

Council Motion 3 – Proposed Amendment to the Constitution

RECOMMENDATION

1. To take into account this report when considering the motion.

SUPPORTING INFORMATION

- 2.1 Notice of Motion 3 on the Council agenda is as follows:

Councillor Williamson to move, Councillor Roberts to second:

“That paragraph 7.4d of Article 7 of the Constitution be amended to read:

‘the next annual meeting of the Council unless they are removed from office, either individually or collectively, by resolution of the Council. In the case of a Council Cabinet Member who is a member of a political group, the leader of the political group must also approve his/her removal from office.’ ”

- 2.2 Article 7.4 of the Constitution, which was drafted in 2001 when the Council's new Executive Arrangements under the Local Government Act 2000 were introduced, is currently worded as follows:

7.4 Other Council Cabinet members

Other Council Cabinet members shall be elected by the Council at its annual meeting, or such other meeting called for that purpose, and shall hold office until:

- a. they resign from office; or*
- b. they are suspended from being councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or*
- c. they are no longer councillors; or*
- d. the next annual meeting of the Council save that the Council may remove them from office, either individually or collectively,*

at an earlier date but only in the event of a change in political control of the Council.

- 2.3 The 2000 Act requires Councils to take into account any statutory guidance issued by the Secretary of State. Relevant extracts from this guidance (DCLG New Council Constitutions Guidance Pack May 2006) are reproduced below:

Chapter 4 – The Executive

4.68 The local authority should consider how to frame such provisions so as to provide that generally the elected leader and members of the cabinet would not be removed from office as part of normal procedures for resolving conflicts between the council and the executive. The local authority's executive arrangements may therefore include arrangements for appointing the executive leader and/or other executive members for a fixed term, subject to exceptional circumstances such as change of control of the local authority (particularly in hung or balanced local authorities). The local authority will have to ensure that those arrangements include provision for filling vacancies in the offices of executive members (including the executive leader).

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Two alternative forms of words are given for sub paragraph d of model Article 7.4 as follows:

'they are removed from office, either individually or collectively, by resolution of the Council'

'[expiry date of fixed term] save that the Council may remove them from office, either individually or collectively, at an earlier date but only in the event of a change in political control of the Council.'

- 2.4 In my view, the motion proposed by Councillor Williamson does not conflict with the statutory Guidance as it falls within the parameters of the first of the above options.

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Background papers:	None
List of appendices:	Appendix 1 – Implications

IMPLICATIONS

Financial

1. None directly arising

Legal

2. Article 15.2 of the Constitution provides that changes to the Constitution will only be approved by the full Council after consideration of a report by the Monitoring Officer.

Personnel

3. None directly arising.

Equalities Impact

4. None directly arising.

Corporate Themes and Priorities

5. None directly arising.