

CYNGOR SIR POWYS COUNTY COUNCIL.

Democratic Services Committee

24-04-2023

REPORT AUTHOR: Head of Legal Services and the Monitoring Officer

SUBJECT: Constitution – Section 4

REPORT FOR: Decision

1. Purpose of Report

1.1 The purpose of the report is to consider possible amendments to Section 4 of the Constitution relating to:

- Written text/ preamble as background to a Motions submitted to Council;
- Seconding of Motions (Rule 4.41);
- Urgent Motions and the need for a costed analysis (new Rule 4.43.5);

2. Written text / Preamble as background to a Motion.

2.1 The motions submitted to Council over the past year have included a range of text introducing and supporting the motion, some of which has been quite lengthy. A review of the introductory text for motions submitted in the past year in the table below shows the number of words used by proposers of motions

Date	Item Number	Description	Preamble Word Count
26 May 2022	nil	nil	0
22 July 2022	15	School Closures	511
	16	Rural Fuel Duty Relief Scheme	147
	17	Dydd Gwyl Dewi	79
13 Oct 2022	11	Air ambulance	94
	12	School Transport	263
	13	Drainage and Flooding	273
	14	Nature Emergency	1789
08 Dec 2022	11	Commit to serve good quality meat and dairy products	341
	12	Fair's fare on Powys energy and water resources	163
	13	Powys Schools	363
23 Feb 2023	nil	nil	0
02 March 2023	12	Cynnig Iaith 2023 / 2023 Language Proposal	1098

- 2.2 The Committee is asked to consider whether a limit should be set to the number of words used in introductory text for Motions to Council.
- 2.3 In considering this matter, the Committee may wish to take into account the following:-
- The average number of words used in preambles since July 22 has been 510;
 - The proposers of motions are allowed 5 minutes to speak at Council and seconders 3 minutes;
 - The preamble does not form part of the Motion before Council and as such information contained in the preamble cannot be amended, although it can be corrected as part of the debate in Council.
- 2.4 If the Committee decides that a limit should be placed on the number of words allowed in preambles to motions, the Committee is asked to consider the following suggested new Rule to be recommended to Full Council for insertion within the Constitution:

“4.37.3 The preamble to any motion must contain no more than words without the consent of the Chair.”

Recommendation:	Reason for Recommendation:
<p>1. That the Committee decides</p> <p>(a) whether it wishes to recommend setting a limit to the number of words used in introductory text/ preamble for Motions to Council; and</p> <p>(b) if a limit is set, the suggested new wording for the Constitution as set out in paragraph 2.4 of the report</p>	<p>To consider whether to limit the text accompanying Motions to Council.</p>

3. Seconding of Motions.

- 3.1 Section 4, Rule 4.41 of the Constitution limits for the number of motions which can be proposed by a Member for any Council meeting to 2 motions for each meeting . A Member has questioned whether a similar rule should exist for those seconding motions as the Constitution currently is silent on this subject.
- 3.2 The Committee is therefore asked to consider whether or not the Constitution should be amended to restrict the number of motions that a member can second to 2 motions for each Council meeting.
- 3.3 If the Committee decides that a limit should be placed on the number of motions that a Member be second at any one Council meeting , the Committee is asked to consider the following suggested amendment to Rule 4.41 to be recommended to Full Council for insertion within the Constitution:

“Two Motions per Councillor

4.41 No Councillor may give notice of, **or second**, more than 2 motions for any Council meeting, except with the consent of the Chair. Following debate and / or amendments a motion will be taken as a single motion.”

Recommendation:	Reason for Recommendation:
2. That the Committee decides: (a) whether it wishes to recommend to Council the amendment of Rule 4.41 to the effect that a Councillor cannot second more than two motions to Council for any Council meeting; and (b) if a limit is set, the suggested amendment to Rule 4.41 for the Constitution as set out in paragraph 3.3 of the report	To revise the number of motions which a Councillor can second for any Council meetings.

4. Urgent Motions and the need for a Costed Analysis

4.1 In accordance with Rule 4.37.1 of the Constitution every motion submitted to Council must be accompanied by a costed analysis of the financial and resource implications that motion would have on the Council.

4.2 The Rules in relation to urgent motions (Rule 4.43) do not indicate whether or not a costed analysis is required for urgent motions under Rule 4.43 which provides as follows:

“Urgent Motions

4.43.1 An urgent motion complying with Rule 4.37.2 may be presented, with the permission of the Chair, provided it has been received by the Monitoring Officer by 5.00 p.m. on the day prior to the Council meeting

4.43.2 Subject to Rule 4.43.3 below, the Chair has general authority to agree to take an urgent motion which is not on the agenda, and the discretion is entirely that of the Chair who alone needs to be satisfied as to the need for urgency;

4.43.3 The general authority referred to above is qualified in that an urgent motion should not be taken unless:

4.43.3.1 the matter dealt with in the motion has arisen between the deadline for the submission of motions and the date of the meeting; and

4.43.3.2 the motion requires an urgent decision in the public interest which cannot be dealt with by other means (including referring the motion for consideration and decision to the Cabinet or a committee), or left to be decided at a subsequent meeting.

