

PART 1 - PUBLIC

Decision Maker: Council

Date: 29th March 2010

Decision Type: Non-Urgent Non-Executive Non-Key

Title: MINOR CONSTITUTIONAL CHANGES

Contact Officer: Graham Walton, Democratic Services Manager
Tel: 020 8461 7743 E-mail: graham.walton@bromley.gov.uk

Chief Officer: Mark Bowen, Director of Legal, Democratic and Customer Services

Ward: N/A

1. Reason for report

- 1.1 The Constitution Improvement Working Group met on 1st February 2010 to consider some minor changes to the Constitution. These were endorsed by the General Purposes and Licensing Committee on 16th February 2010 and are presented to Council for approval.
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2. **RECOMMENDATIONS**

- 2.1 **The following minor changes to the Constitution (as set out in Appendix 1) be approved to take effect in the next Council year -**

Appointment of an Urgency Committee.

Extension of the provisions for statements to be made at Council meetings.

Addition of wording to clarify the postponement or cancellation of meetings in exceptional circumstances.

- 2.2 **That the monitoring officer be authorised to inset the amendments detailed in Appendix 1 into the Constitution.**

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Excellent Council. however will enhance contitutional arrangements
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: N/A
 4. Total current budget for this head: £N/A
 5. Source of funding: N/A
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Staff

1. Number of staff (current and additional): None
 2. If from existing staff resources, number of staff hours:
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Legal

1. Legal Requirement: Statutory requirement. The Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007 and the Local Democracy, Economic Development and Construction Act 2009
 2. Call-in: Call-in is not applicable. This report does not involve an executive decision.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): N/A
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1 In the last year, the Constitution Improvement Working Group has delivered three reports proposing changes to the Council's Constitution. Although the Working Group's main task of updating the Constitution ready for the implementation of the Local Government and Public Involvement in Health Act after the 2010 local elections was accomplished with the agreement of new executive arrangements agreed by the Council on 15th December 2009, a number of minor matters still needed to be addressed.
- 3.2 The Working Group therefore held an additional meeting on 1st February 2010 to consider these matters. The Working Group's proposals were subsequently considered and endorsed, with one amendment, by the General Purposes and Licensing Committee on 16th February 2010. Copies of the minutes from these meetings are attached as Appendices 2 and 3.
- 3.3 The changes to the Constitution proposed by the Working Group are set out in Appendix 1. These are –

Appointment of an Urgency Committee

The Working Group noted that although most urgent decisions could be dealt with by calling an urgent meeting of the relevant decision-making body, there were some decisions which did not fit in with the existing provisions. It was proposed that an Urgency Committee be established which could deal with urgent non-executive decisions. The Committee would be required to report to the next full Council meeting whenever it made a decision.

Statements

The Council has previously agreed provisions in the Constitution to enable the Leader, Portfolio Holders and committee Chairmen to make statements at full Council meetings if they wished. The Working Group proposed that there should also be provision for statements to be requested *from* these Members. This was supported by General Purposes and Licensing Committee, with the amendment that there be an overall time limit of 30 minutes for statements, allowing time to deal with more Council questions.

Cancellation of Meetings

It is proposed to add wording to clarify the postponement or cancellation of meetings in exceptional circumstances. Although it is doubtful whether a meeting may legally be cancelled once it has been called and an agenda issued, in practice it is very occasionally necessary to cancel meetings, such as during the recent severe weather conditions. The Working Group considered that it would be useful to insert some wording into the Constitution to remove some of the uncertainty.

- 3.4 The Working Group also considered two other matters. The first of these was the preparation of a Petition Scheme, and the General Purposes and Licensing Committee noted that the Director of Legal, Democratic and Customer Services was preparing a scheme for consideration by Members at a later date as soon as final guidance on the implementation of the legislation was available. The other issue concerned changes to the Scheme of Delegation to Officers – these changes are currently being considered by Committees prior to adoption by the Council and the Leader at the start of the 2010/11 Council year.

Non-Applicable Sections:	Policy/Financial/Legal/Personnel
Background Documents: (Access via Contact Officer)	

CHANGES TO THE WORDING OF THE CONSTITUTION

Part 3: Responsibility for Functions

Delete paragraph 2.10 (relating to the now defunct School Organisation Committee) and replace with

“2.10 Urgency Committee (Five Members, comprising the Mayor, the Chairman of the General Purposes and Licensing Committee and the Leaders of the three largest party groups).

