

CYNGOR SIR POWYS COUNTY COUNCIL.

**County Council
18-05-2023**

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 recommended by Democratic Services on 24th April 2023 and relating to:

- Seconding of Motions (Rule 4.41);
- Urgent Motions and the need for a costed analysis (new Rule 4.43.5);

2. Seconding of Motions.

2.1 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.

2.2 The Democratic Services Committee considered 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

2.3 The Committee agreed to such a restriction and recommends to Council the following amendment to Rule 4.41 be inserted 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 to Council:	Reason for Recommendation:
1. That: (a) Rule 4.41 of the Constitution be amended to the effect that a Councillor cannot second more than two motions to Council for any single Council meeting; and (b) the suggested amendment to Rule 4.41 in the Constitution as set out in paragraph 2.3 of the report be approved	To revise the number of motions which a Councillor can second for any Council meetings.

3. Urgent Motions and the need for a Costed Analysis

- 3.1 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.
- 3.2 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”
- 3.3 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 Democratic Services Committee was therefore asked to consider whether or not the requirement for a costed analysis should be excluded for urgent motions.
- 3.4 The Committee decided that the requirement for a costed analysis should be excluded for urgent motions, and recommended to Council that the following suggested new Rule 4.43.5 be inserted 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 to Council:	Reason for Recommendation:
2. That: (a) the requirement for a costed analysis should be excluded for urgent motions; and	To exclude the requirement for a costed analysis for urgent motions.

<p>(b) , the suggested new Rule 4.43.5 for the Constitution as set out in paragraph 3.4 of the report be approved.</p>	
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4. Amendment to Motions.

4.1 The Democratic Services Committee was 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.”

4.2 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.

4.3 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.

4.4 The Democratic Services Committee was 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.

4.5 The Democratic Services Committee decided to recommend Option 1 to Council for adoption as set out in paragraph 4.4 above.

Recommendation to Council:	Reason for Recommendation:
<p>3. That option 1 as set out in paragraph 4.4 of the report be approved</p> <p>4. That the Head of Legal Service and the Monitoring Officer is authorised to remove Rule 4.49.1.5 from the Constitution revise and to make such other consequential amendments as may be required. .</p>	<p>To address the possible inconsistencies in Rule 4.49.1.5 of the Constitution.</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: