

Cabinet Member for Policing and Equalities
Council

25 August, 2022
6 September, 2022

Name of Cabinet Member:
Cabinet Member for Policing and Equalities – Councillor A S Khan

Director Approving Submission of the report:
Director of Law and Governance

Ward(s) affected:
None

Title: Proposed Changes to the Constitution

Is this a key decision?
No

Executive Summary:

The Constitutional Advisory Panel at its meeting on 12 July 2022 considered proposed changes to the Constitution. These were:

- (a) Clarification of Notices of Motion for Council (paragraph 9.1 of the Council Procedure Rules); and
- (b) Casual Vacancy – Failure to Attend Meetings (insertion of a new paragraph into the Constitution to facilitate prompt declaration of a Casual Vacancy)

The Advisory Panel agreed all the proposed revisions. In addition to the above proposed changes, the following additional proposed change is recommended:

- Clarification of Notices of Motion for Council – Reference to be made to submission of Motions by electronic means and the removal of the requirement for the City Solicitor to retain Motions in a hard copy book.

Recommendations:

The Cabinet Member for Policing and Equalities is requested to recommend that Council approves Recommendations (1) to (2) below with immediate effect:

- (1) With regard to Notices of Motion, amendments to paragraph 9.1 of the Council Procedure Rules as detailed in Appendix A to this report;
- (2) With regard to Casual Vacancies following a failure to attend meetings, an amendment to the Constitution to delegate authority to the City Solicitor and Monitoring Officer as the Proper Officer of the Council, following consultation with the appropriate Group Leader (where applicable), to declare vacancies that occur in relation to Section 86 of the Local Government Act 1972, as detailed in Appendix B to this report.

Council is recommended to approve the Recommendations (1) to (2) above with immediate effect and to authorise the City Solicitor and Monitoring Officer to make any necessary amendments to the Constitution.

List of Appendices included:

- A. Appendix A: Revisions to paragraph 9.1 of the Council Procedure Rules
- B. Appendix B: Proposed new wording in respect of Casual Vacancies – Failure to Attend Meetings to be inserted at Part 2M - Scheme of Functions Delegated to Employees, paragraph 6.8 Chief Legal Officer (City Solicitor) delegations, as a new sub paragraph 13 (under the heading Functions in relation to Council Meetings and Members)

Other useful background papers can be found at the following web addresses:

N/A

Has it been or will it be considered by Scrutiny?

No

Has it been or will it be considered by any other Council Committee, Advisory Panel or other body?

The proposals were considered by the Constitutional Advisory Panel at its meeting on 12 July 2022 (except where specified)

Will this report go to Council?

Yes – 6 September 2022

Report title: Proposed Changes to the Constitution

1. Context (or background)

- 1.1 The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living document and needs to be updated from time to time to ensure that it reflects changes in practices within the Council.
- 1.2 The Constitutional Advisory Panel at its meeting on 12 July 2022 considered proposed changes to the Constitution. These were:
 - (a) Clarification of Notices of Motion for Council (paragraph 9.1 of the Council Procedure Rules); and
 - (b) Casual Vacancy – Failure to Attend Meetings (insertion of a new paragraph into the Constitution to facilitate prompt declaration of a Casual Vacancy)
- 1.3 Further details of the main changes proposed are set out in Section 2 of this Report and more particularly in the Appendices to this report.

2. Options considered and recommended proposals

2.1 Clarification of Notices of Motion for Council (paragraph 9.1 of the Council Procedure Rules)

The proposed changes to paragraph 9.1 of the Council Procedure Rules are set out at **Appendix A**.

The Advisory Panel recommended that the Cabinet Member recommend to Council that the proposed amendments be approved.

- 2.1.1 The proposed change seeks to clarify the submission and consideration of Motions at Council meetings. The recommendation was made on the basis that research and anecdotal evidence suggests that the wording in the Para 9.1 has been in place since the mid to late 1990's and was introduced to prevent a proliferation of Motions being submitted at each Council meeting.
- 2.1.2 The Council Procedure Rules were reviewed in 2004/2005, following a number of long Council meetings. At that point, there was a Main Debate at each Council Meeting. These were selected by "the two main Political Groups" on a pro-rata basis, based on the number of seats per group. The Main Debate was in addition to Notices of Motion and each "Political Group" was entitled to submit one Motion per meeting. Following that review, Main Debates were deleted.
- 2.1.3 Since 2005, Motions have been submitted by "Political Groups". A Political Group consists of two or more people. A solo Member is not considered to be a Political Group, in line with the Local Government (Committees and Political Groups) Regulations 1990. Prior to June 2022, when a Motion was submitted by a Green Party Councillor, there had not been a request to

consider a Motion from an individual Councillor, supported by a Member from one of the Political Groups.

- 2.1.4 Para 9.1 is silent in relation to cross-party Motions and how these should be treated. Cross-party Motions considered at Council would normally occur after the agenda has been published, where both Political Groups have submitted a Motion on the same issue and then amend with a Motion that is proposed by a Member from one Political Group and seconded by a Member from another Political Group (for example the Motion on Volgograd considered in March 2022). This is allowed because under the Procedure Rules as there is no limitation on amendments in relation to Proposers or Seconders being from “one Political Group”.
- 2.1.5 There is a wide variety across the West Midlands in relation to how Council’s treat Motions (including cross-party Motions) and the number of Motions considered at each meeting. Where there are no limitations in place this can lead to a number of motions being considered which can impact on the length of meetings.
- 2.1.6 There was consensus by the Advisory Panel that there should continue to be one Motion submitted per Political Group. However there was agreement that that Motion could be signed (either to move or second) by any Member, including any individual Member or Member of a different Group.
- 2.1.7 In addition to the above proposed amendment, it is also recommended to update the Constitution in relation to the receipt and recording of receipt of Motions via electronic means. All Motions to be considered at Council meetings are available for public inspection as they are published on the Council website via the agenda.

2.2 Casual Vacancy – Failure to Attend Meetings (insertion of a new paragraph into the Constitution to facilitate prompt declaration of a Casual Vacancy)

The proposed new paragraph is set out at **Appendix B**.

The Advisory Panel recommended that there be amendments to the Constitution by delegating authority to the City Solicitor and Monitoring Officer as the Proper Officer of the Council, following consultation with the appropriate Group Leader (where applicable), to declare vacancies that occur in relation to Section 86 of the Local Government Act 1972.

- 2.2.1 The Council’s Constitution is silent on what happens when a Councillor fails to attend any meetings for six consecutive months. Section 85 (1) of the Local Government Act 1972 states that if a Councillor fails throughout a period of six consecutive months from the date of their last attendance to attend any meetings of the Council, they shall, unless the failure was due to some reason approved by the Council before the expiry of that period, cease to be a Member of the Council.

- 2.2.2 While failure to attend any meetings for six consecutive months leads to that person ceasing to be a member of the Council, it does not automatically create a Casual Vacancy for electoral purposes at that point.
- 2.2.3 A Casual Vacancy does not occur until the Council declare the office to be vacant which should happen “forthwith”, as detailed in Section 86 of the Local Government Act 1972, ie immediately after the person has ceased to be a Member. As the Constitution is silent, the vacancy must be declared at a full Council meeting. There can therefore potentially be a delay between the person ceasing to be a Member and the vacancy occurring as it is dependent on the date of the next Full Council meeting.
- 2.2.4 Guidance suggests that it is good practice for Council Constitutions to provide delegated authority to the Proper Officer of the Council to declare vacancies that occur in relation to Section 86 of the Local Government Act 1972. The requirement for the Council to forthwith declare the office to be vacant places an expectation that this will happen without delay. By delegating authority to the Proper Officer, any such vacancies can be declared in the timely manner anticipated by the legislation. A Proper Officer appointment has not been expressly made in this instance, therefore the officer to whom a function is delegated is deemed to be the Proper Officer for that function. It is proposed that authority is delegated to the City Solicitor and Monitoring Officer to act to as Proper Officer for the purposes of declaring vacancies that occur in relation to Section 86 of the Local Government Act 1972. The current ability to declare a Casual Vacancy at a full Council Meeting will not be affected and this will be an additional tool to declare a Casual Vacancy and will only be utilised following consultation with the appropriate Group Leader (where applicable).
- 2.2.5 The proposal does not affect the ability of Council to declare the vacancy itself or to a dispensation to approve the absence of a Councillor for a longer period of 6 months in specific circumstances, for example illness.
- 2.3 **Option 1:** Do nothing. This is not recommended as the Constitutional updates identified above allow for clarification, compliance with the law, and more efficient use of the Council’s resources.
- 2.4 **Option 2 (Recommended):** Approve the Constitutional updates for the reasons as detailed at Option 1.

Recommendations:

The Cabinet Member is requested to recommend to Council the approval of the following Recommendations with immediate effect.

- (1) With regard to Notices of Motion, amendments to paragraph 9.1 of the Council Procedure Rules as detailed in Appendix A to this report; and

- (2) With regard to Casual Vacancies following a failure to attend meetings, amendments to the Constitution by delegating authority to the City Solicitor and Monitoring Officer as the Proper Officer of the Council, following consultation with the appropriate Group Leader (where applicable), to declare vacancies that occur in relation to Section 86 of the Local Government Act 1972 as detailed in Appendix B to this report.

Council is recommended to approve Recommendations (1) to (2) above with immediate effect and to authorise the City Solicitor and Monitoring Officer to make any necessary amendments to the Constitution.

3. Results of consultation undertaken

The proposed amendments have been considered by the Constitutional Advisory Panel who recommended their approval (except for where specified).

4. Timetable for implementing this decision

- 4.1 Any actions arising from this report will be implemented immediately following Council approval.

5. Comments from Chief Operating Officer (Section 151 Officer) and Director of Law and Governance

5.1 Financial implications

There are no specific financial implications arising from the recommendations within this report.

