

Decision Maker: GENERAL PURPOSES AND LICENSING COMMITTEE
EXECUTIVE
COUNCIL

Date: 19 March 2019
27 March 2019
8th April 2019

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

Title: CONSTITUTION IMPROVEMENT WORKING GROUP -
MINOR CONSTITUTIONAL CHANGES

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Chief Officer: Mark Bowen, Director of Corporate Services

Ward: (All Wards)

1. Reason for report

- 1.1 At its meeting on 21st January 2019 the Constitution Improvement Working Group met and made a number of recommendations to amend the Council's Constitution. The most significant matters involve the following changes to the arrangements for questions, but several other minor changes were recommended.
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2. **RECOMMENDATIONS**

- (1) That General Purposes and Licensing Committee and the Executive consider the conclusions of the Constitution Improvement Working Group and recommend that Council approves the following changes to the Council's Constitution as set out in Appendix A -

- (A) That the following changes to Council Procedure Rules relating to questions be approved -

- that public question time be extended to a maximum of 30 minutes, in line with the time allowed for Councillor questions;
- the deadline for receipt of questions should be 5pm, ten working days before each meeting;
- that questions specifically on reports on each agenda should be allowed within two working days of the normal publication date of the agenda;
- that questions be taken at special meetings, but only on the reports on the agenda;

- members of the public should no longer read their questions at Council meetings;
- the number of questions allowed be restricted to two per person.

(The changes to be reviewed after six months of operation.)

(B) That Executive members should not sit on the Audit Sub-Committee.

(C) That the right for a single Councillor to request that an item be placed on an agenda be extended from PDS Committees to all other committees.

(D) That the Scheme of Delegation to Officers be altered to confirm that where a planning issue is called in by a ward Councillor the delegation to officers is withdrawn.

- (2) That the other matters considered by Constitution Improvement Working Group (see paragraph 6) be noted.**
- (3) That the Director of Corporate Services be authorised to make any consequent minor changes to the wording and numbering of the Constitution.**

Impact on Vulnerable Adults and Children

1. Summary of Impact: Not Applicable
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Corporate Policy

1. Policy Status: Existing Policy:
 2. BBB Priority: Excellent Council:
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Financial

1. Cost of proposal: No Cost:
 2. Ongoing costs: Not Applicable:
 3. Budget head/performance centre: Democratic Services
 4. Total current budget for this head: £350,650
 5. Source of funding: 2018/19 Revenue Budget
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Personnel

1. Number of staff (current and additional): 8 posts (6.79 fte)
 2. If from existing staff resources, number of staff hours: Not Applicable
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Legal

1. Legal Requirement: None:
 2. Call-in: Not Applicable:
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Procurement

1. Summary of Procurement Implications: Not Applicable:
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Not Applicable
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? Not Applicable
2. Summary of Ward Councillors comments: Not Applicable:

3. COMMENTARY

3.1 The Constitution Improvement Working Group is an executive working group with wide representation which reviews issues relating to the Council's Constitution and makes recommendations to Council. The Working Group met on 21st January 2019 and made a number of recommendations to improve the Constitution, most of them relating to questions at meetings.

Questions

3.2 The Working Group considered a number of proposals to improve the handling of questions from members of the public and from members of the Council. The following changes are recommended -

- The maximum time allowed for public questions be extended to 30 minutes, in accordance with the time allowed for Councillor questions.
- The deadline for receipt of questions should be 5pm, 10 working days before the meeting, but questions relating to specific reports on the agenda should be allowed within 2 working days of the normal publication date of the agenda, and urgent questions should continue to be accepted at the discretion of the Mayor/Chairman.
- Questions at special meetings should be allowed but restricted to questions relating to specific reports on the agenda, to be received within two working days of the normal publication date of the agenda.
- Members of the public should no longer read their questions out at the meeting.
- The number of questions allowed per person should be reduced to two.

Audit Sub-Committee Membership

3.3 The Council's Constitution allows a single member of the Executive to sit on most non-executive committees and sub-committees (although not on PDS Committees.) The Working Group reviewed whether this was appropriate in all cases, and concluded that allowing an executive member to be on the Audit Sub-Committee could potentially be perceived as compromising its independence

Adding Items to Agendas

3.4 The Constitution allows any Member to request that an item be placed on the agenda of a Policy Development and Scrutiny (PDS) Committee. For other committees and sub-Committees, this requires five Members, three of whom have to be members of the body concerned. The Working Group proposed that the rules be harmonised for all meetings in line with the requirements for PDS meetings.

