

CABINET

7 April 2010

MINOR AMENDMENTS TO THE CONSTITUTION – ANNUAL REVIEW

REPORT OF HEAD OF DEMOCRATIC SERVICES

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RECENT REFERENCES:

None.

EXECUTIVE SUMMARY:

This report sets out some minor amendments to the Constitution as part of the annual review.

The report proposes an amendment to procedure relating to membership of Planning Development Control (Viewing) Sub-Committees meetings (see paragraphs 1.1 and 2 below).

A minor change to Procedure Rule 35(6) – Attendance of Non-Members at Meetings is proposed to recognise the current practice of Portfolio Holders attending Scrutiny Panel meetings. A minor change is also proposed to Council Procedure Rule 20(4) – Selection of Standards Sub-Committee Members – to improve its clarity and consistency.

Finally, Members are asked to consider whether they wish to see any change to the Council Procedure Rules to enable Councillor Questions at a Special meeting of the Council.

RECOMMENDATION:

TO COUNCIL:

That the changes to the Council's Constitution be agreed as set out in the Report.

CABINET7 April 2010MINOR AMENDMENTS TO THE CONSTITUTIONREPORT OF HEAD OF DEMOCRATIC SERVICESDETAIL:1 Proposed changes to Council Procedure Rules (Part 4 of the Constitution)1.1 Membership of Planning Development Control (Viewing) Sub-Committee

To formalise the current practice regarding attendance of Members of Planning Development Control Committee at Viewing Sub-Committee meetings, the following addition to Council Procedure Rule 17, Paragraph 11 (a) (i) is proposed (additional wording shown in bold):

Council Procedure Rule 17 (Annual Election Of Chairmen And Selection Of Cabinet And Committees)

Paragraph 11 - Deputy Members

Deputy Members may be appointed to Committees and Sub-Committees on the following basis -

- (a) When appointments are made to any Committee or Sub-Committee, each political group of the Council shall be entitled when nominating its representatives, if it so wishes, to nominate:
  - (i) up to three further members as Deputy members in respect of the Planning Development Control Committee **(NB: The membership of Planning Development Control (Viewing) Sub-Committee is drawn from those Members that attended the Planning Development Control Committee meeting which set up the Viewing Sub-Committee. As the Viewing Sub-Committee will not hear a full repeat of the officer's presentation, nor any public participation, new deputies that did not attend the original Planning Development Control Committee cannot participate in the subsequent Viewing Sub-Committee).**

The practice at PDC Viewing Sub-Committees also requires a change to Part 3 of the Constitution – Responsibility for Functions, as detailed in Paragraph 2 below.

1.2 Attendance of Portfolio Holders at Scrutiny Panels

In addition, in recognition of the practice at Scrutiny Panels regarding the attendance of Portfolio Holders at meetings, it is proposed that Procedure Rule 35(6) – Attendance of Non-Members at Meetings – be amended by the addition of the wording in bold:

35(6) No Member of the Council shall be entitled to attend a meeting of an overview and scrutiny committee when it is undertaking the scrutiny function in respect of a decision made by a body of which they were a member. In such circumstances, members will declare a personal and prejudicial interest and leave the room unless a dispensation has been granted by the Standards Committee **or the committee requests them to remain under the provisions of Sections 21(13)(a) of the Local Government Act 2000 in order to provide additional information and/or answer questions.**

### 1.3 Questions at Special Meetings of the Council

At Council on 1 October 2009, the Leader gave an undertaking to consider whether questions would be permitted at Special Council meetings. The current procedure rules stipulate that “business to be conducted at an extraordinary meeting shall be limited to the issue which has caused the meeting to be convened” (Procedure Rule 2).

If Cabinet agrees to this, it is suggested that Council Procedure Rule (2) – Extraordinary Meetings of the Council – be altered as follows (additional wording shown in bold):

“The business to be conducted at an extraordinary meeting shall be limited to the issue which has caused the meeting to be convened, **in addition to questions under Council Procedure Rule 14.** Other matters ~~such as minutes and routine reports from committees~~ shall await the next ordinary meeting of the Council.”

### 1.4 Selection of Standards Sub-Committee Members

The following minor change of wording is proposed to Council Procedure Rule 20 (4) to improve the clarity and consistency (additional wording shown in bold):

- (1) The selection of the Chairman and other Members of the Standards Sub-Committee for individual hearings shall be as follows **(subject to availability)**:
  - (a) the Chairman should be selected by the Head of Democratic Services in alphabetical rotation from the Independent Members ~~(subject to availability)~~;
  - (b) when the hearing is considering a complaint against a City Councillor, membership should consist of the Chairman, and two Councillors ~~(from different political parties~~ **from more than one political group** selected by the Head of Democratic Services in alphabetical rotation from the membership of the Committee);
  - (c) when the hearing is considering a complaint against a Parish Councillor, membership should consist of the Chairman, Parish ~~Member~~ **Representative** (selected by the Head of Democratic Services in **alphabetical rotation from the Parish Representatives**), and three Councillors ~~(from more than one~~

political party **group** (selected by the Head of Democratic Services in alphabetical rotation from the membership of the Committee).

- (d) no Committee Member should be included in the selection if the complaint is against a Member of the same parish, or district ward, as the Committee Member.

## 2 Responsibility for Functions (Part 3 of the Constitution)

- 2.1 To formalise the current practice regarding attendance of Members of Planning Development Control Committee at Viewing Sub-Committee meetings, the following change is proposed to Part 3 of the Constitution, Section 4 (Regulatory Committees and other non-executive decision-making Committees), Paragraph 4.2 (old wording struck through and new wording shown in bold):

### Planning Development Control (Viewing) Sub-Committee

To consider and determine those planning applications which the Planning Development Control Committee decides should first have a site visit by a group of members, unless Planning Development Control Committee decides when it is set up that it should specially report back to Committee.

NB: The Sub Committee will be appointed in accordance with:

- (a) the political balance of the Council, or;
- (b) under alternative arrangements approved by the Planning Development Control Committee from time to time.

The Sub-Committee should normally include the Chairman and/or the Vice Chairman and at least three additional Members shall be invited to attend, although other members of the Committee can attend and vote if they so wish, except where the Committee decides that strict political balance be observed and has indicated accordingly.

**The membership of Planning Development Control (Viewing) Sub-Committee is drawn from those Members that attended the Planning Development Control Committee meeting which set up the Viewing Sub-Committee. As the Viewing Sub-Committee will not hear a full repeat of the officer's presentation, nor any public participation, new deputies that did not attend the original Planning Development Control Committee can not participate in the subsequent Viewing Sub-Committee.**

~~In the event of the unavailability of a Member to attend a Viewing Sub-Committee meeting, a Standing Deputy of the same political group for Planning Development Control Committee may attend and vote.~~

OTHER CONSIDERATIONS:

3 SUSTAINABLE COMMUNITY STRATEGY AND CORPORATE BUSINESS PLAN (RELEVANCE TO):

3.1 Relevant to the strategic priority of being an efficient and effective Council.

4 RESOURCE IMPLICATIONS:

4.1 Work on updating the Constitution is undertaken within existing resources.

5 RISK MANAGEMENT ISSUES

5.1 None directly for Winchester City Council.

6 BACKGROUND DOCUMENTS:

None

7 APPENDICES:

None.