



## OFFICER REPORT TO COUNCIL

### AMENDMENTS TO THE CONSTITUTION: REPORT OF THE CONSTITUTION REVIEW GROUP

#### **KEY ISSUE/DECISION:**

It is the Council's responsibility to approve changes to the Council's Constitution.

This report sets out proposed changes to Part 3, Section 2 (Scheme of Delegation), Part 4 (Standing Orders) and Part 6 (Codes and Protocols).

These changes are brought to Council in accordance with Articles 4.04(b) and 13.01 of the Council's Constitution.

#### **BACKGROUND:**

1. Surrey County Council's Constitution was last reviewed in 2017. Significant change has occurred since then, including the impact of the Covid-19 pandemic, the Council's move of its headquarters to Woodhatch Place, and the introduction of remote meeting technology and agile working.
2. A cross-party, broadly politically proportional Constitution Review Group (CRG) was established in late 2022 and has met four times during 2023. The Group considered a number of issues which have been raised with Democratic Services in recent years by Members and officers.
3. Following the CRG's consideration of the issues, a briefing containing the group's suggested amendments was circulated to all political groups for discussion and consideration. The suggested amendments were also considered by the Audit & Governance Committee at their meeting on 5 June 2023.
4. The Audit & Governance Committee did not consider that any of the proposals would compromise the governance of the Council, and were supportive of the proposal regarding the route of approval for the Risk Management Strategy.

## Length of Speeches

5. The CRG discussed whether the time allowed for response to the Leader's Statement at County Council meetings should be increased to 6 minutes for the leaders of opposition groups with more than 10% of the total Council membership. It was felt that this was more equitable than the current 3 minutes allowed given the Leader's Statement has no time limit. It is proposed that Part 4 of the Constitution (Standing Orders) be amended as set out in paragraph 6 below **(Recommendation 1(a))**.

### 6. Standing Order 18

Except with the consent of the Chairman, the following time limits will apply to speeches:

#### ORIGINAL MOTIONS

*(a) The mover of a motion or an amendment (6 minutes) (A Member may not speak for more than 3 minutes unless he/she has a seconder).*

*(b) The Leader, Deputy Leader, appropriate Cabinet Member or the chairman of a committee speaking to the debate on a motion or amendment (6 minutes).*

*(c) The Leader, Deputy Leader, appropriate Cabinet Member or the chairman of a committee speaking before the mover of the motion or amendment replies to the debate (3 minutes).*

*(d) The mover of the motion either speaking to an amendment or replying to the debate (3 minutes).*

*(e) The mover of an amendment replying to the debate on the amendment (3 minutes).*

*(f) The seconder of a motion or an amendment (3 minutes).*

*(g) A Member speaking in the debate on a motion or an amendment (3 minutes).*

#### OTHER BUSINESS

*(h) A Member speaking on a paragraph of a Cabinet report or of a Committee report or on the Leader's statement or in a debate (3 minutes).*

*(i) The Leader or Deputy Leader or appropriate Cabinet Member or a committee chairman either making a statement on the introduction of a report or any particular paragraph, or replying to the debate on a paragraph of a report (5 minutes).*

(j) *The Leader of the Council making the Leader's Statement (no time limit).*

**(k) Leaders of political groups with more than 10% of the total Council membership in response to the Leader's Statement (6 minutes)**

**(l) Leaders of political groups with less than 10% of the total Council membership in response to the Leader's Statement (3 minutes)**

~~(\*)~~ **(m)** *The Leader of the Council in moving the reception of the Budget, or in replying to that debate (no time limit).*

~~(#)~~ **(n)** *Group Leaders speaking in the debate on the Budget (10 minutes).*

## **Member Questions at Council**

7. The CRG discussed whether Deputy Cabinet Members could answer questions raised on their briefings to Council, as the Constitution was currently silent on this. It is proposed that Part 4 of the Constitution (Standing Orders) be amended as set out in paragraphs 8 to 11 below **(Recommendation 1(b))**.
8. **Standing Order 9.3**  
Cabinet Members **and Deputy Cabinet Members** are encouraged, prior to the commencement of any ordinary meeting of Council, to submit to the Council a short written briefing of current events and issues relating to their portfolio.
9. **Standing Order 10.2**  
In addition, Members may ask any Cabinet Member **or Deputy Cabinet Member** questions about a ~~Cabinet Member~~ briefing paper submitted in accordance with Standing Order 9.3 above.
10. **Standing Order 10.3**  
Notice of questions on matters which are not included in a report to the Council or Cabinet Member/**Deputy Cabinet Member** briefing must be given in writing to the Governance Lead Manager by 12 noon four working days before the Council meeting, i.e. normally a Wednesday.
11. **Standing Order 10.12**  
Questions submitted under SO10 will be managed as follows:
  - All first questions submitted by Members will be taken first. Second questions will follow, then third questions and so on.
  - Question time will be limited to 45 minutes.