Scheme of Delegation to Officers

3.5 At present the Constitution removes delegation for officers when a member requests a call-in for some planning decisions/matters. For other matters then referring to Committee is a matter of convention rather than a Constitutional requirement. Following a recent case where a discretionary matter wasn't referred to committee it had been suggested that an additional paragraph be added to the Scheme of Delegation for Development Control confirming that

when a planning matter was “called in” by a councillor the delegation to officers was withdrawn on all planning decisions.

Other Matters

- 3.6 The Working Group considered a number of other matters where it either decided that no action was required, or where changes to current practice could be implemented without the need to make formal changes to the Constitution. The Working Group -
- urged Portfolio Holders to work with their PDS Committees to agree where decisions can be made without pre-decision scrutiny at meetings;
 - considered the select committee approach operating for scrutiny of education and children’s services since 2016 and decided not to make any changes to scrutiny arrangements, but suggested that this issue be kept under review;
 - decided not to implement a suggestion that all meetings should be required to include a “matters arising” agenda item;
 - asked officers to investigate the provision of smartphones to Members;
 - supported an improved format for full Council agendas grouping items under new headings (which was used for the Council meeting on 25th February 2019.)

Non-Applicable Sections:	Impact on Vulnerable Children and Adults/Policy/ Finance/Personnel/Legal/Procurement
Background Documents: (Access via Contact Officer)	None

Changes to the Constitution - New Wording

Part 3 - Responsibility for Functions

2.02 Audit Sub-Committee (Membership proportional, and to exclude any member of the Executive.)

Part 4 - Rules of Procedure

Council Procedure Rules

3. SPECIAL MEETINGS

3.1 Calling special meetings.

Those listed below may request the proper officer to call Council meetings in addition to ordinary meetings:

- (i) the Council by resolution;
- (ii) the Mayor of the Council;
- (iii) any five Members of the Council if they have signed a requisition presented to the Mayor and he/she has refused to call a meeting or has failed to call a meeting within seven days of the presentation of the requisition.
- (iv) the Director of Corporate Services as Monitoring Officer; the Head of Paid Service; the Director of Finance.

3.2 Business

The business to be considered shall be as set out on the agenda

3.3 Additional Items

Any Member of the Council may require the proper officer to add an item relevant to that body's functions to the agenda for the next scheduled meeting of the Council, a committee or sub-committee, or, where this will not permit the matter to be dealt with adequately, to convene a special meeting.

3.4 Questions

There will not be a general public question time at special meetings of the Council, except in exceptional circumstances agreed in advance by the Mayor, but questions relating to specific reports on the agenda may be submitted before 5pm on the second working day after the final day on which the agenda may be published.

9. QUESTIONS FROM THE PUBLIC

9.1 General

Members of the public may ask up to two questions at each meeting of Members of the Executive or any Committee Chairman at ordinary meetings of the Council and a maximum period of 30 minutes will be allowed for such questions. Subject to the discretion of the Mayor to refer the question to another Council body if the Mayor considers it a more appropriate body to respond to the question.

9.2 Order of questions

Questions will be asked in the order notice of them was received, with all first questions heard first, then all second questions. The Mayor may group together similar questions or vary the order as he or she sees fit.

9.3 Notice of questions

A question may only be asked if notice has been given by delivering it in writing or by electronic mail to the proper officer no later than **5pm, ten working days before the meeting**. Each question must give the name and address of the questioner and must name the Member of the Council to whom it is to be put.

Questions relating to specific reports on the agenda may be submitted before 5pm on the second working day after the final day on which the agenda may be published.

9.4 Scope of questions

The proper officer may reject a question if it:

- is not about a matter for which the Local Authority has a responsibility or which affects the borough;
- is defamatory, frivolous or offensive;
- is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- requires the disclosure of confidential or exempt information.

9.5 Record of questions

The proper officer will record each question and will immediately send a copy of the question to the Member to whom it is to be put. Rejected questions will include reasons for rejection.

Copies of all questions will be circulated to all Members and will be made available to the public attending the meeting.

9.6 Asking the question at the meeting

The Mayor will invite **the Member named in the notice to answer** the question. If a questioner who has submitted a written question is unable to be present, they may ask the Mayor to put the question on their behalf. The Mayor may ask the question on the questioner's behalf, indicate that a written reply will be given or decide, in the absence of the questioner, that the question will not be dealt with.

