

AGENDA SUPPLEMENT

Audit and Governance Committee

To: Councillors Hollyer (Chair), J Burton (Vice-Chair), Fisher, Mason, Whitcroft, Merrett and Rose
Mr Binney (Independent Member)

Date: Monday, 14 October 2024

Time: 5.30 pm

Venue: West Offices - Station Rise, York YO1 6GA

The agenda for the above meeting was published on **Friday, 4 October 2024**. The attached additional document, Annex 2 (including final Labour Comments), is now available for the following agenda item:

4. Report of the Monitoring Officer on Suggested Constitutional Changes (Pages 1 - 8)

To provide the first tranche of suggested constitutional changes to the committee for consideration and discussion. Annex 1 provides the clean version of the Council Procedure Rules and Annex 2 provides the consolidated comments.

This agenda supplement was published on **7 October 2024**.

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Para	Liberal Democrat Comments	Councillor Warters Comments	MO Comments	Final Liberal Democrat Comments	Final Conservative Comments	Final Labour Comments
1.2	Unclear why this proposed new text is needed.		This relates to clarification as to the legal function of Council meetings as business meetings.	Prepared to accept (subject to caveat that this agreement is contingent on significant movement on our red lines, our priorities for how full Council should be run and not losing Councillor's ability to effectively scrutinise the Executive on behalf of our residents).		
4.3 (a)	Is the addition of "in consultation with the Monitoring Officer" really necessary? The Lord Mayor does already consult, but they are the ultimate decision-maker.		The Working Group felt it important to clarify roles and to make clear that the MO is consulted by the Lord Mayor.	Prepared to accept (subject to caveat above).		
4.3 (c)		That should be amended to say "Ensure that Full Council meetings are a forum for the debate of relevant matters that City of York Council has direct responsibility for that are of concern to the local community." Which is fully in line with para B10 1 regarding motions and para 10.6 public participation? Local communities may well have 'concerns' well outside the remit of CYC or indeed the U.K. Government and 4.3 c) worded as it is opens the door to debate of out of scope matters.	A point for discussion.		Agree with the Councillor Warters view that we should discuss what CYC influences.	
5.1	Is the addition of "Meetings of Full Council are business meetings, where the Full Council transacts its essential business" really necessary?		See commentary to paragraph 1.2.	Prepared to accept (subject to caveat above).		
7.2		Should not a summons be sent to all Aldermen/Alderwomen as well as members of council?	This is not a legal requirement.		Disagree with Councillor Warters on a summons going to Aldermen and Alderwomen.	

9.1	<p>Disagree with the proposal to reduce the length of Full Council to 2 hours 30 minutes. We would support a three-hour time limit and would also suggest that consideration is given to excluding time spent on Public Participation from the agreed meeting length. For example, a full list of speakers could mean that up to 40 minutes of a 150 or 180 minute meeting could be spent on public participation, leaving less time to fit everything else in.</p>	<p>Given that the break in Full Council was only introduced for palantypists working to assist one member some years ago that hasn't been required for some years now and with the impending shortening of meetings in duration couldn't meetings continue without formal interruption? Attendees would of course be able to access facilities during the meetings.</p>	<p>A point for discussion, in the light of the proposed 2.5 hour time limit and the clarification at paragraph 5.1.</p>	<p>2.5 hours is not enough for Full Council (9.1)– At the most recent full Council we did not get through a large swathe of business in part because public participation took 45 minutes to complete. We would not seek to see a reduction in the public's right to speak at full Council and therefore we would need to see a significant increase in the time limit for full Council to a 3 hour limit. . If this is not granted then we cannot support a 30 minute time limit for a guillotine (9.3) as we do not want to be in a situation where suspending standing orders to increase this is regularly used.</p>	<p>On the length of FC we feel it should take as long as it takes but don't oppose shorter times per se. What we do oppose is simply what a total farce it is and there can be few councils embarrassing themselves more with what a farce of (low standard) theatre it is rather than achieving anything.</p>	<p>Happy to agree to three hours total (including public participation).</p>
9.3	<p>Disagree with limiting the extension to 30 minutes. The issue under discussion might be of significant importance and require more time to be properly discussed.</p>		<p>In such a case, a motion without notice to waive standing orders and extend the meeting may be moved.</p>	<p>Prepared to accept (subject to caveat above).</p>	<p>Happy with Lib Dem proposal that an extension should not be limited to 30 minutes. The MO is right that a motion to suspend SOs could be brought but we want to avoid this; any suspension to SOs essentially undermines the constitution.</p>	
10.8	<p>We would prefer for there to be some flexibility allowed to enable people to register to speak before the publication of the agenda?</p>		<p>The rationale behind the change is to ensure that all 10 speaking slots are available at the point of the publication of the agenda.</p>			
10.9		<p>This has always concerned me since a MO in the distant past first introduced it and in particular b) what does 'personal attack' mean in this context? of course there shouldn't be 'personal' remarks made but if 'attack' is to be used to protect officers or members from genuine criticism then the wording needs to be looked at again. Maybe 'unfounded criticism'?</p>	<p>Officers have no right of reply to public comments, and consequently any public criticism of individual officers amounts to bullying. In the event that valid criticism can be laid, it must be done through the appropriate route (i.e., through a complaint to the Chief Operating Officer).</p>		<p>CYC obsesses to a ludicrous extent about 'personal attacks', 'officers have no right of reply' and similar. There are numerous rules (whether for CYC or life generally) to cover the majority of inappropriate conduct and chairs should be trusted.</p>	

