

Minutes of the meeting of the CONSTITUTION COMMISSION held on WEDNESDAY 19 APRIL 2017 at 6.00 pm

Present: Councillor Dransfield (Chair)
Councillors R Bradburn and Marland

Officers: S Bridglalsingh (Service Director [Legal and Democratic Services] and Monitoring Officer), E Gineikiene (Solicitor) and S Heap (Committee Services and Scrutiny Manager)

Also Present: Councillor Miles

CC18 MINUTES

RESOLVED -

The minutes of the meeting of the Commission held 18 January 2017 be agreed and signed by the Chair as a correct record.

CC19 SPEAKING ARRANGEMENTS – DEVELOPMENT CONTROL COMMITTEE / PANEL

It was reported that at its meeting on 12 July 2016 (Minute CC03 refers), the Commission requested that an update on progress by the Development Control Committee in reviewing its speaking arrangements be submitted to its next meeting and agreed to consider reviewing the arrangements itself if no progress had been achieved.

The Commission was advised that there had been a lengthy debate, taking account of responses to the consultation exercise, at the Development Control Committee on 6 April 2017 about its Scheme of Delegation and speaking arrangements and an amended Scheme of Delegation and speaking arrangements would be considered by the Development Control Committee on 11 May 2017.

CC20 DEALING WITH AMENDMENTS TO RECOMMENDATIONS AND MOTIONS

At the meeting of the Commission held on 19 January 2017 (Minute CC11 refers), officer colleagues were requested to review the way in which the Council dealt with amendments to recommendations and motions and suggest a revised approach which:

- (a) prevented duplication of debate;
- (b) allowed the 'owner' of the motion to accept all or parts of amendments;
- (c) was clear and understandable for the public;

- (d) allowed the public to comment at an appropriate time; and
- (e) addressed voting on amendments to recommendations and motions in parts.

The Commission accordingly considered an example of a revised approach, suggesting that the Mayor should be given discretion to allow minor changes to recommendations, motions and amendments which would correct any drafting inaccuracies, or where there was conflict with an earlier agreed / carried amendment to the same recommendation / motion, but would not change the overall intent of the recommendation, motion or amendment.

The Commission, noting that at the recent Budget Setting Meeting of the Council there was an issue regarding the timing of receipt of amendments and the procedure to be followed in the event of a tie, discussed the current provisions for submission of amendments to motions in order to determine whether any amendment to the Constitution was required.

RESOLVED –

1. That the revised approach to dealing with Amendments to Recommendations and Motions be circulated to the Political Groups for comment.
2. That in drafting any resulting changes to Council Procedure Rules the Mayor be given authority to use his / her discretion to allow minor changes to recommendations, motions or amendments where they conflict with earlier agreed / carried amendments to the same recommendation / motion, but do not change the overall intent of the recommendation, motion or amendment.
3. That officer colleagues be request to undertake research as to how the submission of amendments at the same time is dealt with by the Constitutions of other Council's and submit a paper to a future meeting on possible options.

CC21

ACCESSIBILITY OF MEETINGS TO THE PUBLIC

At its meeting on 19 January 2017 (Minute CC15 refers), the Commission considered whether more should be done to encourage attendance at Council meetings by members of the public and whether the constitutional provisions that governed public participation needed to be changed to make it easier to access meetings.



The Commission deferred consideration of this matter to the next meeting of the Commission in April to allow it to be considered alongside the final report of the Consultations Task and Finish Group.

The Commission accordingly received the report of Consultations Task and Finish Group, noting that the report did not directly address the issue of public involvement in the Council's decision making procedures and was targeted at pre-decision consultation.

It was reported that the current constitutional provisions, as set out in Council Procedure Rule 9, were in step with the legal requirements regarding public access and participation at Council meetings. In addition, the Access to Information Procedure Rules were interpreted in favour of all information being public except when required by law to do otherwise.

The Commission accordingly considered whether:

- (a) in its view there was a problem with current public attendance / participation at meetings; and
- (b) the constitutional provisions that governed public participation, such as questions, were user friendly .

RESOLVED –

That no further action be taken on this matter.

CC22

DISCLOSABLE PECUNIARY INTERESTS

The Commission considered changes to the Council and Cabinet Procedure Rules in respect of Disclosable Pecuniary Interests and other personal interests, specifically whether councillors should be required to leave the room where they had either a Disclosable Pecuniary Interest, or other personal interest, rather than be allowed to address the meeting as a member of the public.

The Commission was advised that on 15 June 2015 the Council was given legal advice in relation to Disclosable Pecuniary Interests, recommending that Cabinet and Council Procedure Rules should be amended to bring them in line with the statutory provisions set out in the Localism Act 2011. However, due to an oversight Cabinet Procedure Rule 3.4 was not amended and Council Procedure Rule 19.5(d) has remained in the Constitution contrary to the statutory provisions which would mean that a councillor continuing to participate in a matter in which he / she had a Disclosable Pecuniary Interest would be committing a criminal offence.

The Commission was also advised that while there was no legal requirement for councillors to leave the room when they had a Disclosable Pecuniary Interest, it was a matter of choice for the Council whether this should be required. Currently, both Council and Cabinet Procedure Rules stated that in relation to both Disclosable Pecuniary Interests and other personal interests,



councillors "must retire the public gallery or other area aside from the meeting".

RESOLVED –

1. That the Council be recommended to amend Council Procedure Rule 19.5 and Cabinet Procedure Rule 3 so that they clarify the actions to be taken by councillors when disclosing a Disclosable Pecuniary Interest, a personal interests or other conflict of interest, as set out in the Annex.
2. That the Political Groups be provided with a briefing note which clarifies what is a Disclosable Pecuniary Interest and what constitutes a personal interest / other conflict of interest and the implications of each.
3. That the Service Director (Legal and Democratic Services) be requested to provide training for councillors in the new Council year with regards to Disclosable Pecuniary Interests.

CC23

HEALTH CHECK ON THE CONSTITUTION

The Commission considered whether a health check of the Constitution, which would include ensuring that the Constitution remained lawful and determine whether the Constitution was fit for purpose and whether it was sufficiently driven by local circumstances, was due.

The Commission also considered a suggested approach for the health check which would involve gathering feedback from a range of stakeholders, including councillors and officer colleagues.

It was hoped that any necessary amendments could be introduced before the Annual Council meeting 2018/19.

RESOLVED –

1. That officer colleagues be requested to undertake a health check of the Constitution which includes ensuring that the Constitution is lawful and fit for purpose.
2. That in undertaking the health check officer colleagues compare the Constitution with both the Model Constitution and the Constitutions of other councils in order to identify 'best practice' with a view to the Commission considering key principles on which the Constitution should be based, including making it as easy to understand as possible.

CC24

DATE OF NEXT MEETING

It was noted that the next meeting of the Commission was provisionally scheduled to take place on Wednesday 5 July 2017.

THE CHAIR CLOSED THE MEETING AT 7:20 PM

