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A meeting of the **Council** will be held in Committee Rooms at East Pallant House East Pallant Chichester West Sussex on **Tuesday 22 January 2019 at 14:00**

MEMBERS: Mrs E Hamilton (Chairman), Mrs N Graves (Vice-Chairman), Mrs C Apel, Mr G Barrett, Mr R Barrow, Mr J Brown, Mr P Budge, Mr J Connor, Mr A Collins, Mr T Dempster, Mr A Dignum, Mrs P Dignum, Mrs J Duncton, Mr M Dunn, Mr J F Elliott, Mr J W Elliott, Mr N Galloway, Mr M Hall, Mrs P Hardwick, Mr R Hayes, Mr G Hicks, Mr L Hixson, Mr F Hobbs, Mrs J Kilby, Mrs E Lintill, Mr S Lloyd-Williams, Mr L Macey, Mr K Martin, Mr G McAra, Mr S Morley, Mr A Moss, Caroline Neville, Mr S Oakley, Dr K O'Kelly, Mr C Page, Mrs P Plant, Mr R Plowman, Mr H Potter, Mrs C Purnell, Mr J Ransley, Mr J Ridd, Mr A Shaxson, Mrs J Tassell, Mrs S Taylor, Mr N Thomas, Mrs P Tull and Mr P Wilding

AGENDA SUPPLEMENT

This agenda supplement contains for online viewing only the background papers to agenda item 12 as follows:

12 **Constitutional Amendment** (pages 1 to 17)

(1) Task and finish group meeting notes - 3 July 2018

(2) Task and finish group meeting notes - 19 July 2018

(3) Monitoring Officer's notes to the task and finish group – 2 and 17 July 2018

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Agenda Item 12

Notes of the Constitution/Committee Membership Amendment Task & Finish Group held on 3rd July 2018 at 1.00pm in the Members Room

Members Present: Mr T Dignum (Chairman), Mrs E Lintill, Mrs T Tull, Mrs J Kilby, Mr A Moss and Mr A Shaxson

Officers: Mr N Bennett and Miss S Hurr

1. Apologies

1.1 No apologies, all present.

2. Terms of Reference

2.1 The constitution was recently reviewed in detail, therefore only a 'light-touch' is required on this occasion. The primary aim is to assess the practical power to amend the constitution as delegated to officers which has not been considered for twenty years. All members agreed the constitution needs to be balanced, to ensure members are afforded an appropriate opportunity for engagement without being over-burdened.

2.2 Mr Dignum confirmed the second meeting of the group would consider reviewing individual topics and the third meeting would conclude the work.

2.3 All members agreed the Terms of Reference.

3. Works Programme

3.1 The diversity and range of work is currently considered as limited, but also reliant on members input.

3.2 With regards to the delegation structure, officer's jobs titles have changed but noted, not at a 'root and branch' level.

3.3 All members agreed the Works Programme.

4. Committee Make-up

4.1 The existing number of members sitting on individual committees were reviewed. Following consideration of the workloads of each committee, and impact of their decisions, member numbers were agreed:

Name of Committee	Existing Numbers	Agreed Numbers
CGAC	10	8
Investigation & Disciplinary	5	5
Standards	7	7
Overview & Scrutiny	15	11
Licensing	15	10
Planning	15	13
	Total	54

- 4.2 54 slots would provide 1.2 opportunities for individual members to sit on a committee when taking into consideration the requirements for cabinet members to sit on committees, and therefore seven members would be required to seat on two key committees. Further involvement is also provided by opportunities for members to sit on panels.
- 4.3 It was agreed that these allocations would be reviewed in twelve months-time or sooner if required.

A Briefing Note regarding the Council's Constitution relating to agenda items 5 and 6 written by Monitoring Officer Nick Bennett, was circulated prior to the meeting.

5. **Delegation Structure**

- 5.1 Delegation is usually to a named individual post-holder or a Director and it was noted that only members can make substantial/significant decisions.
- 5.2 Mr Bennett currently makes approximately seven to eight minor changes to the constitution each month, with all updated information held and reported on 'Modern.Gov'.
- 5.3 **Action:** Mr Bennett to report all changes to Overview & Scrutiny Committee, annually.
- 5.4 All members agreed to continue with delegating matters to individual officers and 'classes of officers'.
- 5.6 **Action:** Mr Bennett to provide a definition of a 'Senior Officer'.

6. **Incidental Constitutional Changes**

- 6.1 The S.151 officer role provides a 'check and balance' regarding how money is spent, and in their absence a proportion of this responsibility falls to their deputy officer. It was agreed that this should be reworded to allow the deputy officer 'to delegate in all financial matters without exception'.
- 6.2 Concerns about members leaving debates for periods of time and the potential impact of missing crucial information on taking decisions and voting, was discussed. All members agreed that this issue should be covered both in Chairman training and Induction training.
- 6.3 With regards to Neighbourhood Planning, all members agreed the consultation process should advance in a shorter timeframe and therefore rather than proposals returning to committee for 'consultation', the words are amended to state the committee would be 'informed'.
- 6.4 Further questions were asked regarding the definition and use of 'motions' and 'counter-motions'. **Action:** Mr Bennett to review the appropriate legislation and provide an explanation for the next meeting.

7. **Dates of Future Meetings:** Thursday 19th July 2018 at 12.00 noon
Friday 11th September 2018 at 2.00pm

As noted above, it was suggested that the group could meet in twelve months-time, and could do so on an annual basis.

Meeting closed at 3.10pm

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**Notes of the Constitution/Committee Membership Amendment Task & Finish Group
held on 19th July 2018 at 10.00pm in Training Room One**

Members Present: Mr T Dignum (Chairman), Mrs T Tull, Mrs J Kilby, and Mr A Shaxson

Officers: Mr N Bennett and Miss S Hurr

1. Apologies

1.1 Apologies had been received from Mr E Lintill and Mr A Moss.

2. Notes of the Meeting on 3rd July 2018

2.1 Mrs Kilby's name had been incorrectly recorded as Mrs Kirby and this was amended.

2.2 Mr Dignum requested that it was noted (5.3 on the notes) that Mr Bennett will report all constitutional changes to the Committee. Following the meeting it was agreed that this would be to the Corporate Governance Committee as part of the annual legal report each October.

2.3 At the conclusion of the group, a report including all actions would be prepared for full Council.

3. Requested Definitions

3.1 An advice note had been prepared by Mr Bennett and circulated prior to the meeting providing a detailed explanation of a 'Senior' District Council officer.

3.2 Mr Bennett referred in his further explanation to three officers; the head of paid staff which is the Chief Executive who is responsible for the well-being of staff, the 'Treasurer' (Head of Finance and Governance Services) who under s151 of the Local Government Act 1972 has responsibility for financial matters, and his role as Monitoring Officer with powers provided by the Local Government and Housing Act 1989, to ensure the legality of decisions.

3.3 Mr Bennett confirmed that senior officers have different powers and that these can be delegated to deputy officers, however the s151 officer role cannot be deputised for and when unavailable for a period of time, an appropriate commercial organisation must be engaged to fulfil this role.

3.5 **Action:** Mr Bennett to clarify with Mr Ward why a figure of £175,000 is set as a maximum value for progressing individual asset renewal projects funded by from the Asset Renewal Programme and forward this information to the group via email, also copying this response to Mr Ward and Mr Wilding.

3.6 Specific committees can delegate to officers, for example by the Planning Committee where this is a common occurrence. Delegated decisions are not always seen at committee.

- 3.7 There is also the anomaly of officers having 'senior' in their title, although they are not strictly 'senior' officers as identified in the definition.
- 3.8 Mr Bennett confirmed that when senior officers delegate decisions, they often check the legality of this with him as Monitoring Officer. The current 'chain of command' and level of delegation particularly when senior officers are absent, seems to work well.
- 3.9 In the discussion as to the types of motion used at Committee Mr Bennett explained that a counter-motion is old terminology not reflected in the Constitution. In technical terms there are two types of motion which are 'original' and 'procedural', the former is an item to be included on an agenda (seven days prior to meetings) and the latter explains how an item is dealt with. This explanation is to be included in the Members Induction. **Action:** Mr Bennett to pass this information to the 2019 Induction TFG via Mr Ward.

4. Incidental Constitutional Changes – Neighbourhood Plans

- 4.1 Wording to be inserted regarding the approval of designation of neighbourhood areas in accordance with the Neighbourhood Planning (General) regulations 2012: ***'and following the Director of Planning and Environment informing the appropriate Cabinet Member and the relevant ward member(s)'***. Agreed by all present.

5. Review the ToR of Committees

- 5.1 The ToR of committees have recently been reviewed in detail.
- 5.2 The ToR are very generic and each committee has the ability to change their own ToRs.
- 5.3 Mr Bennett confirmed the rule about attending committees, which is that a Councillor must attend at least one committee or full Council in a six month period.
- 5.4 The constitution does not contain a formal mechanism for dealing with non-attendance 'without reasonable excuse'. In order to be granted dispensation by Mr Bennett as the Monitoring Officer, a reasonable excuse would be considered as illness or other appropriate reason (family wedding or funeral) but dispensation would not be granted for purposes of convenience.
- 5.5 It was agreed to strengthen the constitution to reflect that members must attend either full Council or at least one committee they are allocated to, not just any committee they have observed. **This will be covered in the report to Council.**
- 5.6 Mr Bennett will continue to strictly grant dispensation only when appropriate, and may require a meeting to discuss dispensations with members before granting. Mr Bennett

confirmed that he does send reminder emails to members regarding attendance as necessary and the attendance figures are assessed by him on a monthly basis.

6. Models of Delegations

- 6.1 All models of delegation were confirmed by Mr Bennett as correct with accurate titles, and further changes are not required.
- 6.2 Some concerns were raised regarding members understanding which officers and teams were responsible for which area of work. It was agreed that it was necessary to keep the network diagram updated.
- 6.3 Members Services are able to advise members if they are not sure which officer to contact on any given matter. **Action:** Mr Bennett to email/provide a document to members to advise that Members Services can provide advice on contact and officer responsibilities.
- 6.4 There was some discussion as to induction and training for all members on structure of the Council specifically. **Action:** Mr Dignum to discuss the views expressed in that discussion with the Chairman of the Induction Task and Finish Group.

7. Dates of Future Meetings

- 7.1 It was determined that the work of the group was concluded and therefore a further meeting (scheduled for Friday 11th September 2018 at 2.00pm) would not be necessary.

Meeting closed at 11.33am

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Briefing note on Constitution Task and Finish Group

Nick Bennett

2nd July 2018

Outline

Originally this Council's constitution followed a model prepared by national bodies. Four years ago a substantial project group was set up to revisit the whole constitution "line by line" and to overcome some conflicts within the Constitution. So our core Constitutional position is largely fit for purpose and effective.

As such, this task and finish group is primarily focussed upon the membership of committees and, indirectly, sub committees following the changes in membership which will follow the District boundary changes. However some other incidental issues as to the Constitution are presented for consideration.

Membership of Committees

1. The Leader has circulated a suggested membership structure which will be discussed at the group. The balance to be met for a structure is between a suitably efficient body (typically suggesting that we have a smaller, more experienced membership) and a suitably wide enough membership to make sure there are sufficient skills and bodies available to carry out its workload widening viewpoints involved in debate, and sharing out responsibilities (typically pushing us towards a larger membership for each committee). In truth this is a balancing exercise of both the needs of the committee and the need for sufficient, engaging workload for members.
2. There are few strict legal requirements though a committee has to include "one or more persons". Naturally a realistic working minimum is higher than one! A helpful outline of the legal position from the (independent) Local Government Information Unit can be read at <https://www.lgiu.org.uk/wp-content/uploads/2014/12/Changing-to-a-committee-system-in-a-new-era.pdf> though there are several similar guides available I would suggest you look at the Local Government Association website and other materials for informed background.

Delegations

3. Ultimately all decisions are for members, but most accept the need for them to be passed in many cases to officers. This internal delegation to be done clearly (and a 2010 case called **Technoprint v Leeds City Council** shows that if you don't then the Courts may overturn all decisions made under that Constitution by the officers concerned).

Background

4. Delegations can be either individual (e.g. to "The Director for Democratic Services") or to a class of officers (e.g. to "designated Environmental Health Officers"). We sometimes use wider classes at Chichester (e.g. "Senior Officers").
5. Following our management restructure last year many posts had their title amended. We now have The Chief Executive, Directors (SMT), Divisional Managers and then officers.

Delegation to the Monitoring Officer to amend the Constitution

6. The Monitoring Officer (MO) has powers under the Constitution to amend two types of matters without reference to others, being officer title changes (Changes to reflect recent job title changes have already taken place.) or changes which arise as the result of a change in Statute. So if a new planning act came out (for example) then the MO could change all references to the Planning Act 2006 for a new Planning Act 2019. This authority has not been considered for over 20 years, so Members should discuss whether they are content with the powers granted to the MO or whether they feel that they need to be reduced or even expanded. The MO view is that the current arrangements are suitable and sufficient and that widening the power to amend the Constitution would weaken member power over their own rules and that any reduction would only increase the administrative burden upon Full Council to deal with simple consequential changes of that kind.
7. When looking at wider delegations, it is open to Members to consider whether to amend the delegations from individual to the new classes. The advantage of this is that other officers of the same group might then be entitled to make decisions in the absence of a particular officer.
8. Secondly Members may wish to have officers look at having an established delegation protocol so that all Senior Officers have a given delegate to act in their absence.
9. Alternatively, Members might wish to leave delegations as they are, so that particular officers with specific expertise make the decisions delegated to them. Finally members may wish to leave delegations in their current balance.
10. The MO is not aware of significant issues around delegation, but there have been occasions where matters have needed to be taken to a higher officer if that was permitted for a particular decision or even been delayed due to the absence of a particular officer. Whichever option is preferred can be assessed against the Constitution and a draft setting out the changes which would arise from a particular direction could be set out for this group at its second meeting.

Incidental Constitutional Changes

Proposed Amendment relating to Deputy S.151 Officer

11. The S.151 officer role is a key, statutory, officer role at the Council. The financial arrangements of the authority are under daily scrutiny assessment and change. In the absence of the S.151 officer there is an overarching delegation for financial decisions set out in a schedule. Some elements of financial activity (such as VAT) isn't mentioned in Part IV where the deputy can act. The MO would suggest that for the avoidance of doubt, this element of the Constitution be amended to allow the Deputy S.151 Officer to delegate in all financial matters without exception.

Proposed Amendment relating to Leaving debates

12. There have been some representations made to the Monitoring Officer that members leaving debate should be barred from voting at a later point in the debate. There is no restriction in place within the Constitution to this effect, nor can such a ban be located in the Constitutions of other authorities. In truth, it would seem that such a bar would prevent individuals leaving for toilet breaks or similar and to serve no strong purpose. It is a matter

for members as to whether they feel individually that they have heard sufficient evidence on a matter to reach a decision even if they have taken breaks from the committee at present and that individual responsibility feels correct to the MO. However as a matter raised by members for potential change this is presented to the group for consideration.

13. Proposed Amendment to the Constitution relating to Delegated Powers for Neighbourhood Planning

14. Delegated functions are currently as set out in the Constitution as below for the Director of Planning and the Environment in relation to the operation of delegated powers for neighbourhood planning.

