Review of the Constitution Steering Group

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Tuesday 7 October 2014 – 2.30pm

Venue - E1 Room A – Floor 1 in Town Hall extension

Members:

Councillor Bob Chapman
Councillor Stephen Chappell
Councillor Ben Grower
Councillor David Kelsey
Councillor Andrew Morgan
Councillor Roger West
Councillor Ron Whittaker

By invitation: Cabinet Member for Corporate Policy and Strategy, Councillor Mike Greene

Officers:
Liz Wilkinson – Chief Finance Officer and Executive Director Finance
Tanya Coulter - Monitoring Officer and Service Director Legal and Democratic
Kevin Neale - Democratic Services Manager

AGENDA

1. Election of Chair

The Steering Group will be asked to appoint its Chair for the Municipal Year 2014/15.

Note – This is the first meeting of the Steering Group in 2014/15 and is, therefore, the first opportunity to appoint the Chair.

It has not been the practice of the Steering Group to appoint a Vice-Chair.

2. Proposed new Council Procedure Rule for the submission of Motions at special Council budget meetings

To consider the Monitoring Officer's briefing paper circulated at **Paper 1.**

3. Review of arrangements for voting at full Council meetings

To consider the Monitoring Officer's briefing paper circulated at **Paper 2**.

4. Openness of Local Government Bodies Regulations 2014 and the Local Government (Electronic Communications) (England) Order 2014

To note the Monitoring Officer's briefing paper circulated at **Paper 3**.

Paper 1

Briefing paper by the Monitoring Officer to the Review of the Constitution Steering Group on 7 October 2014

Review of the Constitution – Motions for Council budget meeting – Proposed changes to the Constitution's Council Procedure Rules

1.0 Background

1.1 The Steering Group is aware that officers have been reviewing various aspects of the Constitution over the last few years to ensure it is up to date and suitably comprehensive and fit for purpose.

1.2 One area that has most recently been considered by officers is in relation to arrangements for the Council budget meeting and, specifically, the period of notice required to be given in advance of that meeting if a councillor wants to amend the Cabinet's budget proposals by changing resource allocations or by putting forward alternative budget proposals.

1.3 Whilst this hasn't been a significant issue of concern for the Council for some time, it is something that the Council might prefer to have covered for general future proofing purposes and/or particularly in advance of an election year.

1.4 The officers have therefore drafted a proposed new Council Procedure Rule as follows:

Procedure for Motions to the Council Budget meeting

1. Any motion to amend the Cabinet's Budget proposals by changing resource allocations or any motion seeking approval of alternative budget proposals that impacts on either the revenue or capital budget and the financial impact is in excess of £500,000, must be put in writing and be

   a. submitted to the Chief Finance Officer at least 5 working days before the Council's budget meeting;

   b. certified by the Chief Financial Officer before the Council's budget meeting as being reasonably calculated and sufficiently deliverable as to be robust and sustainable in the medium term and will continue to ensure that reserves are maintained at an adequate level which protects the Council's financial standing.

2. The Council budget meeting must receive a written report from the Chief Finance Officer on the financial implications of any such motion or amendment before it is considered.

1.5 The Leader of the Council and Cabinet Member for Resources supports the above proposal.

1.6 Currently:

- the full Council agenda papers are published 5 clear days - 3 working days - before the meeting.

- The record of decisions from the special Cabinet budget meeting is circulated by means of a supplementary full Council agenda on the Friday afternoon before the special full Council budget meeting – this is 3 clear days or 1 working day before the meeting.

1.7 To facilitate a deadline of 5 working days for the submission of motions to the Council budget meeting Cabinet, at its meeting on 23 July 2014, agreed that the date of the special Cabinet budget meeting is put back by 1 week.

1.8 The alternative option of delaying the meeting of the special full Council budget meeting until the first week of March is not recommended as this would seriously jeopardise the Council's legal duty to issue Council Tax bills in time for the 1 April payment.

