

To: All Members of the Constitutional Sub Committee

Professor Steven Broomhead
Chief Executive
Town Hall
Sankey Street
Warrington
WA1 1UH

Councillors:
Chair – C Fitzsimmons

B Axcell, J Joyce, B Maher, P Kennedy

Constitution Sub Committee

Date: Wednesday, 27 January 2016

Time: 15:30

Venue: Committee Room 2, Town Hall, Sankey Street, Warrington, WA1 1UH

Contact Adam Kellock, Democratic & Member Services, Tel: 01925 442144,
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AGENDA

Part 1

Items during the consideration of which the meeting is expected to be open to members of the public (including the press) subject to any statutory right of exclusion.

1 Apologies

To record any apologies received.

2 Code of Conduct - Declarations of Interest

**Relevant Authorities (Disclosable Pecuniary Interests)
Regulation 2012**

Members are reminded of their responsibility to declare any disclosable pecuniary or non-pecuniary interest which they have in any item of business on the agenda no later than when the item is reached.

3 Minutes

3 - 4

Minutes of the meeting of the Sub-Committee held on 25 November 2015.

4 Review of Constitution

5 - 14

Report of the Solicitor to the Council and Assistant Director of Corporate Governance.

Part 2

Items of a “confidential or other special nature” during which it is likely that the meeting will not be open to the public and press as there would be a disclosure of exempt information as defined in Section 100I of the Local Government Act 1972.

Nil.

If you would like this information provided in another language or format, including large print, Braille, audio or British Sign Language, please call 01925 443322 or ask at the reception desk in Contact Warrington, Horsemarket Street, Warrington

Constitution Sub Committee 25 November 2015

Present: Councillors B Axcell, C Fitzsimmons (Chair), and P Kennedy

CSC 1 Apologies

Councillors J Joyce and B Maher

CSC 2 Code of Conduct – Declarations of Interest

There were no declarations of interest received.

CSC 3 Minutes

The Minutes of the meeting held on 8 April 2015 were signed and agreed as a correct record.

CSC 4 Annual Review and Adoption of the Calendar of Meetings for Civic Year 2016/17

The Solicitor to the Council presented a report outlining the calendar of meetings for the Civic Year 2016/17.

Members also discussed items to be discussed relating to the annual review of the Constitution.

Recommendation

- (1) That Sub Committee recommend to the Annual Meeting of the Council the calendar of meetings for the civic year 2016-17 as set out in the report; and
- (2) At the next meeting of the Sub Committee to be held on 27 January 2015 at 3.30pm the following items be discussed:

Health Scrutiny Committee
Role of Scrutiny
Call in protocols
Questions at Council, including written questions
Correspondence at Council meetings.

CSC 5 Date and Time of Next Meeting

27 January 2016 at 3.30pm

Signed

Dated.....

WARRINGTON BOROUGH COUNCIL

CONSTITUTION SUB COMMITTEE – 27th JANUARY 2016

Report of: Solicitor to the Council & Assistant Director
Corporate Governance, Timothy Date

Report Author: Solicitor to the Council & Assistant Director
Corporate Governance, Timothy Date

Contact Details: **Email Address:** **Telephone:**
tdate1@warrington.gov.uk 01925 442150

Ward Members: **ALL**

TITLE OF REPORT: **REVIEW OF CONSTITUTION**

1. PURPOSE

1.1 To invite the Constitution Sub Committee to consider options for amending the Constitution at the Annual Meeting of the Council to be held on 23rd May 2016.

2. CONFIDENTIAL OR EXEMPT

2.1 This report does not contain information which is either confidential or exempt.

3. INTRODUCTION AND BACKGROUND

3.1 At its meeting on 25th November 2015 the Constitution Sub Committee resolved to address certain matters set out in the Constitution and to consider the case for change for the municipal year 2016/17.

3.2 The matters identified for consideration are:

The Role of Scrutiny and Call-In Protocols;
Questions at Council including written questions
Health Scrutiny Committee;
Correspondence at Council meetings.

3.3. The most recent version of the Constitution was adopted by the last Annual Meeting held on 21 May 2015.

3.4 The legal framework relating to local authority constitutions is relatively straight forward. Section 37 of the Local Government Act 2000 requires local authorities operating executive arrangements to prepare and keep up to date

a document to be referred to as the Constitution. The Constitution must contain a copy of the Council's Standing Orders, a copy of the Council's Code of Conduct and such other information (if any) as the Council considers appropriate.

- 3.5 In very broad terms there are two types of Standing Order identified by the legislation. First, there are those Standing Orders regulating the conduct of meetings. In that connection paragraph 42 of Schedule 12 of the Local Government Act 1972 states that "a local authority may make Standing Orders for the regulation of their proceedings and business and may revoke any such orders". Second, there are those Standing Orders focusing upon the appointment of statutory officers largely made under the Local Government and Housing Act 1989. This present report concentrates upon the 1972 Act requirements rather than those arising under the 1989 Act.
- 3.6 In making or amending Standing Orders the limited case law available suggests that a Council's most important obligation is to consider the impact of its actions in relation to local democracy.

4.0 THE SPECIFIC ISSUES

- 4.1 To enable members to consider the specific issues listed in paragraph 3.2 above the approach adopted in this report is to describe the context of the provision in question, to describe Warrington's current constitutional provisions and to then describe any options for change or improvement.

The Role of Scrutiny and Call-in Protocols

- 4.2 The statutory position is set out in Section 21 of the Local Government Act 2000, as amended. The requirement is that a local authority operating executive arrangements must include provision for the appointment by the authority of one or more committees which have the power, between them, to review and scrutinize decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive.
- 4.3 In Warrington this obligation has been met by the establishment of four Policy Committees and a Scrutiny Committee. That current structure was established in January 2013. The terms of reference of each of the Policy Committees and the Scrutiny Committee are set out in that part of the Constitution headed "Responsibilities of Council Executive Board, Regulatory and Other Committees". In addition, the Constitution includes provisions entitled "Protocol Use of the Call In Procedure". The Constitution also contains a document entitled "Overview and Scrutiny Procedure Rules".
- 4.4 The documents emphasize the exceptional nature of call-in and require that a call-in must be initiated by a member of an Overview & Scrutiny Committee (i.e. one of the five committees mentioned above) and must be supported by at least four other members of any Overview and Scrutiny Committee.

- 4.5 The Constitution Sub Committee may wish to consider whether the number of Committees discharging the Overview and Scrutiny function under Section 21 of the Local Government Act 2000 remains appropriate.
- 4.6 Additionally, the Constitution Sub Committee may wish to consider whether the requirement for five members to support a call in remains a reasonable and appropriate requirement. In terms of the case law referred to in paragraph 3.6 above the sub-committee is invited to consider whether the numerical requirement unfairly discriminates against smaller groups or, members who do not belong to a formally constituted group. The case law does not provide a specific answer to that question but merely requires local authorities to reflect upon the impact upon local democracy of any arrangements it makes.
- 4.7 As members will be aware, all call-ins are considered by the Scrutiny Committee regardless of subject matter. In other words, the Policy Committees do not address those call-ins affecting their terms of reference. It has been the practice of the Council to allow members of the Scrutiny Committee to subscribe to call-ins and to sit as members on the Scrutiny Committee when the call in is considered. The view has been expressed that such an arrangement is inappropriate and that those members who subscribe to call-ins should not take part in any deliberation thereon at Scrutiny Committee.

Questions at Council including written questions

- 4.8 Council Procedure Rule (CPR)13 addresses questions at Council meetings both from Councillors and members of the public. There are essentially two types of question from members.
- 4.9 Paragraph 13.1 (b) of CPR enables any member of the Council to ask, without notice, the Leader of the Council any question relating to any matter referred to in "Announcements from the Leader". The asking of a question shall not exceed two minutes except with the consent of the Civic Mayor and the number and validity of questions shall be at the discretion of the Civic Mayor. A cap of 15 minutes applies to the total period allowed for asking questions.
- 4.10 Paragraph 13.2 of CPR allows any member may, on giving appropriate notice, ask the Civic Mayor, a member of the Executive Board or the Chairperson of the Committee or Sub Committee any question on any matter which relates to the Council's powers and duties or which affect the Borough or which relates to the powers and duties or the functions of the body they have responsibility for under the Council's Constitution.
- 4.11 Any such question must be sent by notice in writing to Head of Democratic and Member Services and received by him at least 3 clear working days in advance of the meeting at which the question is to be put.
- 4.12 Such questions are to be taken on a rotation basis between political groups starting with the opposition groups and individuals. Once each group has

asked its first questions the process is repeated until the time limit for questions (i.e. 30 minutes) has expired.

- 4.13 It should be noted that there is no limit placed upon the number of questions that any individual Councillor may ask under these provisions. There is no formal requirement under the Local Government Act 1972, the Local Government Act 2000 or otherwise compelling Councils to make provision for the asking of questions.
- 4.14 The attached schedule (appendix 1) provides the Sub-Committee with some comparative data showing the approach to questions adopted by four neighboring Councils.

Health Scrutiny Committee

- 4.15 Under the current Constitution the Scrutiny Committee exercises the Council's health review and scrutiny powers under the National Health Service Act 2006. The Committee discharges that function alongside its other functions such as the processing of call-ins and scrutiny of the Council's budget setting process.
- 4.16 The legislative framework relating to health is complex and subject to ongoing development. Since 2012 health scrutiny applies to 'health service providers' (i.e. any body providing healthcare which is publicly funded) not just NHS bodies.
- 4.17 The Sub-Committee is invited to consider whether the current arrangements for discharge of the health scrutiny function should, in principle, continue to be the responsibility of the Scrutiny Committee.