4.43.4 In all cases, the reason for the urgency shall be clearly stated on the motion, and the Chair will explain to the Council the reason why he or she has accepted a motion not listed on the agenda as urgent”

- 4.3 As urgent motions can be submitted up to 5 p.m. on the day prior to the Council meeting it may not be possible to undertake a costed analysis in the timescale available . The Committee is therefore asked to consider whether or not the requirement for a costed analysis should be excluded for urgent motions.
- 4.4 If the Committee decides that the requirement for a costed analysis should be excluded for urgent motions, the Committee is asked to consider the following suggested new Rule 4.43.5 to be recommended to Full Council for insertion within the Constitution:

“4.43.5 For the avoidance of doubt an urgent motion does not need to be accompanied by a costed analysis of the financial and resource implications that motion.”

Recommendation:	Reason for Recommendation:
<p>3. That the Committee decides:</p> <p>(a) whether or not the requirement for a costed analysis should be excluded for urgent motions; and</p> <p>(b) if the requirement is to be excluded, the suggested new Rule 4.43.5 for the Constitution as set out in paragraph 4.4 of the report</p>	<p>To exclude the requirement for a costed analysis for urgent motions.</p>

5. Amendment to Motions.

- 5.1 The Committee is asked to consider possible inconsistencies in the wording of Rule 4.49.1.5 of The Constitution which reads as follows:

“Amendments to Motions

- 4.49.1 Subject to Rules 4.49.2 to 4.49.9 below an amendment to a motion must be relevant to the motion and will either be:
- 4.49.1.1 to refer the matter to an appropriate committee, body or individual for consideration or reconsideration;
 - 4.49.1.2 to leave out words;
 - 4.49.1.3 to leave out words and insert or add others; or
 - 4.49.1.4 to insert or add words or additional recommendations;
 - 4.49.1.5 to substitute another proposition which is committed to writing and received by the Head of Legal and Democratic Services and / or the Head of Democratic Services no later than 5 p.m. on the day prior to the meeting.

as long as the effect of Rules 4.49.1.2 to 4.49.1.4 is not to negate or would otherwise change the material substance of the original motion.”

- 5.2 Members will see that the combined effect of the section highlighted in yellow above is that amendments to motions can be moved to leave words out and/or to insert words and or additional recommendations provided that the amendment not to negate or would otherwise change the material substance of the original motion. Members may take the view that this restriction is appropriate to avoid amendments being proposed which would negate the original motion when the same could be achieved by voting down the motion.
- 5.3 However, members will also see from Rule 4.49.1.5 an amendment can be proposed to **substitute** another proposition provided that the amendment is committed to writing and received by the Head of Legal and Democratic Services and / or the Head of Democratic Services no later than 5 p.m. on the day prior to the meeting. Such a substituted proposition could negate or would otherwise change the material substance of the original motion and if received as late as 5.00pm on the day before a Council meeting would run the risk of not being accompanied by a by a costed analysis of the financial and resource implications that motion as required by Rule 4.37.1.
- 5.4 The Committee is asked to consider the following options:-
- Option 1 - to remove Rule 4.49.1.5 from the Constitution so as to remove the opportunity for a substitute amendment which negates or would otherwise change the material substance of the original motion; or
- Option 2 - To retain Rule 4.49.1.5 but amend to require the motion to be received and to have a costed analysis of the financial and resource implications that motion to be received at least 2 days before a Council meeting in accordance with as required by Rules 4.37.1 and 4.49.2.1; or
- Option 3 - To retain Rule 4.49.1.5 and to exclude the need for costed analysis of the financial and resource implications the amendment.

Recommendation:	Reason for Recommendation:
<p>4. That the Committee recommend one of the options set out in paragraph 5.4 of the report</p> <p>5. That the Head of Legal Service and the Monitoring Officer be asked to prepare a draft revision of Section 4 of the Constitution to reflect the decisions in 5 above for consideration by the Council.</p>	<p>To exclude the requirement for a costed analysis for urgent motions.</p>

Relevant Policy (ies):			
Within Policy:	Y	Within Budget:	Y

Relevant Local Member(s):	N/A
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Person(s) To Implement Decision:	Clive Pinney
Date By When Decision To Be Implemented:	

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Background Papers used to prepare Report: