

Report to: Constitution Working Party
Date of meeting: 29 May 2014
Report of: Head of Democracy & Governance
Title: Suggested Amendments to the Constitution

1.0 **SUMMARY**

1.1 This Working Party meets as necessary to consider how the Constitution is working and to consider any amendments to recommend on to Council.

1.2 A number of suggestions have been put forward by councillors and officers

1.2.1 Amendments to the Petitions Scheme

- a) Councillor Sharpe suggests that where a petition is received in respect of an issue (e.g. a parking scheme) which is either currently or is going to be the subject of consultation or where the request being made in the petition is being recommended at the meeting anyway, the petition is not submitted to Cabinet or Council but noted or included in the consultation responses as appropriate.
- b) The Scheme also needs to make it clear that the 30 signatures should be from residents of the Borough.
- c) It should also be made clear that for a petition to be considered at a particular meeting, it must be received in time to include in the agenda for that meeting.

1.2.2 Mayor's Report at Budget Council

The committee may wish to consider again whether it is appropriate to have a Mayor's Report at Budget Council.

1.2.3 Recording of votes at Budget Council

New Regulations requiring the recording of votes at budget council meetings came into effect last month. The constitution has been amended to take account of the new legal requirements.

1.2.4 Budget & Policy Procedure Rules.

Some clarification is needed around voting procedures where the Mayor objects to the decision of Council.

1.2.5 Budget Panel, Outsourced Services Scrutiny Panel and Community Safety Partnership Task Group

To consider whether a more consistent approach to these scrutiny groups is required.

1.2.6 Audit Committee

To consider whether the exclusion of members of the Executive should be specifically included in the Constitution.

1.2.7 Mayor not counted for political balance

To note the position with regard to the Mayor being removed from the political balance calculation and therefore not able to be on any Appointment Panel

1.2.8 Changing the name of the Development Control Committee

To consider a suggestion from Councillor Martins that the name of the Development Control Committee be changed to "Development Management Committee".

2.0 **RECOMMENDATIONS**

- 2.1 That any changes to the Constitution agreed by the Working Party be recommended to Council for approval.

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Report approved by: Managing Director

3.0 **DETAILED PROPOSAL**

- 3.1 This is an opportunity for members to consider how the Constitution is operating and whether any changes to it (other than ones required by changes to the law) need to be recommended to Council for approval.

- 3.2 Members of the Constitution Working Party have been asked to consult with their Groups on whether there were any issues they wished to raise at this meeting. A separate email has also been sent to the Mayor, Group Leaders and the Independent councillor.

3.3. Petitions Scheme

- 3.3.1 There have been two situations recently where petitions have been submitted to Cabinet: In the first instance the recommendations being put to the Cabinet meeting were already in accordance with the terms of the petition and in the second the subject of the petition (which related to a CPZ scheme) was already out for consultation.

Councillor Sharpe suggests that, in circumstances such as these, the petition is not automatically submitted to Cabinet or Council but the petitioners advised that it has been noted or included in any consultation as appropriate.

- 3.3.2 The Petition Scheme states that 30 signatures are required before it can be considered for presentation to committee but it does not specify that the 30 signatories should be residents of Watford.
- 3.3.3 The Petition Scheme does not make it clear that a petition must be included in the agenda if it is to be discussed at a specific meeting. The agenda is published 5 clear working days before the meeting so a petition should be received at least seven clear working days before to meet this deadline.
- 3.3.4 The Working Party is asked to consider recommending the inclusion of these amendments to the Petitions Scheme in the Council's Constitution.

3.4 Mayor's Report at Budget Council

- 3.4.1 Currently the only Council meeting where the Mayor is not required to produce a Mayor's Report is Annual Council. Following recommendations made by the Constitution Working Party last year, Council agreed that the length of time the Mayor should be allowed to present the budget at that meeting would be extended to up to twenty minutes. The Budget Report is probably the Mayor's most important speech of the year and will usually take up the full twenty minutes.