10.11	Disagree with the suggestion that in the event that the Public Participation item at any given meeting is oversubscribed, the Lord Mayor shall have absolute discretion as to which ten public participants shall be permitted to make a statement or ask a question. We would support a requirement for the Lord Mayor to seek to ensure a balanced range of speakers covering as many of the agenda items as possible?		Given that the Lord Mayor is required to act politically neutrally, the suggested wording achieves the aim of ensuring a balanced range of speakers.	Prepared to accept (subject to caveat above).	Relaxed with either the Lib Dem or MO view.	
11.3	Suggest that if the Leader is removed then the Deputy Leader steps in and the Executive continue until a new Leader is appointed. We believe this would be preferable to Officers being in control with no democratic oversight for what might be a considerable period of time, eg Leader removed in late July and Extraordinary Meeting not convened until September.		This would be contrary to the provisions of paragraph 11.2, which state that if the Leader is removed from office then all Executive Members lose their positions. In the event of a change at the suggested time (i.e., late July), a meeting would be convened in August, irrespective of any holiday arrangements.		No strong views here, but we do think falling to the Deputy Leader makes more sense (not least to limit the fact some past Deputy Leaders have been appointed not to be Deputy Leaders but to share around SLAs!)	
13.1	This is worded in a way which suggests that any Group can submit a budget amendment to an Ordinary Council meeting. Is that the intention here?		Any group may choose to submit a budget amendment.	Prepared to accept (subject to caveat above).		
B3 1	Disagree with the removal of the report by Executive Members in rotation and the opportunity for questions, and the removal of the opportunity to ask questions of any Executive Member. We would however be more comfortable with this change if at B8 there was 45 minutes for questions, rather than 30 minutes.		A point for discussion, in the light of the proposed 2.5 hour time limit.	In the event where all standard reports of non-leader Executive Members are eliminated then, at the same time, reducing the amount of time a Leader and Leaders of Opposition Groups would not be acceptable to the Liberal Democrat Group. This will reduce the amount of accountability of the Executive to an unacceptable level. Similarly, We would like 45 minutes for questions to the executive to ensure that there is enough time to scrutinise the work being done.	We think working round Exec member reports works quite well. The big issue is we often don't get onto them – e.g. two FCs ago the Cllr Kent report, questions to it and answers were probably the best part of the meeting constructively but then last meeting we didn't get onto the Cllr Steels-Walshaw report at all.	Happy to move to 35 minutes (to reflect the total amount of time currently allowed under the Constitution).

