

CANNOCK CHASE COUNCIL
COUNCIL
29 SEPTEMBER 2010
REPORT OF MONITORING OFFICER
CONSTITUTIONAL AMENDMENT – FORM AND COMPOSITION OF SHADOW CABINET
KEY DECISION – (NO)

1. Purpose of Report

- 1.1 To respond to the Notice of Motion 8.3 submitted to the last Council meeting by the Leader of the Council under Rule 6 requiring amendments to the form and composition of Shadow Cabinet.

2. Recommendation(s)

- 2.1 That the Council consider the Notice of Motion and determine whether to:
- (i) Accept the Motion as presented and adopt the Constitution amendments contained in 5.1 below, or
 - (ii) Accept some or all the recommendations and constitutional amendments in 5.1 below.

3. Summary (inc. brief overview of relevant background history)

- 3.1 Under Rule 6 of the Council Procedure Rules the Leader submitted the following Motion:-

“That the form and composition of Shadow Cabinet and appointment of the Leader of the Opposition be reviewed and amended with immediate effect whereby:

- The number of Members of Shadow Cabinet be the same number as the Members of Cabinet (that being such number as I have most recently notified to Council)
- The composition of Shadow Cabinet will consist of Members of all political groups which do not form part of and are not represented on the Executive.
- The allocation of Shadow Cabinet seats shall be in proportion to the representation of those political groups on the Council.

- The Leaders of political groups (which do not form part of and are not represented on the Executive) shall appoint Shadow Cabinet Members in accordance with their respective allocation of seats.
 - In the event that a political group determines that it does not wish to accept its allocation of seats on the Shadow Cabinet, the number of such seats will be allocated to the other group or groups proportionately.
 - The Leader of the Opposition shall be the Leader of the political group which holds and has accepted the largest number of seats on Shadow Cabinet.”
- 3.2 The Council adjourned consideration of the Motion pending a report from the Monitoring Officer after consulting the Chief Executive.
- 3.3 The affected parts of the Constitution are:-
1. Paragraph 10.2, Form and Composition, of Section 10, The Opposition and Shadow Cabinet, of Part 2 of the Constitution
 2. Paragraph 10.3, Opposition Leader, of Section 10, The Opposition and Shadow Cabinet, of Part 2 of the Constitution
 3. Paragraph 10.4, Other Shadow Cabinet Members, of Section 10, The Opposition and Cabinet of Part 2 of the Constitution
 4. Section 39, Council Procedure Rules 4A (i) – (s), and 4B (h) of Part 4 of the Constitution.

4. Key issues and Implications

- 4.1 There are several issues to be considered in deciding this Motion. The proposal will fundamentally alter the composition of the Shadow Cabinet, changing it from the single biggest party in opposition to dual, or even multi-, party representation reflecting the political balance of the parties in opposition to the ruling administration.

5. Conclusions and Reason(s) for the Recommendation(s)

5.1 Amendments to Accept the Motion;

Paragraph 10.2, Form and Composition, to read:

- “a) Should no political groups or group on the Council consider itself able to constitute the formal opposition to the Cabinet, there will be no Shadow Cabinet.
- b) The Shadow Cabinet will consist of the same number of Members as comprise the Cabinet (including the Leader) as most recently notified to the Council by the Leader.

- c) The Shadow Cabinet will consist of Members of those political groups which do not form part of and are not represented on the Executive allocated to those groups in proportion to the numbers of members of those groups on the Council. In the event that a political group declines to accept its allocation of seats the seats will be allocated to those other qualifying groups in proportion to the numbers of members of those groups on the Council.
- d) The Leader of each political group to which seats have been allocated will appoint members to fill those allocated seats.
- e) The Opposition Leader shall identify a lead Shadow Cabinet member to be the opposition spokesperson in respect of each of the service blocks represented within the Local Area Agreement as agreed by the Council and its partner local authorities within Staffordshire (or such other statutory local mechanism as may exist from time to time).
- f) The Shadow Cabinet or any one or more members of the Shadow Cabinet will be entitled to attend and speak at any Cabinet meeting on giving at least 48 hours prior written notice to the Chief Executive.
- g) The Leader of the Council may on giving at least 48 hours prior written notice request the attendance at a Cabinet meeting of any one or more members of the Shadow Cabinet.”