It can therefore be argued that to also have a Mayor's Report at this meeting is excessive especially as the Budget Council meeting can be one of the longest in the year.

- 3.4.2 The Working Party is therefore asked to consider whether the Mayor's Report be removed from the Budget Council agenda.

3.5 Recording of votes at Budget Council

- 3.5.1 The Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014 came into effect on 25th February. These Regulations make it mandatory for councils to amend their Standing Orders so as to include provisions requiring recorded votes at budget meetings. The Regulations are intended to demonstrate the Government's commitment to transparency and democratic accountability and will enable people to see how their councillors voted, not only on the substantive budget motions agreeing the budget, setting council taxes or issuing precepts, but also on any amendments proposed at the meeting.
- 3.5.2 As a Mayoral authority, Watford Borough Council is required to hold its budget setting meeting by 8th February. As such, Watford's budget setting meeting was held this year both before the Government announced its intention to make the Regulations and consequently before the Regulations came into force. The final Council Tax is agreed by Council Functions Committee once the County Council and the Police and Crime Commissioner for Hertfordshire precepts are available. In accordance with the Regulations a recorded vote was taken at the Council Function Committee meeting on 27th February.
- 3.5.3 The Working Party is asked to note that the Constitution has been amended to take

account of the requirement to record how each Member votes on the budget and any amendments. (Council Procedure Rule 18.4.2)

3.6 Budget & Policy Procedure Rules.

3.6.1 Budget & Procedure Rule 2(f) states that

“If the Mayor objects to the decision of the Council, he/she shall give written notice to the Head of Democracy and Governance to that effect no later than 5.00 p.m. on the 6th working day prior to the date the decision is to be effective. The written notification must state the reasons for the objection. Where such notification is received, the Head of Democracy and Governance shall convene a further meeting of the Council to reconsider its decision and the decision shall not be effective pending that meeting”

2(h) states that

“The Council shall, at that meeting, make its final decision on the matter on the basis of a two-thirds majority. The decision shall be made public in accordance with Article 4 and shall be implemented immediately.”

3.6.2 A recent enquiry from the Mayor of Mansfield raised questions about what became the substantive motion in this situation if the two thirds majority was not achieved and whether any amendments to the Mayor’s original motion also had to be passed on a two thirds majority.

3.6.3. The view of the Head of Democracy & Governance is that if the two thirds majority is not achieved the Mayor’s original motion is carried. She is also of the opinion that any amendment to the Mayor’s original motion will only stand with a two thirds majority.

3.6.4 It is suggested that 2(h) be amended to read *“The Council shall, at that meeting, make its final decision on the matter on the basis of a two-thirds majority. If the Council does not agree its original decision or any amendment thereto by a two-thirds majority the motion originally proposed by the Mayor at the original meeting will be deemed to be carried. The decision shall be made public in accordance with Article 4 and shall be implemented immediately”*

The Working Party is asked to recommend this wording to Council.

3.7 Budget Panel, Outsourced Services Scrutiny Panel and Community Safety Partnership Task Group

3.7.1 All three of the above are permanent scrutiny groups. Budget Panel is politically balanced; its membership and Chair are appointed at Annual Council. Outsourced Services Scrutiny Panel is politically balanced; membership is agreed by Overview & Scrutiny Committee and the Chair is appointed at the first meeting. Community Safety Partnership Task Group is not politically balanced; membership is agreed by Overview & Scrutiny Committee and the Chair is appointed at the first meeting.

3.7.2 Officers consider that a more consistent approach might be better and suggest that membership of all three groups and the appointment of chairs be agreed at the Annual Council meeting. If this approach is agreed the Community Safety Partnership Task

Group would also have to become politically balanced as it would not have the same status as other task groups.