Part 3 – Responsibility for Functions

Director of Planning and the Environment

Planning Policy (Page 80 of The Constitution)

59. Neighbourhood Plans

15. *(a) To determine requests made under the Environmental Assessment of Plans and Programmes Regulations 2004 as to whether or not a strategic environmental assessment (including screening and scoping opinions) is required.*

16. *(b) To approve the designation of neighbourhood areas in accordance with the Neighbourhood Planning (General) Regulations 2012.*

and following consultation with the appropriate Cabinet Member and the relevant ward member(s):

17. *(c) To make formal comments on a draft Neighbourhood Plan at Pre-Submission stage and Submission stage;*

18. *(d) To accept a Neighbourhood Plan submission and, provided that the proposal complies with the relevant legislation, to publicise and consult on the Plan in accordance with the Neighbourhood Planning (General) Regulations 2012;*

19. *(e) To appoint an Independent Examiner to hold an examination to assess whether the draft plan meets the basic conditions and in exceptional cases to suspend the holding of an examination;*

20. *(f) Following receipt of the Independent Examiner's report, to publish a decision statement and to make the decision to proceed to referendum where the Independent Examiner's report recommends 'proceed to referendum as submitted' and no significant adverse representations have been made (g) To publish a Publicity Statement and an Adoption Statement;*
21. *(h) To carry out such other procedural processes, requirements assessments and determinations as may be necessary in accordance with the Town and Country Planning Act 1990, the Neighbourhood Planning (General) Regulations 2012 and any other relevant regulations to enable preparation of a Neighbourhood Plan.*
22. *(i) In relation to High Court challenges of any decisions of the Council throughout the neighbourhood planning process, to reply, defend and/or consent to judgement of any claims and to settle any costs claim arising.*
23. Suggested Proposal:
24. Items (c) to (i) are currently qualified as set out above by the wording: *'and following consultation with the appropriate Cabinet Member and the relevant ward member(s)'*
25. The word 'consultation' requires local members to be consulted on effectively their own locally drafted plan neighbourhood plan. In addition this also introduces an additional process and time delay element to the process.
26. In relation to item (c) the action of 'consultation' relates to completing formal comments on a draft Neighbourhood Plan at Pre-Submission stage and Submission stage. The period for the completion of the CDC response is 6 weeks. During that period the opportunity is provided to other CDC departments to provide comments to the NP officer to consider for inclusion in the CDC response.
27. During this same 6 week period there is also the requirement for Principal Officer sign off of the draft responses prior to delegated sign off by the Director of Planning and the Environment. Each of these again needs sufficient time to consider the draft response.
28. The need for 'consultation' of members requires a period of time. As a consequence the time available for internal comments to be made to the NP officer inevitably backs up through the 6 week period in order to allow for sufficient time for consideration, amendments and sign off etc. It is suggested that it may be more appropriate to therefore amend the wording from 'consultation' to 'inform', 'update' or something similar.

Second advice note for Constitution and Committee Members Task and Finish Group

Nick Bennett

17th July 2018

Action 1 - Definition of Senior Officers (5.5 of notes of meeting 3rd July 2018 refers)

It is common throughout the Constitution to refer to types of people by class. The Council's employees are repeatedly referred to as 'officers' in the Constitution as a basic example and the term officer is seen again and again in legislation. Their role is expressly to "give advice, implement decisions and manage the day-to-day delivery of its services. Some officers have a specific duty to ensure that the Council acts within the law and uses its resources wisely." However there is no wider definition or statutory definition of "senior officer". That term is exclusively a definition generated from the Constitution.

Part 3 of the Constitution (Page 21 of section 3 of that part) sets out delegations to officers.

It is worth reviewing the whole of the introduction to that Part to properly understand the definition and use of "Senior Officer" though please note that although clause 10 of the section provides the specific delegation and clause 5 provides a power to exercise delegation in absence – by other Senior Officers generally, or specified officers expressly.