1.9 If the proposal at 1.4 above is agreed it is also recommended that consequential changes be made to other Council Procedure Rules as follows:

Amend by adding the wording shown in **bold text and underlined**:

'69. Procedure for Motions with notice

b. **With the exception of Motions for the Council Budget meeting – see Procedure Rule ** below,** all notices of motion will be in writing and signed by a Member of the Council and delivered to the Service Director of Legal and Democratic at least 7 clear working days before the meeting of the Council.'

'70. Motions to increase expenditure – other than in connection with the Council's Budget meeting'

2.0 Recommendation

2.1 The Steering Group is asked to recommend to the Cabinet and full Council

a. That the proposals at paragraphs 1.4 and 1.9 above be adopted.

b. That the Monitoring Officer be granted delegated authority to make all necessary changes to the Constitution.

Kevin Neale
Democratic Services Manager
7 October 2014

Paper 2

Briefing paper by the Monitoring Officer for the Review of the Constitution Steering Group – 7 October 2014

Review of voting at full Council meetings

1 Why are you being asked to consider this?

1.1 The Review of the Constitution Steering Group on 4 January 2014 agreed to recommend to the Cabinet and full Council that

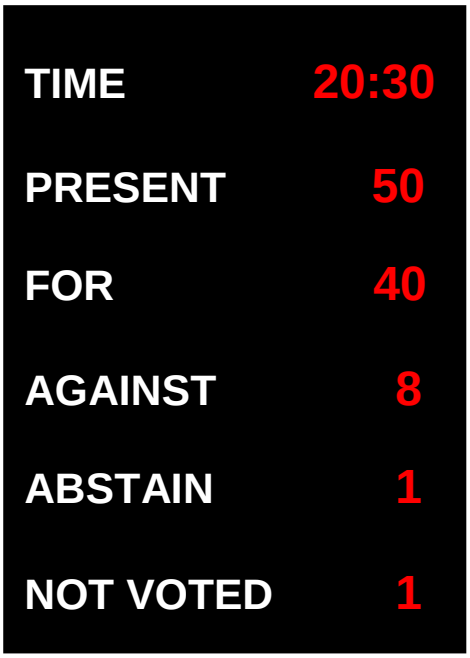
> 'a briefing paper reviewing the current arrangements for the recording of votes at full Council meetings be submitted to a future meeting of the Steering Group'.

1.2 This recommendation was adopted by full Council on 4 March 2014.

2 Background

2.1 Up until 2000 Councillors voted at full Council meetings by standing in their places.

2.2 During 2000 a new sound system was installed together with an electronic voting system. The voting system included an LED screen which displayed the result of the vote as follows:



This screen is still sited behind the Mayor's chair in the Council Chamber but is not currently used.

2.3 This electronic voting system was used until 15 January 2008 when the Council agreed to change its Procedure Rules to return to the requirement for Councillors to vote by standing in their places. The majority of Councillors at the time felt that this was a more transparent process.

2.4 Later in 2008, following representations by a small number of councillors, an enhancement/replacement of the Council Chamber voting system was explored by officers and considered by the Leader. This was not progressed however, in the light of other Council priorities and the budget situation at the time.

2.5 In 2012 the following Council Procedure Rule was introduced on the recommendation of the Standards Committee for the purposes of transparency. This Procedure Rule is still in use:

> '**74. Voting at Full Council Meetings**
> ***This rule cannot be suspended***
>
> **a. Voting Procedure**
>
> i The Mayor will take the vote by asking the Chief Executive to request that Members indicate whether they are for or against the amendment or motion or abstaining from voting. The names will be taken down and entered into the record of decisions.
>
> ii This procedure does not need to be followed if there is no dissent. On such occasions the Mayor may take the vote by the affirmation of the meeting.'

2.6 The new Council Chamber sound system does incorporate an electronic voting facility but currently this is not activated. This facility would result in details of all votes cast being recorded electronically on a computer sited on the desk behind the Mayor's chair.

