

Southend-on-Sea Borough Council

Agenda
Item No.

3b

Report of Director of Legal and Democratic Services

to

Council

on

17th May 2018

Report prepared by: John Williams
Director of Legal & Democratic Services

Changes to the Constitution

Part 1 - Public Agenda Item

1. Purpose of Report

For the Council to agree changes to the Constitution, primarily to ensure that Council meetings operate in a more efficient way.

2. Recommendations

2.1 That the changes to the Constitution set out in Section 4 of this report be agreed.

2.2 That authority be delegated to the Director of Legal & Democratic Services to draft the detailed amendments and additions to the Constitution to achieve the objectives set out in the report.

3. Background

3.1 Following discussions between the Chief Executive and the Group Leaders and a Briefing Session for all Members held on 19th February 2018, it has been agreed that improvements should be made to the way in which full Council meetings operate, so that business is conducted in a more efficient way.

The aim is to ensure that Council meetings focus on the most important issues, and meetings do not go on quite so long. The average length of meetings over the last 2 years has been just over 5 hours.

3.2 While cultural changes can no doubt lead to improvements, for instance if Members are more circumspect about the number of items that are reserved for debate; there is a strong case for some changes to the Constitution as well. I have been asked to draft such changes, the details of which are set out in section 4 of this report.

These changes reflect Member feedback, particularly from the Member Briefing Session referred to in 3.1. above. Comments at that Briefing Session about ICT initiatives in the Council Chamber are not dealt with in this report.

3.3 In drafting the changes, the following principles have been observed:

- Council meetings should not commence earlier than 6.30pm given the work commitments of many Members.
- The most important matters should be dealt with in the earlier part of the meeting.
- The changes should not be detrimental to the overall democratic process and should not hamper Members in challenging and debating important matters. However as the Cabinet system operated at Southend is so democratic and inclusive, some stream-lining of procedures can be implemented without undermining the aforementioned principles.
- Special considerations need to apply to the Council meeting when the Budget is set.
- There is no requirement for fundamental change, but to make modest adjustments which can then be reviewed after they have been in operation for a period of time and further changes made if required.

4. Recommended Changes to the Constitution

4.1 Adjust the closure/guillotine arrangements in Standing Order 1.7 + consequential changes to SO 4

At present Council meetings end at 11pm and the meeting is then adjourned to a later date, unless a majority of Members vote to continue in which case the meeting then runs on until all the business is finished, however late that may be.

Recommendations

(a) Amend SO 1.7 so that Council meetings finish at **10 pm**, subject to (b) and (c) below. The procedure will then be as follows: -

(i) Item under discussion

Any Member speaking at 10 pm may complete what they are saying. The Mayor will then call for the vote which will be taken in the usual way without any further debate (including dealing with any amendments).

- (ii) Remaining Business
- Notices of Motion and Petitions will stand referred to the Cabinet/Cabinet Committee or relevant Scrutiny Committee(s), as appropriate.
 - Opposition Business will be deferred to the next Council meeting, where, it will have priority on the Agenda.
 - If there are any other motions or recommendations on the agenda that have not been dealt with by 10 pm they are deemed formally moved and seconded (together with any amendments). No speeches will be allowed on these items and the vote will be taken in the usual way.
- (iii) During the processes referred to in (i) and (ii):
- If a named vote is called for (or the law requires such a named vote) it will be taken immediately; and
 - the only other motions which may be moved are that a matter be withdrawn or that a matter be delegated or referred to (or referred back to) an appropriate body or individual for decision or report
- (iv) When all motions and recommendations have been dealt with, the Mayor will declare the meeting closed.
- (b) Upon the hour of 10 pm being reached then if the business is not concluded, the Council can decide by a majority to continue for a further one hour only i.e. to **11 pm**. If this is agreed then the following procedures will apply:
- (i) The remaining business will be dealt with in the following order (with SO 4 amended accordingly):
- Blacklined minutes (In practice black-lined minutes should have been dealt with well before 10 pm assuming the recommendations set out below are adopted, particularly those in 4.3).
 - Officer reports to Council.
 - Other minutes reserved for debate (which will be dealt with in the order in the Council minute book).
 - Petitions (subject to recommendation 4.6 below)
 - Notices of Motion
 - Opposition Business.
- (ii) If the Council shall not have completed all the business by 11pm then at that point the same procedure shall operate as set out in (a) above, subject to (c) below

- (c) The procedures set out in (a) and (b) above shall not apply to the Annual Budget Setting Council meeting when the current provision in SO 1.7 shall remain i.e. the meeting shall end at 11pm and is then adjourned to a later date, unless a majority of Members vote to continue in which case the meeting then runs on until all the business is finished however late that may be.

