

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	9 MARCH 2012
TITLE OF REPORT:	AMENDMENTS TO THE CONSTITUTION- BUDGET AND POLICY FRAMEWORK RULES
REPORT BY:	ASSISTANT DIRECTOR LAW GOVERNANCE AND RESILIENCE

Wards Affected

County-wide

Purpose

To consider a proposed amendment to the Budget and Policy Framework Rules.

Recommendation

THAT: the Committee considers whether to recommend to Council that the Budget and Policy Framework Rules be amended to provide flexibility along the lines set out at paragraph 7 of the report.

Key Points Summary

- The report proposes changes to amend the Budget and Policy Framework Rules to provide greater flexibility.

Alternative Options

- 1 The Committee could maintain the current provisions, make changes as proposed or suggest an alternative to the mechanism proposed.

Reasons for Recommendations

- 2 To provide the Council with greater flexibility and avoid holding additional Council meetings for which there is no need.

Introduction and Background

- 3 On 18 November 2011 the Council gave authority to the Audit and Governance Committee to review the Constitution and make recommendations to the Council to amend it. This report invites the Committee to consider an amendment to the Budget and Policy Framework Rules.

Further information on the subject of this report is available from
Chris Chapman Assistant Director Law Governance and Resilience on (01432) 260200

Key Considerations

4. The Budget and Policy Framework Rules (4.3.2.8 - 11) provide in relation to consideration of Cabinet recommendations on Budget and Policy Framework items by Council that:

“If the Council accepts the recommendation of Cabinet without amendment, the Council may make a decision which has immediate effect. Otherwise, it may only make an in principle decision.

If the Council rejects or amends the Cabinet recommendation or substitutes its proposals in place of the Cabinet’s recommendations, the Cabinet will not implement the proposed plan, strategy or budget until a further report to Council has been considered.

In the event that the Council rejects or amends the Cabinet recommendation or substitutes its proposals, immediately prior to the close of the meeting the Chairman of the Council will adjourn the meeting until a date (not less than 10 working days thereafter) to be agreed by the Leader. The Leader may agree that the matter be deferred to the next meeting of Council. At the reconvened or next meeting the Council will consider the matter again.

At least 5 working days before the date on which the adjourned or next meeting is to be reconvened, the Chief Executive will provide a further report to Council in which he will set out the Leader’s response to the in principle decision of Council on its recommendations. That report must address all relevant issues and in particular, must include advice on the financial and legal implications. If the proposed plan, strategy or budget has legal implications for or impact on the Council’s Medium Term Financial Management Strategy that exceed £500,000 then the report must contain advice from the s.151 officer on the implications or impact of any proposed amendments or substitute proposals.”

- 5 As drafted this means that even if the Leader and the Cabinet are in agreement with the changes Council proposes another Council meeting must be convened. This seems an unnecessary waste of resources if the Executive accepts the Council’s proposals. It is recognised that the Executive might not be able then and there to agree to accept Council’s proposals without further research but that it may be able to do so once it has completed that research.

- 6 The Guidance accompanying the Local Government Act 2000 and the document “Modular constitutions for English Local Authorities” contains conflict resolution provisions to manage such a situation.

- 7 An example from the Constitution of East Cheshire Council taking account of the scenario in paragraph 5 reads as follows:

“If it accepts the recommendation of the Cabinet without amendment, the Council may make a decision, which has immediate effect. Otherwise, it may only make an in-principle decision. In either case, the decision will be made on the basis of a simple majority of votes cast at the meeting.

The decision will be published and, if an in-principle decision has been made, a written copy shall be given to the Leader as soon as possible for the Cabinet to consider.

An in-principle decision will automatically become effective 5 working days from the day following the date of written notification to the Leader of the Council’s decision, unless the Leader informs the Chief Executive in writing within those 5 days that the Cabinet objects to the decision becoming effective and provides reasons why in writing.

*Where notification of objection is received under (the paragraph) above, a meeting of Council will be called to be held within 28 days of the objection being received by the Chief Executive, to reconsider the decision that is the subject of the objection. In reconsidering the decision the Council must take into account the objection of the Cabinet and reasons for it and any revised proposals submitted by the Cabinet and the Cabinet's reasons for those revised proposals. The Council may either:
approve the Cabinet's recommendation by a simple majority of votes cast at the meeting;
or approve a different decision which does not accord with the recommendation of the Cabinet by a simple majority.*

The decision shall then be published and implemented immediately."

- 8 It is proposed that the Constitution be amended to provide flexibility along the lines set out in paragraph 7 above.

Community Impact

- 9 There is no significant impact.

Equality and Human Rights

- 10 It is considered that there are no implications in relation to public sector equality duty.

Financial Implications

- 11 The proposal would have potential financial benefits by helping to avoid the need for unnecessary Council meetings.

Legal Implications

- 12 The Council is required to maintain a Constitution and keep it under review.

Risk Management

- 13 There is a risk of unnecessary Council meetings being called if the proposed, or similar, mechanism is not adopted.

Consultees

- 14 Herefordshire Public Services Leadership Team

Appendices

None

Background Papers

- None identified.