

STROUD DISTRICT COUNCIL**AGENDA
ITEM NO****COUNCIL****19 MAY 2020****6**

Report Title	AMENDMENTS TO THE CONSTITUTION			
Purpose of Report	To advise Council of changes needed to the Constitution.			
Decision(s)	Council RESOLVES to: a. Accept the proposed changes to the Constitution which will be subject to a review by the Constitution Working Group in six months b. Delegate authority to the Monitoring Officer to make any consequential changes to the Remote Meetings Standing Order as a result of any issues arising from conducting remote meetings in consultation with the Constitution Working Group			
Consultation and Feedback	Group Leaders, Strategic Leadership Team and Committee Chairs and Deputies (Standing Orders)			
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Options	These are changes which are necessary as a result of experiences during the Covid-19 emergency so no other options have been considered.			
Background Papers	None			
Appendices	Appendix A - Amendments to the Standing Orders for Remote Meetings Appendix B - Member Officer Relations Protocol			
Implications (further details at the end of the report)	Financial	Legal	Equality	Environmental
	No	Yes	No	No

1. INTRODUCTION

Members will be very aware of the multitude of issues caused by the current Covid-19 emergency and the subsequent social distancing and lockdown. One of the consequences of this is that the Council has not been able to hold face to face meetings. In response to this issue, Government has laid Regulations to enable Councils to hold meetings remotely.

- 1.2 The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the Regulations) make provision for remote attendance at, and remote access to, Council meetings held on or before 7 May 2021.
- 1.3 The Regulations enable the Council to hold meetings without all, or any, of the members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing.
- 1.4 This report focuses on the changes to the Constitution which are necessary to meet the challenges posed by the Covid-19 crisis and enable the Council to hold remote meetings effectively. The latter is to be achieved with an additional Standing Order which governs remote meetings.
- 1.5 The Monitoring Officer is also recommending that the quorum for meetings is altered to further facilitate remote meetings by enabling meetings to proceed where members are absent through illness or network problems and which would otherwise have to be adjourned or abandoned.
- 1.6 Early in the emergency, it became apparent that the lack of delegation to the Chief Executive to take urgent decisions in the Council's Scheme of Delegation was an issue. An amendment is therefore proposed to address this.
- 1.7 The existing delegation to the Monitoring Officer to amend the Constitution is too limited and does not enable him to make alterations as a result of legislation without bringing a report to Council. The remote meeting Regulations are an example of this limitation. An amendment is proposed to address this.
- 1.8 Whilst addressing the Access to Information provisions and timing of meeting consequences of the Regulations it was noted that there is an inconsistency in the Constitution in relation to the number of clear days needed between publication of the summons / agenda. An amendment is proposed to address this anomaly.
- 1.9 Prior to the emergency, the Constitution Working Group started to make good progress on the review of the Constitution and, but for current circumstances, would have recommended the first of its proposed changes at the Annual Meeting. However, the Regulations dispense with the need for an Annual Meeting. One of the first amendments proposed was an amended Member Officer Relations Protocol and in an effort to maintain momentum in reviewing the Constitution, this document is proposed to Council for approval.

2. Standing Orders

- 2.1 The Coronavirus Act 2020 and the Regulations permit meetings to be held remotely, but left it open to the Council to make any necessary changes to the Constitution. The report author has been working closely with Democratic Services to organise an appropriate platform on which to hold remote meetings and considers Zoom to be the

most appropriate platform at this time. However, whilst remote meetings are a huge opportunity for the Council, they also pose challenges which need to be considered and addressed. In addition, there were some aspects of the Council's Standing Orders which were inconsistent with remote meetings such as the requirement that all members must be present in the room for a vote to be effective (Para 9.1).

2.2 Rather than adopt a piecemeal change to Standing Orders – and potentially have to change them back if the legislation is later revoked, which hopefully will not be the case - the Monitoring Officer has prepared an additional bespoke Standing Order which can be inserted at the end. Given that this Council, like others, is going through a potential experimental stage with remote meetings, the Monitoring Officer is also requesting delegated authority to make any necessary changes to this particular Standing Order immediately to avoid any disruption to the meeting process and timetable. This is proposed to be in consultation with the Constitution Working Group.

2.3 **Quorum**

Prior to the current emergency, the Monitoring Officer had noted that the quorum for service committee meetings was in excess of what was needed and did not reflect practice in other Councils. In one instance, this almost led to a meeting being abandoned for being inquorate. This was particularly problematic because there were a number of invited attendees at the meeting, some of whom were external. Initial discussions have been held with the Constitution Working Group, but had not progressed as meetings were cancelled.

2.4 This issue has been brought into sharp focus due to the current emergency and with the advent of remote meetings because there are two main risks which are; illness of members and the potential for internet disruption. The latter has been covered in the new Standing Order, but there would be better mitigation if the quorum was reduced.

2.5 The legal quorum for a meeting of Council is one quarter as set out in Paragraph 6, Schedule 12 Local Government Act 1972. It is therefore proposed that for remote meetings only the statutory minimum is adopted for full Council meetings. A quorum of 33% is proposed for the service committees (This does not include the Licensing Panel).

2.6 The existing provisions are set out below together with the proposed amendments.

Existing

2. QUORUM

2.1 The quorum for meetings of the Council or its committees shall be 50% of the total membership of each of those bodies.

2.2 The quorum for any Licensing Panel of the Community Services and Licensing Committee consisting of three Members shall be 100%.

2.3 If a meeting becomes inquorate then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting.

Proposed amendment

2. QUORUM

2.1 The quorum for meetings of the Council or its committees shall be 50% of the total membership of each of those bodies with the exception of remote meetings when the quorum shall be 25% for Council and 33% for committees

2.2 The quorum for any Licensing Panel of the Community Services and Licensing Committee consisting of three Members shall be 100%.

2.3 If a meeting becomes inquorate then the meeting will adjourn immediately. Remaining business will be considered at a time and date fixed by the Chair. If s/he does not fix a date, the remaining business will be considered at the next ordinary meeting. If there is any urgent business requiring decision the matter should be referred to the Chief Executive.

2.4 For the avoidance of doubt when calculating the quorum any fractional figures will be rounded up.

2.7 Scheme of Delegation – Chief Executive

Other than for the period between the election and the Annual Meeting, the Scheme of Delegation does not provide any emergency powers to the Chief Executive. This creates a vacuum in a Council that runs a committee system as opposed to a cabinet system. This is because authority can only be delegated to a committee, sub-committee or an officer and no individual member has authority to take decision. It is quite normal for the Chief Executive to be provided with delegated authority to take urgent decisions and this is usually in consultation with the Leader and / or Group Leaders.

2.8 A recommended delegation is set out below, as before, the existing provision is set out followed by the provision proposed. It must be noted that any decisions should be in line with the budget and policy framework set by Council.

Existing

Urgent decision between elections and AGM

B1.1 In the period between the election and the Council's AGM if Council or committee decision making is not possible, the Chief Executive or relevant Corporate Team members may take urgent decisions, subject to:

- (a) consultation with the Chair of the Strategy and Resources Committee; and*
- (b) the Section 151 Officer or Monitoring Officer (as appropriate).*

Any decisions so taken will be reported to the AGM.

Proposed Amendment

Urgent Decisions

B1.1 The Chief Executive may take any action which is required as a matter of urgency in the interests of the Council or its residents in consultation with

- (a) the Leader and other Group Leaders if time permits, or Chair of Committee (if appropriate)*
- (b) the Section 151 Officer or Monitoring Officer (as appropriate)*

B1.1.1A matter may be deemed urgent if, in the reasonable opinion of the Chief Executive, a delay would seriously prejudice the interest of the Council or of the public and it is not practicable to convene a meeting of the relevant decision making body in sufficient time to take the decision

B1.1.2 Should the Chief Executive declare an interest in any decision proposed to be made or be unable or incapable of acting, then the delegated authority transfers from the Chief Executive to any of the Strategic Directors.

B1.1.3 Any decisions so taken will be in accordance with the budget and policy framework and will be reported to the appropriate meeting as soon as practicable and will be recorded in a report and Officer Decision Notice, published on the Council website which will record the reason for the urgency, the consultees and any response.

2.9 Scheme of Delegation – Monitoring Officer

Any changes to the Constitution have to be approved by Council, but from time to time there will be changes of an administrative nature or those which arise due to a change in the law. The Regulations referred to above are a good example of this, as a result of the

delegation to him; the Monitoring Officer in Bristol City Council was able to make immediate changes to the Constitution to change their Standing Orders. However the delegation in the Constitution at Stroud District is very limited and is a statement of the obvious. The existing provision together with a proposed changed provision is set out below.

Existing

C3A.3 To make amendments to the Constitution in view of the Council's resolutions and to address anomalies which may arise as a result of such amendments.

Proposed

C3A.3 In consultation with the Chief Executive and Constitution Working Group to make such amendments to the Constitution which, in that officers judgement, need to be made in view of the Council's resolutions, to correct anomalies and to reflect any changes to the law, such amendments will be reported for information.

2.10 Notice of Meetings

There is an inconsistency in the Constitution about the time required between publication of the agenda and the holding of the meeting. (The legal requirement in Paragraph 4 1(A) Schedule 12 Local Government Act 1972 is five clear days). Paragraph 3 of the Council Standing Orders refers to five clear **working** days, yet Paragraph 17 refers to five clear days.

2.11 The proposal therefore is that paragraph 17 is amended to replace "five clear days" with "five clear working days". This brings it into line with Paragraph 3 to avoid any potential conflict

2.12 Member Officer Protocol

As mentioned above, there is an opportunity to amend the Member Officer Protocol in this tranche of constitutional amendments. The draft has been widely circulated to all members for consultation, approved by the LGA and Strategy and Resources Committee and has been recommended for approval by the Constitution Working Group. In short, there is no reason not to adopt it since the current version appears to have been in place since 2004 and is inadequate.

3.1 Financial Implications

There are no significant implications within this category.

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3.2 Legal Implications

Any changes to the Constitution must be approved by Council unless falling within authority delegated to the Monitoring Officer. Any other legal implications are set out in the body of the report.

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3.3 Equality Implications

An EIA is not required because there are not any specific changes to service delivery proposed within this decision.

3.3 Environmental Implications

There are no significant implications within this category.