To deal with urgent non-executive decisions that are not of a sensitive nature – any such decisions made shall be reported to the next available meeting of the full Council. “

Part 4: Council Procedure Rules

Amend the following paragraph to read –

“2. ORDINARY MEETINGS

Ordinary meetings of the Council will take place in accordance with a programme and normally commence at 7.30pm. Ordinary meetings will:

(vii) receive statements, if any, from the Leader of the Council, Portfolio Holders and Chairmen of all Committees, and receive questions and answers arising from those questions. A statement may arise in two ways –

- (a) the Leader, a Portfolio Holder or a Chairman may decide to make a statement by noon, three working days before the meeting of the Council; or
- (b) a PDS Chairman and one other Member, a Group Leader and one other Member or any five Members may request that a statement be made by the Leader, a Portfolio Holder or a Chairman.

Statements must be requested by noon, three working days before the meeting (i.e. on the previous Thursday for a Monday meeting); requests for statements on matters of urgency may be allowed at the discretion of the Mayor.

Notice of the intended statement will be circulated by email as soon as possible after notification to the Director of Legal, Democratic and Customer Services.

Statements will be limited to five minutes each, with an overall time limit of thirty minutes to ensure that more time is available for Council questions, subject to the Mayor having discretion to ask the meeting whether the session can be extended.”

Add the following paragraph –

“7.2 Cancellation or postponement of meetings

A meeting may be postponed or cancelled in exceptional and unforeseen circumstances by the Chief Executive at the request of a Committee or Sub-Committee Chairman (or by the Leader or a Portfolio Holder in the case of an executive meeting.) “

**CONSTITUTION IMPROVEMENT
WORKING GROUP**

Notes of the meeting held at 12.30pm on Monday 1st February 2010

Present

Councillor Nicholas Bennett JP (Chairman)
Councillor John Canvin
Councillor Peter Fookes
Councillor Julian Grainger
Sheila Bennett
Mark Bowen
Chris Curran
Graham Walton

1. APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Robert Evans
Russell Mellor.

2. DECLARATIONS OF INTEREST

There were no declarations of interest.

3. NOTES OF THE MEETING HELD ON 20TH OCTOBER 2009

The notes of the meeting held on 20th October 2009 were confirmed.

4. MODERN.GOV IT SYSTEM: PRESENTATION

Members received a presentation from Chris Curran, Management Trainee, on the Modern.gov IT system. Modern.gov was in use by around 120 local authorities, including 21 in London. It was a database system that linked information and offered enhanced public accessibility. The Democratic Services Team was already using the system to produce agendas; it was intended that the public-facing website would be launched on 29th March and there would be further features introduced later in the year.

The presentation illustrated changes to the appearance of committee papers and to information presented on the website.

AGREED that a presentation be made to the next General Purposes and Licensing Committee meeting on 16th February 2010.

5. MINOR CONSTITUTIONAL CHANGES

(A) Cancellation of meetings

The Director of Legal, Democratic and Customer Services explained that once a meeting had been called and an agenda issued it was doubtful that it could legally be cancelled. Although, in practice, common sense had prevailed in the recent bad weather and some meetings had not taken place, it would be preferable to insert some wording into the Constitution to remove some of the uncertainty.

AGREED that provision be made in the Constitution for meetings to be postponed or cancelled in exceptional circumstances by the Leader or Portfolio Holders in the case of executive meetings, or by the Chief Executive at the request of a Committee or Sub-Committee Chairman.

(B) Urgency

The Working Group had previously considered the need to make provision in the Constitution for urgent but not particularly sensitive decisions to be made, such as minor variations to Committee memberships.

AGREED that

(1) a Sub-Committee be established to deal with urgent non-Executive decisions comprising the mayor, the Chairman of the General Purposes and Licensing Committee and the Leaders of the three party Groups.

(2) any decisions made should be reported to the next Council meeting and the next appropriate Committee meeting.

(C) Portfolio Holder Statements

The General Purposes and Licensing Committee had asked the Working Group to consider concerns about the length of answers to Council questions and the potential need for a mechanism to require Portfolio Holders and Committee Chairmen to make statements at full Council meetings.

AGREED that provisions for requiring a statement to be made to full Council by a Portfolio Holder or a Committee Chairman be drawn up as follows -

A statement could arise in two ways -

(i) the PH, Leader or PDS Chairman could decide to make a statement by noon three working days before the meeting of the Council (ie for a Monday meeting the previous Thursday);

(ii) A PDS Chairman and one other member, a Group Leader and one other or 5 members could request a statement by noon, three working days before the meeting of the Council (ie for a Monday meeting the previous Thursday)

Statements or requests for statements on matters of urgency (ie where the matter has arisen since the deadline above) would be allowed at the discretion of the Mayor.

Notice of the intended statement would be circulated to all Members by email as soon as possible after notification to the Director of Democratic and Legal Services.

