NORWICH
City Council

Committee Name: Council

Committee Date: 30/11/2021

Report Title: Constitutional Amendments

Portfolio:	Cllr Paul Kendrick, cabinet member for resources
Report from:	Monitoring Officer
Wards:	N/A

Purpose

In March, the Council agreed a new Constitution. This report seeks to update Council on the subsequent work of the Constitution Working Party and proposes amendments to the Constitution.

At its last meeting on 16 September, the Constitution Working Party made a number of recommendations in relation to the (Councillors') Questions on Notice Procedure. However, the party did not have sufficient time to consider potential amendments to the Motions on Notice Procedure.

This report seeks to update the Working Party following the last meeting, seeks views of members with regards Motions on Notice Procedure and considers the establishment of a treasury management monitoring body.

Recommendation:

It is recommended that Council

(1) Adopts the proposed changes to the Questions by Councillor Procedure in the Procedure Rules:
   a. To amend paragraph 51 so that questions at Council may only be asked to the Leader or Cabinet members;
   b. To amend paragraph 56 to read:

"Written replies will be given to questions by the relevant Cabinet member or committee chair or their nominee but shall not be the subject of any further debate. *Answers should provide a full response to questions in a succinct way.* If the reply cannot be given at the council meeting, a written answer will be provided to the questioner within 10 working days of the meeting."

(2) Adopts the proposed changes to the Motions on Notice Procedure in the Procedure Rules as suggested in Appendix 1

Policy Framework

This report indirectly supports the Council in meeting its corporate priorities.

Report Details

1. Constitutions are living documents; they will naturally evolve to accommodate changes in working practices, make enhancements, provide clarity and take into account changes in legislation and terminology.

2. Whilst the Monitoring Officer is delegated authority to make some minor changes to the Constitution, the Constitution Working Party seeks to advise the authority on more significant changes.

3. This report proposes recommendations made at the meetings of the Constitution Working Party in September and November.

Questions by Councillors

4. At its meeting in September, the Constitution Working Party considered the processes for members of Council putting forward questions. Three specific matters were debated in depth, as follows:

   (a) That Councillors' questions should only be directed to the Leader and Cabinet members and not to Committee Chairs. The party was presented evidence highlighting that there is no consistent practice across authorities on this matter. This proposal had been suggested on the grounds that the Portfolios of Cabinet members covered all aspects of Council activity and that putting questions to Cabinet members enabled executive accountability. On the other hand, members considered asking questions of chairs was a tool for public engagement and was used sparingly. The Working Party elected to recommend to Council that questions on notice should only be directed to the Leader and Cabinet members.

   (b) There was concern that the current limit of 150 words to answer questions does not provide sufficient opportunity for a thorough response to detailed matters and a more flexible limit should be provided. This was extensively debated by the Committee who recommended to replace the current wording with:

      Written replies will be given to questions by the relevant Cabinet member or committee chair or their nominee but shall not be the subject of any further debate. *Answers should provide a full response to*

questions in a succinct way. If the reply cannot be given at the council meeting, a written answer will be provided to the questioner within 10 working days of the meeting.

(c) The Working Party also considered whether the current timeframe for members to submit questions should be reduced from 5 working days to 3 working days. Whilst it was recognised this enables members to review agendas before asking questions, it does limit the ability of answers to be prepared, especially where detailed research is required. The Working Party heard that where authorities allowed shorter timeframes, it was often that only verbal answers would be given or responses would be received after the meeting. The Working Party revisited this topic at its meeting in November after receiving concern that 3 days would not give sufficient time for responses to be prepared and are therefore recommending that the current submission date of 5 working days remains.

Motions on Notice

5. At its meeting in November, the Constitution Working Party considered motions on notice. At present, the Constitution allows members to submit notice must be provided at least 5 working days before the meeting, and must be about matters for which the Council has responsibility, affect the City or a single issue.

6. There has been concern that some aspects of the current procedures are not operating effectively. For example, the 5-day deadline is the same as the agenda publication deadline, therefore members could legitimately submit motions after the agenda has already been issued. There is also the opportunity to incorporate good practice such as encouraging members to engage with portfolio holders or lead officers prior to submission (which often occurs in practice anyway).

7. The working party has therefore proposed the alternative procedure in Appendix 1 to this report. Where there are changes to the current procedures, the rationale for this proposal is set out in italic font after each proposed paragraph.