2.7 Currently however, there is no facility to display the result of the vote within the Council Chamber unless the existing screen – see page 1 – could be used with the new sound system electronic voting facility.

2.8 The new sound system software and computer can also control additional monitors/projectors by using an additional video

display software module. This would allow the Council to broadcast live voting results on a projector screen or plasma displays in different graphic formats such as lists or charts. The module would also allow the Council to display other information from the meeting, including the Councillor's name, speech time, political party, electoral ward and so on.

An illustration of how live voting results could look is set out below:

Amendment 3 – Vote now					
The Mayor	Abs	C Rochester	Yes	D Gritt	No
Deputy Mayor	Yes	D Kelsey	Yes	J Adams	Yes
R Whittaker	No	E Coope	Yes	C Mayne	Yes
B Grower	No	J Montrose	Yes	R Stollard	Yes
B Chapman	Yes	C Ainge	No	M Greene	Yes
A Rey	No	M Anderson	Yes	J Wilson	No
S Chappell	Yes	N Greene	Yes	A Angiolini	Yes
M Filer	Yes	L Bailey	Yes	M Battistini	Yes
D Smith	Yes	S Anderson	Yes	J Edward	Yes
M Davies	Yes	B Dunlop	Yes	T Stratton	Yes
A Filer	Yes	I Lancashire	Yes	L Williams	Yes
R West	No	M Weinhonig	Yes	R Marley	Yes
J Beesley	Yes	D Borthwick	Yes	S Phillips	Yes
B Goldbart	Yes	B Lawton	Yes	J Kelly	Yes
S Levell	Yes	A Russell	Yes	B Crawford	Yes
B Baxter	No	A Morgan	Yes	D d'Orton-Gibson	Yes
L Price	Yes	C Wakefield	Yes	G Seymour	Yes
J Trickett	Yes	C Johnson	Yes	P Oakley	Yes
Yes = 45 No = 8 Abstain = 1					Pass

A picture of a typical 'traditional' style Council chamber with electronic display screens

2.9 The Council's Conservation & Urban Design Team has confirmed that listed building consent would be required for any additional screens or changes to the current screen.

2.10 The Head of Registration and Coroner's Services has stated that ‘any additional large screens would need to be screened by curtains to help maintain the ambience of the Chamber for weddings.’

3 Options

3.1 No change – continue with recorded votes

Note:

a. Recommended by the Standards Committee
b. No significant issues raised by the majority of Councillors
c. Very transparent as names and vote relayed verbally and recorded in the minutes of the meeting.

3.2 Voting by Councillors standing in their places

Note:

a. Would be at variance with the recommendation of the Standards Committee
b. Not as transparent as option 1 – names not relayed verbally or recorded.

3.3 Simple show of hands

Note:

a. Would be at variance with the recommendation of the Standards Committee
b. Not as transparent as option 1 – names not relayed verbally or recorded.
c. Might be difficult for the Chief Executive to view and count all raised hands from the front of the Council Chamber

3.4 Introduce a form of electronic voting.

Note:

a. New video display software module and electronic display screen would be required to comply with the Standards Committee recommendation – that is for the Councillors name and their vote to be displayed and recorded.
b. May be able to use the existing display screen – see page 1 – but this would display numerical vote only.

c. There is currently no budget provision for this option.

d. If this option is pursued it is recommended that the officers be asked to explore all the available options and report back with costings.

4 Summary

4.1 A decision to change the method of voting at full Council meetings is entirely a matter for the Council as a whole to determine having regard to the technical and financial issues set out above.

4.2 Any change to the current method of voting will require the Constitution - Council Procedure Rule 74 - to be amended accordingly.

Kevin Neale
Democratic Services Manager
23 September 2014

Paper 3

Briefing paper by the Monitoring Officer to the Review of the Constitution Steering Group on 7 October 2014

Review of the Constitution – new Government requirements

1.0 Background

1.1 This paper summarises new Government requirements in relation to the democratic process. Specifically it introduces:-

- The Openness of Local Government Bodies Regulations 2014
- The Local Government (Electronic Communications) (England) Order 2014.

