

Report to Governance Committee

6 June 2022

Constitution Review

Report by Director of Law and Assurance

Electoral division(s): Not applicable

Summary

As public health restrictions have largely come to an end, it is timely to review the changes made to Standing Orders that provided for virtual meetings. Several other changes to the Constitution are proposed to improve or clarify the current wording.

Recommendations

- (1) That the changes to the Constitution set out in Appendix 1 be endorsed for recommendation to the County Council for approval on 15 July 2022; and
 - (2) That the position on the webcasting of Governance Committee meetings be noted.
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Proposal

1 Background and context

- 1.1 Over the last two years a number of changes were made to the Constitution, some in response to the coronavirus pandemic and others to help make County Council meetings run more effectively.
- 1.2 Virtual formal meetings were allowed by emergency Regulations from April 2020 to May 2021 but the Government has indicated that it does not intend to make provision for virtual formal local government meetings in the near future.
- 1.3 It is therefore timely to review the Standing Orders introduced to allow limited virtual meetings during the pandemic. There are two considerations. First, in which circumstances members can participate in a virtual meeting and second, whether virtual attendance should count as a formal meeting attendance.
- 1.4 The Governance Committee in May 2022 asked for a report to be prepared to review these arrangements with a view to meetings of the full County Council returning to being in-person only. Other options for consideration have arisen in light of the experience of the operation of the arrangements to date.

2 Proposal details

- 2.1 Appendix 1 sets out a number of proposed changes to Standing Orders and the views of the Committee are sought. Any agreed changes will then go to the County Council in July 2022 for consideration and approval.

Virtual Attendance at Meetings

- 2.2 For non-decision-making meetings under the Local Government Act 2000 (i.e. Scrutiny Committees) the legal position is that these can meet virtually or physically or in hybrid form. This is not available for decision-making business at non-executive committees nor the County Council. Standing Order 3.09e currently allows members to participate virtually in non-decision-making parts of the County Council meetings. This mainly covers question time.
- 2.3 The main advantages of virtual participation are that it can save on travel time for members, giving them more time for other work and reducing the carbon impact of travel. It allows participation for members who are unwell or have other commitments but still able to take part and it can assist members with caring responsibilities. It also leads to improved attendance.
- 2.4 The main advantages of in person participation are that members are better able to network and have informal discussions. Confidence in full engagement in the meeting is greater and procedures for speaking and voting are easier. Chairing can be easier with all members in one space.
- 2.5 If the Committee takes the view that County Council meetings become in person only, meaning that members cannot participate in any part of the business virtually then Standing Order 3.09e will need to be deleted. If this is done, virtual attendance will not be permitted for any part of the agenda and so cannot count as attendance. The screens would be freed up for use within the chamber only – including the speech timer. Virtual attendance at scrutiny committees could be regulated to encourage in-person attendance by making it a requirement that a member contacts the Chairman to request virtual attendance, for a reason included in the suggested criteria.
- 2.6 At the last meeting of the Committee, a request was made to review webcasting of its meetings in light of the decision to webcast Health and Wellbeing Board meetings for a one-year trial. The Committee agreed in September 2021 that webcasting should revert to the pre-pandemic arrangements, with meetings of significant public interest being webcast (County Council, Cabinet, Scrutiny Committees, Planning and Rights of Way Committee). Other meetings may be webcast if matters of significant public interest are to be discussed or if the chairman of the meeting agrees. This Committee is due to review webcasting again in spring 2023, including the one-year trial of webcasting Health and Wellbeing Board meetings.

Decisions to cancel meetings

- 2.7 Following the experience in February 2022 where the County Council meeting had to be rearranged due to extreme weather, it is proposed to add a new Standing Order 3.09(f) to provide for a chairman to agree to the cancellation of a meeting when the agenda has already been issued, on the advice of the Director of Law and Assurance.

Treatment of Motions under Standing Order 2.23 (k)

- 2.8 One of the changes introduced to the order of Council business was that notices of motion will be later on the agenda, following decision-making items and question time. Standing Order 2.23(k) states that any item of business that falls away from the previous agenda will be added to the next meeting and is expected to be taken early on the agenda.
- 2.9 Now that Standing Orders 2.48-49 assume a limit of two notices of motion at each meeting, to be determined by the Chairman, this conflicts with Standing Order 2.23(k). It is proposed that notices of motion are excluded from the rule in Standing Order 2.23(k) to make it clear that motions on the agenda for one meeting, but not reached, are not automatically added to the next meeting's agenda. They will be added to any further notices of motion submitted for consideration by the Chairman, in consultation with group leaders.

Time limit for Motion subjects returning for consideration

- 2.10 The Chairman has asked whether the six-month period which prevents a subject being re-considered should be extended to a longer period, say within the four-year Council term, subject to the discretion of the Chairman to allow a shorter time if the nature of the subject of the motion is considered timely. This would reduce the risk of motions being submitted for consideration within a relatively short period of previous debate. Standing Order 2.55 in Appendix 1 sets out the proposal.

Substitution

- 2.11 Another proposed change to the Constitution is to allow substitution on the Governance Committee, due to the significance of its responsibilities. It is proposed to appoint a panel of substitutes in a similar manner to the Planning and Rights of Way Committee. For consistency, it is also proposed to create a panel of substitutes for the scrutiny committees, to provide more flexibility in substitution than the current one per group arrangement. Proposed additions are set out for Standing Orders 6.03 and 6.04 in Appendix 1.

3 Other options considered (and reasons for not proposing)

- 3.1 All proposals in section 2 are designed to improve and clarify arrangements in line with members' wishes. It is possible to leave the situation as it currently stands if the Committee does not wish to take forward any of these proposals. Other proposals for change can be considered at a future meeting.

4 Consultation, engagement and advice

- 4.1 Not applicable.

5 Finance

- 5.1 There are no revenue or capital finance consequences nor any further resource implications.

6 Risk implications and mitigations

Risk	Mitigating Action (in place or planned)
Conflicting Standing Orders can be open to interpretation and uncertainty.	The changes suggested in Appendix 1 will remove conflicts to ensure a smoother democratic process.

7 Policy alignment and compliance

7.1 Not applicable.

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Appendices

Appendix 1 – Proposed Changes to the Constitution

Background papers

None