

Council

23 May 2017

Changes to Standing Orders

Report of the Monitoring Officer

Recommendations

1. That the Council considers whether to approve the revised Standing Orders set out in the Appendix.
2. That the Council authorises the Joint Managing Director (Resources) to make the changes to the Constitution that are necessary to reflect the Council's decision.

1.0 Introduction

- 1.1 The Council's constitution contains procedural rules (Standing Orders) which regulate the conduct of Council business. These are contained in Part 3 of the Constitution. The Appendix shows the Standing Orders as they would be if the changes set out in this report are agreed.
- 1.2 The Leader has asked the Monitoring Officer to report to Council on a number of changes to Standing Orders. In particular, the Leader has asked for a proposal to restrict call in to full Council to items which are contrary to the budget or policy framework. The basis for this request is that the current call in to full Council is not a legal requirement and is considered to be confusing. The Leader has also asked for the rules regarding question time to be merged so there is one procedure for questions with an allocation of up to 30 minutes.

Other changes proposed include:-

- A reduction in the notice period for substitutions
 - Raising of thresholds for key decision and fully funded additions to the Capital Programme.
 - Clarifying the rules for public speaking
 - Streamlining the arrangements for the management of the Cabinet agenda
- 1.3 We have also taken the opportunity to carry out some general tidying up by the proposed deletion of some redundant provisions either because legislation has changed or provisions have never been used in practice, for example

references to suspended councillors under the previous standards regime and public interest debates. A track changes version of the current standing orders showing all the proposed changes has been made available in each of the Group Rooms. Further detail on the proposed changes is set out below.

2.0 Leaders Proposed Changes to Standing Orders

- 2.1 Part 3 of the Constitution contains Standing Orders which govern the way the Council conducts its business. In relation to these rules, the key changes which are put forward for Council's consideration are set out in the following paragraphs.
- 2.2 **Current Standing Orders 13.7 and 13.9** – It is proposed to remove the standing orders which allow a second stage referral to Council by O&S committee or by 6 elected members. Referrals of called-in decisions to Council has caused much confusion amongst both members and the public over the circumstances in which the Council could override a decision of the Cabinet. The statutory scheme is quite clear that the Council may only override a decision of Cabinet if Cabinet is proposing to make a decision which is contrary to the policy framework or budget. It is therefore proposed that the Council's call-in arrangements should align with the statutory scheme so that in future the only called-in decisions to Council are decisions which are potentially contrary to the budget and policy framework. The Monitoring Officer would be the arbiter of whether or not a proposed decision was potentially contrary to the budget or policy framework. In the interests of efficiency it is proposed that in these circumstances the called-in decision should be referred direct to Council without being considered by an Overview and Scrutiny Committee in the first instance.
- 2.3 **Current Standing Order 2.4** – It is proposed to reduce the period of notice required for political groups to make changes to their committee membership from 3 clear days to two clear days. This gives a little more time for potential conflicts of interests to be identified and appropriate arrangements to be made for another member to attend the relevant committee.
- 2.4 **Current Standing Order 5.1 and 6.1** – this proposed amendment provides that written notices of motion should be signed not only by proposer but also the seconder and that motions/amendments moved at a meeting should both be proposed and seconded before being debated. This reflects current practice.
- 2.5 **Current Standing Order 7** – Member Question Time. There are currently two separate sets of complex rules governing member question time, one requiring written notice in advance of questions and the other not. The

proposed standing orders streamline and simplify these arrangements making them easier to understand with only one set of rules. There is no limit on the number of questions which can be asked and advance notice of questions would no longer be required. However if members wished to be assured of an answer at the meeting they are encouraged to send the question 3 working days in advance. However there would be an overall maximum of 30 minutes allocated at each ordinary meeting of the Council to ensure the Council can efficiently transact its other business.

- 2.6 **Current Standing Order 9.4** – The proposal is that the Chair of the Cabinet should have the same discretion as any other Chair of a Committee to manage the Cabinet agenda subject to any statutory rights. The statutory rights in the case of Cabinet are the rights of the Council’s statutory officers to require Cabinet to consider a particular issue in the performance of their statutory obligations. Other elected members would still be able to ask for items to be included on the Cabinet agenda but the final decision on inclusion of those items would be with the Chair of Cabinet.
- 2.7 **Current Standing Order 12** –Key decisions. The Council has had in place a financial threshold for key decisions of £500,000 since 2000. It is considered appropriate to review that threshold in view of the time that has elapsed and the impact of inflation over the last 17 years. It is therefore proposed that the thresholds should rise to £1,000,000 and that the tolerances for contracts where the bids are higher than expected should rise accordingly to i.e. by no more than 10% for contracts with a value of £1M to £1.5M or 5% for contracts of over £1.5M.
- 2.8 **Current Standing Order 24.2** – Additions to the Capital Programme. Similarly it is proposed that the current threshold of £1.5M for fully funded additions to the Capital programme by the Leader or persons or bodies nominated by her should increase to £2M to recognise the impact of inflation since the threshold was first set.
- 2.9 **Current Standing Orders 37 and 38** – Public Speaking. Over the last 4 years public speaking arrangements at various bodies has increased with ad hoc additions to standing orders reflecting different arrangements for public questions and public speaking depending on the member body. The proposed standing orders consolidate these provisions to simplify and streamline the arrangements. There are no substantive changes to provisions in terms of public rights. We have however retained within those proposals the separate arrangements for public speaking on planning matters at Regulatory Committee. However rather than those arrangements being placed in another part of the Constitution (as an Appendix to the Planning code of Practice) they have been incorporated into Standing Orders so that all the provisions relating to public speaking are in one place.

3. Other Changes

- 3.1 **Legislative changes:** There have been a number of legislative changes since standing orders in their current form were drafted. The opportunity has been taken to update standing orders to reflect those changes i.e.

Current Standing order 2.7: References to ‘suspended members’ under the previous standards regime has been removed. There is no longer any power to suspend members so these references are of no practical effect.

Current Standing Order 2.10 – we have included the reference to the Vice-chair of Council continuing to be a member of the Council until a new Chair of Council has been elected in an election year even though they have not been re-elected. This reflects the legislation and is a fall-back position to ensure there is someone available to oversee the annual council meeting in an election year should something unforeseen happen to the former Chair of Council.

Current Standing Order 19 Reporting Urgent decisions: The statutory arrangements have changed to only an annual reporting requirement and the new standing orders reflect this reality. In practice all members are notified of urgent decisions when they are made and removing this would reduce the administrative burden on staff to produce reports. If there are queries other mechanisms can be used such as notices of motions or member question time.

Current Standing Order 47 - Background papers: We have changed the wording from ‘make available’ to ‘retain’ as it is now a statutory requirement to publish background papers on the council’s website so they are already ‘available’.

New Standing Order 44 – Filming and Media Protocol: New statutory provisions required the Council to put in place a filming and media protocol. We have now incorporated that into the proposed new standing orders. There is no change of substance in the provisions.

- 3.2 **Redundant or unused provisions:** When standing orders were first drafted certain provisions were included as no one was entirely sure how the new council arrangements would work in practice. However over time certain provisions have not been used in practice therefore they serve little purpose other than to increase the length of standing orders. These are not statutory requirements i.e.

Current Standing Order 11.3 – Members have yet to make decisions about delegated local member decision-making but given the frequency of community forum meetings it was felt impractical to expect members to consult community forums before making decisions. So this requirement has been deleted.

Current Standing order 36 - Public Interest Debates: This was included when standing orders for new council arrangement were first developed. It has not been used in practice.

Current Standing Orders 24 to 27 - Budget and Policy Framework
Development: Originally these standing orders dealt with both the statutory requirements in relation to the budget and also a suggestion about how policy framework development should be managed. We have retained the statutory elements related to the budget (See new Standing Order 25) but deleted the arrangements regarding the policy framework which envisaged the whole framework being developed as one and the publication of a timetable. In practice individual policy framework plans and strategies are now notified in the forward plan and follow their own particular timeframes with bespoke arrangements for consultations. We have retained the statutory rights of Cabinet to amend a policy framework strategy or plan (See new Standing Order 24). We have made more explicit the powers of Council when approving any policy framework plan or strategy to delegate to the Leader powers to make changes in particular around updating and maintaining action plans and other supporting plans.

Current Standing Order 9.5 References to ‘en bloc’ decisions have been deleted as the Council no longer divides its business in this manner. These were basically decisions which were grouped together for approval without any discussion. Nowadays most items coming before a member body merit some form of discussion through more efficient agenda management.

Current standing order 6.4 – the time limit for speeches at Council remains at 5 minutes. However in practice for the budget debate specific time limits have always been issued and the amendment reflects current practice.

3.3 **Changes in terminology.** We have made some changes in terminology either to make standing orders clearer or to reflect current arrangements. For example

Resolutions are now referred to as motions as this is what is used in day to day language and reflects that a motion is a proposal whereas a resolution is the agreed outcome once the motion has been voted on.

Chief executive is replaced by head of paid service to reflect the new management structure.

Email is replaced by electronic means to reflect changes in technology.

- 3.4 The remaining changes do not include any changes of substance, they are updating numbering and cross-references, removing tautological statements such as 'The Cabinet shall meet at Shire Hall Warwick or such other location as agreed by the Leader' or just simplifying the language.

4. Conclusion

The changes proposed within this report would be lawful changes to Standing Orders. Some of the changes will require other parts of the Constitution to be updated to reflect these changes if approved by Council.

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