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# CONSTITUTION SUB- COMMITTEE

## MINUTES

Of a virtual/remote meeting held on Wednesday 9 September 2020 from 7pm to 8.14pm.

Members of the Constitution Sub-Committee:

Councillors

Sarah Nelmes (Chair)

Stephen Giles-Medhurst (Vice-Chair)

Chris Lloyd

Phil Williams

Roger Seabourne (for Cllr Matthew Bedford)

Alex Hayward

Stephen Cox

Also in attendance: Councillors Sara Bedford, Joanna Clemens and Margaret Hofman

Officers:

Joanne Wagstaffe, Chief Executive

Anne Morgan, Solicitor to the Council

Sarah Haythorpe, Principal Committee Manager

### **CSC01/20 APPOINTMENT OF THE CHAIR OF THE SUB-COMMITTEE**

Councillor Chris Lloyd moved, duly seconded, that Councillor Sarah Nelmes be nominated as Chair of the Constitution sub-committee.

RESOLVED:

That Councillor Sarah Nelmes be appointed Chair of the sub-committee for the Local Government Year 2020/21.

### **COUNCILLOR SARAH NELMES IN THE CHAIR**

### **CSC02/20 APPOINTMENT OF THE VICE-CHAIR OF THE SUB-COMMITTEE**

Councillor Sarah Nelmes moved, duly seconded, that Councillor Stephen Giles-Medhurst be nominated as Vice-Chair of the Constitution sub-committee.

RESOLVED:

That Councillor Stephen Giles-Medhurst be appointed Vice-Chair of the sub-committee for the Local Government Year 2020/21.

### **CSC03/20 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr Matthew Bedford with

Councillor Roger Seabourne appointed as the substitute member.

**CSC04/20 NOTICE OF OTHER BUSINESS**

None received.

**CSC05/20 DECLARATIONS OF INTEREST**

There was none.

**CSC06/20 REVIEW OF RULE 14 – REPORTS FROM AND QUESTIONS TO THE LEADER OF THE COUNCIL AND LEAD MEMBERS**

The Chair of the meeting said she believed all Members were in agreement that questions should be able to be asked at Council meetings so that the Leader/Lead Members/Chairs of the Committees could be held to account and that only some minor tweaking was necessary.

A Member said they were extremely cross with the proposals that had come forward, and that it was something that some officers wanted to bring forward at a time when the Council was still working in the Council offices. As the then Leader of the Council she was asked twice if she would support this and said she would not. The Member did not know why it had come forward now and whose suggestion it was but was appalled by it. If we are not in a situation where the Leader/Lead Members/Chairs of the Committees are not permitted the opportunity to answer questions from Members of the Council on their areas of special responsibility then she was appalled and it would mean a huge democratic deficit.

A Member said it was unfortunate to get cross about it. It was good to review the Constitution. However, she said that only a few tweaks may be required, but generally the status quo should be maintained.

The Vice-Chair said there was a benefit of reviewing Rule 14 and making some tweaks and offered a series of suggestions to the sub-committee as follows:

- During the period where virtual/remote meetings were being held, could a 7pm start time be considered, the rationale being that many of the participants were working from home, and the voting in virtual meetings did tend to take a significantly longer than in physical meetings; when we do revert back hopefully to physical meetings we could then revert back to a 7.30pm start time;
- On Rule 14, there may be benefits in amending the Rule with regard to operational matters. If a freedom of information request was made and the member of the public was referred to a document that would be an operational matter which they should have been doing the research themselves on. Also asking a question on whose piece of land is “x” and waiting to a Council meeting to get an answer. This was not really for a Council and the inclusion of the question should be decided by the Chief Executive/Solicitor to the Council in order to free up Members’ time at Council meetings, instead of potentially answering a question to which the answer was available by other means;
- Written questions should be permitted, with written answers available on the day of the meeting, but Officers should be given sufficient time to provide answers to those questions. Plus a period of time should be permitted to ask questions and supplementary questions of the Leader/Lead Members and Chairs of the Committees on their written reports. Oral updates should be permitted by the Leader/Lead

- Members/Chairs of the Committees on matters that may have arisen since their written report was published with Members again being allowed to ask questions on the oral updates and supplementary questions.
- A 15 minute guillotine for questions was not acceptable and suggested a 45 minute time period for questions;
  - The submission of questions very late was unreasonable as it did not provide adequate opportunity to provide a response particularly if it was a detailed question;
  - It was right that the Leader/Lead Members/Chairs of the Committees should be asked any questions that Members so wish to make.

A Member said he was not sure if the sub-committee was the right place to undertake this work. Officers had focused too much on questions, and was rather cross by what was proposed, and motions had been overlooked. Although he accepted that some tweaking and refinement could be applied. In the past the Council meeting business had always been completed and it was only recently that we had experienced some problems in getting through the business. It was encouraging that the administration was open to being accountable by receiving questions. His group always put in their questions and motions 5 working days before the meeting and could not recall submitting any urgent questions. He welcomed the receiving of written answers to questions within 5 working days if an answer was not provided at the meeting. He did not like the proposal of Councillor question time.

The Chair said she had expected a series of amendments to come forward, but it was evident that a 15 minute guillotine was a non-starter, but that tweaking was definitely necessary.

A Member appreciated voting can take longer but starting earlier at 7pm would impact on family time.

A Member said their opening statement was on one point not all the points. They felt that placing all the items on one agenda would a) lead to a muddled discussion and b) would have the effect of preventing Members from speaking more than once and indeed members of the public but was reassured by the Chief Executive and Solicitor to the Council that Members would have as long as they wished to ask questions and speak as many times as they want. A 7pm start time was not appropriate for various reasons, but especially for people with work commitments, who commute for work and have childcare commitments.

A Member said if there was no agreement from the opposition groups regarding an earlier start time, it might be prudent to keep the start time at 7.30pm and move the debate of the sub-committee onto other matters.

The Chair said on written questions she felt that receiving them 5 days in advance was not unreasonable, but that occasionally urgent questions may arise which the Chief Executive and Solicitor to the Council could agree if they were urgent. A 12 noon deadline on the day of the meeting should remain for urgent questions. But the urgent questions should be on information which would not have been available when the summons was published.

There was general assent by the sub-committee that:

- Written questions did not have to be read out;
- 15 mins was way too short for the Leader/Lead Member and Chairs of the Committees reports and questions;
- Lead Members should provide written reports to be published with the summons and that the written questions be submitted earlier to allow time for written answers to be provided when the summons is

published.

- A 12 noon deadline on the day of the meeting should remain for urgent questions. But the urgent questions should be on information which would not have been available when the summons was published.

A Member said that we should be looking at what the purpose of Council is. Most of the purpose of Council was at a statutory level with a number of items being reserved to Council only to decide. With a Committee governance system we have more opportunity for Members to be involved in the decision making process than a Council with an Executive governance model/Elected Mayor which does not allow Opposition Members to speak. The summons order was changed a few years ago when a recommendation from P&R Committee nearly did not get voted on and it was thought it would be a good idea that all the items that had to be taken by Council were considered first on the summons before other business was debated. Motions were put at the end as it was felt they were less important. Thought needed to be given as to how the time is best used and what we wish to achieve at Council.

A Member expressed concern about the public's perception of Council meetings particularly as live-streaming of the meetings was now taking place. How would the public be able to view the summons and the questions and answers provided with it?

A Member said based on past experiences, could the opportunity to rephrase questions, up until 12 noon on the day of the meeting, be continued.

A Member said it may be worth removing the points that the sub-committee do not support namely points 5, 6, 7, and 13 under Paragraph 2.6. of the report as detailed below:

5. Officers are suggesting a maximum period of 15 minutes is permitted for all written questions to be dealt with on the night. Those that are not dealt with will get an automatic written reply. This question and answer will be included in the minutes. These questions will not carry forward to the next meeting and will be treated as having been asked and answered.
6. Officers are suggesting a rotation of written questions by political group from meeting to meeting starting say with the Conservatives, then Labour, then Independent Councillors Group then others so each group takes it in turn to go first with all their written questions.
7. Officers have suggested a possible maximum number of written questions per Group (possibly 3 for the largest political opposition i.e. the Conservatives, 2 for Labour, 1 for Independent Councillors Group, 1 for others) per meeting.
8. As set out in 5 above it is suggested that there is a 15 minute guillotine for this part of the meeting.
- 13 Officers are suggesting members rotate the order oral questions can be asked -1 question per Group until the 15 minutes is up.

A Member suggested the sub-committee consider that the written questions and written answers be provided when the summons was published. He reiterated that written reports should be submitted to Council by the Leader/Lead Members/Chairs of the Committees and that oral updates be provided at the meeting, and that the number of questions that could be asked by all Members be left open. We could then see how that works at the meetings.

The Chair of the meeting said that as no recommendations would be made at the meeting, Members comments would be added to the redraft of the report for a future meeting. This was agreed by general assent by the sub-committee.

A Member said 'Councillors Question Time' should be removed, to which the Chair of the meeting agreed.

A Member said the suggestions emerging from the discussion were better than having a blank piece of paper, and that recent events at Council had been unusual and the process by which questions were asked was not generally a problem.

A Member had two points to raise the first being in reference to the point of being able to ask questions on the report this would change if we are going to be having written reports and separately verbal updates. The sub-committee would need to decide which questions can be asked on which reports without giving notice. This would need rewriting but not removing. Secondly, the meaning of urgent questions as opposed to those that simply hadn't been researched and for which the answer was in the public domain. That was not an urgent question.

The Vice-Chair clarified that questions to the Leader/Lead Members/Chairs of the Committees should be allowed both on the written reports and the oral updates, to which the Chair agreed.

### ***Rule 15***

On Rule 15 in relation to questions from the public, the Chair asked Members of the Committee whether they believed it should remain, to which they agreed by general assent.

### ***Member/Officer protocol***

The Chair of the meeting asked if Members had any comments regarding the proposed revised protocol. The Group Leaders had been consulted on the revised protocol and had given broad agreement to it. The protocol was a way of reminding Councillors of our relationship with Officers and helping to make sure the relationships stay professional but supportive of all Councillors.

### ***New Code of Conduct from the Local Government Association (LGA)***

The Chair of the meeting advised that a new code of conduct was due shortly from the from LGA. It was unlikely Members would disagree with a set of guidelines from the national body.

### ***Motions and petitions***

The Vice-Chair said that motions should be referred to the correct Committee to debate, as happens at other Local Authorities particularly on matters like social housing or having more trees planted. They could then make a recommendation if so required, if not within its delegated powers, to Full Council. The other type of motion would be one that would not normally go to a Committee for example a motion on a Unitary Authority which would be a matter clearly for debate at Full Council. This was identical to what happens at nearly every other Authority. The same could be said of petitions but felt there should still be the right to have petitions at a Full Council meeting and clearly if the matter is for debate at the Council meeting that should continue. But if it relates to "let's have more bus shelters at every bus stop where we do not have them" then the petition could be referred to the appropriate Committee. This would allow Officer input at the Committee meetings which is not allowed at Full Council.

A Member said Motions going to Council should be supported by a written report, as not doing so could expose the Council to legal and financial risk and also whether the motion meets our public sector equality duty. This may mean the motion deadline should be made earlier, in order for Officers to provide a report. The Officer report should be provided when the summons is published.

A Member asked for clarity regarding the requirement for motions to have a seconder.

The Solicitor to the Council said Rule 11 does make provision for motions to be referred to Committee which is a decision that is made by the Chief Executive in consultation with the Chair of Council so they do have that ability. Perhaps this is something that could be considered to be used by just Officers. With regard to seconding a motion, legally they do not have to be, but most Local Authorities do require it, and it should be made clear in Rule 11 that in the interests of good practice motions should be seconded.

A Member said that Rule 11 needed to be formalised to ensure correct procedures were followed. It was not the responsibility of the Chair of Council to decide whether a motion was to be included on the summons, and whether matters should go to the relevant Committee, otherwise powers would be removed from Members.

A Member reiterated it should not be a decision that the Chair of Council should be making on whether a motion is included on the summons. Either it should be coming to Council for debate or not. If it was a matter for decision by a Committee then it should be discussed at that Committee. Then if that Committee then decides to do something which is outside its remit such as have a change in policy or outside of the Council's budget which are reserved to P&R Committee then a recommendation could then be made to P&R. We should not be putting something to Council which could be debated at a Committee and filling up the Council agenda.

The Vice-Chair said that Full Council is not necessarily the best place to discuss motions as (1) it is time restricted, (2) it can become very heated politically and (3) it can exclude back benchers from participating and they might feel more able to participate at a Committee or sub-committee meeting. Everyone apart from the mover of the motion is restricted to one speech only and therefore it could be better looked at a Committee meeting.

A Member raised concerns on who would decide where a motion would be debated and its referral to a Committee. If the Committee decided it was not viable would that be the end of the motion. The Chair suggested the motion could be included on the summons with the suggestion that it goes to the relevant Committee for debate. Some motions could not come to Council and go to Committee first. Officers would consider the comments made.

### ***Sub-committees***

A discussion took place regarding the benefits of non Policy and Resources Committee members being members on the sub-committees which would enable back benchers to provide input at the sub-committees as part of the decision making process. Anything that opens up wider membership, succession planning and having wider ideas was welcomed. Also the expanding of the number of Committees. There was other expertise on the Council and this would allow other Members to be part of the decision making process. The Solicitor to the Council said there would be no problem of having other Members on Task and Finish Groups and Working Parties, including

people who are not Councillors, but would need to check the legality of having other Members on the sub-committee without being on the parent Committee.

A Member understood the decision made at the time with regard to the setting up of the sub-committees but the Council was in a different place now, and better positioned to enable more diverse input to Committee matters. He hoped that we may be able to revisit the sub-committees now the Council was in a better place.

The Chief Executive said officers had received a clear steer and had been given plenty of ideas and proposals to take away for consideration. She was happy with the progress made.

A Member thanked the Chair for allowing unrestricted input to the discussions.

A Member said that given the volume of work to do could it be achieved within the current timeframe?

The Chief Executive said it may be worth postponing the next scheduled meeting of the sub-committee to allow time to progress some of the points made.

A Member said it would be preferable to postpone the meeting scheduled for 21 September, but still wished the changes to be implemented in time for the Full Council meeting on 20 October.

A Member added that the criticism aimed at Officers during the meeting was unfairly made for bringing some proposals forward. They recalled being asked at one meeting if we would give Officers a steer on what sort of changes we wanted to make to the Constitution but we didn't come forward with any ideas and therefore officers started with a blank sheet of paper. The fact that they came forward with some ideas should be acknowledged and the criticism they had received was disingenuous.

**RESOLVED:**

- That Officers take on board the points made regarding Rule 14 and that Officers bring back an updated report for consideration at the next Constitution sub-committee meeting having been circulated to all the Group Leaders before being published;
- That the start time of the Council meetings remains at 7.30pm;
- That Rule 15 remain unchanged;
- To adopt the Revised Member/Officer Protocol at Appendix 5;
- That Officers take on board the comments made regarding Rule 11 on Motions and Rule 18 on Petitions;
- That the Officers investigate the membership of the sub-committees being opened up to members outside the parent committee;
- To receive the recommendations from the LGA on the Members New Code of Conduct.

**CHAIRMAN**