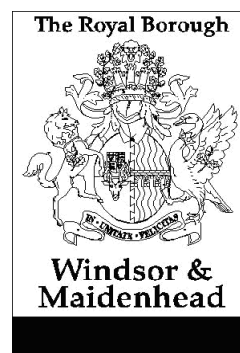


| |
|-----------------------|
| Report for: ACTION |
| Item Number: 4 |



| | |
|--|---|
| Contains Confidential or Exempt Information | NO |
| Title | CONSTITUTION AMENDMENTS |
| Responsible Officer(s) | Maria Lucas |
| Contact officer, job title and phone number | Maria Lucas, Head of Legal 01628796665 |
| Member reporting | Councillor Burbage |
| For Consideration By | Constitutional Sub- Committee |
| Date to be Considered | 16 March 2015 |
| Implementation Date if not Called In | |
| Affected Wards | All |
| Keywords/Index | Constitution |

| |
|---|
| <p>Report Summary</p> <ol style="list-style-type: none"> 1. This report sets out proposed amendments to the Constitution. 2. It recommends that the Sub-Committee consider the proposed revisions set out in the motion to Council in Appendix A. 3. If adopted, there are no key financial implications for the Council. |
|---|

| If recommendations are adopted, how will residents benefit? | |
|---|--|
| Benefits to residents and reasons why they will benefit | Dates by which residents can expect to notice a difference |
| An up to date Constitution reflecting best practice will ensure democratic processes run efficiently and effectively, and ensure residents are informed of the correct processes. | From date of decision |

1. Details of Recommendations

RECOMMENDATION: That the amendments to the Council's Constitution as set out in Appendix A to the report are considered and approved if appropriate.

2. Reason for Recommendation(s) and Options Considered

2.1 The Constitution of the Royal Borough of Windsor and Maidenhead is a single point of reference which contains the principal operating structures and procedures of the authority. It sets out how the Council operates, how decisions are made and the procedures which are followed to ensure that these are efficient, transparent and accountable to local people. A full review of the Constitution was carried out in December 2012 and various changes have been made as required.

2.2 What amendments are requested to be made to the Constitution?

On 24th February 2015 Council, Councillor Beer presented the following motion on notice. It was agreed that the Constitution Sub Committee be requested to consider the motion requesting the amendments to the terms of reference of Other Committees, Forums and Panels in Part 4, to enable the public to engage in valuable active participation with the Council.

The motion and arguments for the motion provided by Councillor Beer are set out in Appendix A.

| Option | Comments |
|--|--|
| 1. Approve the changes to the Constitution | The Constitution will promote best practice. |
| 2. Do not approve changes | The Constitution will still promote best practice. |

3. Key Implications

| Defined Outcomes | Unmet | Met | Exceed | Significantly Exceeded | Date they should be delivered by |
|---|--|----------------------------|--------|------------------------|----------------------------------|
| Consider the motion and, if appropriate, amend the Constitution by the date agreed. | Do not amend the Constitution by the date set out. | Amend by the date set out. | n/a | n/a | |

4. Financial Details

a) Financial impact on the budget (mandatory)

There are no financial implications.

5. Legal Implications

The Constitution must be in compliance with the terms of the Local Government Act 2000, Local Government and Public Involvement in Health Act 2007 and Local Democracy, Economic Regeneration and Construction Act 2009, Localism Act 2010 and any other relevant statutory acts or guidance.

6. Value For Money

An updated Constitution will ensure the Council is less likely to be challenged on its procedures and processes.

7. Sustainability Impact Appraisal

There is no impact on sustainability objectives.

8. Risk Management

| Risks | Uncontrolled Risk | Controls | Controlled Risk |
|--|------------------------------|---|--|
| There is a risk of challenge if the Constitution is not legally updated. | Constitution is not updated. | Constitution is regularly reviewed and updated. | Revised Constitution available on website. |

9. Links to Strategic Objectives

The main links are to:

Residents First

- Work for safer and stronger communities

Value for Money

- Improve the use of technology

Delivering Together

- Enhanced Customer Services
- Deliver Effective Services

Equipping Ourselves for the Future

- Developing Our systems and Structures

10. Equalities, Human Rights and Community Cohesion

These amendments to the Constitution do not require a full EQIA. No negative impacts were identified.

11. Staffing/Workforce and Accommodation implications:

None.

12. Property and Assets

None.

13. Any other implications:

None.

