

Report

Democratic Services Committee

Part 1

Date: 5th September 2024

Subject Implementation of Model Constitution and Revisions to Standing Orders for Meetings of Full Council

Purpose

1. To update the Committee on the progress of the re-drafting of the Council's Constitution, particularly with regard to the section concerning Standing Orders for meetings of Full Council;
2. To seek the approval of the Committee for changes to the current Standing Orders, pending the implementation of the new Constitution.

Author Interim Head of Law and Standards

Ward N/A

Summary Further to previous updates regarding the implementation of the Model Constitution, this report provides a draft of the section concerning the conduct of Full Council meetings. In particular, the draft contains some amendments to the business to be conducted at ordinary meetings of Full Council and to the way in which questions to the Leader, Cabinet Members and chairs of committees and sub-committees are dealt with. The Committee is also asked to consider the proposed amendments to the existing Standing Orders with a view to implementing the above changes prior to the adoption of the new Constitution.

Proposal

1. For the Committee to consider the draft section of the new Constitution contained in Appendix 1 relating to the rules for meetings of Full Council and to provide comment and feedback; and
2. That the Committee approve the proposed changes to the existing Constitution set out in Appendix 2 and recommend the adoption of the same to Full Council.

Action by Interim Head of Law and Standards

Timetable Full Council – 24th September 2024

This report was prepared after consultation with:

- Leader
- Chief Executive
- Democratic and Electoral Services Manager
- Chair of Democratic Services Committee

Signed

Background

At the meeting of this Committee in April 2024, it was agreed that the Interim Head of Law and Standards would begin work on a re-drafting of the Council's Constitution based on the Browne Jacobson Model Constitution for Wales. It was agreed that the re-drafted sections of the Constitution would be presented to this Committee as they are prepared, for the Committee to consider, discuss and provide feedback on, with a view to recommending the adoption of the whole of the Model Constitution to Full Council once the draft wording has been agreed.

Appendix 1 shows section 4 of the Model Constitution, modified to incorporate the provisions of the Council's Constitution and as proposed by the Monitoring Officer for adoption. This section sets out the rules governing meetings of Full Council.

Separately, the Leader of the Council has indicated he would like to see changes to certain parts of this section of the Constitution, namely in relation to the attendance of outside bodies at meetings of Full Council and also with regard to how questions from members to the Leader, Cabinet Members and chairs of committees and sub-committees are handled. These proposed changes are incorporated into the draft document referred to above; in addition, at Appendix 2 is a re-drafted version of the current Standing Orders for Meetings with these changes incorporated. The latter document has been drafted with a view to this Committee recommending the adoption same by Full Council at its meeting on 24th September 2024, should members of this Committee be minded to do so.

Proposal

Model Constitution

Structure

Committee members are invited to review the revised draft section 4 of the Model Constitution and provide comment. The document has been amended in order that it, so far as possible, reflects the provisions of the Council's existing Constitution. However, it should be noted that the Model Constitution as whole is structured differently to the existing Constitution and therefore contains some information which is not contained in the current Standing Orders, in particular the Council's Policy Framework, terms of reference and functions of Full Council and role descriptions of the Presiding Member and Mayor.

Equally, there are certain sections of the current Constitution which are not dealt with in the corresponding section of the Model Constitution. These include the provisions for asking questions at any time (i.e. outside of meetings), procedures in relation to members' interests and appointments of members to other bodies.

Key Amendments

As outlined above, this Committee is asked to consider two key changes to the procedure for meetings of Full Council.

First, it has been proposed that the rules for ordinary meetings should include the scope for representatives of other bodies to attend at meetings of Full Council in order to address the meeting and answer questions from members as appropriate. This would be achieved through the proposed insertion at 4.11.7 and would formalise the arrangements for the attendance of other organisations.

Secondly, the draft contains proposed changes to the format of questions from members to the Leader of the Council, Cabinet Members and chairs of committees and sub-committees. The effect of the proposed changes can be summarised as follows:

- The length of the allotted period for questions to the Leader would be extended to 20 minutes, with the time limit for questions to Cabinet Members and Chairs remaining at 10 minutes each;

- Members wishing to ask a question would be required to submit their question to the Monitoring Officer in writing in advance of the meeting; these questions (unless agreed as urgent) would be printed on the agenda for the meeting in order to avoid the need for them to be read out;
- All members answering questions orally would have a time limit of 2 minutes for each answer;
- The member who submitted the written question would, after hearing the oral answer, be entitled to ask a supplementary question on the same subject, of which notice need not be given;
- The order of questions to the Leader would remain the same, i.e. the Leader of the Opposition, other group leaders in descending order of group size and then other members in an order to be determined by a ballot;
- Where the Leader is unable to attend a meeting, the Deputy Leader would answer the Leader's questions on his behalf; other group leaders would be entitled to appoint a substitute to ask their question if they are unable to attend; and
- Questions which are not dealt with at the meeting would receive a written response prior to the next meeting.

