

Surrey Heath Borough Council

Council

20 April 2022

Governance Working Group

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Key Decision: No
Wards Affected: n/a

Summary and purpose

To review and agree the Governance Working Group's recommendations in respect of the Council, Executive, Committees and Other Bodies Procedure Rules.

Recommendation

The Council is advised to RESOLVE that

- (i) Council Procedure Rules be amended, as set out at Annex A to this report;
- (ii) the Executive Procedure Rules be amended, as set out at Annex B to this report; and
- (iii) the Committees, Sub Committees and Other Bodies Procedure Rules be amended, as set out at Annex C to this report.

1. Background and Supporting Information

- 1.1 The review of the Procedure Rules forms part of the holistic review of the Constitution being undertaken by the Monitoring Officer.

2. Council Procedure Rules

- 2.1 The Council is asked to consider the proposed changes to Council Procedure Rules recommended by the Governance Working Group, as set out below.

Calling Meetings

- 2.2 The Working Group considered whether to add wording to clarify that, where an extraordinary meeting is called to consider a motion that the Chief Executive is minded to reject in accordance with Procedure Rules 12.3 and 12.4, this meeting will not be called. The Working Group did not pursue this suggestion.
- 2.3 The Group also discussed whether extraordinary meetings should continue to be confined to a single item of business. It was agreed that, whilst

extraordinary meetings should be restricted to the item(s) for which the meeting has been called, they should be able to consider more than one item of business. Extraordinary meetings would continue not to consider items such as minutes of the previous meeting.

Motions

- 2.4 The Procedure Rules on motions have been reviewed with a focus on upholding the following principles:
- The business addressed by the Council is relevant and does not conflict with the responsibilities of another statutory body.
 - Decisions are made by the correct decision maker, in accordance with the provisions of the Local Government Act 2000.
 - Decisions are concise and, where relevant, well informed by the necessary professional advice.
 - Members seeking to submit a motion have a clear understanding of the parameters for a motion.
- 2.5 The scope of motions is currently very broad and consideration was given to whether more context/ qualification is required for the statement that a motion can encompass matters which “affect the Borough of Surrey Heath”. Having discussed this matter, no changes were proposed by the Group.
- 2.6 Where a decision is considered to be out of order, improper, unlawful, or has significant budgetary implications, there is currently no facility for an officer to provide formal advice where the motion is included on an agenda due to 10 members formally making this request. Whilst the Chief Executive will endeavour to resolve any concerns through dialogue with the Member submitting the motion before the agenda is published, the Working Group agreed that provision should be made for the Chief Executive to publish formal advice, in case an agreement cannot be reached. It was also agreed that the Member submitting the motion would have the right to accompany this with a written explanation of their reasons for seeking the decision.
- 2.7 The Working Group discussed motions that refer to executive decisions and the separation of functions between the Council and Executive, as provided for in the Local Government Act 2000, associated legislation and guidance. It was felt that where the decision requested of the Council should instead be referred to the Executive or a scrutiny committee, Council Procedure Rules 12.6 and 14.11(i) already provided the necessary mechanisms for this purpose.
- 2.8 Members discussed motions that have significant financial implications outside the agreed budget and agreed that the source for funding that decision must be contained as part of the motion. In practice, this requires the Chief Executive having authority to reject a motion where financial implications are not been addressed in the motion, but this would only be exercised where the Chief Executive has unsuccessfully sought to resolve this prior to publication of the agenda. Members of the Working Group discussed

whether to indicate a value for a 'significant financial implication' but recognised that, considering the current financial climate, any value posed could cease to be appropriate.

- 2.9 It was agreed to add wording to provide that, where two similar motions are received and the action requested in the second motion could be achieved by amendment to the first motion, the second will be rejected. In practice, this does not preclude officers from working with the Members submitting each motion to enable them to include a combined motion on the agenda.
- 2.10 The Group agreed to place a limit of 350 words in a motion and also agreed that any amendments to motions should be restricted to an additional 150 words. No changes were proposed to the number of motions permitted per meeting or the number of councillors required to sign a notice of motion.

Rule of Debate and Length of Speech

- 2.11 The Working Group is recommending removing the right for the seconder to reserve their speech until later in the debate. The Group recognised that by the time a seconder speaks it could be irrelevant if the debate has moved on and removing the option would also support a better structure for the debate.
- 2.12 In relation to Budget meetings, it is proposed that movers and seconders of amendments will be given the same rights to length of speech as the movers and seconders of motions on notice. This will allow those moving amendments to the budget/ alternative budgets greater time to present their arguments.
- 2.13 The Constitution is currently silent on the length of time any other member may speak during a debate. It is proposed to add wording to state that they may not speak for more than 3 minutes, except when considering the budget.
- 2.14 The paragraphs relating to Point of Order and Personal Explanation have been moved and an additional clause added to the definition of a personal explanation.

