



Committee and Date

Council

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Item

**10**

Public

## AMENDMENTS TO THE CONSTITUTION

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### 1. Summary

- 1.1 A review of Part 4 of the constitution has been undertaken by a small working group with a view to amendments being presented to Council for approval. Following discussion in relation to the Council Procedure Rules by the working group, two contentious issues were resolved at a meeting of the Political Structures Monitoring Group.
- 1.2 The Strategic Licensing Committee, at its meeting held on the 18<sup>th</sup> of March 2015, recommended a number of changes to the Licensing Act Sub Committee Procedure Rules.
- 1.3 In addition, at a Portfolio Holders Decision Making Session held on the 7<sup>th</sup> of April 2015, Cllr Mal Price took a decision to adopt a new Shropshire Council Tenancy Policy in respect of flexible tenancies. As a consequence of this, amendments are required to the constitution in Part 3, functions of the Housing Review Panel, and part 8, Delegation to Officers
- 1.4 The Anti-social Behaviour, Crime and Policing Act 2014 introduces a new absolute ground for possession of a property. In order to rely on this, amendments are required to Part 3 of the Constitution relating to the Housing Review Panel.

### 2. Recommendations

- 2.1 That the following amended procedure rules attached as appendices to the report be approved and be included in the Constitution of the Council:
  - a) Council Procedure Rules
  - b) Access to Information Procedure Rules
  - c) Budget and Policy Framework Procedure Rules
  - d) Standing Orders Relating to Proceedings and Business
  - e) Executive Procedure Rules
  - f) Licensing Act Sub Committee Procedure Rules

g) Standing Orders relating to Staff

- 2.2 That, in Part 3 of the Constitution – Responsibility for Functions, the functions of the Housing Review Panel be extended to include a provision to determine requests:
- a) by Flexible Tenants for a review of a decision:
    - i. as to the length of the tenancy offered; and
    - ii. to not grant a further flexible tenancy
  - b) for a review of a decision to seek possession under the Anti-social behaviour, Crime and Policing Act 2014.
- 2.3 That the Head of Adult Social Care is authorised to issue notices, commence court proceedings and make decisions to gain possession of a flexible tenancy on one of more of the statutory grounds and that such authority be included in the Scheme of Delegation set out in Part 8 of the Constitution.

## REPORT

### 3. Risk Assessment and Opportunities Appraisal

The Council needs to keep its procedures under review in order to ensure that they provide a legal basis for decision making in a manner that best suits the Local Authority.

### 4. Financial Implications

There are no financial implications to the Council as a result of this report.

### 5. Background

- 5.1 A review of Part 4 of the Rules of Procedure in the Constitution has been undertaken by a small working group of members comprising Councillors Keith Barrow, Pauline Dee, Roger Evans, David Lloyd and Mansell Williams, with a view to amendments being presented to Council for approval. Members of the working group agreed to take responsibility for ascertaining the wishes of and providing feedback to members of their respective groups. Following discussion by the working group in relation to the Council Procedure Rules, two contentious issues were resolved at a meeting of the Political Structures Monitoring Group.
- 5.2 On the 18<sup>th</sup> of March 2015 the Strategic Licensing Committee considered a proposed amendment to the Licensing and Safety Sub Committee Procedure Rules set out in Part 4 of the Constitution.
- 5.3 At a Portfolio Holders Decision Making Session held on the 7<sup>th</sup> of April 2015, Cllr Mal Price took a decision to adopt a new Shropshire Council Tenancy Policy in respect of flexible tenancies. As a consequence of this, amendments are required to the constitution in Part 3, functions of the Housing Review Panel, to ensure that the Local Authority has a mechanism in place through which a tenant can request that a decision to commence possession proceedings is reviewed, and part 8,

Delegation to Officers, to enable Officers to commence possession proceedings where appropriate.

5.4 The Anti-social Behaviour, Crime and Policing Act 2014 introduces a new absolute ground for possession of a property. There is a statutory right for the tenant to request a review of the decision to seek possession. The Council needs to have a mechanism in place in order to determine the review.

5.5 The revised Council Procedure Rules agreed by the working group and which reflect the decisions made at the meeting of the Political Structures Monitoring Group are attached at appendix 1. Amendments which have been made are as follows:

- a) References to Executive amended to read "Cabinet" and associated definitions updated [Para 1.6]
- b) Tidied up references to Speaker and Chairman [2.2]
- c) Remove reference to Standards Committee not to comply with political balance rules [2.5]
- d) Include reference to statements in public question time to remove inconsistency with other provisions [3.2 (vi)]
- e) Include specific reference to petitions [3.2 (vii)]
- f) Move authority of Chief Executive to more appropriate place [4.2(ii) to new 4.1(v)]
- g) Clarify term of office of committee chairman [5.1]
- h) Remove prohibition on appointment of substitutes re standards committee and remove reference to area licensing committees [7.2]
- i) Clarify rules on substitution [7.4]
- j) Clarification of appointment to fill casual vacancy in office of chairman or speaker [11.4]
- k) Reduce time allowed for petition organiser to speak from 5 to 3 minutes [14.1 (xi)]
- l) Extend reasons for CE to reject a question or petition [14.5]
- m) Clarify who can respond to question at Council [14.6]
- n) Enable Speaker to reject supplementary question [14.7]
- o) Clarify reference by council of question statement or petition to Cabinet or a committee [14.9]
- p) Extend questions to chairman by members of a committee to all members [15.3]
- q) Remove anomaly re notice for member questions at council
- r) Extend motions on notice to include a reference from a group leader (if he has the consent of all in the group) [16.1]
- s) Reduce length of speeches to 3 minutes [18.4]
- t) Remove unnecessary provisions [18.5 (g) in entirety and part 18.10 (b)]
- u) Members must be "present" and voting [20.1]
- v) Correct erroneous paragraph number re voting [20.3]
- w) Update required in consequence of legislative change [28.1 (ii) (a)]
- x) Correct application of rules to committees [32.2]