9.7 Supplementary questions

A questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to his or her original question. A supplementary question must arise directly out of the original question or the reply. The Mayor may reject a supplementary question on any of the grounds in Rule 9.4 above.

After a reply to a supplementary question has been given, the Mayor may, having regard to the time available and other matters on the agenda, allow further supplementary questions to be asked by Members (this will usually be no more than one per Member.)

9.8 Written answers

Any question which cannot be dealt with during the **30** minute period of public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put, will be dealt with by a written answer.

9.9 Reference of question to the Executive or a Committee

Unless the Mayor decides otherwise, no discussion will take place on any question, but any Member may move that a matter raised by a question be referred to the Executive or the appropriate Committee or Sub-Committee. Once seconded, such a motion will be voted on without discussion.

10. QUESTIONS BY MEMBERS

10.1 On reports of the Executive or Committees

A Member of the Council may ask the Leader or the Mayor or the Chairman of a Committee any question without notice upon an item of the report of the Executive or a Committee or on a motion when that item is being received or is under consideration by the Council.

10.2 Questions on notice at full Council

Subject to Rule 9.4, a Member of the Council may ask:

- the Mayor
- a Member of the Executive
- the Leader or
- the Chairman of any Committee or Policy Development and Scrutiny Committee

a question on any matter in relation to which the Council has powers or duties or which affects the area of the Council

General

10.2.1 The number of questions a Member asks at any meeting be limited to no more than **two** written questions and **two** oral questions. For the purposes of calculating the number of questions, a request for information or action shall be regarded as a question, even when asked as a subsidiary part of the main question;

10.2.2 A Member may ask another Member to submit a question on their behalf having notified the Director Corporate Services of the situation beforehand;

10.2.3 A Member may send questions in via either their personal LBB email account, their personal home email account, or in writing;

10.2.4 Questions will be asked in the order notice of them was received, with all first questions heard first, then all second questions and then all third questions. The Mayor may group together similar questions or vary the order as he or she sees fit.

10.2.5 Members of the Executive may not submit questions on notice at full Council on executive functions.

10.2.6 Executive Assistants may not submit questions to the Portfolio Holder that they assist.

10.3 Questions on notice at the Executive, Committees and Sub-Committees

Subject to Rule 10.4, a member of the Executive, a Committee or Sub-Committee may ask the Chairman of it a question on any matter in relation to which the Council has powers or duties or which affect the area and which falls within the terms of reference of that Committee or Sub-Committee.

10.4 Notice of questions

A Member may only ask a question under Rule 10.2 or 10.3 if either:

- (a) they have given notice in writing of the question to the proper officer by 5pm ten working days before the meeting; or
- (b) if the question is about a report on the agenda, it has been submitted before 5pm on the second working day after the final day on which the agenda may be published; or
- (c) the question relates to urgent matters, they have the consent of the Chairman to whom the question is to be put and the content of the question is, if possible, given to the proper officer by 10.00 am on the day of the meeting.

Questions considered by the Mayor to be defamatory, frivolous or offensive will be rejected.

10.5 Response

An answer may take the form of:

- (a) a direct oral answer;
- (b) where the desired information is in a publication of the Council or other published work, a reference to that publication; or
- (c) where the reply cannot conveniently be given orally, a written answer sent later to the questioner;
- (d) replies to questions will be recorded in the Minutes and shall be made available to members within five days of the meeting;
- (e) every question shall be put and answered without discussion. The person asked the question may decline to answer or may ask another Member to answer it on their behalf, but will give reasons for so doing.

10.6 Supplementary question

A member asking a question under Rule 10.2 or 10.3 may ask one supplementary question without notice of the member to whom the first question was asked. The supplementary question must arise directly out of the original question or the reply.

After a reply to a supplementary question has been given, the Mayor may, having regard to the time available and other matters on the agenda, allow further supplementary questions to be asked by other Members (this will usually be no more than one per Member.)

10.7 Written replies

Notwithstanding the provisions for other forms of questions, Members may put down questions requiring a written reply, at Full Council Meetings, where the question requires a fuller or more in depth answer than can be accommodated in an oral response.

Appendix 10 - Scheme of Executive and Non-Executive Delegation to Officers

Part II (B) Development Control Committee - add:

CP (25)	<p><i>In relation to all delegated authorities listed under Development Control -</i></p> <p><i>Delegated authority shall not apply under any circumstances where an application, amendment, alteration, revision or other change (whether major or minor) to a planning application is called in to a Plans Sub-Committee by one or more Councillors.</i></p>	Council
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(All following Development Control Delegations to be re-numbered.)