

HAMPSHIRE COUNTY COUNCIL

Decision Report

Decision Maker:	Cabinet
Date:	22 July 2019
Title:	Constitutional Matters
Report From:	Chief Executive

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Purpose of this Report

1. The purpose of this report is to set out a number of issues which have recently arisen regarding the decisions of the County Council's Standing Orders in respect of Deputations and Notices of Motion, and for Cabinet to consider whether in consequence any change should be made to Standing Orders.

Recommendation

2. That Cabinet recommend to the County Council that the amendments to the provisions of Standing Orders 12 and 18 as set out at Appendix 1 and Appendix 2 of this report be approved.

Executive Summary

3. By virtue of the Local Government Act 1972, Schedule 12 paragraph 42, the County Council may make and vary Standing Orders as to the regulation of its proceedings and business. This function is reserved to the County Council by virtue of Part 1, Chapter 4 of the Constitution.
 - 3.1. The County Council's Standing Orders are contained at Part 3, Chapter 1 of the Constitution. Provisions in respect of deputations is contained at Standing Order 12, and provisions in respect of Notices of Motion are contained at Standing Orders 18 and 19. This report suggests a number of changes to Standing Order 12 and Standing Order 18.

Contextual information

Standing Order 12 - Deputations

4. Currently (other than Regulatory Committee which different rules apply), Standing Order 12 restricts Deputations to local government electors within the administrative area of Hampshire County Council. This has been the case for some time. It is, however, considered that in the interest of openness and transparency and to allow the voice of young people to be heard, this might be reviewed so that young people might have the opportunity to address meetings of the County Council, its Executive and Committees on matters that concern them. It is, however, considered appropriate that any change to Standing Orders to enable this be carefully considered in order to ensure any change to the current procedure contains adequate safeguards and continues to maintain the good governance of the County Council.
5. With this in mind, this report recommends that Standing Order 12 be amended to additionally allow deputations from children who have attained the age of 7 years or older, subject in the case of a child of compulsory school age to the requirements as set out at paragraph 6 below. In considering options for a lower age limit of seven years of age, Cabinet are asked to note that it is recognised this is the lowest reasonable age limit but takes the most inclusive approach. It is generally appreciated that the younger the child the higher the potential for safeguarding concerns. Nevertheless, this more inclusive approach is recommended in the context of the proposed safeguarding mechanisms set out below.
6. For the reasons expressed at a paragraphs 4 and 5 above, it is considered that in the case of a child of compulsory school age any deputation request must include written consent of the parent or person with parental responsibility of the child to the making of the deputation (including in the case of a request to make a deputation at a meeting of the County Council or Cabinet to the deputation being recorded and being available to broadcast), together with in the case of a request to make a deputation within school term time, written consent to the making of the deputation from the headteacher of the school the child attends. It is accordingly, considered that without, where applicable, such consent(s), any deputation should not be heard.
7. It is also considered appropriate, bearing in mind the County Council's safeguarding role, that additional safeguarding provision should apply in order to protect vulnerable children from abuse of the process, and that any change to the deputation procedures should be subject to the provision that deputations should not be received from children in cases where, in the opinion of the Director of Children's Services, it is not in the best interest of the child to make the deputation.

8. Finally, and on a separate note, it is considered sensible that the deputation procedure should also be amended to provide a general clarity that the deputation process should not be used as a vehicle to address specific service concerns more properly dealt with through the County Council's established Corporate Complaints process, or where the subject matter of the deputation might cause the County Council to breach confidentiality rules.

Standing Order 18 – Notices of Motion

9. As indicated above, provisions in respect of Notices of Motion are contained at Standing Orders 18 and 19. Currently Standing Order 18.4 provides that Notices of Motion, after being moved and seconded are then debated by the County Council, unless immediately following the seconding of the Notice of Motion and following any observations by the Leader, Executive Member or Chairman of the appropriate committee, the County Council resolve to refer the Notice of Motion to the Executive or to a committee, and report back to a subsequent meeting of the County Council. If a proposal under the Standing Order is agreed, then the Notice of Motion currently stands so referred without discussion, with the Mover of the Motion having the opportunity to explain his Motion at the meeting of the Executive/committee as the case may be.
10. It is considered that the current procedure might be revised so as to allow the Proposer of the Motion to speak to the Motion at the County Council meeting at which the Notice of Motion is moved, whether or not a proposal is subsequently made to refer the Motion for consideration by the Executive or a committee, so that in all cases the Proposer of a Notice of Motion has the opportunity to explain his Motion to the County Council at the meeting at which the Notice of Motion is moved.

REQUIRED CORPORATE AND LEGAL INFORMATION:

Links to the Strategic Plan

This proposal does not link to the Strategic Plan but, nevertheless, requires a decision for the good governance of the County Council

Section 100 D - Local Government Act 1972 - background documents

The following documents discuss facts or matters on which this report, or an important part of it, is based and have been relied upon to a material extent in the preparation of this report. (NB: the list excludes published works and any documents which disclose exempt or confidential information as defined in the Act.)

Document

Location

None

EQUALITIES IMPACT ASSESSMENT:

1. Equality Duty

The County Council has a duty under Section 149 of the Equality Act 2010 ('the Act') to have due regard in the exercise of its functions to the need to:

- Eliminate discrimination, harassment and victimisation and any other conduct prohibited by or under the Act with regard to the protected characteristics as set out in section 4 of the Act (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation);
- Advance equality of opportunity between persons who share a relevant protected characteristic within section 149(7) of the Act (age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation) and those who do not share it;
- Foster good relations between persons who share a relevant protected characteristic within section 149(7) of the Act (see above) and persons who do not share it.

Due regard in this context involves having due regard in particular to:

- The need to remove or minimise disadvantages suffered by persons sharing a relevant protected characteristic that are connected to that characteristic;
- Take steps to meet the needs of persons sharing a relevant protected characteristic that are different from the needs of persons who do not share it;
- Encourage persons sharing a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.

2. Equalities Impact Assessment:

It is considered that this Report will have no adverse impact or cause no disadvantage to groups with protected characteristics.