

CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE

A meeting of the Constitution and Members' Development Committee was held on Friday 26 February 2021.

PRESENT: Councillors J Hobson (Chair), L Garvey (Vice-Chair), A Hellaoui, J Rathmell, D Rooney, B Cooper (Substitute for M Saunders), M Storey and T Higgins (Substitute for J Thompson)

OFFICERS: C Benjamin, B Carr, C Breheny and I Wright

APOLOGIES FOR ABSENCE: Councillors B Hubbard, M Saunders and J Thompson

5 **MINUTES - CONSTITUTION AND MEMBERS' DEVELOPMENT COMMITTEE - 23 OCTOBER 2020**

The minutes of the Constitution and Members' Development Committee held on 23 October 2020 were approved as an accurate record.

6 **DECLARATIONS OF INTEREST**

There were no declarations made at this point in the meeting.

7 **UPDATE - COUNCIL CONSTITUTION**

The Director of Legal and Democratic Services presented the report and advised the Committee and Members of the public watching the broadcast that the Constitution was a live document that was continually updated. There were six points that would be subject to discussion at today's meeting namely; motions of no confidence, voting on appointments at committees, the provision of information for scrutiny chairs and members, motions generally, a proposed notice of motion form and timescales for amendments to motions.

In respect of motions of no confidence the Committee was advised that the constitution was currently silent on motions of no confidence. This did not mean that motions of no confidence could not be brought, as a motion of no confidence could be treated as a general motion. However, the provisions within the constitution in relation to motions currently stated that any motion that referred to an individual's character or conduct was prohibited. Therefore there was a need for the Committee to consider whether it wished for the Constitution to include provision for motions of no confidence to be brought in relation to an individual's character or conduct. Any motions that were deemed to be defamatory or vexatious would remain invalid.

It was advised that the report contained a number of suggestions in relation to behaviour that could lead to a motion of no confidence being brought and it was for the Committee to determine whether it wished for this criteria to be included in the Constitution. The Monitoring Officer advised exercising caution about – how much the Committee wished to accept and how much the Committee felt it was appropriate. The impact of a motion of no confidence also varied depending on whom it was brought. For example, the Mayor could not be removed by a motion of no confidence and if a motion of no confidence was brought against an Executive Member and approved by Full Council that Executive Member could only be removed by the Mayor.

The Committee was advised that a motion of no confidence in a Chair could be brought at a Committee, the Committee would then vote on that motion and if it was approved it would then be referred to full Council. Full Council would vote on the motion of no confidence and if approved the Chair would be removed from post and a new Chair appointed by Full Council.

Members discussed the merits of including examples within the Constitution and the view was expressed that these should not be included. Instead anyone wishing to bring a motion of no confidence should be advised to seek guidance from the Monitoring Officer / Deputy Monitoring Officers.

In respect of voting on appointments at committee it was advised that Full Council had

recommended that the Committee consider the legal position as to whether Executive members could participate in voting at the Council AGM with regard to Scrutiny/Audit Committee appointments and a report on the outcome be brought back to Full Council. It was advised that the guidance contained in 'Knowles on Local Authority Meetings – a manual of law and practice' made it clear that a decision made by Full Council, should be reached by the required majority of councillors present and voting at a properly constituted meeting. The Local Government Act 1972, s.2B provided that the Mayor was to be treated as a member of the council when voting at meetings, and therefore the guidance above also applied to the elected Mayor. The guidance thereby indicated that the Executive could take part in voting on all Committee appointments including in respect of Scrutiny Chairs.

All of the Tees Valley local authorities had been contacted and all had advised that their appointments to Chairs and positions on Committees were determined by the whole of the membership of the Council.

Reference was made to the Statutory Guidance on Overview and Scrutiny in Local and Combined Authorities (May 2019), which had identified that the method for selecting a Chair was for each authority to decide for itself, however every authority should consider taking a vote by secret ballot. It was advised that whilst meetings were being conducted virtually consideration was being given to the introduction of a voting app. However, at this stage further work was needed in respect of this area and it could not be undertaken at present.

