

REPORT FROM: CORPORATE DIRECTOR

TO: COUNCIL

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PROPOSED AMENDMENTS TO THE COUNCIL CONSTITUTION

RECOMMENDATIONS

- (1) That Annual Council be recommended to appoint 4 Area Committees as set out in paragraphs 5-8.
- (2) That the amendment to the Call In Procedure be approved.
- (3) That the updated Councillor Code of Conduct be approved.
- (4) That the Rule of Procedure relating to the Budget Council meeting be approved.

ISSUE

1. In preparation for the new, smaller Council from May 2021, work is underway on revising the Council Constitution.
2. The following matters have been considered by the Member Governance Working Group and are now brought to Council for decision.

Area Committee Structure

3. The reduction in wards from 20 to 11, arising from the electoral review, mean that it will no longer be practicable to have 5 area committees. Earlier in the year area committees were asked for their views and they responded as follows:

Barrowford and Western Parishes

That Council be recommended to reduce the number of area committees to 4 in the new municipal year so that Barrowford and Pendleside could stand alone as a committee.

Brierfield and Reedley

That Council be recommended to agree to have 3 area committees.

West Craven

That Council be recommended to agree that the future membership of West Craven Committee be made up of 3 Barnoldswick Members and 3 Members from Earby and Coates within the new structure of area committees.

Colne and District

That Council be recommended to agree to have 4 area committees.

Nelson

That Council be recommended to have 3 area committees.

4. There are differing views with the choice between three or four.
5. It seems obvious that there should be a West Craven Committee comprising the six members from Barnoldswick and Earby and Coates wards.
6. Similarly it seems obvious there should be a Colne and District Committee comprising the nine members from Boulsworth and Foulridge, Vivary Bridge and Waterside and Horsfield.
7. A Nelson Committee would comprise nine members from Bradley, Marsden and Southfield and Whitefield and Walverden. However, that leaves out Clover Hill which is part of Brierfield East and Clover Hill. Adding that ward in sensibly means also adding in Brierfield West and Reedley otherwise Brierfield is split between two area committees. A Nelson, Brierfield and Reedley Committee would comprise fourteen members.
8. Notwithstanding the view expressed by the current Barrowford and Western Parishes committee that Barrowford and Pendleside should be standalone, it is suggested that Fence and Higham should also be included in a new Barrowford and Western Parishes committee. Even then it would comprise only four members which is undesirably small. That can only be overcome by having a structure of 3 area committees.
9. The final decision on this will be taken at Annual Council when it appoints committees. However, it would be useful to have an indication of the Council's views as preparatory work on reports etc., will need to start well in advance of May.

Amendment to Call in Procedure

10. When the Council moved to a committee system in May 2018 it retained a call in procedure for Policy and Resources Committee decisions. A question of interpretation has arisen as to whether a decision by that Committee on a planning matter is capable of being called in.
11. Call in is a fundamental element of Scrutiny under executive arrangements. The legal regulations defining what are executive functions expressly exclude functions of a quasi-judicial nature such as development management and licensing.
12. This is why the Council had to appoint a Development Management Committee to deal with applications referred from area committees on the grounds of costs or significant departure from policy. Legally they could not go to the Executive.
13. There was no procedure for call in from Development Management. Nor has there ever been any call in procedure for the vast majority of planning matters determined by area committees.
14. The terms of reference for the call in procedure do not expressly exclude planning matters. However, in my view it was never the intention that they could be called in and it is only very

recently that the question has arisen. Apart from the quasi-judicial considerations it is suggested that there are real dangers of the planning system being brought into disrepute or of decisions being significantly delayed if call in were permitted.

15. It is proposed therefore that to clarify the position the call in procedure be amended to include the words:

This procedure shall not apply to a decision on a development management matter (planning application or enforcement case).

Updated Councillor Code of Conduct

16. The Council's Councillor Code of Conduct dates back to 2012. In the main it has worked satisfactorily. A slightly updated version is at the Appendix. The main change is the addition of guidance on registering disclosable pecuniary interests. This would be of particular assistance to new Councillors elected next May.

Advance Notice of New Budget Proposals at the Budget Council Meeting

17. Members will know that very often groups reveal budget proposals only at the start of or during the Budget Council meeting. This can lead to unsatisfactory adjournments and confusion as to the effect of proposals. It happens despite the Council forming a cross party Budget Working Group which meets throughout the year in an attempt to draw up acceptable proposals.
18. The Budget Council meeting is held in the last week of February. The agenda papers are published five working days beforehand. A Budget Policy and Resources Committee meeting is held at least a week before with, again, the papers issued at least five working days in advance.
19. The papers for the two meetings are largely the same. The issues involved are generally out in the open in early February. It should therefore be possible for new proposals to be made known well in advance of the Council meeting.
20. Ideally any new item should also be signed off by the Chief Financial Officer as a valid option capable of being delivered.
21. The following is put forward which could be inserted into the Rules of Procedure at Council Meetings:
 - (1) ***At a Special Budget Council meeting no budget proposal which is not apparent from the agenda and reports for the meeting may be moved by way of motion or amendment unless written notice of it, signed by the member(s) giving it, has been delivered to the Corporate Director not later than 5pm three clear working days before the date of the meeting.***
 - (2) ***The Corporate Director shall list such motions or amendments in the order in which they were received and shall circulate them to all Members as soon as practicable.***
 - (3) ***Where the Mayor considers there are exceptional circumstances he may put to the meeting that this Rule of Procedure be suspended and the matter shall be decided by a simple majority of those Members voting and present in the room at the time the question is put.***

IMPLICATIONS

Policy: None arising directly from the report.

Financial: None arising directly from the report.

Legal: None arising directly from the report.

Risk Management: None arising directly from the report.

Health and Safety: None arising directly from the report.

Sustainability: None arising directly from the report.

Community Safety: None arising directly from the report.

Equality and Diversity: None arising directly from the report.

APPENDIX

Updated Councillor Code of Conduct