General Provisions

1. *A **Senior Officer** or other person is authorised to exercise such powers as are shown in this scheme of delegation including those reasonably implied or reasonably incidental to the matters specified.*
2. *Exercise of the powers is without prejudice to the right of the Council to withdraw or amend any such power, and the person with a delegated power may decline to exercise it and refer the decision to the appropriate Committee.*
3. *In addition to these delegated powers, powers are also exercisable by officers through Financial Regulations, Contract Standing Orders, and elsewhere in this Constitution.*
4. *The delegated powers shall be exercised in accordance with Council policy and Standing Orders, Financial Regulations and any other guidance given by a Chief Officer.*
5. ***Any power delegated to a Senior Officer may be exercised by any other Senior Officer or by another employee nominated by a Senior Officer.***
6. *Each Senior Officer shall be a proper officer for any purpose required by a statute or statutory instrument which is not specified in this scheme of delegation to officers.*
7. *Where a power delegated to an employee is expressed to be exercisable following consultation with the Chairman of a Committee, in the absence of that Chairman the consultation shall take place with the Vice-Chairman.*
8. *Where a power delegated to an employee is expressed to be exercisable following*

consultation with a Cabinet member with portfolio responsibilities, in the absence of that member the consultation shall take place with the Leader or Deputy Leader in his absence.

9. A reference to any statute or regulation or similar includes any subsequent amendment or replacement.

10. References to Senior Officers are references to the Chief Executive, the Executive Director/Deputy Chief Executive and Directors..

There are several references to Senior officers, but the primary source of the powers granted to Senior officers is at page 22 of Part 3 of the Constitution. Whilst there are some duplications to other powers granted specifically to particular officers, generally these powers are granted by members to senior officers in order to provide "backstop" authority in order that urgent matters can proceed quickly or in the unexpected absence of key officers, to prevent paralysis at such times or when there is a dispute with one of those key officers.

Any Senior Officer

1. To make urgent decisions following consultation with the Leader or Deputy Leader of the Council and the Chairman of the Overview and Scrutiny Committee on any matters where it is not practicable to refer these to a meeting of the Council, the Cabinet or other Committee, provided that a full report on any decisions taken shall subsequently be made.

2. In the absence of the Monitoring Officer or Chief Finance Officer and their appointed deputies to exercise all powers delegated to them so far as the law permits.

3. To act as an authorised Deputy Electoral Registration officer, as appointed by the Returning Officer in accordance with Section 52 Representation of the People Act 1983.

4. To authorise and issue any documents for the purposes of any of the Council's functions, including all court proceedings.

5. To authorise any action under Council byelaws including prosecution.

6. To authorise the spend of section 106 monies of under £50,000 following consultation with the relevant cabinet member and nominated ward member.

7. To affix and attest the seal of the Council to any deed or other document.

8. To progress individual asset renewal projects funded from the Asset Renewal Programme subject to a maximum value of £175,000, in conjunction with the Chief Finance Officer.

9. (a) To approve requests for termination of employment on grounds of redundancy or efficiency of service in consultation with the Chief Finance Officer (except for members of the Corporate Management Team) providing that the costs of such requests pay back within a two year period.

(b) To enact efficiency or redundancy retirements (when Cabinet authorisation exists) and flexible employment contracts within approved employment policy.

(c) to approve requests for flexible retirement (except for members of the Corporate Management team) in accordance with the Council's policy

providing that the costs of such requests pay back within a two year period.
10. To exercise the power of the right to enter and survey land pursuant to Section 172
of the Housing and Planning Act 2016 on notice to the owners of the land.

Action 2 - Definition of Motions and Counter motions (6.4 of notes of meeting 3rd July 2018 refers)

Generally the control of a meeting is within the gift of the Chairman of that meeting, and the law allows a great deal of flexibility within that concept. However the Constitution provides some rules on the handling of motions. Technically a counter motion is an amendment motion and whilst the term "Counter motion" is used in various documents, it is not specifically referred to in the Constitution.