Paragraph 10.3, Opposition Leader, to read:

- “a) The Opposition Leader shall be the Leader of the political group which holds the largest number of seats on the Shadow Cabinet.
- b) The Opposition Leader shall hold that position for as long as his political group fulfil the criteria in paragraphs 10.3 a) or until any of the following events occur (if earlier) :
 - i. he/she resigns from office, or
 - ii. he/she is suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or
 - iii. he/she is no longer a Councillor, or
 - iv. he/she is removed from the position of Group Leader by his/her political group, or
 - v. he/she is removed by Council in order to implement a recommendation of the Standards Board for England or the Council’s Standards Committee following a local determination

- c) The Opposition Leader shall report the form and composition of the Shadow Cabinet to the Annual Council Meeting and, should any changes occur during the municipal year, to the first available meeting of the Council thereafter.
- d) For the avoidance of doubt the same Councillor may be re-elected as Opposition Leader on one or more occasions if the Council so wishes.”

Paragraph 10.4, Other Shadow Cabinet Members, to read:

- “a) Other Shadow Cabinet members shall be appointed in accordance with paragraph 10.2 and shall hold that position for such time as their Group Leader determines or until any of the following events occur (if earlier) :-
 - i. they resign from office, or
 - ii. they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although he/she may resume office at the end of the period of suspension), or
 - iii. they are no longer a Councillor, or
 - iv. they are removed from that position, either individually or collectively, by their Group Leader, or
 - v. they are removed by Council in order to implement a recommendation of the Standards Board for England or the Council’s Standards Committee following a local determination.
 - vi. their Group Leader ceases to hold that office.
- b) For the avoidance of doubt the same Councillor may be re-appointed on one or more occasions.”

Council Procedure Rules 4A and 4B to read

4A. Order of Business – Annual Meeting

- “ (1) In a year when there is an ordinary election of Councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing Councillors. In any other year, the Annual meeting will take place in March, April or May:
 - (a) To elect a person to preside if the Chairman or Vice-Chairman of the Council is not present;
 - (b) To elect the Chairman of the Council;

- (c) To appoint, by election, the Vice-Chairman of the Council;
- (d) To approve the minutes of the last meeting;
- (e) To receive any announcements from the Chairman and/or Head of the paid service;
- (f) To elect the Leader of the Council for 4 years (as appropriate);
- (g) To receive notification from the Leader of the Council of the number and identity of Cabinet Members, their Portfolios and the allocation of responsibilities for leading on the Local Area Agreement blocks.
- (h) To receive the acceptance of office from the Leader of the Opposition;
- (i) To receive notification from the leaders of the political groups to which seats on the Shadow Cabinet have been allocated of their appointments to the Shadow cabinet;
- (j) To receive notification from the Leader of the Opposition of the Portfolios of the members of the Shadow Cabinet and the allocation of responsibilities in respect of the Local Area Agreement blocks;
- (k) To appoint at least one Overview and Scrutiny Committee (referred to as a Scrutiny Committee), a Standards Committee, a Licensing and Public Protection Committee, a Planning Control Committee and such other Committees as the Council considers appropriate;
- (l) To receive and adopt any changes to the Constitution and decide which Committees and other bodies to establish for the municipal year;
- (m) To decide the size and terms of reference for those Committees for the municipal year and other bodies including any such scheme for substitute Members;
- (n) To appoint the Chairman and Vice-Chairman of Committees provided that advance notification of any Political Group's proposed Chairman, Vice-Chairman and membership has been circulated by the Proper Officer to all Members at least 24 hours prior to the Annual Meeting.

- (o) To decide the allocation of seats to political groups in accordance with the current legislation;
 - (p) To appoint to Committees those Councillors named by the Group Leader.
 - (q) To appoint representatives to outside bodies provided that Group Leaders have submitted their nominations to the Proper Officer at least 48 hours prior to the commencement of the Annual Meeting. The submitted nominations shall be circulated to Members of the Council at the meeting and no amendments shall be permitted once the nominations are received by the Proper Officer.
 - (r) To agree the scheme of delegation or such part of it as the Constitution determines it is for the Council to agree;
 - (s) To consider any other business set out in the notice convening the meeting.
- (2) The order of business may be changed, insofar as it is statutorily possible, at the discretion of the Chairman or by motion passed without discussion. The motion need not be in writing.”

“4B. Order of Business – Ordinary Meetings

The order of business at every meeting of the Council shall be:-

- (a) To choose the person to preside if the Chairman and Vice-Chairman are absent;
- (b) To approve as a correct record and sign the minutes of the last meeting of the Council;
- (c) To deal with any deputations or public questions received in accordance with the Council's approved schemes;
- (d) To receive any announcements from the Chairman and/or Head of the paid service;
- (e) In the event of the Leader being removed following a vote of ‘no confidence’ or a change in administration, to elect a Leader of the Council;

- (f) In the event of any change to the composition of the Cabinet (including the Leader), to receive notification from the Leader of the Council of the number and identity of Cabinet Members, their Portfolios and the allocation of responsibilities for leading on the Local Area Agreement blocks;
- (g) In the event of a change in the leader of the Opposition, to receive the acceptance of office from the Leader of the Opposition;
- (h) In the event of any change to the composition of the Shadow Cabinet to receive notification from the leaders of the political groups to which seats on the Shadow Cabinet have been allocated of changes to their appointments to the Shadow cabinet and to receive notification from the Leader of the Opposition of the portfolios of the Shadow Cabinet Members, and the allocation of responsibilities in respect of the Local Area Agreement blocks;
- (i) In the event of any change in the Chair or Vice-Chair of a Committee, to appoint the Chair and Vice-Chair to such Committee.
- (j) In the event of any change in named membership of a Committee by a Group Leader, to appoint the newly named Member(s).
- (k) To dispose of business (if any) remaining from the last meeting;
- (l) To answer questions asked under Rule 8;
- (m) To consider reports and recommendations of the Cabinet, Committees and Panels;
- (n) To consider motions under Rule 6 in the order in which notice has been received;
- (o) To consider other business, if any specified in the summons.
- (p) The order of business may be changed, insofar as it is statutorily possible, at the discretion of the Chairman or by motion passed without discussion. The motion need not be in writing."

6. Report Author Details

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SCHEDULE OF ADDITIONAL INFORMATION

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Section 1

Contribution to Council Priorities (i.e. CHASE, Corporate Plan)

The Council, through its democratic process, contributes to the each of the Council's strategic objectives, represented by the acronym CHASE.

Section 2

Contribution to Promoting Community Engagement

There are no identified contributions to promoting community engagement arising from this report.

Section 3

Financial Implications

There are no identifiable Financial Implications arising from this report.

Section 4

Legal Implications

There are no identifiable legal implications. It is not a legal requirement to have a Shadow Cabinet and the proposed changes are reflected in the amended section(s) of the Constitution.

Section 5

Human Resource Implications

There are no identifiable Human Resource implications arising from this report.

Section 6

Section 17 (Crime Prevention)

There are no identifiable implications in respect of Section 17 (Crime Prevention) arising from this report.

Section 7

Human Rights Act Implications

There are no identifiable implications in respect of Human Rights Act arising from this report.

Section 8

Data Protection Act Implications

There are no identifiable implications in respect of Data Protection Act arising from this report.

Section 9

Risk Management Implications

There are no identified Risk Management implications arising from this report.

Section 10

Equality and Diversity Implications

There are no identified Equality and Diversity implications arising from this report.

Section 11

List of Background Papers

Section 12

Report History

Council Meeting	Date
Council (Motion to Council)	25 August, 2010

Annexes to Report

Annex 1 Amendments to the Constitution: