

Council – 6 September 2022
Recommendation from Cabinet
Member for Policing and
Equalities
25 August 2022

Coventry City Council
Minutes of the Meeting of Cabinet Member for Policing and Equalities held at 1.30
pm on Thursday, 25 August 2022

Present:

Members: Councillor AS Khan (Chair)
Councillor P Akhtar (Deputy Cabinet Member)

Employees Present: S Harriott, Law and Governance
J Newman, City Solicitor and Monitoring Officer
U Patel, Law and Governance

Apologies: Councillor P Male (Shadow Cabinet Member)

RECOMMENDATIONS

10. Proposed Changes to the Constitution

The Cabinet Member considered a report of the Director of Law and Governance which outlined proposed changes to the Constitution.

The Council's Constitution sets out how the Council carries out its business and makes decisions. It is a living documents which would need updating from time to time to ensure that it reflects changes in practices within the Council.

The Constitutional Advisory Panel at its meeting on 12 July considered the following proposed changes to the Constitution:

- (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).

(a) The proposed changes sought to clarify the submission and consideration of Motions at Council meetings. Since 2005, Motions have been submitted by "Political Groups" which consist of two or more Members. 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 Member, supported by a Member from one of the Political Groups.

Paragraph 9.1 of the Constitution 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 had been published, where both Political Groups have submitted a Motion on the same issue which is then amended with a Motion that is proposed by a Member from one Political Group and seconded by a Member from another Political Group. This was allowed because under the Procedure Rules, there is no limitation on amendments in relation to proposers or seconders being from "one Political Group".

There was consensus by the Advisory Panel that there should continue to be one Motion submitted per Political Group, however, that Motion could be signed (either moved or seconded) by any Member, including any individual Member or Member of a different Group.

It was proposed that Paragraph 9.1 be revised as set out below:

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 fulfil 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.

In addition, the Advisory Panel also recommended that the Constitution be amended to allow 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.

(b) 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.

While a failure to attend any meetings for six consecutive months leads to that person ceasing to be a member of the Council, it did not automatically create a Casual Vacancy for electoral purposes at that point.

A Casual Vacancy would 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, i.e. 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 could therefore potentially be a delay between the person ceasing to be a Member and the vacancy occurring as it would be dependent on the date of the next Full Council meeting.

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 would happen without delay. By delegating authority to the Proper Officer, any such vacancies could 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 was proposed that authority be 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 would not be affected and this would be an additional tool to declare a Casual Vacancy and would only be utilised following consultation with the appropriate Group Leader (where applicable).

The proposal would 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.

RESOLVED that, the Cabinet Member recommends that Council approves Recommendations (1) and (2) below with immediate effect and authorises the City Solicitor and Monitoring Officer to make any necessary amendments to the Constitution:

- 1. With regard to Notices of Motion, amendments to paragraph 9.1 of the Council Procedure Rules as detailed in Appendix A to the 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 the report.**

(Meeting closed at 1.35pm)