

Slough Borough Council

Report To: Council
Date: 21st July 2022
Chief Officer: Sarah Wilson, Monitoring Officer
Ward(s): All

PART I FOR DECISION

CONSTITUTIONAL CHANGES TO EXECUTIVE DECISION MAKING

1. Summary and Recommendations

1.1 This report sets out changes to the rules regarding executive decision-making in relation to asset disposals and member and public participation in meetings.

Recommendations:

Council is recommended to:

1. Consider and adopt the amendments to the Constitution as set out in the appendices, namely:
 - a. Part 3.5 Responsibility for Executive Functions
 - b. Part 4.4 Executive Procedure Rules
2. Agree that the amendments to the Constitution will come into effect on the day following the Council meeting.

Reason: The changes link to the Council's corporate plan and ensure that there is appropriate member involvement in decisions to dispose of Council property assets. The changes also give members of the public a right to ask questions at cabinet meetings and provide a framework to ensure that member and public questions can be managed in the meeting.

Commissioner Review

The Commissioners are supportive of these changes.

2. Report

Introductory paragraph

2.1 The Council adopted a new Corporate Plan 2022-2025 in May 2022. This confirmed that the Council must start a journey to being a "good" council, which involves "sound, informed and transparent decision making that stands up well to good scrutiny". One of its key priorities is to be "A council that lives within our means, balances the budget and delivers best value for taxpayers and service users". This will involve delivery of a significant asset disposal programme to reduce the Council's debt and deliver capital receipts.

Background

2.2 Cabinet considered a report on the asset disposal programme on 20 June 2022. This included a recommendation to amend the Council's Constitution to require decisions on disposal of an asset via a lease at less than best consideration to be a reserved function of Cabinet and the set up of a new Cabinet committee for asset disposals. This committee will receive regular progress reports on the disposal programme and make recommendations to Cabinet for disposals that are deemed to be key decisions or otherwise reserved functions for Cabinet.

2.3 Part 3.5 of the Constitution sets out the reserved functions for Cabinet and the terms of reference of any cabinet committee. The amendments are as follows:

- (a) Addition of a reserved function of "Disposal of property interest via lease at less than best consideration, except where this is required to fulfil a statutory obligation."
- (b) A new cabinet committee for asset disposals, which will remain in existence for the period of the Department of Levelling Up, Housing and Communities (DLUHC) statutory direction. The function of the committee is set out in addition to confirming its maximum size and requirement to include the lead member for assets and financial management. Specific rules for managing conflicts of interest are included due to the small size of the committee and the commercial nature of its business.

2.4 The Council's Corporate Plan refers to the large changes that the Council will have to undergo and the inevitable impact on services and service users. This means that it is critically important that the Council has a different relationship with its residents and communities. The core of the Council's new operating model should be how the Council interacts, engages and works with its diverse communities. At present the public has the right to ask a question of a lead member or the leader at full council. However, there is no specific right to speak or ask a question at a cabinet meeting. Many of the changes to services will be decisions made at Cabinet level and for this reason it is considered appropriate to give the public the right to attend to make a comment or ask a question about a matter on the Cabinet agenda.

2.5 The changes outlined at paragraph 2.4 are part of a much wider programme of work to ensure effective engagement with residents and businesses. This will include a refreshed customer engagement strategy from March 2023. However, it is right to make changes to the executive procedure rules to take effect for Cabinet meetings, including meetings of the Cabinet Committee for Asset Disposal, held from September 2022.

2.6 Part 4.4 of the Council's Constitution sets out the executive procedure rules, which apply to meetings of the Cabinet as a whole and meetings of a cabinet committee. These have been changed as follows:

- (a) The reference to a cabinet committee has been included ensuring that the rules apply equally to these meetings;
- (b) Quorum for the cabinet committee will be three members;
- (c) Questions by elected members – the rules have been changed to require that written notice must be given of the question two days before the meeting, that the question must relate to an item of business on the agenda and that each member is limited to one question per agenda item. Members may ask one supplementary question. These changes will ensure that full and accurate answers can be provided in the meeting, as well as ensuring there is sufficient time for cabinet members to debate items.
- (d) Questions by the general public – rules have been included to allow a resident or taxpayer of the Borough (not being a member of the Council) to ask a question in relation

to any item on the agenda. There are limits on the total number of questions and the number of questions per agenda item and individual to ensure sufficient time for cabinet members to debate each agenda item. Residents/taxpayers may also give notice to make a comment at a meeting. Notice must be given in advance and a time limit and list of exclusions are included to ensure that questions and comments are appropriate for a public meeting and relevant to the agenda items being considered.