4.2 Member Question Time at Council (Standing Order 6)

Recommendations

- (a) A Member's first question and the answer will be taken as read and it will only be a supplementary question and answer that are dealt with orally. However, if a Member does not wish to ask a supplementary question then his or her first question and answer may be dealt with orally.
- (b) Questions from Members should be submitted 5 clear working days in advance of the Council meeting in the same way as questions by members of the public. The current timescale can cause difficulties.

4.3 Cabinet and Committee Minutes – Procedure for Submission to Council – Standing Order 7 + consequential changes to SO 4

At present minutes are submitted to Council in the order in the Council minute book. Black-lined minutes (which denote minutes relating to Council functions and matters referred up under Standing Order 39) are not given priority, although they are invariably the most important.

Members can ask 2 questions and then have a comment.

There is no limit to the amount of time minutes of Cabinet or a particular Committee can be debated.

Recommendations

- (a) That black-lined minutes are considered by the Council before other minutes that have been reserved for debate. This will ensure important business is dealt with earlier in the evening. It will mean a bit of jumping around in the Council minute book when the Council returns to debate other reserved minutes; but careful scripting can address this. Standing Order 4 relating to Order of Business would need to be amended to reflect such a change.
- (b) That Member comments be limited to 4 minutes as dealt with more fully in 4.5 below.

4.4 Notices of Motion (Standing Order 8)

Recommendation

Notices of Motion should not relate to a matter which is currently the subject of a formal public consultation process being undertaken by the Council, otherwise there is a significant risk that comments made will amount to pre-determination and/or bias.

This approach is consistent with the recommendations in 4.6 and 4.7 below.

4.5 Length of Speeches (Standing Order 10.4)

Recommendation

To reduce the maximum length of speeches for all Members (including Cabinet members) from 5 minutes to 4 minutes, save for formalising the current convention that the Leader and other Group Leaders are not time-limited when making their budget contributions at the Budget Council.

4.6 Petitions (Standing Order 15)

Standing Orders have always allowed Councillors to present petitions at Council meetings.

However the Local Democracy, Economic Development and Construction Act 2009 required the Council to introduce a complicated and bureaucratic Petitions Scheme which required certain petitions to be debated at Council or at a Scrutiny Committee and for the submission of on-line petitions.

The Council's Petitions Scheme was introduced in July 2010 and can be found in Part 5(i) of the Constitution.

Petitions submitted under the Petitions Scheme have been debated at Council and this has taken up a significant amount of time, both before and at Council meetings.

Also problems arise if such a petition is submitted on a matter when a formal public consultation process is currently being undertaken by the Council. Members are then inhibited in what they can say in the debate by virtue of the common law rule against pre-determination and bias: This happened at one stage during the progress of the Delaware and Priory project.

S.46 of the Localism Act 2011 repealed the law referred to above, with the minister concerned referring to the unnecessary prescription of the law and the desire to remove a significant administrative and financial burden imposed on Councils.

In the absence of a legal requirement to retain a complicated Petition Scheme, many Councils have discontinued such arrangements.

Recommendations

- (a) That the Council reverts to substantially the position which existed prior to July 2010 where Members present petitions at Council and the Petitions Scheme in Part 5(i) of the Constitution is revoked. However the revised Standing Order needs to:
- reflect the ability of residents to use the Council's on-line petition facility; albeit in a revised format;
 - provide that a petition relating to a matter which is currently the subject of a formal public consultation process by the Council shall simply be treated as a representation in that process. This approach is consistent with the recommendations in 4.4 and 4.7; and
 - provide that the Member presenting the petition shall be able to make a statement limited to 1 minute.
- (b) That the following consequential amendments be made to the Constitution:
- Amend Standing Order 15 to remove reference to the Petitions Scheme, and address the matters referred to in (a) above.
 - Delete Scrutiny Procedure Rule 18 in Part 4(e) of the Constitution to remove reference to the Petitions Scheme,
 - Delete paragraphs (vi) and (vii) of 6.02 of Article 2 of the Constitution to remove reference to the Petitions Scheme,
 - Delete the last two bullet points in paragraph 5.4 of the terms of reference of the Scrutiny Committees in Part 3 Schedule 2 of the Constitution to remove reference to the Petitions Scheme.

4.7 Opposition Business (Standing Order 19)

Recommendation

That a minor change be made to this procedure to prevent it being used for a matter which is currently the subject of a formal public consultation process by the Council.

This approach is consistent with the recommendations in 4.4 and 4.6 above.

5. Background Papers

None

6. Appendices

None