Presentation of officer reports

- 2.15 At present, all debates relating to decisions and recommendations arising from officer reports are treated as motions and conducted under the rules of debate. The Working Group considered whether officers should introduce their report, which would be followed by a Member moving a motion relating to the report. It was agreed that this should be the adopted procedure where the report relates to the function of a statutory officer or where the Council has asked the officer to produce a report, but otherwise reports would be introduced by Members. It is not proposed to change Council Procedure Rules to reflect this suggestion.

Questions at Council meetings

- 2.16 The Working Group reviewed the provisions for asking questions at Council meetings and proposed to alter how Questions at Council are ordered at meetings so the standard Council agenda would contain the following:
- Penultimate item on Part I of the agenda – Questions by Members of the Public
 - Final item on Part I of the agenda - Questions received in accordance with (Procedure Rule 11), followed by Leader’s Question Time (Procedure Rule 11A)
- 2.17 The proposal above would not require any changes to the Procedure Rules.

Voting

- 2.18 Procedure Rule 17 – Voting has been amended to allow for recorded votes to be conducted electronically where possible. Where it is not possible to conduct the vote electronically, a recorded vote will be conducted by a roll-call vote. The Working Group discussed adding a minor amendment to state that this would only refer to those present in the room. However, on reflection, this has not been included as it does not alter the position that only those legally entitled to vote will be allowed to do so and, furthermore, it future-proofs the Constitution in the event that the law is changed to allow members attending virtually to vote.
- 2.19 In relation to the Mayor’s Casting Vote, the Working Group discussed whether words should be added to clarify how this relates to a vote on the budget or nominations to positions. Following the discussion it was agreed to provide further clarification in relation to voting on appointments, but to retain the current position in relation to voting on the Budget.
- 2.20 The Working Group is also proposing adding an additional sentence to Rule 17.6 to clarify that, where there is only one candidate for a position, they will be elected.

State of the Borough Debate

- 2.21 The State of the Borough Debate has not been well used in recent years. It is also carried out at the request of the Leader. The Working Group proposes to remove the section entirely. The Leader can use his discretion to deliver a State of the Borough address during his announcements, if he wishes.

Procedure Rule 25 - Procedure Rules to be Given to Members

- 2.22 It is proposed to remove this section as it is archaic and not currently undertaken in practice.

3. Executive Procedure Rules

- 3.1 Executive Procedure Rules have been reviewed. It is proposed to make a minor amendment to Rule 9 to reflect the requirements set out in the Scrutiny Committee Procedure Rules at Part 4, section C of the Constitution.

4. Committees, Sub Committees and Other Bodies Procedure Rules

- 4.1 Minor amendments to the Committees, Sub Committees and Other Bodies Procedure Rules have been amended to reflect changes the senior management restructure. In addition, a number of other changes are proposed as detailed below.

Membership and Quorum of Sub Committees

- 4.2 Section 8 has been extended to include sections transferred from the Terms of Reference at Part 3 of the Constitution as they are more appropriately contained within Part 4 of the Constitution. This is also reflected in new paragraphs 21.1 and 21.2 of the Procedure Rules.
- 4.3 A paragraph has been added to provide for substitutes to participate in sub committees, if necessary, where the membership cannot be formed from the main body of the committee. Further provision has been allowed for further extending the pool for appointing members to Hearing or Appeals Sub Committees in exceptional circumstances.

Attendance at Meetings of the Joint Staff Consultative Group

- 4.4 An additional statement has been added to Section 12 to clarify that attendance by councillors at Joint Staff Consultative Group meetings will only be allowed in exceptional circumstances. This is to preserve the balance of Member and Staff Representatives on this negotiating body.

Voting at Planning Applications Committee

- 4.5 A minor amendment has been made to clarify that the reasons for proposing a decision contrary to an officer recommendation must be given prior to a vote being taken. This is to give transparency and good governance for decision making by ensuring that councillors are clear about the reasons on which they are voting for a decision.
- 4.6 The wording relating to voting has been altered to allow for electronic voting, although the requirement will remain for names to be publicly stated for the record by an officer.

5. Proposal and Alternative Options

- 5.1 It is proposed that Council reviews the Governance Working Group's proposals and agrees the recommendations, along with any further changes it considers appropriate.

6. Contribution to the Council's Five Year Strategy

1.1 No matters arising at this time.

7. Resource Implications

7.1 There are no specific resource implications arising from the review.

8. Legal and Governance Issues

8.1 None, other than as set out above.

9. Monitoring Officer Comments:

9.1 Article 12 of the Council's Constitution recognises the Monitoring Officer's duty to monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect.

10. Other Considerations and Impacts

Environment and Climate Change

10.1 No matters arising at this time.

Equalities and Human Rights

10.2 No matters arising at this time.

Risk Management

10.3 No matters arising at this time.

Community Engagement

10.4 No matters arising at this time.

Annexes

Annex A - Proposed amendments to Council Procedure Rules

Annex B – Proposed amendments to Executive Procedure Rules

Annex C – Proposed amendments to Committees, Sub Committees and Other Bodies Procedure Rules

Background Papers

None