- 5.6 The amended Access to Information Procedure Rules agreed by the Working Group are attached as appendix 2. Amendments which have been made are as follows:
- a) References to Executive amended to read "Cabinet"
  - b) Clarification of rights relating to the protection of information [para 2]
  - c) Clarification of the right of the public to attend meetings [para 3]
  - d) Certain notices to be included on the Council website [paras 4 and 15]
  - e) Clarification of the exclusion of access by the public to attend meetings [para 10]
  - f) Extension of the application of the rules to include decisions taken by Portfolio Holders [para 12]
  - g) Extension of notice and content of Forward Plan [paras 13 and 14]
  - h) Requirement to give notice of reasons for failing to give notice [para 15]
  - i) Reasons to be given for special urgency [para 16]
  - j) Details of the content of a report to Council from the Cabinet [para 16]
  - k) Amended content to be included in Record of Decisions [para 18]
  - l) Clarification of rights to attend meetings of Cabinet [para 19.1]
  - m) New section on private meetings of the Cabinet [para 20]
  - n) Amendments to Portfolio Holders decision making session rules [para 21]
  - o) Scrutiny Committee to have access to documents relating to an officer executive decision [para 22]
  - p) Extension of additional rights of access for members [para 24]
  - q) Clarification of rules relating to disclosure of information [para 25]
- 5.7 The amended Budget and Policy Framework Procedure Rules agreed by the working group are attached at appendix 3. Amendments which have been made are as follows:
- a) References to Executive amended to read "Cabinet"
  - b) Inclusion of "Committee of the Cabinet" as appropriate
  - c) Clarification of roles relating to Budget and Policy proposals [para 2]
  - d) In absence of Chairman of Scrutiny Committee, provision for others to consider urgency of decision [para 4]
  - e) Extension to in-year changes to policy framework [para 6(e)]
- 5.8 The Standing Orders Relating to Proceedings and Business are attached at appendix 4. These are legislative requirements and have been reformatted for greater clarity.
- 5.9 The amended Executive Procedure Rules agreed by the working group are attached at appendix 5. Amendments which have been made are as follows
- a) References to Executive amended to read "Cabinet"
  - b) Clarification regarding the sub-delegation of executive functions [para 1.3]
  - c) Amendment to timing of meetings of Cabinet [para 1.5]
  - d) Inclusion of Decision Making sessions by members of the Cabinet [para 1.9]
  - e)

5.10 The Licensing and Safety Sub Committee Procedure rules agreed by the Strategic Licensing Committee are attached as appendix 6 and have been amended as follows:

- a) Paragraphs 6 and 7 References to 'Licensing Officer' amended to read 'Team Manager (Transactional Management)'
- b) Paragraph 7 - the powers delegated to the Team Manager (Transactional Management) extended to include decisions in respect of private hire operator licences.
- c) Annex A (Procedure Guidance Notes for Members) – all references to 'Licensing Team Leader' amended to read 'Team Manager (Transactional Management) or their appointed representative'
- d) Annex B (Matters of Procedure for the Licensing Decision Maker):
  - i. Reference to 'Licensing Officers' amended to read 'the Licensing Decision Maker'
  - ii. The Team Manager (Transactional Management) is specifically required, prior to making decisions, to consult with the Council's safeguarding lead officers for Adult and Children's Services and an appropriate officer from West Mercia Police. They may also consult with any other officer of the Council or a representative from any other relevant external agency or organisation as they consider appropriate.
  - iii. A decision may be made for immediate suspension of licences without the licence holder being informed prior to the decision being made however they will be informed following the decision and will be given the opportunity to make representations
  - iv. The time period for licence holders to submit representations to be amended to read '10 working days'

5.11 The Standing Orders Relating to Staff are attached at appendix 7. These are legislative requirements and have been reformatted for greater clarity.

5.12 The Overview and Scrutiny Procedure rules are not included at this stage as there is an ongoing wider review of the delivery of Overview and Scrutiny.

**List of Background Papers (This MUST be completed for all reports, but does not include items containing exempt or confidential information)**

Strategic Licensing Committee agenda dated 18<sup>th</sup> March 2015

**Cabinet Member (Portfolio Holder)**

**Local Member**

All Members

**Appendices**

1. Council Procedure Rules
2. Access to Information Procedure Rules
3. Budget and Policy Framework Procedure Rules
4. Standing Orders Relating to Proceedings and Business
5. Executive Procedure Rules
6. Licensing Act Sub Committee Procedure Rules
7. Standing Orders relating to Staff