

Cyngor Sir CEREDIGION County Council

REPORT TO: Democratic Services Committee

DATE: 21 May 2021

LOCATION: Remotely via Video Conference

TITLE: Changes to the Council's Constitution

PURPOSE OF REPORT: To consider proposed changes to the Council's Constitution

BACKGROUND:

Draft amendments to the Council's Constitution regarding Notices of Motion and the Call-In Procedures were presented to the Council's Cross-Party Constitution Working Group at the 19th April 2021 Meeting (see **Appendixes 1 and 2** attached).

The Constitution Working Group agreed that these documents had been approved and that they should be presented to the Democratic Services Committee for consideration prior to being presented to Council for approval.

The Constitution Working Group Meeting of 19th April 2021 agreed that the voting provisions relating to a simple majority and the Chairperson's Second or Casting Vote (see **Appendix 3 – Extract of Council Procedure Rules in Constitution**), which have historically been the convention and operating method of Council, Cabinet and Committees of the Council, be set out in the Constitution for the Cabinet and Committees of the Council.

CURRENT POSITION:

1)The proposed amendments to the Council's Constitution regarding Notices of Motion and the Call-In Procedures are now presented to the Democratic Services Committee (see **Appendices 1 and 2** attached) for consideration.

2)The Council Procedure Rules (**Appendix 3**) state:

"14. VOTING

14.1 MAJORITY

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

14.2 CHAIRPERSON'S CASTING VOTE

If there are equal numbers of votes for and against, the Chairperson will have a second or casting vote. There will be no restriction on how the Chairperson chooses to exercise a casting vote."

The Procedure Rules/Terms of References of Cabinet and Committees do not specify this. In order to synchronise and clarify the voting procedures for all Council Committees and Cabinet, it is recommended that the Constitution is amended to regularise the arrangements so that it is set out clearly within the Constitution that Cabinet and the Committees follow the same procedure as set out within the Council Procedure Rules, as regards Voting:

- simple majority
 - Chair's casting vote
- within meetings.

RECOMMENDATIONS:

That Committee considers:

1. **Appendices 1 and 2** attached in relation to Notices on Motion and the Call-In Procedure; and
2. **Appendix 3** regarding the current principles of the voting mechanisms relating to simple majority and the Chairperson's casting vote, as set out in the Constitution in the Council's Procedure Rules

That Committee makes the following recommendations to Council regarding amending the Constitution:

- 1) Approve proposed amendments regarding Notices of Motion and the Call-In Procedure (**Appendices 1 and 2** attached)
- 2) Approve proposed amendments to regularise Cabinet and the Committees procedural arrangements to reflect the Council Procedure Rules (**Appendix 3**), as regards voting:
 - majority
 - Chairperson's casting votewithin meetings.

REASON FOR RECOMMENDATIONS: Monitoring of the governance of the Local Authority, promoting clarity and corresponding provisions & rules for Council, Cabinet and the Committees of the Council.

Contact Name:	Elin Prysor
Designation:	Corporate Lead Officer: Legal & Governance & Monitoring Officer
Acronyms:	N/A
Date of Report:	11/5/2021
Appendices:	Appendix 1 – Draft Extract of Part 4 Document A Council Procedure Rules (Motions on Notice) Appendix 2 – Draft Extract of Part 4 Document E Overview and Scrutiny Procedure Rules (Call-In) Appendix 3 - Extract of Council Procedure Rules in Constitution
Background papers	Constitution
Statutory powers:	None

Document A - Council Procedure Rules

Extract

10. MOTIONS ON NOTICE

10.1 NOTICE

Except for motions which can be moved without notice under Rule 11, written notice of every motion, signed by at least 2 (proposer and seconder) members, must be delivered to the Proper Officer (which for these purposes shall be the Monitoring Officer) not later than 5.00pm 10 working days before the date of the meeting. These will be entered in a record open to public inspection. No motion moved by notice will be debated at the Annual meeting of the Council

10.2 MOTION SET OUT IN AGENDA

Motions for which notice has been given will be listed on the agenda in the order in which notice was received, unless the member giving notice states, in writing, that he/she proposes to move it to a later meeting or withdraw it.

Any members of the Council may give notice of not more than one motion for consideration at any meeting of the Council.

10.3 SCOPE

Motions must be about matters for which the Council has a responsibility **and** **or** which substantially affect the administrative area of Ceredigion.

10.4 Amendments to Motions

Written amendments to Notices of Motion must be received by the Proper Officer no less than 1 hour not later than 5pm, 2 working days before the commencement date of the Council meeting, signed by the Proposer and Seconder and will be circulated in written form to all members at the Council meeting. Verbal amendments will be allowed at the discretion of the Chairman. A motion under Rule 10 or notice of motion to amend must be formally moved and seconded at the relevant meeting. In the absence of the recorded proposer or seconder, another member may propose or second the motion or amendment to the motion. If the motion is not moved or is not seconded then it will be treated as withdrawn.