- In addition, questions on Cabinet Member/Deputy Cabinet Member briefings will be limited to 15 minutes.
- Following the initial reply by the Leader, Deputy Leader, Member of the Cabinet or committee chairman, the Chairman will allow, at his/her discretion, a period of up to 5 minutes per question in which members of the Council may ask supplementary questions.

### **Public Questions at Committee Meetings – Supplementary Questions**

12. The CRG noted that some members of the public raised supplementary questions at committee meetings that bore no relevance to their original question; the current standing order was worded in such a way that a chairman did not have the authority to refuse such a question. This was inconsistent with the position in regard to Member questions at committee meetings as set out in Standing Order 68.9, which states that supplementary questions must be relevant to the subject of the original. Bringing Standing Order 85.5 into line with Standing Order 68.9 would resolve this anomaly and make it clearer and easier for chairmen to advise the public. It is proposed that Part 4 of the Constitution (Standing Orders) be amended as set out in paragraph 13 below (**Recommendation 1(c)**).

#### **13. Standing Order 85.5**

Following the initial reply by the Leader, Deputy Leader or Cabinet Member or committee chairman, one supplementary question **relevant to the subject of the original** may be asked by the questioner. ~~The Leader, Deputy Leader or Cabinet Member or committee chairman may decline to answer a supplementary question.~~

### **Signing of an Attendance Register - Council**

14. Changes in meeting practice resulting from the Covid-19 pandemic and the move of the Council's headquarters to Woodhatch Place have brought an end to the practice of Members signing a physical register of attendance. Instead, Members' attendance at Council meetings has been recorded by Democratic Services staff, which is in keeping with the advice given to principal councils in paragraph 11.4 of the 7<sup>th</sup> edition of *Knowles on Local Authority Meetings*. It is proposed that Standing Order 30 be amended to bring the Constitution into line with current practice and this amendment to Part 4 of the Constitution is set out in paragraph 15 below (**Recommendation 1(d)**).

#### **15. Standing Order 30**

~~Members will sign a register of attendance.~~ **Democratic Services staff will record Members' attendance at Council meetings.**

## **Standing when speaking at Council, for Procedural Motions and to call for a Recorded Vote; correction of mistakes during a Recorded Vote**

16. The practice of standing when speaking was reinstated when Council meetings returned to the Council Chamber following the Covid-19 pandemic and the requirement for remote meetings/socially distanced meetings. In practice, Members who are unable to stand due to disability/medical reasons are not required to do so, but the current standing order does not make this explicit. From an accessibility perspective, this would be preferable and would send a positive message to prospective councillors with disabilities/medical conditions. The opportunity has also been taken to bring these Standing Orders into line with current practice by amending 'Chairman' to 'Chair' (in reference to the Chair of Council).
17. A further amendment to codify the procedure for correcting mistakes during the roll call for Recorded Votes. Members were advised that they had the right to change their vote up until all votes had been cast. If a Member did not raise an issue until all the votes had been cast, there is a danger that a vote could be manipulated.
18. It is proposed that Part 4 of the Constitution (Standing Orders) be amended as set out in paragraphs 19 to 21 below (**Recommendation 1(e)**).
19. **Standing Order 15.1**  
When speaking, Members will stand **if they are able** and address the Chairman. A Member who is speaking will **immediately stop speaking and** sit down if the Chairman rises, or if another Member raises a point of order.
20. **Standing Order 23.2**  
If the procedural motion is seconded and the Chairman thinks the motion is appropriate and, for procedural motions (a), (b) and (c), there has been sufficient debate, he/she will ask if the motion has the support of ten Members (including the mover and seconder), who will show their support by standing **or otherwise indicating clearly**. If fewer than ten Members **indicate their support** stand, the procedural motion will be considered as withdrawn.
21. **Standing Order 28.1**  
Voting will be by show of hands and/or electronically unless, by standing **if they are able**, ten Members demand a recorded vote. Where a recorded vote is called, the names of those voting for or against the motion or amendment (or abstaining) will be recorded and entered in the minutes. **If a Member casts their vote incorrectly during a recorded vote, they must make this known to the Chair as soon as possible and before all votes have been cast.**

