

COUNCIL

19 OCTOBER 2023

REVIEW OF THE CONSTITUTION

Portfolio Holder: Councillor Vince Maple, Leader of the Council
Report from: Bhupinder Gill, Assistant Director Legal and Governance
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Summary

This report sets out a review of the Council Rules, which form part of the Council's Constitution.

This report was included on the agenda for the Council meeting held on 20 July 2023 at the request of the Leader of the Council. At that meeting, Leader of the Council, Councillor Maple, supported by the Deputy Leader of the Council, Councillor Murray, proposed the recommendations set out in section 1 of the report. As these proposals recommend changes to the Council Rules, these matters were taken forward without discussion for debate at this Council meeting.

1. Recommendation

- 1.1. The Council is asked to approve the changes to the Council Rules as set out in Appendix A to the report in respect of changes to arrangements for the nomination of the Mayor and Deputy Mayor and supplementary questions, in relation to public questions.

2. Budget and policy framework

- 2.1. The proposed changes to the Constitution set out in the report are a matter for decision by the Council.

3. Background

- 3.1. Following the election of the new Leader of the Council at the Annual Council meeting in May 2023, the Leader asked that certain matters be reported to Full Council on 20 July 2023 for consideration, specifically, overview and scrutiny committees' terms of reference, public questions and the rules for the nomination of Mayor and Deputy Mayor. The Council considered and

approved changes to the overview and scrutiny committees' terms of reference, whilst the proposed changes to public questions and the rules for the nomination of Mayor and Deputy Mayor were taken forward without discussion for debate at this meeting, in accordance with paragraph 16.2 of the Council Rules in the Constitution.

- 3.2. **Rules for the nomination of Mayor and Deputy Mayor:** The current rules have been in place since the 2010/2011 municipal year following Full Council's decision on 5 March 2009 as follows:

"That with effect from the 2010/2011 Municipal Year, Rule 19 - Nomination of Mayor and Deputy Mayor shall be removed and replaced by the following:

19.1: The Mayor shall be elected by the Council from among the Councillors at the Annual Meeting and, unless a casual vacancy occurs, the Mayor shall continue in office until a successor is elected.

19.2: The Deputy Mayor shall also be elected by the Council from among the Councillors at the Annual meeting.

19.3 Except in the year of Medway Council Elections, the Council at its ordinary meeting before the Annual meeting shall nominate candidates to be recommended for election as Mayor and Deputy Mayor at the Annual Meeting (minute no. 705A/2009 refers)."

- 3.3. The Council most recently considered a report to change these rules back to the points system in July 2019. This proposal was not agreed by the Council (minute no. 165/2019 refers).
- 3.4. The Leader of the Council has requested that a proposal to reintroduce the points system be brought forward for consideration. The proposed changes to the Council Rules are set out in Appendix B to the report.
- 3.5. Medway Council was established on 1 April 1998. The first annual meeting of the Council was held on 6 May 1998 and the Mayor and Deputy Mayor were elected from among the Councillors present at the meeting (minute nos. 62 and 63/1998 refer). Subsequently, the Policy and Resources Committee agreed a points system on 26 May 1998 for the selection of Mayor and Deputy Mayor (minute no. 260/1998 refers), which was applied between 1999-2009.
- 3.6. At the time of when the points system was established, it was considered that a system whereby each political group was credited on 1 January each year with a number of points equal to their total number of elected Members was the fairest and most appropriate system.
- 3.7. Under this system, the political group with the highest number of points on 1 January, would, following a report to Full Council every January setting out the outcome of the calculations in accordance with the scheme, be invited to nominate candidates for the Mayoralty for the ensuing year. Having accepted

the invitation, that group would, on the following 1 January be debited with a number of points equivalent to the whole number of Members on the Council.

- 3.8. The effect of adopting the proposed changes with effect from 1 January 2024, should they be agreed, is set out in Appendix B to the report. This sets out the calculations with effect from 1 January 2024 for the remainder of the electoral term. For the avoidance of doubt, the proposed rules for the points system are the same which were in use between 1999-2009, subject to minor changes advised by the Assistant Director Legal and Governance regarding Rules 20.1 and 20.9, as set out in Appendix A.
- 3.9. Members will note that proposed Council Rule 20.8 states: “Any political group not having been represented on the Council for a continuous period of 15 months or more shall be eliminated from the points system”. The previous practice was that existing Political Groups would continue to be recognised following the formal establishment of the Political Groups following each local elections during the previous period that the points system applied. This practice will be followed should the points system be adopted.
- 3.10. **Public questions:** the current arrangements for dealing with public questions (and Member questions) were agreed by the Council on 15 October 2015 (minute no. 431/2015 refers). In particular, this removed the right for a questioner to ask a supplementary question, after receiving a response to their question.
- 3.11. The Leader of the Council has requested that a proposal to reintroduce the option for supplementary questions in relation to public questions only be brought forward for consideration. The proposed changes to the Council Rules are set out in Appendix B to the report and this would limit the response to a supplementary question to no more than three minutes.

4. Advice and analysis

- 4.1. It is a matter for the Council to determine arrangements for public questions at Council meetings. As outlined above, the rules for relating to the arrangements for public questions were last amended by Full Council in October 2015.

5. Financial, legal and risk management implications

- 5.1. There are no financial or risk management implications arising directly from this report.
- 5.2. The Council's current arrangements for the election of Mayor and the appointment of Deputy Mayor each year are consistent with the legislative provisions, specifically sections 3-5 of the Local Government Act 1972. This states, specifically, that the Mayor shall be elected annually by the Council from amongst its Councillors. Whilst a points-based system could be adopted by the Council, this cannot take precedence over the statutory basis for the election of Mayor and appointment of Deputy Mayor as detailed above.

- 5.3. Should a points-based system be adopted by the Council, a group must comprise two Members to qualify as a political group, in accordance with the Local Government (Committees and Political Groups) Regulations 1990. Therefore, the Labour and Co-operative Group, Conservative Group and the Independent Group would qualify under these regulations.
- 5.4. If the proposed changes are agreed by the Council, the decision will have the effect of amending the Constitution with effect from 1 January 2024. A report will then be submitted to Full Council on 25 January 2024 setting out the outcome of the calculations under this system. In addition, the Constitution will be updated accordingly to reflect the changes to Council Rule 20.

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Appendices

Appendix A – Council Rules
Appendix B – Mayoralty points system

Background papers

None