

# **Cherwell District Council**

## **Council**

**16 December 2019**

### **Constitutional Changes**

## **Report of Director Law and Governance**

This report is public

### **Purpose of report**

To consider proposals for changes to the Constitution for dealing with motions and written questions at Full Council and to the terms of reference of the Appeals Panel.

### **1.0 Recommendations**

The meeting is recommended:

- 1.1 To adopt the proposals to amend the Constitution as outlined in the report.
- 1.2 To delegate authority to the Director Law and Governance to amend the Constitution to reflect these changes.

### **2.0 Introduction**

- 2.1 The proposals to amend the Motions and written questions procedure is with a view to making the process of dealing with them clearer and more efficient.
- 2.2 The current arrangements for Appeal Committee membership are cumbersome and do not reflect good HR practice and, indeed, could adversely affect employees wishing to appeal. The proposed amendments to the Terms of Reference for the Committee seek to address that concern.

### **3.0 Report Details**

#### **Motions**

- 3.1 Motions in the local government context usually propound a substantial issue for the council to consider and put into action. The Constitution sets out both the form and timing for dealing with the Motion before the hearing. It is proposed to amend the Constitution to reflect the following changes:

- (a) Whilst Motions are dealt with in the order that they are received it is proposed that they should follow consecutively in the order of business where they are cover similar matters.
- (b) Many Motions will incur some budget expenditure. The Constitution currently requires Motions that incur expenditure to be deferred to the Executive for consideration in the first instance. It is proposed that this should only apply to Motions that incur “significant expenditure”.
- (c) At the moment there is little guidance in the Constitution with regard to the nature of Motions. The Constitution should be amended so that it states Motions should also not be vexatious, frivolous and must be factually accurate to align with the standard wording in many constitutions at other local authorities.
- (d) A word limit of 250 words be applied to motions.

### **Amendments to Motions**

- 3.2 At present amendments to Motions can be proposed at any time up to and including when the motion is being considered at the Council meeting. This makes it administratively difficult to deal with and can cause confusion for the meeting when a motion is being debated.
- 3.3 It is proposed that amendments should be received by 12 noon on the second working day before the Council meeting to enable them to be reviewed. Amendments will then be published on the afternoon of the working day before the meeting. In practice this is likely to be a Friday afternoon. Amendments will continue to be considered in the order submitted.
- 3.3 Amendments to motions can be agreed with the proposer with the consent of Council. This is the so called “friendly amendments” process. Whilst this practise is currently followed, it is not included in the Constitution. Adding to the Constitution would
- 3.4 Any amendment must not take the original motion over 250 words and not amount to a direct negative or nullify the original Motion.

### **Written Questions**

- 3.5 Currently the deadline for the receipt of written questions is noon on the fourth working day before the meeting. Written responses are tabled at the meeting, which gives very little time for Members to consider a supplemental question.
- 3.6 It is proposed to change the deadline for the receipt of written questions to noon on the eighth working day before Council (to align it with the receipt of Motions and enable written questions to be published with the agenda). A written response would be published on the afternoon of the working day before the meeting.

### **Appeals Panel**

- 3.7 Staff have a right to appeal to Members in relation to decisions regarding disciplinary sanctions etc. Currently the Appeals Panel is comprised of ten Members

and whilst the Committee would be quorate with three, in theory a Committee of ten members could sit to determine an appeal. It is considered that that approach is cumbersome and would not accord with good HR practice and may seem intimidating to staff.

- 3.8 It is proposed that whilst the membership of the Appeal Panel remain ten, they would be a pool to be called upon and only three members would be required to determine any given appeal.

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 The proposed changes will ensure clarity over processes.

## **5.0 Consultation**

None

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To reject the recommendations. This is not recommended as it proposed changes provide clarity to procedures.

Option 2: To amend the recommendations. This is not recommended as it proposed changes provide clarity to procedures.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 There are no financial implications arising directly from this report.

Comments checked by:

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### **Legal Implications**

- 7.2 It is a matter of good governance that the Council should ensure that the constitution is kept up to date. The measures in this report mitigate risk to the council through ensuring this is the case.

Comments checked by:

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## 8.0 Decision Information

### Wards Affected

All

### Links to Corporate Plan and Policy Framework

All

### Lead Councillor

Councillor Tony Ilott, Lead Member for Finance and Governance

## Document Information

Appendix No	Title
None	
Background Papers	
None	
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