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Document A - Council Procedure Rules

11 MOTIONS WITHOUT NOTICE

The following motions may be moved without notice:

- 11.1 to appoint a Chairperson of the meeting at which the motion is moved;
- 11.2 in relation to the accuracy of the minutes;
- 11.3 to change the order of business in the agenda;
- 11.4 to refer something to an appropriate body or individual;
- 11.5 to appoint a Committee or member arising from an item on the summons for the meeting;
- 11.6 to receive reports or adoption of recommendations of Committees or officers and any resolutions following from them;
- 11.7 to withdraw a motion;
- 11.8 to amend a motion;
- 11.9 to proceed to the next business;
- 11.10 that the question be now put;
- 11.11 to adjourn a debate;
- 11.12 to adjourn a meeting;
- 11.13 to suspend a particular Council procedure rule;
- 11.14 to exclude the public and press in accordance with the Access to Information Rules;
- 11.15 to not hear further a member named under Rule 18.3 or to exclude them from the meeting under Rule 18.4; and
- 11.16 to give the consent of the Council where its consent is required by this Constitution.

12 RULES OF DEBATE

12.1 NO SPEECHES UNTIL MOTION SECONDED

No speeches may be made after the mover has moved a motion and explained the purpose of it and until the motion has been seconded. The

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proposer of the motion shall have the right to make the first speech in relation to the motion.

Document A - Council Procedure Rules

12.2 RIGHT TO REQUIRE MOTION IN WRITING

Unless notice of the motion has already been given, the Chairperson may require it to be written down and handed to him/her before it is discussed.

12.3 SECONDER'S SPEECH

When seconding a motion or amendment, a member may reserve their speech until later in the debate.

12.4 CONTENT AND LENGTH OF SPEECHES

12.4.1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

12.4.2 No speech may exceed five minutes without the consent of the Chairperson.

12.5 WHEN A MEMBER MAY SPEAK AGAIN

A member who has spoken on a motion may not speak again whilst it is the subject of debate, except:

12.5.1 to speak once on an amendment moved by another member;

12.5.2 to move a further amendment if the motion has been amended since he/she last spoke;

12.5.3 if his/her first speech was on an amendment moved by another member, to speak on the main issue (whether or not the amendment on which he/she spoke was carried);

12.5.4 in exercise of a right of reply;

12.5.5 on a point of order; and

12.5.6 by way of personal explanation.

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12.6 AMENDMENTS TO MOTIONS

12.6.1 An amendment to a motion must be relevant to the motion and will either be:

Document A - Council Procedure Rules

12.6.1.1 to refer the matter to an appropriate body or individual for consideration or reconsideration;

12.6.1.2 to leave out words;

12.6.1.3 leave out words and insert or add others;

12.6.1.4 to insert or add words; or

12.6.1.5 to substitute another proposition.

as long as the effect of 12.6.1.2 to 12.6.1.4 above is not to negate the motion

12.6.2 Any amendments to motions will be called by the Chairperson in an order determined by the Chairperson in consultation with the Monitoring Officer, to facilitate coherent debate and to, wherever possible, allow the opportunity for all amendments to be voted upon. Each amendment will be proposed and seconded and then put to the vote in the order determined by the Chairperson.

~~12.6.3 Written amendments to Notices of Motion must be received by the Proper Officer no less than 1 hour before the commencement of the Council meeting, signed by the Proposer and Secunder and will be circulated in written form to all members at the Council meeting. Verbal amendments will be allowed at the discretion of the Chairman. A motion under Rule 10 or notice of motion to amend must be formally moved and seconded at the relevant meeting. In the absence of the recorded proposer or seconder, another member may propose or second the motion or amendment to the motion. If the motion is not moved or is not seconded then it will be treated as withdrawn.~~

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12.6.4 If an amendment is carried, the motion as amended takes the place of the original motion. This becomes the substantive motion ~~to which any further amendments are moved.~~

Document A - Council Procedure Rules

~~12.6.5 After an amendment has been carried, the Chairperson will read out the amended motion before accepting any further amendments, or if there are none, put it to the vote.~~

Extract

16. CALL-IN

16.1 When a decision is made by the Cabinet, an individual member of Cabinet or a Committee of the Cabinet or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. Members will be sent copies of the records of all such decisions within 2 working days, by the person responsible for publishing the decision. (See Document D)

16.2 The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless the decision is called-in (see below).

16.3 A call-in is the referral of a decision made, but not yet implemented, to the relevant Overview and Scrutiny Committee. Call in powers relate to (executive) Cabinet functions. Any decision made by Cabinet or a key decision made by an officer under delegated authority from Cabinet may be called-in (subject to exceptions).

A decision can be called-in when Members:

- believe it may be contrary to normal requirements of decision-making
- believe it is contrary to the Council's agreed policy framework and/or budget
- need further information from the decision-maker to explain why it was taken.

16.4 A decision is deemed to have been called in when:

- any three members of the relevant Overview and Scrutiny Committee ("the Committee") whose terms of reference relate to the Cabinet decision (as described in Article 6 of Part 2 of the Constitution), or
- six elected members of the Council, and the Chair of the Committee, object to it, and call it in by giving a valid call-in request to the Proper Officer (Head of Democratic Services).

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~~16.5~~ ~~16.4~~ On receipt of a valid Call-In request ~~During that period~~, the Proper Officer shall ~~call in a decision for scrutiny by~~ convene a meeting of the ~~relevant Scrutiny~~ Committee on such date as the Proper Officer ~~he/she~~ may determine, where possible after consultation with the Chair of the Committee, ~~and in any case~~ within 8 working days of the decision to call in. The Proper Officer He/She shall then notify the decision taker of the call-in.

16.6 A called-in decision cannot be implemented until it has been considered by the Committee.

16.7 If, following receipt of a valid call-in request ~~an objection to the decision~~, the Committee, having considered the decision, ~~either~~ but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Committee meeting.

~~16.2~~ 16.8 If, having considered the decision, the Committee is still concerned about the decision, then the Committee may refer the decision either

a) back to the decision-making person or body for reconsideration, setting out in writing the nature of its concerns and giving reasons
OR

b) to Council if the decision relates to the Council's policy framework or budget

16.9 If referred back to the decision maker, the decision-making person or body shall then reconsider the decision within a further 10 working days. Having reconsidered the decision, the decision-making person or body shall either confirm the decision, amend the decision or revoke the decision. The -decision is deemed to be final and will become effective immediately

Referrals to Council

~~16.3~~ 16.10 If a decision is referred to ~~full~~ Council by the Scrutiny Committee, a Council meeting shall be convened by the Proper Officer within 15 working days of the date of the Scrutiny Committee meeting.

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16.11 If the Council does not meet within 15 working days the decision will become effective at the expiry of the 15 days from the Committee meeting.

16.12 If Council does meet within 15 working days, ~~it shall decide whether it objects to the decision or not~~

If Council:

a) does not object to ~~a the~~ decision ~~which has been made~~, then no further action is necessary, and the decision will be effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

b) does object to the decision; ~~the~~ Council will refer the any decision to which it objects back to the decision-making person or body, together with ~~its~~ the Council's views and reasons on the decision.

16.13 Where the decision was taken by the Cabinet as a whole or a Committee of it, a meeting will be convened to reconsider the decision within 10 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 10 working days of the Council request.

~~16.4~~16.14 The decision-making body or person shall, having reconsidered the decision, choose to confirm, amend or revoke the original decision. The decision will be final and effective immediately.

-Urgent decisions

16.15 The call-in procedure set out above shall not apply where the decision being taken by Cabinet is certified as urgent in accordance with the Rules of Procedure Set out in the Constitution.

~~16.5~~16.16 A decision is deemed to will be urgent if ~~any~~ delay in the implementation of the decision likely to be caused by the call-in process would seriously

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prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in.

16.17 Having taken the advice of the Monitoring Officer into account, the Chairperson of the Council must, agree that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chairperson, the Vice-Chairperson's consent shall be required. In the absence of the Vice Chairperson, the consent of the Chairperson of the Overview and Co-ordinating Scrutiny Committee is required. In the absence of all of the above the Chief Executive (Head of Paid Service) or the Monitoring Officer's consent shall be required.

~~16.6~~16.18 Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

~~16.7~~16.19 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

Extract of Council Procedure Rules

(Voting provisions)

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14. VOTING

14.1 MAJORITY

Unless this Constitution provides otherwise, any matter will be decided by a simple majority of those members voting and present in the room at the time the question was put.

14.2 CHAIRPERSON'S CASTING VOTE

If there are equal numbers of votes for and against, the Chairperson will have a second or casting vote. There will be no restriction on how the Chairperson chooses to exercise a casting vote.

14.3 SHOW OF HANDS

Unless a ballot or recorded vote is demanded under Rules 14.4 and 14.5, the Chairperson will take the vote by show of hands, or if there is no dissent, by the affirmation of the meeting.

14.4 BALLOTS

The vote will take place by ballot if a majority members present at the meeting demand it. The Chairperson will announce the numerical result of the ballot immediately the result is known.

14.5 RECORDED VOTE

If the Council so decides by resolution, the names for and against the motion or amendment or abstaining from voting will be taken down in writing and entered into the minutes. A demand for a recorded vote will override a demand for a ballot save in relation to the appointment of officers.

14.6 RIGHT TO REQUIRE INDIVIDUAL TO BE RECORDED

Where any member requests it immediately after the vote is taken, their vote will be so recorded in the minutes to show whether they voted for or against the motion or abstained from voting.

14.7 VOTING ON APPOINTMENTS OF ELECTED MEMBERS TO POSITIONS TO BE FILLED BY THE COUNCIL

Those entitled to vote shall each vote for only one person. If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.