## Member Conduct Panel Chairing Arrangements

22. The Monitoring Officer recommends that the current requirement for the Chair of Council to chair the Member Conduct Panel be removed. The rationale for this is to mitigate the risk of the Chair of Council being drawn into politically contentious complaints against Members which may jeopardise their political neutrality for the remaining duration of their term as Chair. There is no proposal to change the requirement that the Panel pool of ten Members includes the Chair and Vice-Chair of Council. It is suggested that the Member Conduct Panel instead appoints a chair for each meeting.
23. It is proposed that Part 6 of the Constitution (Codes and Protocols) be amended as set out in paragraphs 24 and 25 below **(Recommendation 1(f))**.
24. **Part 6(02) – Arrangements for dealing with allegations of breaches of the Member Code of Conduct, Paragraph 10**  
The Member Conduct Panel is a cross-party Panel of Members of the Council ~~chaired by the Chairman of the County Council.~~ **The pool consists of ten Members, including the Chair and Vice-Chair of Council.** Any hearing will be conducted by three **Panel Members** ~~of their number, one of whom shall be the Chairman or Vice Chairman of the Council, who will chair the meeting. In the event that neither the Chairman nor Vice Chairman are able to chair the meeting the hearing will be conducted by three members of the Panel and the election of one of their number to chair the hearing will be the first item of business at the meeting.~~
25. **Part 6(04) Annex A – Member Role Profiles – Chair of Council Key Duties and Responsibilities, Paragraph 8**  
~~To chair the Member Conduct Panel, handling complaints against Members in line with the Constitution.~~

## Risk Management Strategy – Route of Approval

26. The Risk Management Strategy is included in Part 5 of the Constitution (Rules of Procedure). The Head of Strategic Risk has advised that any future amendments to the Risk Management Strategy are likely to be minor, and that it not a good use of Council's time or resources for it to approve such amendments. He further notes that Surrey County Council is unusual in including its Risk Management Strategy in the Constitution for final approval by Council.
27. The Audit & Governance Committee has the function of monitoring the effective development and operation of the risk management and corporate governance arrangements of the council, and reviews the strategy on an annual basis, making recommendations to Council on any amendments.

28. It is therefore proposed that the following amendment be made to Part 3, Section 2 of the Constitution (Scheme of Delegation), Paragraph 6.10(a) as set out in paragraph 29 below (**Recommendation 1(g)**).

**29. Part 3, Section 2, Paragraph 6.10(a)**

To monitor the effective development and operation of the risk management and corporate governance arrangements in the Council **and to approve the Council's Risk Management Strategy and any amendments to it.**

30. It is also proposed that Council delegates the approval of the Risk Management Strategy to the Audit & Governance Committee, with the document continuing to be included in Part 5 of the Constitution as agreed by the Audit & Governance Committee (**Recommendation 2**).

<b>RECOMMENDATIONS:</b>
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1. That Council agrees the following amendments to the Constitution:

(a) The proposed amendment to Part 4 - Standing Order 18.

(b) The proposed amendment to Part 4 - Standing Orders 9.3, 10.2, 10.3 and 10.12.

(c) The proposed amendment to Part 4 – Standing Order 85.6.

(d) The proposed amendment to Part 4 - Standing Order 30.

(e) The proposed amendment to Part 4 - Standing Orders 15.1, 23.2 and 28.1.

(f) The proposed amendments to Part 6 – Codes and Protocols – (02) – Arrangements for dealing with Member Conduct, paragraph 10 and (04) Member-Officer Protocol Annex A – Member Role Profiles, Chair of Council Key Duties and Responsibilities, paragraph 8.

(g) The proposed amendment to Part 3, Section 2 - Scheme of Delegation, paragraph 6.10(a).

2. That Council delegates the approval of the Risk Management Strategy to the Audit & Governance Committee, with the document continuing to be included in Part 5 of the Constitution as agreed by the Audit & Governance Committee.

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**Sources/background papers:**

Constitution of the Council

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