

CONSTITUTION AND ETHICS COMMITTEE	AGENDA ITEM No. 5
8 FEBRUARY 2021	PUBLIC REPORT

Report of:	Fiona McMillan, Director of Law and Governance and Monitoring Officer	
Cabinet Member(s) responsible:	Councillor Farooq, Cabinet Member for Digital Services and Transformation	
Contact Officer(s):	Dan Kalley, Senior Democratic Services Officer and Pippa Turvey, Democratic and Constitutional Services Manager	Tel. 296334

REVIEW OF URGENCY WORDING

RECOMMENDATIONS	
FROM: <i>Director of Law and Governance and Monitoring Officer</i>	Deadline date: <i>N/A</i>
<p>It is recommended that the Constitution and Ethics Committee:</p> <p>1. Review and comment on the wording of the Council's urgency procedures and make any recommendations for change to Full Council.</p>	

1. ORIGIN OF REPORT

- 1.1 This report is submitted to the Constitution and Ethics Committee following a request from the Committee to review the wording of the Council's use of urgency procedures as set out in the Constitution.

2. PURPOSE AND REASON FOR REPORT

- 2.1 The purpose of this report is to allow the Committee the opportunity to review and comment on the wording of the Council's urgency process and make any suggested changes to Full Council for approval.

- 2.2 This report is for the Constitution and Ethics Committee to consider under its Terms of Reference No. 2.7.2.1

Authority to oversee the operation of the Council's Constitution and authority to make recommendations to Full Council as to amendments and improvements to the Council's Constitution (including the codes and protocols) subject to the receipt and consideration of a report prepared by the Monitoring Officer, with the exception of those matters under the remit of the Executive.

3. TIMESCALES

Is this a Major Policy Item/Statutory Plan?	NO	If yes, date for Cabinet meeting	
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4. BACKGROUND AND KEY ISSUES

- 4.1 The Constitution and Ethics Committee at its last meeting on 20 October 2020 agreed to review the wording used in the Council's Constitution outlining the procedures for a Cabinet Member Decision to be taken using urgency procedures.
- 4.2 The current wording in the Constitution is set out in Part 4 Section 7 – Executive Procedure Rules. Some of the wording has been updated in to reference the Chair of Scrutiny Committees in place of 'Chairman'.

A further change has been incorporated into the wording of the Scrutiny Committee Procedure Rules to bring it in line with those in the Executive Procedure rules to state that if the Chair of the relevant Scrutiny Committee is unable to act then the request for urgency is then sought from the Mayor or in their absence the Deputy Mayor.

This is keeping in line with [Statutory Instrument 2012/2089 - The Local Authorities \(Executive Arrangements\) \(Meetings and Access to Information\) \(England\) Regulations 2012, regulation 11](#), which sets out that in the event of the relevant Scrutiny Chair being available agreement to use special urgency needs to be sought from the Chair of the Local Authority and if absent from the Deputy Chair.

6. GENERAL EXCEPTION - URGENCY

6.1

If a matter which is likely to be a key decision has not been included in the Forward Plan, then subject to special urgency, the decision can still be taken if:

- (a) it is impractical to defer the decision until it has been included in the next Forward Plan and the start of the first period because the decision must be taken sooner.
- (b) the Monitoring Officer has informed the Chair~~man~~ of the relevant Scrutiny Committee, or in the absence of a Chair~~man~~, each Member of that Committee by notice in writing
- (c) the Monitoring Officer has made copies of that notice available to the public at the offices of the Council
- (d) at least five clear working days have elapsed since the Monitoring Officer complied with paragraphs (b) and (c) above.

6.2

Where such a decision is taken by Cabinet as a whole, it must be taken in public subject to these provisions.

7. SPECIAL URGENCY

Should a decision need to be taken urgently and the provisions in paragraph 6 above cannot be followed, the decision taker (an individual or the Chair~~man~~ of the decision-making body) must obtain the agreement of the Chair~~man~~ of the relevant Scrutiny Committee before the decision can be taken. If there is no Chair~~man~~ of this Committee, or if the Chair~~man~~ is unable to act, then the agreement of the Mayor, or in his or her absence the Deputy Mayor will suffice

8. REPORTS ON SPECIAL URGENCY DECISIONS

Executive decisions taken in the circumstances set out in paragraph 7 (Special Urgency) will be reported to the Council by the Leader. The report will include the number of decisions taken and a summary of each decision within preceding three months.

- 4.3 In addition to the wording above the Constitution also sets out in Part 4 Section 8 – Scrutiny Committee Procedure Rules.

Some of the changes are to bring this in line with the Executive Procedure rules.

CALL-IN AND URGENCY

10.24

The call-in procedure set out above will not apply where the decision is urgent or becomes urgent during the process. A decision will be urgent if any delay would seriously prejudice the Council's or the public interest. The request for a decision to be deemed urgent will be considered by the Chair~~man~~ of the relevant committee and the Monitoring Officer. They will take into account the reasons provided. If there is no Chair of this Committee, or if the Chair is unable to act, then the agreement of the Mayor, or in his or her absence the Deputy Mayor will suffice.~~In the absence of the relevant Chairman, another Scrutiny Committee Chairman will consider this.~~ The decision will only be taken if the Chair~~man~~ of the relevant Scrutiny Committee agrees that the decision is a matter of urgency.

10.25

The public record of the decision will state:

- Why in the opinion of the decision-making person or body, the decision is or has become an urgent one.
- The consent of the relevant Scrutiny Chair~~man~~.
- In the absence of the relevant ~~all~~ Scrutiny Chair~~man~~, the consent of the Mayor will be required. In their absence, the consent of the Deputy Mayor will be sufficient.

10.26

Decisions taken under the urgency procedures and where call in has been waived will be reported to the next available meeting of the Council. Details of the reasons of urgency will also be provided.

10.27

The operation of the provisions relating to call-in and urgency shall be monitored annually. A report will be submitted to Council with proposals for review if necessary.

5. CONSULTATION

- 5.1 Any changes to the Council's constitution needs to be approved by Full Council. The Constitution and Ethics Committee are the consultees in relation to any suggested amendments to Full Council.

6. ANTICIPATED OUTCOMES OR IMPACT

- 6.1 If the Committee agrees to any suggested changes these will need to be presented to Full Council for approval and if agreed the Constitution will need to be updated to reflect the changes.

7. REASON FOR THE RECOMMENDATION

- 7.1 The recommendation outlined is at the request of the Committee to review the Council's urgency procedures and suggest any alterations.

8. IMPLICATIONS

Financial Implications

8.1 There are no financial implication arising.

Legal Implications

8.2 If any changes are agreed these will need to be legal and changes to the Constitution will need to be carried out.

Equalities Implications

8.3 There are no equalities implications arising.

9. BACKGROUND DOCUMENTS

Used to prepare this report, in accordance with the Local Government (Access to Information) Act 1985

9.1 Council Constitution:

- Part 4 Section 7 – Executive Procedure Rules
- Part 4 Section 8 – Scrutiny Committee Procedure Rules.

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

10. APPENDICES

10.1 None.