

Policy & Resources Committee
Monday 27 January 2025
Full Council
Tuesday 25 February 2025

**Proposed Amendments to the Constitution
(ADLDS)**

1 Summary

- 1.1 This report proposes several amendments to the Council's constitution including group leader consents, the nature of motions and amendments and in respect of the Civil Contingencies Act 2004

2 Details

Group Leader consents

- 2.1 In local authorities, it is common to seek the views of groups of members, particularly the leaders of political groups on certain, specific issues.
- 2.2 The Three Rivers Council Constitution currently requires the views of political group leaders to be sought in three areas – where an urgent decision is required; where a meeting is to be moved, or which committee a petition should be presented to.
- 2.3 In the case of urgent decisions, the constitution expects that the Chief Executive will consult all group leaders and try to seek unanimity on the proposed way forward. Where a unanimous view cannot be obtained, then consent of group leaders representing the majority of councillors is required.
- 2.4 For the other scenarios (moving a meeting or where a petition should be presented), the unanimous consent of group leaders must be obtained.
- 2.5 There can be practical implications of requiring unanimous consent. For example, a meeting may need to be moved due to the unavailability of Members but one or more Group Leaders may not respond or agree despite the majority of Members agreeing to the change. If one group leader disagrees where a petition should be presented, this could result in a stalemate which would not be fair to the members of the public bringing forward the petition.
- 2.6 Unanimous consent is an unusual clause in a constitution. Legally, there are no decisions Councils make that would require the unanimous consent of councillors and such requirements are rarely used by Councils due to the practical problems that can arise.
- 2.7 To avoid such issues arising, there is the opportunity to bring the moving of meetings or presentation of petitions into line with the Council's process for urgent decisions. This would mean that all group leaders are consulted on the decision and able to express their thoughts, but if unanimity cannot be obtained, then the decision is made based on the views of the group leaders representing the majority of councillors.
- 2.8 It is not proposed to introduce a specific timeframe for group leaders to respond, as this will depend on the situation. For example, officers may need consent to cancel or move a meeting scheduled that evening and so may need to seek views within a

very short time frames; with petitions, a longer consultation timeframe may be feasible. Where a group leader is absent, it would be expected to consult their deputy.

- 2.9 The specific amendments proposed are set out in Appendix 1.

Motions on Notice

- 2.10 The Council's constitution allows members to propose motions to Council that, if carried, will usually require the Council to take a specific action or establish the Council's position on an issue.
- 2.11 The constitution requires that "every notice of motion shall be relevant to some matter in relation to which the Council has powers or duties, or which affects the District"
- 2.12 Most Council constitutions also include a clause about the nature of motions, ensuring they are proper and do not call for the Council to take unlawful action. This is currently omitted from the Constitution.
- 2.13 A proposed additional clause to the motions on notice procedure rule is also included in the table at Appendix 1. This is based on the standard wording adopted by many Councils and reflected in best practice guidance. Where the Monitoring Officer is concerned as to the lawfulness of a motion, or that the wording of the motion is improper, they shall refer the motion to the Chair, who shall then determine whether the motion be accepted. If it is rejected, the member submitting the motion would be informed.
- 2.14 If this scenario arose, the member would be entitled to re-submit a motion that addressed the concerns of the Monitoring Officer and chair as long as the motion continued to comply with the other constitutional requirements.

Amendments to Motions

- 2.15 Similarly, the constitution has limited guidance on the content of amendments. In accordance with many Councils, amendments may leave out or insert words to motions, and cannot negate a motion, but there is no further restriction on their nature.
- 2.16 The restrictions on motions included within the current constitution, and as outlined in paragraphs 2.10 to 2.14 are safeguards to the Council; they ensure that prior to significant spending decisions being made, this is subject to robust consideration accompanied by a report, and that the Council does not commit itself to unlawful action.
- 2.17 It is therefore proposed that the Rules of Procedure are changed to insert a new paragraph after 16(6) that would disallow motions which are improper or unlawful. In addition, it is proposed to not allow amendments that have the consequence of incurring more than £10k or are contrary to the budget and policy framework.
- 2.18 Under the constitution, motions which incur more than £10k or are contrary to the budget and policy framework can be referred to a committee for consideration. If the same condition was to apply to amendments, this could be used as a negatory position in order to prevent motions progressing. If members consider a motion should be amended in this way, they would have the prerogative to vote against it.

Civil Contingencies Act

- 2.19 As is set out above, the Council's constitution allows for senior officers to take urgent action where they consider it necessary, having sought the views of group leaders.
- 2.20 The Civil Contingencies Act 2004 requires the Council to prepare and respond to emergency situations that could threaten life, the natural environment or civil security; the most common type of issues are serious floods, fires or gas leaks. In such situations, the normal urgency procedures may not be effective, in that the overriding public interest to respond and make quick decisions does not give capacity to consult group leaders and seek their views before a decision has to be made.
- 2.21 With this in mind, it is proposed to add to section 8 of the Scheme of Delegation to Officers a paragraph to authorise them to authorise, approve and exercise all functions under the Civil Contingencies Act 2004. The exercise of emergency powers under this Act are operational and therefore functions for officers to exercise.

3 Options and Reasons for Recommendations

- 3.1 The Committee are asked to make a recommendation on whether:
- 3.1.1 To recommend the proposed changes be presented to Council (with modifications if the committee agrees)
- 3.1.2 To not make any change to the current arrangements.
- 3.1.3 Members may wish to note that the Leader of the Council has indicated that he wishes to consider further amendments to the constitution, most notably bringing forward the work undertaken by Hoey-Ainscough Associated Ltd. With this in mind, officers will be seeking to convene further meetings of the constitution sub-committee to assess further changes in more depth.

4 Policy/Budget Reference and Implications

- 4.1 The recommendations in this report are within the Council's agreed policy and budgets.
- 4.2 The recommendations in this report do not impact on the achievement of specific performance indicators.

Financial, Legal, Staffing, Equal Opportunities, Environmental, Community Safety, Public Health, Customer Services Centre, Communications & Website, Risk Management and Health & Safety Implications

None specific.

5 Recommendation

5.1 That:

The committee recommends to Council the proposed constitutional amendments set out

in Appendix 1.

Report prepared by: Leah Mickleborough, Interim Committee and Electoral Services Manager, Leah.Mickleborough@threerivers.gov.uk

Background Papers

Three Rivers Council Constitution, available on the Council's website