It is also suggested that the name of Community Safety Partnership Task Group be changed to Community Safety Partnership Panel in line with the other two. This provides clearer distinction between the permanent “panels” and the short term “task groups”. Agreeing membership and chairs at the Annual Council Meeting also means that all committee places are filled at the beginning of the Municipal Year making it easier for both councillors and officers to plan committee diaries.

3.7.3 The Working Party is therefore asked to consider:

- a) recommending that the membership and chairs of Budget Panel, Outsourced Services Scrutiny Panel and Community Safety Partnership Task Group be agreed at the Annual Council meeting.
- b) recommending that the name of the Community Safety Partnership Task Group be changed from “Task Group” to “Panel” and that political balance be applied to it.

3.8 Audit Committee

3.8.1 The establishment of an Audit Committee was recommended as good practice by CIPFA and Watford Council’s Audit Committee was set up in 2005. The intention was for it to operate independently from Cabinet and Scrutiny and to look at issues with a critical eye. It could challenge Cabinet and summon the Mayor, Portfolio Holders and officers to attend meetings as appropriate.

3.8.2 Whilst the membership of the Audit Committee does not include a Cabinet member it is suggested that this exclusion be specified in the Constitution for clarity.

3.9 Mayor not counted for political balance purposes

3.9.1 Watford has always counted the Mayor when working out political balance under the Local Government and Housing Act 1989. Recent communication with Bedford Council, who also operate an Elected Mayor and Cabinet model, has called this into question. Bedford obtained QC’s advice on the point which they have shared and which suggests that the way the Local Government Act 2000, which introduced the Elected Mayor model was drafted makes the assumption that the Elected Mayor is neither a councillor nor an officer and, only in specified circumstances as defined, for example, standards and remuneration are they to be treated in the same way as an ordinary councillor. If that is indeed the case they are then not defined as a member for the purposes of the 1989 Act when calculating political balance. This has the knock on effect of preventing the Mayor from sitting on any politically balanced committees.

Currently the only politically balanced committee the Mayor does sit on is the Appointments Panel. Under the Officer Employment Procedure Rules the Mayor has the right to be notified of any proposed appointment of a Chief Officer and has the right to object to any appointment. Unless the Appointment Panel considers the Mayor’s objection not material or well founded the appointment cannot proceed. The same will apply for any panels set up to consider the dismissal of a Chief Officer.

3.9.2 The Working Party is asked to note the position

3.10 Changing the name of the Development Control Committee

3.10.1 Councillor Martins recently attended a planning seminar and one of the major learning points that came out of the seminar was that planning committees had a responsibility to look at implications of planning applications in the round taking into account the broad implications of the proposed development and long term aspirations for the town and locality. For example, committees needed to be mindful of the pressures a single large residential development or a series of smaller residential developments would put on schools and doctors surgeries in the area

3.10.2 Some of the councils who attended the course said they had reflected this responsibility by changing the name of the Development Control Committee or Planning Committee to "Development Management Committee" which they felt implied a wider brief. They felt that the name "Development Control" created the impression that it was only the shape and size of the buildings that should concern the committee.

3.10.3 Councillor Martins says he can see the merit of this change and agrees that this name more accurately reflects the role and responsibility that individual members of the committee and the committee as whole takes on.

3.10.4 The Working Party is therefore asked to consider recommending changing the name of the Development Control Committee to Development Management Committee.

4.0 **IMPLICATIONS**

4.1 **Financial**

4.1.1 The Director of Finance comments that there are no financial implications contained in this report.

4.2 **Legal Issues** (Monitoring Officer)

4.2.1 The Head of Democracy and Governance comments that any amendments to the Constitution (other than the content of the Executive Scheme of Delegation which is solely within the gift of the Mayor, or those imposed by statute) have to be approved by Council

4.3 **Equalities**

There are no equalities implications

4.4 **Potential Risks**

There are no risks

Background Papers

- Local Authorities (Standing Orders) (England) (Amendment) Regulations 2014
- Watford Borough Council's Constitution

File Reference

None