5.2 Legal implications

There are no specific legal implications arising from this report. The issues referred to in this report will assist the Council in complying with its obligations under section 27 of the Localism Act 2011.

6 Other implications

None

6.1 How will this contribute to the Council Plan (www.coventry.gov.uk/councilplan/)?

Not applicable.

6.2 How is risk being managed?

There is no direct risk to the organisation as a result of the contents of this report.

6.3 What is the impact on the organisation?

No direct impact at this stage.

6.4 Equalities / EIA

There are no public sector equality duties which are of relevance at this stage.

6.5 Implications for (or impact on) climate change and the environment

None

6.6 Implications for partner organisations?

None at this stage.

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Enquiries should be directed to the above person.

Contributor/approver name	Title	Directorate or organisation	Date doc sent out	Date response received or approved
Contributors:				
Suzanne Bennett	Governance Services Officer	Law and Governance	26/07/22	09/08/22
Sarah Harriott	Corporate Governance Solicitor	Law and Governance	26/07/22	09/08/22
Adrian West	Members and Elections Team Manager		26/07/22	09/08/22
Names of approvers for submission: (officers and members)				
Graham Clark	Lead Accountant – Business Partnering	Finance	11/08/22	11/08/22
Councillor A S Khan	Cabinet Member for Policing and Equalities		15/08/22	15/08/22

This report is published on the council's website: www.coventry.gov.uk/councilmeetings

Appendix A: Proposed wording in respect of Notices of Motion for Council, paragraph 9.1 of the Council Procedure Rules

Original text:

Every notice of motion to be inserted in the summons for the next meeting of the City Council will be in writing and signed by the Councillor intending to move it and by the Councillor intending to second it. The notice must be delivered to the City Solicitor at a location* designated by her/him not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. The City Solicitor will only accept notices of motion which fulfill these requirements and will not accept more than one notice of motion intended to be moved (and seconded) by a Councillor(s) of any one Political Group. The City Solicitor will enter every such motion and the time and date of its receipt in a book to be kept in a location designated by her/him and such book will be open to the inspection of every Councillor and will be open for public inspection.

*NB: the location currently designated is Room 79 in the Council House

Revised text with amendments in red:

Every notice of motion to be inserted in the summons for the next meeting of the City Council will be in writing and signed by the Councillor intending to move it and by the Councillor intending to second it. The notice must be delivered to the City Solicitor at a location* designated by her/him **or sent electronically to Governance Services**, not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. **Any hard copy motions received will be date stamped and scanned by Governance Services.** The City Solicitor will only accept notices of motion which fulfill these requirements and will not accept more than one notice of motion ~~intended to be moved (and seconded) by a Councillor(s) of any one per~~ Political Group**. **Should a Councillor from a Political Group wish to second a Motion submitted by an individual Councillor, then the Group to which that Councillor belongs will forfeit the right to submit a Motion to the meeting. An individual Councillor may second a Political Group motion with the agreement of the Group Leader of the Political Group whose motion they are seeking to second. The City Solicitor will enter every such motion and the time and date of its receipt in a book to be kept in a location designated by her/him and such book will be open to the inspection of every Councillor and will be open for public inspection.**

*NB: the location currently designated is Room 79 in the Council House

** "Political Group" to be interpreted in accordance with The Local Government (Committees and Political Groups) Regulations 1990

Revised text - clean version

Every notice of motion to be inserted in the summons for the next meeting of the City Council will be in writing and signed by the Councillor intending to move it

and by the Councillor intending to second it. The notice must be delivered to the City Solicitor at a location* designated by her/him or sent electronically to Governance Services, not later than 9.00 a.m. at least 5 clear working days before the date scheduled for the meeting of the City Council. Any hard copy motions received will be date stamped and scanned by Governance Services. The City Solicitor will only accept notices of motion which fulfill these requirements and will not accept more than one notice of motion per Political Group**. Should a Councillor from a Political Group wish to second a Motion submitted by an individual Councillor, then the Group to which that Councillor belongs will forfeit the right to submit a Motion to the meeting. An individual Councillor may second a Political Group motion with the agreement of that Group Leader.

*NB: the location currently designated is Room 79 in the Council House

** "Political Group" to be interpreted in accordance with The Local Government (Committees and Political Groups) Regulations 1990

Appendix B: Proposed new wording in respect of Casual Vacancies – Failure to Attend Meetings to be inserted at Part 2M - Scheme of Functions Delegated to Employees, paragraph 6.8 Chief Legal Officer (City Solicitor) delegations, as a new sub paragraph 13 (under the heading: Functions in relation to Council Meetings and Members) with all remaining sub paragraphs from 13 onwards to be renumbered as one higher

Functions in relation to Council Meetings and Members		
13	To declare as Proper Officer, vacancies that occur in relation to Section 86 of the Local Government Act 1972, following consultation with the appropriate Group Leader (where applicable).	City Solicitor as Proper Officer