B3 1 (m)	Disagree with the proposed addition of “to consider any other business reports from Officers or the Executive set out in the notice convening the meeting.” This is far too vague – what are the ‘other business reports’ envisaged here?		Any business required to be conducted, the report for which is not presented by the relevant Executive Member.	Prepared to accept (subject to caveat above).	The Lib Dems are over worrying here.	
B7 1	Disagree with the proposed reduction from 5 to 3 minutes in the time allowed for Opposition Group Leaders to respond to the Leader’s report. Suggest also that the Leader retains the right of reply.		A point for discussion, in the light of the proposed 2.5 hour time limit.		We think three minutes should be enough, could be less for not the main opposition.	Three minutes is considered sufficient.
B 8	Disagree with the reduction from three to one opportunity to ask questions of the Leader and/or Executive Members. We would however be more comfortable with this change if at B8 there was 45 minutes for questions, rather than 30 minutes.		A point for discussion, in the light of the proposed 2.5 hour time limit.			See B3 1 above.
B 9, 10 & 11 (in current version)	Disagree with the proposed removal of sections B9, 10 and 11 from the current version of Appendix 3.		A point for discussion, in the light of the proposed 2.5 hour time limit; however, it is worth noting that the opportunity to ask any Executive member a question is included in the proposed changes at paragraph B8.	In the event where all standard reports of non-leader Executive Members are eliminated then, at the same time, reducing the amount of time a Leader and Leaders of Opposition Groups would not be acceptable to the Liberal Democrat Group. This will reduce the amount of accountability of the Executive to an unacceptable level. Similarly, We would like 45 minutes for questions to the executive to ensure that there is enough time to scrutinise the work being done.		See B3 1 above.

B10 1	<p>Disagree with the proposed addition of the following text: "Notices of motions must also contain an indication on the financial and legal impact of the motion, and, wherever possible, advice must be sought from the Chief Finance Officer, the Monitoring Officer, and from the relevant Director(s), in advance of the submission of the Motion." It is highly unlikely that there would be sufficient time to obtain such advice. Can the monitoring officer highlight any other councils that have adopted a similar approach?</p>		<p>The introduction of the proposed wording will assist Members in formulating motions which are less likely to be rejected based on either financial or legal impacts. Given that motions for Council are allocated at the beginning of the municipal year, there should be time in advance of the submission deadline for confidential advice to be sought from both legal and finance to ensure the impacts of motions are known.</p>	<p>We note that no example of another Council requiring financial and legal implications has been given. The Liberal Democrat group therefore will not vote for this.</p>	<p>On financial implications of a motion, we don't support this, which is just more work. Making staff work on detailing financial implications seems will frustrate all by adding debate on the costs when the cost information needed to decide will likely be obvious.</p>	<p>Happy to retain the current wording in respect of motions, no word limits, and time limits for submission.</p>
B10 2	<p>Disagree with the proposal that motions must be submitted eleven rather than eight days before date of the Full Council meeting. This would make it even more difficult to obtain and include advice on the 'financial and legal impact of the motion.'</p>		<p>The additional three days provides sufficient time for the impact of motions to be properly assessed, and only requires earlier planning to be achieved.</p>	<p>Moving the date of submission deadlines would have a disproportionate effect on the Liberal Democrat group due to the significant amount of parish council meetings that preclude our Councillors meeting on non-Friday evenings. We have set our meeting schedule for the year on the basis of regular scheduling of Full Council, committee meetings and Parish Council schedules. We therefore will not be able to vote for this.</p>		<p>See B10 1 above.</p>
B10 3	<p>Disagree with the proposed 500-word limit. There is no clear rationale for this change, and no explanation of what happens when an amendment to a motion pushes it over the 500-word limit.</p>		<p>A point for discussion, in the light of the proposed 2.5 hour time limit. The proposed word limit was suggested to ensure that motions are concise and to the point.</p>	<p>Motions going to full Council regularly exceed 500 words with no additional debate time required just on that basis – limiting a word count would not save any additional time and would just stifle Group's abilities to put forward motions with all relevant detail and context</p>	<p>For us motions of 200 words are ridiculous, nevermind 300 or 400 etc. Motions are ludicrously long and we very much support a wording cap and would go further. Long motions and wrecking amendments make a mockery of council as people are caught in a juggling match of what they do / don't weight, wording gets ignored etc.</p>	<p>See B10 1 above.</p>