14. Consultation

N/A

15. Timetable for Implementation

N/A

16. Appendices

Appendix A

17. Background Information

None

18. Consultation (Mandatory)

| Name of consultee | Post held and Department | Date sent | Date received | See comments in paragraph: |
|----------------------|-------------------------------------|-----------|---------------|----------------------------|
| Internal | | | | |
| Cllr Burbage | Leader of the Council | 12.2.15 | 12.03.15 | |
| Christabel Shawcross | Interim Managing Director | 12.2.15 | | |
| Maria Lucas | Head of Legal Services | n/a | | 5. Legal |
| Andrew Brooker | Head of Finance | 12.2.15 | | 4. Financial |
| | | | | |
| External | | | | |
| | Police, voluntary Organisation, etc | n/a | | |

Report History

| Decision type: | Urgency item? |
|------------------|---------------|
| Non-key decision | No |

| Full name of report author | Job title | Full contact no: |
|----------------------------|---------------|------------------|
| Maria Lucas | Head of Legal | 01628 796665 |

Proposed amendments to Part 7

Motion on notice by Councillor Beer to Council on 24th February 2015.

The Constitution Part 7F Protocol for Public Speaking at Meetings (page 257) is confusing because Part 4 Other Committees, Forums and Panels Page 260) only partially recognises the differences between limited public participation in most Panels and the valuable active public participation in Forums. The following Motion seeks to adopt the accepted practice of many Forums.

This Council resolves that:

i) Part 7 F4, paragraph 5, of the Royal Borough Constitution be amended to read (additional wording in *italics*):

'Except in the case of Forums any members of the public wishing to speak may only do so in relation to an item on the agenda on the meeting. The Chairman will have the right to apply the criteria set out in A9 to public participation if he feels it necessary to do so.

The Council wants to provide the opportunity for the public to speak at the meeting before the Members take their decision.'

ii) Part 7 F4, paragraph 6, of the Royal Borough Constitution be amended to read (wording to be removed shown with ~~strikethrough~~):

'If the matter is one where there are applicants or supporters of a proposal speaking, objectors must be allowed to speak at the meeting, and vice versa. An applicant may speak at a meeting even where there are no objectors wishing to speak (but if the applicant or objector is in agreement with the Officers' recommendations to the Panel Forum or Committee, the Chairman will request the applicant or objector to restrict any comments to matters not covered, or not covered fully, in the Officer's Report). Members of the public may not necessarily be supporters or objectors but may wish to ask questions or make statements to Members about the item under discussion. This is permitted under the terms of the Protocol.'

iii) Part 7 F4 of the Royal Borough Constitution be amended to read (new paragraph 10):

'In Forums the public and regular attendees (or 'core members') are encouraged to submit agenda items well before meetings. Any Other Business and extent of attendees participation will be at the Chairman's discretion.'

MOTION TO COUNCIL 24/2/2015

Public Speaking at Forum Meetings – Councillor Beer’s intended speech to Council

I start by emphasising that this motion seeks to clarify a confused item in the Constitution and does not criticise any Councillor or Officer. It seems that instead of drafting specific clauses when Forums were introduced to promote the consideration of specific topics of public interest, the Panel Meeting clauses governing strictly limited public speaking times were qualified to provide for Forums by introducing the Second clause, which I quote:

“The operation of this Protocol will be the responsibility of the individual Chairmen and may need to be revised from time to time, or disapplied in particular circumstances.” Revision time is here.

Limited disapplication has created a different scene for many consultative Forums which have only 3 or 4 nominated Councillors instead of the usual 7 on decision making Panels.

That is a huge difference as the majority of participants will be members of the public in such Forums, and therefore it is inappropriate to demand that nobody can speak on any item unless they have registered each item beforehand - with a limit of 3 minutes per person and a 9 minute total speakers limit on any item.

Many agendas do not include written reports so it is impossible for the public to know before the meeting whether they would wish to comment until on the verbal reports are presented.

If anyone had reserved a speaker's slot on the offchance it would be unrealistic to expect them to collate their thoughts from a cold start within a 3 minute time slot.

It is disappointing that recent legal advice from Wokingham has failed to appreciate the different nature of decision making Panels and largely advisory Forums, and its highlighting of the registration criteria has deterred a number of extremely knowledgeable experts from attending and contributing to one recent Forum and its Working Group.

There would be a serious loss to the policy of consultation in the Borough If the misguided registration requirement continues and is imposed on other Forums in the future.

I urge Council's support of this motion to clarify the Constitution to ensure that valuable public participation in its Forums continues to be encouraged .

Cllr Malcolm Beer.