a member who was not present at the show of hands from voting on the requisition or to prevent a member who voted one way at the show of hands changing their mind and voting differently. Just when a vote has finally been settled is a question of fact, which must rest with the chairman. These rules are also subject to any particular requirements imposed by standing orders. Some authorities have adopted a standing order that provides that members must be in the council chamber ‘when the question is put’ in order to be able to vote. Putting

the question means asking for those in favour of a motion, and it would not be in order, under such a standing order, for a member to arrive in the chamber after that point had been reached and expect their vote to be counted. See the discussion at 11.38 on when a committee decision has been finalised.

3.9 Legally there are 2 important points:

- 1) Legally it is worth noting that a Councillor can change their view at any point up until the result of the vote is announced by the person presiding
- 2) When is the question “put”? – the Council’s legal view is that when there is a simple verbal for and against it is when the question is asked by the Person Presiding – however when there is a request for a named vote before the vote is taken the time the question is put is when each Councillor is individually asked.

3.10 We can, if that is what Councillors’ desire, make it clear that the requirement for presence is at the time the named vote is requested – this would involve the tweak below

“16.1 Majority

Unless the constitution provides otherwise any matter will be decided by a simple majority of those Councillors voting and present at the time the question was put – *for the avoidance of doubt in the event that a named vote is called (or required) only those Councillors present at the start of the named vote will be entitled to vote.*”

3.11 Officers would then monitor as follows using the Mayoral Officer on duty to monitor the door and advise if they come late or after they step aside as a named vote is called that their vote will not count.

4.0 Financial implications

4.1 There are no financial implications associated with the recommendation in this report. [GE/18112022/L]

5.0 Legal implications

5.1 The Council is required by Section 37 of the Local Government Act 2000 to prepare and publish a Constitution which contains its standing orders relating to decision-making, finance and contracts. The Council is also required to keep its Constitution updated. The Director of Governance is authorised under the constitution to make amendments which more accurately reflect legislative and organisational changes. This report ensures that the Council meets its duties. [DP/18112022A]

6.0 Equalities implications

6.1 The Council must, in the exercise of its functions, have due regard to the need to:

- a. eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by the Equality Act;
- b. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
- c. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

6.2 The Constitution seeks to ensure that, in its decision-making and its operations, the Council fully complies with the public-sector equality duty.

7.0 Any other implications

7.1 There are no other implications arising from the report at the current time.