Other Points to Note

Whilst the revised standing orders have been, so far as possible, drafted in order to equate to the current provisions, members are asked to consider and note the following:

- The revised draft contains a role description for the Presiding Member. In the current constitution, this description is conflated with the role of the Mayor, which at this Council is something quite separate;
- It will at a later stage be necessary to consider whether the role description for the Mayor should feature in this section of the Constitution or elsewhere. In the meantime, it is suggested that the words at 4.7.5.3(b) be included, to ensure that the Mayor receives advice from statutory officers where necessary;
- The Model Constitution suggests (at 4.13.2) that meetings be limited to a maximum duration of 3 hours. This section has been removed from the draft, as this Council currently has no such restriction and there are, foreseeably, occasions where it may be necessary to exceed such duration;
- 4.14 clarifies that the summons to a meeting must specify how members who wish to participate in the meeting remotely may do so;
- 4.23.2 aims to simplify the procedure regarding the Presiding Member's casting vote. The current Constitution states that the Presiding Member may only exercise such a vote if he or she has voted in the original vote on the motion. There seems no obvious reason for including such a provision, since in such circumstances, the Presiding Member could first cast his original vote and then, if necessary, a further casting vote;
- 4.23.6 relates to the procedure where there are a number of candidates for an appointment and there is no clear majority of votes in favour of one person. Under the wording of the Model Constitution, in such circumstances the lowest-ranked member would be eliminated and the vote held again. Whilst this provision does not feature in the current Constitution, it would seem sensible to adopt it;
- 4.24 clarifies the nature of the information which should be recorded in the minutes of meetings;
- The requirement for the Presiding Member to sign the minutes of the previous meeting once approved has been removed from the draft. Whilst the current Constitution provides for this, it is not a requirement and all that is needed is a resolution that the minutes appended to the agenda be approved;
- The current Constitution prohibits filming and the use of social media during meetings. It is recommended that the wording at 4.29 be adopted instead, which would have the effect of permitting such activities, provided that they do not disturb the meeting. This suggestion reflects the reality that it is, in practice, difficult to control or inhibit such activities;
- The Model Constitution provides for a minimum length of time for which electronic recordings of meetings will be kept. No length of time is suggested but a period of one month would enable anyone who has missed the meeting to watch it and catch up. In reality, the Council retains recordings for a much longer period but it would be more sensible to deal with this point elsewhere; and

- 4.31.1 has the effect of imposing some limitations on the scope of the Standing Orders which can be suspended by resolution during meetings.

Amendments to Existing Constitution

As a consequence of the markedly differing structures of the existing and Model Constitutions, it would be extremely difficult to simply substitute the new Standing Orders for the equivalent section of the current Constitution. Therefore, and having regard to the timescale for the implementation of the new Constitution, it may be considered beneficial to amend the existing Constitution should the Council wish to proceed with the proposed changes around the attendance of outside bodies and questions to the Leader, Cabinet Members and chairs.

The document at Appendix 2 is a track-changed version of the current Standing Orders showing the proposed amendments. Committee members are asked to review and comment on this and, if in agreement with it, recommend the amendments to Full Council for adoption at the meeting on 24th September 2024.

Ward members will continue to be consulted where there is a wider impact or direct interest on the community or residents within a ward.

Risks

There are no material risks associated with the proposals set out in this report.

Links to Council Policies and Priorities

The review of the Council's Constitution presently being undertaken is essential in order to ensure that the Council's governance structures remain up to date and fit for purpose. The proposal to enable outside bodies to attend Council meetings will contribute to the key objective of working alongside and in collaboration with such bodies.

Options Available and considered

The draft replacement Standing Orders in Appendix 1 are for members to review and comment upon.

With regard to the proposed changes to the existing Constitution set out in Appendix 2, the Committee may:

- a. Recommend adoption of these at the next meeting of Full Council;
- b. Decline to recommend adoption and endorse the retention of the existing Standing Orders;
- c. Decline to recommend adoption and implement these changes when the new Constitution is adopted; or
- d. Recommend adoption with amendments.

Preferred Option and Why

Option a. This will ensure that the changes to the order of business and questions to the Leader, Cabinet Members and chairs of committees and sub-committees would take effect with effect at the November meeting of Full Council, providing that Full Council resolves to make the changes at its September 2024 meeting.

Comments of Chief Financial Officer

Comments from statutory officers will be sought on the basis of any observations and remarks made by this Committee and included in any subsequent report to Full Council.

Comments of Monitoring Officer

This report has been written by the Monitoring Officer and therefore any relevant legal implications are set out above.

Comments of Head of People, Policy and Transformation

Comments from statutory officers will be sought on the basis of any observations and remarks made by this Committee and included in any subsequent report to Full Council.

Scrutiny Committees

None.

Fairness and Equality Impact Assessment:

- **Wellbeing of Future Generation (Wales) Act**
- **Equality Act 2010**
- **Socio-economic Duty**
- **Welsh Language (Wales) Measure 2011**

An FEIA is not required at this stage, however, this proposal is considerate of the 5 ways of working within the Wellbeing of Future Generations (Wales) Act.

- Long Term – Ensures that the Council has effective governance structures in place which support and facilitate the participation of elected members and ensure that robust decision-making structures are in place;
- Prevention – Ensures that the Council’s Constitution is user-friendly and accessible to all who need to engage with it.
- Integration – Supports the Councils Well-being Objectives, the seven Well-being Goals, and will ensure that effective corporate governance structures are in place to support the delivery of these.
- Collaboration & Involvement – The proposed changes to standing orders will enable the participation of outside bodies in meetings of Full Council.

Consultation

Discussion with members and officers as listed above. Further consultation with senior and statutory officers will take place in light of the views of this Committee in advance of a report being made to Full Council.

Appendices

Appendix 1: Proposed re-draft of section of Model Constitution for Wales governing the conduct of meetings of Full Council;

Appendix 2: Proposed re-draft of existing Standing Orders for consideration of immediate adoption.

Background Papers

Newport City Council Constitution dated 29th April 2024 – Part 4
Model Constitution for Wales (Browne Jacobson) – Section 4

Dated 29th August 2024