1.2 The Government continues to publish Regulations, Orders and guidance on modernising and opening up the democratic process on the back of the wider 'transparency' agenda.

2.0 The Openness of Local Government Bodies Regulations 2014

2.1 The Steering Group will be aware that the public can already access documents relating to decisions made by officers under delegation from the executive – Cabinet - of a council. The relevant provisions are included in the Council's Constitution under Article 13: 'Decision Making – General' and the Access to Information Procedure Rules – 'Major Operational Decisions taken by Officers'.

2.2 New regulations were brought into effect on 6 August 2014 that

a. **require a written record to be made of any - non-executive - decision that has been delegated to an officer of the relevant local government body – that is by the full Council or a Board, Committee, Sub-Committee or Panel - under a specific express authorisation, or under a general authorisation where the effect of the decision is to grant permissions or licences, affect the rights of individuals, award contracts or incur expenditure which materially affects the body's financial position.**

b. **require that the written records are made available to the public** at the relevant body's offices, on their website if they have one, by post if requested and on receipt of payment for copying and postage, and through any other means thought appropriate by the local government body.

c. **require the written record to be available for public inspection for at least six years**, and any supporting documentation for at least four years.

2.3 The regulations also **introduce a criminal penalty for non-compliance**: a person who has custody of documents which should be available for inspection, will commit an offence if that person refuses to disclose or intentionally obstructs the disclosure of such documents under these regulations.

2.4 The Government has also produced a Plain English Guide which covers the sort of decisions that officers are now required to record and publish. The guide sets out a number of examples of non-executive officer decisions that should be recorded and published. These include decisions to issue tree preservation orders, building control decisions and notices, decisions to grant listed building consents and decisions to carry out major road works.

2.5 Routine administrative and operational decisions do not need to be recorded. This is consistent with the rules on delegated executive decision making.

2.6 The Monitoring Officer has studied the new regulations and guidance and has put in place the necessary technical amendments to the Council's Constitution to meet the new requirements – see Appendix 1. Arrangements have also been made with Service Directors - particularly the Director for Planning, Highways and Regulation – to ensure that all relevant decisions are now recorded and published on the Council's web site.

3.0 The Local Government (Electronic Communications) (England) Order 2014.

3.1 This order is currently in draft form. If enacted it will allow meetings summons and agendas to be sent electronically to councillors and for this to qualify as meeting the legal deadline for giving the required

notice of the meeting. This is instead of having to send hard copies to members of Boards, Committees Panels and so on.

3.2 This is intended to provide clarity to an area that has been unclear for some time. This is a welcome clarification and provides flexibility for the future.

4.0 Recommendation

4.1 The Steering Group is asked to note the contents of this briefing paper

Kevin Neale
Democratic Services Manager
25 September 2014

Appendix 1

The Openness of Local Government Bodies Regulations 2014 – technical amendments made to the Constitution by the Monitoring Officer

Key:

~~Deleted text~~
New text

Article 3 – The People of Bournemouth and the Council

'3.1 Citizens' Rights

...b. Access to Information

Under the Access to Information Rules, citizens have the right to:

I. Find out from the Cabinet Forward Plan what Key Decisions will be taken by the Cabinet and when.

II. See public reports, background papers and any records of decisions made by the Council Meeting, the Cabinet, individual members of the Cabinet, Statutory Boards and Overview and Scrutiny Panels.