This Council follows the model for decision making which is helpful in that most guidance can be used directly to analysis of how the definitions can and should be applied.

Motions are in public law terms broadly of two types: original and procedural.

The first (also known as a proposal) is one putting forwards a substantial issue for consideration and (if approved), action. These are the typical matters put forwards in Committee agendas – for example, section 18.1 of Part 4 of the Constitution provided that "A Member may have a proposal discussed at a Council meeting by giving written notice of it to the Director of Corporate Services at least 7 working days before the date of the Council meeting."

A Procedural motion (sometimes called a formal motion) is one affecting matters of procedure or form about the handling of the meeting. Procedural motion requirements are provided at section 8.6 of Part 4 of the Constitution;

8.6 A Member may raise, without notice, any matter relating to the procedure of the meeting (for example rules of debate, reference of an item to a committee, appointing a new committee, sub-committee or task and finish group etc., or a point of order – that is, an alleged breach of a statutory provision or a Standing Order).

Original motions may not be moved (put to the committee through its chairman) unless prior notice has been given so that its terms may be included in the agenda. This is necessary so that the Council can comply with relevant statutory requirements that the summons to attend the meeting (and, sometimes, the relevant notice of meeting) is provided with "specification of the business to be transacted". The procedure for giving notice is included in the Constitution and varies by meeting.

Returning to Part 4, this sets out rules for amendments to motions at section 8 (Page 3).

Amendments to motions shall be moved and seconded before they are discussed in detail and the chairman has discretion to allow more than one amendment to be discussed at the same time.

.....

8.7 During a debate a Member may move a "closure motion" that is, that the motion being discussed be voted upon, or that the Meeting should proceed to the next business, or that the Meeting should be adjourned.

8.8 If a "closure motion" is seconded, the chairman shall decide if the matter has been discussed sufficiently and he may then ask the Member who moved the original motion for his comments and the meeting shall then vote on the "closure motion".

In the course of debate (or even before the discussion commences) the model constitution guidance makes clear that a proposer may wish to make an alteration that they think makes the motion more acceptable to members. This is known as an alteration of motion. Equally it can be withdrawn. Both are provided for under the CDC Constitution.

Amendments are formally formal proposals to vary the terms of a motion before the latter is adopted at the meeting. The motion in its original form is then also known as an “original motion”. Amendment motions are also known as counter motions and unfortunately the two terms appear to be used interchangeably in some case law. They have to be made by a different person to the proposer.

The Constitution states at section 8.5 of Part 4 that “*Amendments to motions shall be moved and seconded before they are discussed in detail and the chairman has discretion to allow more than one amendment to be discussed at the same time.*”

Members of the Task and Finish group will be familiar with the complexity of dealing in a meeting with various amendment motions being put and only if none of the amendments are approved moving to the original motion. There are also various rules as to handling amendment motions, but also various common practices which are not formal requirements (such as dealing with amendment motions in order of submission) but these are put aside when the Chairman considers the effective management of the meeting requires it.

By their nature Amendment motions being capable of being put to the immediate meeting are not subject to identical rules about putting them prior to the meeting as the substantive item is the proposed original motion which generated the item – the timing requirements to have the motion put several days before does not apply to an amendment to that motion. If it was otherwise, then a motion put on the moment of deadline could only be debated and accepted or rejected, it could not be amended in any way.

In light of the confusion caused by the term “counter motion” in some guidance which members have seen the Monitoring Officer has asked that the term be removed from those internal documents and replaced with the more legally correct term “amendment motion”. Members are asked to bring any examples they locate to the attention of the Monitoring Officer. Unhelpfully it is still to be seen used interchangeably on various websites including official guidance websites to the model constitution (on which the CDC constitution is based).

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