

Review of the Constitution Steering Group



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Monday 23 April 2012 – 2.30pm

**Meeting room 50 – opposite Members' Resource Room on
first floor of the main Town Hall building**

Members:

Councillor Bob Chapman
Councillor Stephen Chappell
Councillor Ben Grower – Chair
Councillor David Kelsey

Councillor Andrew Morgan
Councillor Roger West
Councillor Ron Whittaker

By invitation: Cabinet Member for Corporate Policy Implementation, Councillor
Lawrence Williams

Officers: Tanya Coulter, Acting Monitoring Officer
Kevin Neale, Democratic Services Manager

AGENDA

Review of the Constitution project

1. Resignation of the Mayor or Deputy Mayor– Proposed change to Council Procedure Rules

At its last meeting the Steering Group agreed that

'Consideration of this matter is deferred to enable the Officers to prepare
a briefing note for the next meeting of the Steering Group.'

See **Paper 1** attached.

The views of the Conservative Group will be reported at the meeting.

2. Officer Employment Procedure Rules – Role of the Chief Executive in making Chief Officer Appointments

At its last meeting the Steering Group agreed that

‘The proposal to give the Chief Executive voting rights alongside elected Members in the recruitment process for Executive Directors is deferred for further consideration at the next meeting of this Steering Group in the light of comments to be received from the Conservative Group.’

The views of the Conservative Group will be reported at the meeting.

3. Localism Act 2011 – Implications for the Constitution - Term of office for Leader of the Council

At its last meeting the Steering Group agreed that

‘The Cabinet is recommended to put proposals to the full Council on the term of office for future Leaders of the Council in the light of comments received from the Conservative Group.’

The views of the Conservative Group are now available and will be reported at the meeting. This will enable the Steering Group to send a recommendation to the Cabinet on this matter.

Review of the Constitution – Resignation of the Mayor or Deputy Mayor– Proposed Change to Articles of the Constitution and Council Procedure Rules

1.0 Background

- 1.1 At its last meeting the Steering Group considered the Mayor's proposal as set out on the note at Appendix 'A' to this briefing paper.
- 1.2 The Steering Group agreed that 'consideration of this matter is deferred to enable the Officers to prepare a briefing note for the next meeting of the Steering Group'.

2.0 Legal position

- 2.1 There is a legal requirement to elect a Chair and Vice-Chair of the Council – Mayor and Deputy Mayor in Bournemouth's case - once a year. However the rules for selecting and electing a Mayor and Deputy Mayor are not set out in law. This is a local decision for the Council to make and include in its Constitution.

3.0 Provisions in the Council's Constitution

- 3.1 The Council's current Constitution includes Articles and Procedure Rules covering the term of office for the Mayor and Deputy Mayor and the procedure for electing the Mayor¹.
- 3.2 The proposed revised Constitution includes a new draft Procedure Rule for electing the Deputy Mayor in addition to the provisions mentioned in paragraph 3.1 above².
- 3.3 Within the current and proposed revised Articles and Council Procedure Rules there is no specific rule covering resignations by the serving Mayor or Deputy Mayor to take up another position within the Council – for example Cabinet post or Chair/Vice-Chairmanship. The current and proposed Articles and Procedure Rules merely state that the Mayor and Deputy Mayor will remain in office unless he or she resigns, is disqualified or for any other reason ceases to be a Councillor.
- 3.4 The current and proposed Council Articles and Procedure Rules also make no provision for when the serving Mayor or Deputy Mayor is unable to complete his or her term of office owing to ill health or something of a similar nature. Whatever the Steering Group decides on the Mayor's proposal at Appendix 'A' it is recommended that the proposed revised Articles and Council Procedure Rules covering the term of office for the Mayor and Deputy Mayor be changed to include suitable wording to cover the possibility of ill health or a similar disposition.

¹ Current Constitution – see Council Procedure Rules 9 and 10 and Article 5.

² Proposed revised Constitution – see Draft Council Procedure Rules 24, 25, 26, 27 and 28 and Article 4.4 as set out in Paper 2 presented to the Review of the Constitution Steering Group on 30 March 2012.

4.0 Options available to the Council

4.1 No change to the provisions set out in the proposed revised Constitution.

4.1.1 This means that there will be no specific Article or Procedure Rule covering resignations by the serving Mayor or Deputy Mayor to take up another position within the Council.

4.1.2 If this option is supported the Steering Group is asked to recommend to the Cabinet and full Council that the proposal set out in paragraph 3.4 above is adopted.

4.2 Make the Mayor and Deputy Roles exclusive

4.2.1 The Mayor has the key roles of representing the town as a whole and being civic head of the Council. The Deputy Mayor has a vital role in supporting the Mayor during his or her busy year in office. Any break in the term of either Office to take up another position on the Council creates considerable disruption in terms of seeking and electing an alternative Office holder and re-arranging the schedule of Mayoral events. A resignation to take up another position on the Council could also be potentially damaging for the Council's reputation. In the circumstances Members may feel that the Office of Mayor and Deputy Mayor should be exclusive for the full one year term.

4.2.2 If the view at paragraph 4.2.1 above is supported it is recommended that wording along the following lines is included in the proposed revised Articles and Council Procedure Rules:

'Members of the Council who are nominated and elected to the Office of Mayor and Deputy Mayor do so on the understanding that they will serve a full term in those roles unless the serving councillor is unable to complete his or her term, owing to ill health or similar disposition, is disqualified or for any other reason ceases to be a councillor.'

4.3 Adopt the Mayor's proposal as set out in Appendix 'A' to this briefing paper

4.3.1 This will have the effect of requiring the full Council to make the decision on a proposal of the serving Mayor or Deputy Mayor to resign so that they can take up a Cabinet post or Chair/Vice-Chairmanship.

Resignation of the Mayor or Deputy Mayor

RE :- B.B.C. CONSTITUTION

I believe that the Bournemouth Borough Council Constitution is due to be updated in the near future, therefore may I submit that the clauses relating to the Mayor and Deputy Mayor be revised to include wording that makes it impossible for the Mayor or his Deputy to resign their position for a paid Cabinet post or a paid post on any of the Overview or Scrutiny panels.

There is no previous history, that I know of, in this Council where the Mayor has been put into the situation which has recently occurred here prior to Christmas 2011. As the positions are both voted for at full Council, (Artical4.2.18) I would also request that any resignation from The Mayor or the Deputy Mayor should be returned to Full Council for their discussion and ruling.

If such a situation arose in the future then the removing of any misunderstanding of the protocol or position by a change of the Constitution would make it clear to all parties how the situation must be conducted.

Article 5, perhaps a clause could be added at 5.1.7 this could read something like


To determine that any resignation by a Mayor or Deputy Mayor should not be accepted where the reason for such resignation is to take a Cabinet position or an Overview or Scrutiny Chair or Vice-Chair. The Full Council to rule on any such resignation.

Part 4, Council Procedure Rules :- 9 The Mayor and Deputy Mayor.

9.2.and 3.

(B) That in the event of the receipt of a resignation, from either the Mayor or his deputy, to leave their position for a Cabinet or a Chair or Vice-Chair that the resignation is debated. The Full Council to make the decision.

Please give this request due consideration.


Mayor.