B10 3	Disagree with reducing the number of motions from 4 to 2. Suggest that a reduction to 3 motions be trialled.		A point for discussion, in the light of the proposed 2.5 hour time limit. This was the compromise position agreed by the Working Group, between the elimination of motions and the retention of the current number.		Very much support the cut from four motions to two. If the Lib Dems strongly want to keep three we wouldn't be averse to that for now if it could bring a consensus.	Happy to move to 3 motions as a trial.
B10 7	Disagree with the proposal that the head of Paid Service can reject a motion that they consider unacceptable "for other appropriate reasons." This is far too vague and open to misuse.		The current wording provides that "in the opinion of the Chief Operating Officer (acting in the capacity as proper officer) is out of order, illegal, irregular or improper" it may be rejected. Paragraph 9 notes that "A notice of motion would be deemed irregular or improper if for example it was offensive or defamatory". Thus, the Head of Paid Service already has the ability to rule out motions they consider to be improper.	If the Head of Paid services already has the ability to rule out motions that are improper then additional wording in B10.7 is not needed.		See B3 1 above.
B13 (10, 11 & 12) (in current version)	Disagree with the removal of these sections from the current version of Appendix 3.		The original B10 and B11 are covered in the Leader's report referred to above; the original B12 (Committees of Council) is now included as paragraph B9.			See B10 1 above.
B11 2 m	Disagree with limiting the extension to 30 minutes.		See commentary to paragraph 9.3.	Prepared to accept (subject to caveat above).		
B11 2 o					Overriding Conservative views are we need a constitution which is stuck to unless there are strong reasons not to and we should work constructively on issues CYC can affect – e.g. (all from the last Full Council) – don't suspend standing orders to add in an extra petition	
B12 1	Disagree with the requirement for financial and legal advice to be secured before submitting an amendment, for the reasons set out above.		See commentary out paragraph B10 1.	We note that no example of another Council requiring financial and legal implications has been given. The Liberal Democrat group therefore will not vote for this.		See B10 1 above.

B12 1	Disagree with the suggestion that details of amendments only need to be shared in advance “Wherever possible” – it is essential that members have sight of any amendments prior to the meeting.		The proposed wording covers the situation that Council is asked to consent to a minor amendment to the motion (such as a typographical error identified at a late date).	If B12.1 is there to cover only the use of drafting amendments then the amendment should be clear about that and the wording should reflect that. As currently stated the amendment is too vague.	Presumably the wording could be changed to reflect no notice ‘if minor, typographical type’.	See B10 1 above.
B12 2	Is the proposed additional text “or otherwise fail to adhere to the rules governing the validity of motions” really necessary? Which other rules are being referred to here?		B10 6 and 7.	Prepared to accept (subject to caveat above).		
B13 1	Suggest that the addition of “in consultation with the Monitoring Officer” is not needed.		See commentary to paragraph 4.3 (a).	Prepared to accept (subject to caveat above).		
B13 3	Suggest that the following removed wording.... “When the Lord Mayor speaks or rises to speak during a debate, any Member then speaking or seeking to speak is to sit down” ... is retained and revised to read as follows: “When the Lord Mayor speaks during a debate, any Member speaking is to cease speaking.”		This would be a reasonable amendment.	Prepared to accept (subject to caveat above).	‘Members will resume their seat’ when the Lord Mayor speaks is standard wording. Fine with the Lib Dem amendment if this is mindful of things like people not able to stand or where we speak sitting to improve the sound, but we don’t want to leave a gap where a member can remain standing (and be challenge to the Lord Mayor’s authority).	
B13 3 f	Disagree with the proposed removal of the following text in brackets after ‘Point of Order’ - (any point of order must refer to the relevant Standing Order or statutory provision).		A point for discussion.	The Liberal Democrat group opposes any changes to B13.3 f as any Councillor could claim Points of Order that are not Points of Order. The original wording is there to stop the waste of time		
B17 2	Disagree with the proposal to allow the mover of the amendment to have a final right of reply at the close of the debate on the amendment. Not clear what the motivation for this change is?		The Working Group felt it appropriate to treat amendments in the same way as the substantive motion, meaning that the mover of the amendment, rather than the substantive motion, had the right of reply. A point for discussion.	We believe that it makes far more sense that the mover of the original motion is able to sum up the debate on amendments rather than the mover of the amendment	We think it is better that amendment movers can respond to the debate on their amendment to answer points than the main motion mover.	Agree that it should be the mover of the original motion, not the mover of the amendment, who should have the right of reply.

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