Consultation

8. The proposals in this report have been put forward by the members of the Constitution Working Party.

Implications

Financial and Resources

9. There are no proposals in this report that would reduce or increase resources.

Legal

10. There are no specific legal considerations arising from this report.

Statutory Considerations

Consideration:	Details of any implications and proposed measures to address:
Equality and Diversity	None
Health, Social and Economic Impact	None
Crime and Disorder	None
Children and Adults Safeguarding	None
Environmental Impact	None

Risk Management

Risk	Consequence	Controls Required
There are no specific risks arising from this report		

Other Options Considered

11. Councillors may wish to put forward alternative amendments or proposals, or not to amend the Constitution.

Reasons for the decision/recommendation

12. The proposals put forward in this report follow from requests to review specific aspects in the Constitution.

Background papers:

None

Appendices:

Appendix 1: Proposed motions on notice procedure

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Appendix 1

Proposed motions on notice procedure

Notes in *italic* font are comments to explain the proposed wording where it is different from the current wording. The italic font will not form part of the Constitution.

1. Prior to submission of the motion, members are suggested to consult with the Leader of the Council, Portfolio Holder, Chief Executive or Executive Director to seek their views regarding the content of the motion

This can help to understand potential reception to the motion, highlight any significant concerns and also inform the member of work the Council is already undertaking regarding the matter

2. Except for motions which can be moved without notice under these rules, written notice of every proposed motion, together with the name of the proposed mover and seconder of the motion, shall be delivered to Democratic Services no later than midday 10 clear working days before the meeting

10 clear working days gives officers the opportunity to highlight any key issues to members prior to the agenda issue in case they wish to make amendments to the motion prior to the agenda issue.

3. No more than one motion may be proposed by a member for each meeting.

4. Motions for which notice has been given will be listed on the agenda in the order received, unless the member giving notice states in writing that they propose to move it at a later meeting or withdraw it.

5. A motion must relate to a council function, or, if not, it must particularly affect the City or one of the council's key partners.

3-5 are all as currently stated in the constitution

6. Each motion must be clear and succinct, must clearly identify the matter to be debated and have a clear question to be put. Where the Councillor is aware of specific legal, regulatory or financial implications, these should be set out in the pre-amble. Motions must:
    (a) be about matters for which the council has a responsibility; and/or
    (b) particularly affect the City; and
    (c) be about a single issue.

This removes the suggestion that motions must not have a lengthy pre-amble, and asks that Councillors set out legal, regulatory or financial implications where aware of them

7. Any amendments to motions must comply with (a)-(c) above and the procedure rule on amendments.

8. Following discussion with the proposer as to whether they wish to amend the motion, and then, if the motion is not amended in a satisfactory manner,

consultation with the Group Leaders and Lord Mayor, the Monitoring Officer may reject any motion or amendment that, in their view:

a. Is defamatory, frivolous or offensive;
b. Relates to the Councillor's own personal circumstances;
c. Is substantially the same as a motion determined by the Council within the previous 6 months;
d. Names or identifies specific service users, members of staff or members of staff of partner organisations without the Councillor demonstrating they have provided consent;
e. Is not submitted in the requisite timeframe;
f. Does not meet the criteria in paragraphs 5 or 6 above

This is new and allows for motions to be rejected. The criteria is similar to that used for questions. The intention is that if a member puts forward an unsatisfactory motion, it would be discussed with them in the first instance to amend; if it was still unsatisfactory then a consultation would take place as to whether it should be allowed to proceed. Please note that in respect of reason c, it is only motions that have been determined that would be rejected; if a motion has been adjourned, referred to another body or withdrawn prior to consideration by Council can still be considered.

9. Any motion the subject matter of which comes within the province of the Cabinet or any committee, panel, sub-committee or joint committee may, after it has been moved and on the decision of the Lord Mayor, be:
   (a) referred without discussion to the Cabinet or relevant committee, panel, sub-committee or joint committee; or
   (b) referred without discussion to such other meeting as the chair may decide; or
   (c) dealt with at the meeting at which it is moved.

The same as the current constitution

10. Any motion which is moved at a Full Council meeting that would have the effect of materially increasing the expenditure of any service or would involve capital expenditure, or requires consideration against statutory obligations (including, but not limited to, an equality impact assessment or crime and disorder implications) shall, unless that motion has been previously considered by the Cabinet, stand adjourned without discussion to the next Ordinary Meeting of the council, and Cabinet shall consider whether it desires to report thereon back to Full Council.

Added to this paragraph "or requires consideration against statutory obligations (including, but not limited to, an equality impact assessment or crime and disorder implications)"

11. Any notice of motion included on the agenda for a council meeting shall not be dealt with in the absence of the councillor in whose name it stands, unless that councillor has agreed that it may be moved by another councillor.

12. If a notice of motion cannot be taken at a meeting of the council, it shall be included on the agenda for the next meeting and take precedence at that meeting over all business after statutory business, proceedings and reports of Cabinet, committees or officers.

13. A councillor may alter a motion that they have moved, in which case the amendment becomes part of the substantive motion without debate. Only alterations which could be made as an amendment may be made.

These are the same as the current constitution