Statements would be limited to 5 minutes each with an overall time limit of 30 minutes (subject to the Mayor having the discretion to ask the meeting whether the session could be extended).

(D) Membership of Adjourned Meetings

Councillor Grainger suggested that, where a meeting was adjourned to a different date, it should be possible to allow different memberships for the two parts of the meeting, through substitutions. It was confirmed that this would not be possible, as this would still be one meeting.

It was suggested that one way to avoid this issue would be for a new meeting to be started; however, this would require a new agenda to be issued with sufficient public notice.

6. THE DUTY TO ESTABLISH A SCHEME FOR PETITIONS

The Working Group considered a draft petitions scheme which would comply with the requirements of the Local Democracy, Economic Development and Construction Act 2009, and noted that this included e-petitions. Councillor Grainger suggested that fewer signatures should be required for petitions on very local issues.

The Government had published a consultation document before bringing the provisions in the Act relating to petitions into effect. The Director of Legal, Democratic and Customer Services informed Members that one issue where it would be useful to respond would be to propose that petitions are excluded from the restrictions on political publicity under the Local Government Act 1986.

AGREED that

- (1) a petition scheme be drawn up for consideration by General Purposes and Licensing Committee;**
- (2) petitions concerning local matters which only affect a small number of residents should not be required to have the same number of signatories as those where the matter was of general interest – it could be a proportion of those estimated to be affected;**
- (3) paper petitions may have a lower threshold for action than on-line petitions.**
- (4) the Director of Legal, Democratic and Customer Services should respond to the Government's consultation suggesting that an amendment be made to the Local Government Act 1986 to exclude petitions from the restrictions on political publicity.**

7. SCHEDULE OF DELEGATIONS TO OFFICERS

The Schedule of Delegations to Officers had been updated in the light of changes to executive arrangements coming into effect after the local elections in May 2010. Under the new Constitution, any executive functions delegated to officers would need to be delegated by the Leader, and not full Council. Rather than produce two separate schemes, an extra column had been added to the existing document to indicate whether the delegation was from Council or the Leader. The document needed some further work to ensure that it was up to date.

RESOLVED that the approach taken to modifying the Schedule of Delegations is supported, and the revised scheme be submitted to PDS Committees, the Development Control Committee and the General Purposes and Licensing Committee, prior to approval by Council and the Leader.

The meeting ended at 2.16pm.

**General Purposes and Licensing Committee -
Extract from the draft minutes of the meeting on 16th March 2010**

**106. CONSTITUTION IMPROVEMENT WORKING GROUP:
MINOR CONSTITUTIONAL CHANGES
Report LDCS10031**

Over the past year, the Constitutional Improvement Working Group had produced three reports which had proposed changes to the Council's Constitution in line with the implementation of the Local Government and Public Involvement in Health Act 2007 after the 2010 local elections. The Director of Legal, Democratic and Customer Services reported that, since the last meeting of this Committee, a further meeting of the Working Group had addressed additional minor constitutional changes and that actions were proposed as set out in the notes of the Working Group's meeting held on 1st February 2010.

The Chairman of the Working Group spoke in support of the proposed changes and outlined the reasons for these having been put forward. In welcoming the proposed mechanism enabling statements to be made at full Council meetings by Portfolio Holders and Committee Chairmen, a Member felt that the overall time limit of 30 minutes for this purpose should also be used for dealing with more Council questions and, to this end, suggested that the words "to be utilised for dealing with more Council questions" should be inserted after the words "30 minutes" in the second line of the final paragraph under "(C) Portfolio Holder Statements". This amendment was agreed by the Committee. In relation to paragraph 7 (Schedule of Delegations to Officers) of the Working Group's notes, another Member considered that the relevant Committees should seek clarification of the precise functions that were to be delegated.

The Committee supported the proposed actions submitted by the Working Group. In relation to the proposals affecting the "Cancellation of meetings", the creation of an "Urgency Committee" and the provision of a mechanism for "Portfolio Holder Statements" at full Council meetings, the Director of Legal, Democratic and Customer Services was to prepare suitable, detailed wording to provide for the changes which had been put forward by the Working Group for insertion in the Constitution by the full Council at its meeting to be held on 29th March 2010. The Director of Legal, Democratic and Customer Services was also to prepare a "Petition Scheme" for consideration at a future meeting of this Committee as soon as final guidance on the implementation of the legislation was available.

RESOLVED that

(1) subject to the amended wording indicated above in relation to "Portfolio Holder Statements", the views of the Constitution Improvement Working Group and the actions proposed to make minor changes to the Council's Constitution be endorsed; and

(2) the revised Scheme of Delegation be considered by PDS Committees, the Development Control Committee and this Committee prior to approval by the Council and the Leader at the start of the next Council year.