III. See records of ***certain*** executive ***and non-executive*** decisions made by officers.

IV. Inspect the Council's accounts and make their views known to the external auditor.'

Access to Information Procedure Rules

'9. Access after a Meeting to Minutes - Records of Decisions - and other Related Documents

The Council will make available for public inspection copies of the following for six years ~~after a meeting~~:

a. The Minutes of ~~the~~ ***a*** meeting excluding any part of the Minutes of proceedings relating to periods when the meeting was not open to the public or which disclose exempt or confidential information;

b. The agenda for ~~the~~ ***a*** meeting;

c. Reports relating to items considered when ~~the~~ ***a*** meeting was open to the public.

d. ***The records of decisions taken by individual Cabinet Members and Officers under Procedure Rule 27 – 'Decisions by individual Members of the Cabinet and Officers'***

‘27. Decisions by Individual Members of the Cabinet and Officers

a. **Report Intended To Be Taken Into Account**
Where an individual Member of the Cabinet receives a report which he or she intends to take into account when making any key decision, then he or she will not make the decision until at least 5 clear days after receipt of that report.

b. **Provision of Copies of reports to Overview and Scrutiny Panels**
On giving of such a report to an individual Cabinet Member decision maker, the person who prepared the report will give a copy of it to the chair of every relevant Overview and Scrutiny Panel as soon as reasonably practicable and make it publicly available at the same time.

c. **Record of individual *executive* decision**
As soon as reasonably practicable after an executive decision has been made by an individual Member of the Cabinet or after an officer had made a Major Operational Decision, he or she will prepare a record of their decision using the relevant template for the recording of delegated ***executive*** decisions as set out in Part 5 of this Constitution.

The record must include:

i. A record of the decision including the date it was made.

ii. A record of the reasons for the decision.

iii. Details of any alternative options considered and rejected.

iv. Any other background documents

v. A record of any conflict of interest declared by any Cabinet Member who was consulted by the person making the decision in relation to that decision.

vi. In respect of any declared conflict of interest, a note of any dispensation granted.

Upon the making of a decision by an individual Cabinet Member or an officer makes a Major Operational Decision the Democratic Services Manager must be provided with a completed Delegated Record of Decision within 2 working days of the date of taking the decision together with a copy of any report upon which the decision was made.

The Democratic Services Manager will keep a record of all ***executive decisions made by individual Cabinet Members and all Major Operational*** decisions ***made by officers*** including any report upon which each decision was made and will ensure that the decision is recorded and published by the Council on its web site.

d. Record of individual *non-executive* decision *by an officer*
As soon as reasonably practicable after ***an officer has made a non-executive decision which falls within one of the categories listed below he or she will prepare a record of their decision which must include:***

i. A record of the decision including the date it was made.

ii. A record of the reasons for the decision.

iii. Details of any alternative options considered and rejected.

iv. Any other background documents

The categories of non-executive decisions by officers that should be recorded and published on the Council's web site are described in the 'Openness of Local Government Bodies Regulations 2014' and the Department for Communities and Local Government guidance 'Open and accountable local government – a guide for the press and public on attending and reporting meetings of local government'.

For this Council the categories of non-executive decisions include:

Building Regulations

Building Control outline of Business Case

Development Control Decision Notices

Planning Applications

Grant of Listed Building consent

Noise abatement

Cafe licences

Skips licences

Scaffold licences

Hoarding licences

Materials licences

Major road works as set out in the Council's Capital Programme

Uncontested applications under the Licensing Act 2003 and the Gambling Act 2005 – includes late night cafes, entertainment venues and supply of alcohol

Uncontested renewal of sexual entertainment venues licences and sex shop licences

Taxi and private hire drivers, vehicles and operator licences where all applications and renewals comply fully with all the Council's requirements set by the Licensing Board

The relevant Service Director will keep a record of all non-executive decisions referred to above, including any report upon which each

decision was made, and will ensure that the decision is recorded and published by the Council on its web site.

e. The provisions in these rules relating to inspection of documents after meetings will also apply to the making of executive decisions by individual Members of Cabinet and the making of Major Operational Decisions ***and non-executive decisions which fall within one of the categories listed above*** by officers. This does not require the disclosure of exempt or confidential information or advice from a political adviser or assistant.