In respect of the role profiles that had been developed for Scrutiny Chairs Members expressed the view that further work was required. Consideration was given to the proposal that when groups were considering, selecting or nominating a Member to be appointed as a Scrutiny Chair a Member should have at least one year's experience of being on that particular Panel prior to nomination. Mixed views were expressed and it was suggested that there would be benefit in forming a working group of Officers and Members outside of the formal Committee to enable Members to give further consideration to the issues raised and the role of Scrutiny Chairs prior to formal consideration of any proposals.

With regard to motions it was advised that from an operational perspective it was felt that improvements could be made to some processes that may help Members' and Service Directors understand the possible impact of motions before submitting them and identify who would be responsible for ensuring actions could be tracked and monitored. It was therefore proposed that the time for submitting motions with notice be extended to 9 clear working days. Motions would need to be submitted by 5pm prior to the 9th clear working day. This would allow time for discussions / consultation with the Monitoring Officer / Deputy Monitoring Officer / Section 151 Officer or Service Director where appropriate and allow time for alterations where required.

Finally it was proposed that any known amendments to Motions must be submitted 2 working days prior to the meeting to allow time for discussions/consultation with the Monitoring Officer / Deputy Monitoring Officer / 151 officer or Service Director where appropriate, to ascertain if the amendment was lawful or valid. This would allow the Chair to read any proposed amendments out at the meeting, therefore providing members with clarity with regard to the amendment to the Motion and clarity on what they were voting on.

Following discussion it was felt that reference to 'known' amendments was unhelpful and that the word 'known' be removed. With regards to budget amendments Members expressed the view that the submission of amendments 3 clear working days prior to the meeting was acceptable, as there was ample opportunity for Members to approach the Section 151 Officer in advance.

It was also proposed that when submitting a Motion, a Motions Form be submitted to ensure that all the necessary information was included which would enable appropriate consideration by the Chair of the Council and the Monitoring Officer.

AGREED as follows:-

- a) That the proposals in respect of votes of no confidence be forwarded to full Council to be debated subject to the removal of the examples. The examples would be substituted with the following wording 'votes of no confidence may be brought following consultation with the Monitoring Officer / Deputy Monitoring Officer.'

- b) That all Members of Council vote on appointments of Committee Chairs and members and that this be referred back to Council in advance of the Annual General Meeting.
- c) That the role profile developed for scrutiny chairs be endorsed with the exception that there be no requirement for groups to select a Member with at least one year's experience of being on a particular panel prior to nomination to be appointed as a Scrutiny Chair. A working group of Officers and Members be established to discuss the development of broader profile proposals in advance of formal consideration by the Committee. That the authority aspire to taking a vote by secret ballot, as the method for selecting Scrutiny Chairs once the electronic voting app has been tried and tested.
- d) That the timescale for submitting a Motion from 7 working days to 9 working days for Notice of Motions be approved and this be referred to full Council.
- e) That the proposals to introduce the use of a Notice of Motion form to gather additional information be endorsed.
- f) That the proposal to submit amendments to motions 2 working days before the meeting be endorsed and 3 working days for budget amendments and this be referred to full Council.

8 **TERMS OF REFERENCE - VERBAL UPDATE**

The Principal Democratic Services Officer advised that a request had been received for Corporate Health and Safety to report directly to Corporate Affairs and Audit. Currently the Corporate Health and Safety Committee is an advisory committee to Council, in some respects it would seem appropriate to become a working group of Corporate Affairs and Audit Committee. It was advised that any such proposal would have to be submitted to full Council for approval. In practical terms it avoids the overlap of the Committees undertake. Another option would be clarify the terms of reference of the Corporate Health and Safety Committee. The view was expressed that this would need to be discussed by the Corporate Health and Safety Committee, as the Membership involved the Unions and further discussion would be needed.

AGREED that further consideration be given to the request for Corporate Health and Safety to report directly to Corporate Affairs and Audit.

9 **ANY OF OTHER URGENT ITEMS WHICH IN THE OPINION OF THE CHAIR, MAY BE CONSIDERED.**

10 **DATE OF NEXT MEETING - 12 MARCH 2021**

The Chair advised that the meeting scheduled for 12 March 2021 would be rearranged for a later date.