3. Implications of the Recommendation

3.1 Financial implications

3.1.1 There are no financial implications for this decision. The additional officer time associated with supporting the cabinet committee will be managed within the Democratic Services team.

3.2 Legal implications

3.2.1 Under Section 37 of the Local Government Act 2000, the Council is required to prepare and keep up to date a document, referred to as the Constitution, which contains as a minimum:

(i) The Council's Standing Orders

(ii) The Council's Code of Conduct for Members; and

(iii) Such other information as the Secretary of State directs – under the Local Government Act 2000 (Constitutions)(England) Direction 2000 this information includes the membership, terms of reference and functions of the Council's Committees and Sub-Committees, and any rules governing the conduct and proceedings of those Committees and Sub-Committees.

3.2.2 Subject to those provisions, it is for the Council to decide what information its Constitution should contain.

3.2.3 The Council operates an executive model of governance and therefore has to comply with the requirements set out in the Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The 2012 regulations set out requirements in relation to executive decisions, including the following:

1. Meetings of the Executive (Cabinet) or its sub-committees must be held in public unless the item of business permits the exclusion of the public. The main rights to exclude the public include for a reason set out under Schedule 12A of the Local Government Act 1972 (these reasons are set out in Part 4.2 - Access to Information Procedure Rules) or in exercise of a lawful power to exclude a member or members of the public in order to maintain orderly conduct or prevent misbehaviour at the meeting.

2. If the Executive is to hold a meeting in private it must give at least 28 days notice including a statement of reasons for the meeting to be held in private.

3. For all public meetings, notice must be given in advance and the agenda must be available at least five clear days before the meeting, unless the meeting has been convened at short notice. Reports must be published in advance, unless the report is to be considered in the private part of the meeting.

4. Key decisions are subject to prescribed requirements.

5. Elected members are entitled to see documents which are in the possession or control of the executive and contain material relating to any business to be dealt with at a public meeting. In addition, members of an overview and scrutiny committee are entitled to have access to documents which are in the possession or control of the executive and contain material relating to any business to be transacted at a meeting of the executive, a decision made by an individual member of the executive or a decision made by an officer in accordance with executive arrangements. Information which contains exempt or confidential information can only be requested by a member of overview and scrutiny if the information is relevant to an action or decision that the member is reviewing or scrutinising or the review is contained in a programme of work of the committee.

3.2.4 The Council has a duty under section 3 of the Local Government Act 1999 to make arrangements to secure continuous improvement in the way in which its functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The Council also has to comply with legal requirements when making decisions to dispose of its land assets. The legal framework is set out in brief detail in the cabinet report of 20 June 2022 in relation to the asset disposals programme. The cabinet committee will ensure there is transparent reporting on decisions made as part of this programme, which will help ensure the Council is achieving best consideration when disposing of assets, as well as managing the programme in an efficient and effective manner.

3.3 Risk management implications

3.3.1 There are considerable risks associated with the asset disposal programme, which will be managed and monitored as part of the Council's risk management procedure. Having a cabinet committee to monitor the programme and the introduction of public comments and questions at cabinet meetings is part of a wider programme to improve the Council's governance processes.

3.4 Environmental implications

3.4.1 There are no environmental implications arising from this proposed decision.

3.5 Equality implications

3.5.1 Giving the public the right to make comments and ask questions is part of a wider programme to increase resident and taxpayer engagement in how Council services are run. This will help ensure that the voice of Slough's diverse communities are heard by elected members when making decisions.

4. Comments of other Committees

The proposed changes were reviewed by the Member Panel on the Constitution on 6 July 2022 and panel members were supportive of the changes.

5. Appendices

Appendix 1 –Part 3.5 Responsibility for Executive Functions July 2022
Appendix 2 – Part 4.4 Executive Procedure Rules July 2022

6. Background Papers

None