Correspondence at Council Meetings

- 4.18 CPR 7 (Order of Business) prescribes in the order of business at ordinary meetings of the Council. CPR 7(b) (iv) and (v) sets out requirements in relation to correspondence with provisions that such correspondence be noted at the meetings.
- 4.19 There is no provision in CPR for issues raised in such correspondence to be discussed, debated or commented upon. The Sub Committee is invited to consider whether it wishes to maintain the current arrangements of simply noting correspondence.

5. FINANCIAL CONSIDERATIONS

- 5.1 Financial considerations may arise depending on the recommendations agreed by the Sub-Committee and the impact that they would have on the resources required to support committees.

6 EQUALITY AND DIVERSITY / EQUALITY IMPACT ASSESSMENT

- 6.1 There are no equalities issues arising from the proposed revisions to the Constitution.

7. CONSULTATION

- 7.1 The Constitution Sub-Committee is being consulted prior to any changes being agreed by the Council.

8. REASONS FOR RECOMMENDATION

- 8.1 To enable to the Sub-Committee to make recommendations to the Annual meeting of the Council on 23rd May 2016 and to discharge the Council's statutory duty to maintain the Constitution.

9. RECOMMENDATION

- 9.1 That the contents of the report be noted.
- 9.2 That the Sub Committee determine a preliminary view on each of the issues identified in paragraph 3.2 above.
- 9.3 That the Sub Committee address which further issues should be addressed in anticipation of the Annual Meetings.
- 9.4 That the Sub Committee consider the desirability of a further meeting before determining recommendations to the Audit and Corporate Governance Committee and, subsequently, Annual Council.

10. BACKGROUND PAPERS

- 10.1 Warrington Borough Council's Constitution

Constitution Sub Committee – January 2015

Four Authorities have been contacted as below:

- Liverpool CC
- Sefton MBC
- Stockport
- Trafford

The following topics have been reviewed:

- Written Questions by Members (On Notice)
- Written Questions by the Public
- Motions

Written Questions by Members (On Notice)

	Liverpool	Sefton	Stockport	Trafford	Warrington
Deadline	6 clear working days in advance of agenda issue	12 noon 2 clear working days before the meeting	2 working days notice	4pm one clear working day before the date of the meeting	5pm – 3 clear days in advance of the meeting
Restriction on Amount	No	No	No	No – every question to be put and answered	No
Timing of each question	No	No	No	No	5 mins
Supplementary?	No	Yes one supplementary question	No	Yes - one	Yes - one
Cap on overall time spent	No	No	No	No	30 mins
Comments	Holding response or full response to be made available by 4pm on the Monday prior to the meeting. Copies circulated to appropriate Councillors at the meeting and open to inspection	Responder to the question may decline to answer. Refer to the information in a publication or provide a written response when convenient	As Sefton but can also refer to another Councillor to respond	Direct response Reference to information in another publication or written response	

Written Questions by the Public

	Liverpool	Sefton	Stockport	Trafford	Warrington
Deadline	12 noon the day before the agenda is sent	5 clear days before the date of the meeting.	30 mins prior to the start of the meeting		12 noon four clear working days in advance of the meeting
Restriction on Amount	No	One only	Not more than 2 per person and no more than 3 may be asked on behalf of one organisation		Not more than one
Timing of each question	No	no	No		Yes – 5 mins
Supplementary?	Yes	Yes	No		Yes - 1
Cap on overall time spent	No	no	30 mins		no
Comments	Interestingly questions from the public are allowed on the agenda but questions on notice from members are just open for public inspection.			No questions from the public	

Motions

Liverpool

- Motions for debate submitted by the Mayor (30 Mins)
- Five Motions for debate submitted by Members of the Council and recommended by the Whips' Meeting (20 Mins each)
- Motions that are submitted to Council which have been indicated by the Whips that they have cross party support will be submitted to be agreed without debate subject to the approval of the Council.
- Mover of a Motion or an Amendment – five minutes. Other speakers – 3 mins. An extension of a further two minutes subject to at least seven members making the request by rising from their seats at the green light.

Sefton

- 12 noon eight clear days in advance of the meeting.
- No speech may exceed eight minutes without the consent of the Council and any extension shall not exceed a further three minutes..
- A member who has spoken on a motion once may not speak again unless to speak on an amendment or to move a further amendment etc.

Stockport

- Written notice signed by at least two member and delivered by not less than seven clear days before the date of the meeting.
- No speech to exceed 10 minutes without the consent of the mayor

Trafford

- Written notice signed by at least 3 members or via electronic means by 4pm six clear days in advance of the meeting.
- No fixed period for speeches
- Finish time of 9.30pm or the meeting is adjourned.

