

9th September 2019

AMENDMENT TO CONSTITUTION – QUORACY OF THEMATIC BOARDS

Purpose of Report

To note the proposed amendments to the Constitution of the MCA to change the membership and quoracy provisions of the Thematic Executive Boards to reflect the position of the Non-Constituent Authorities.

Thematic Priority

Cross cutting

Freedom of Information and Schedule 12A of the Local Government Act 1972

The paper will be available under the Combined Authority Publication Scheme

Recommendations

Members note the proposed changes to the Terms of Reference of 4 of the Executive Boards (Appendices 4-7 of the MCA Constitution) to reflect the position of the Non-Constituent Authorities and to ensure that meetings are quorate.

1. Introduction

- 1.1** In April 2019 the MCA changed its decision making and governance arrangements by introducing 5 Thematic Executive Boards. These Boards have delegated decision making functions. Each Board has a set of Terms of Reference and these set the membership and quoracy rules for each Board.
- 1.2** Each Board (except Transport) has 11 members (7 elected members, 2 LEP reps, a Chief Executive, and the Head of Paid Services), and the quoracy is set at 7 members.
- 1.3** The quoracy rules for all the Boards (except Transport) include provision for each Non-Constituent Authority to be represented (including one Non-Constituent Authority Leader). It has become clear from the first cycle of Board meetings that attendance of members from the Non-Constituent Authorities will be infrequent and in many cases they have not nominated attendees to the Boards. The Interim Head of Paid Services has contacted the Leader of each of the Non-Constituent Councils to seek their views about future attendance at the Boards and 3 out of 5 have expressed the view that they no longer wish to be formally represented. Chesterfield BC expressed the desire to continue in some

capacity in respect of the Skills Board and (informally) Bassetlaw in respect of the Infrastructure Board.

2. Proposal and justification

- 2.1** Subject only to a formal response from Bassetlaw, given the position of the Non-Constituent Authorities it is proposed that for all the Boards (except for Transport (where there is already only one representative from the Non-Constituent Authorities, reflecting the South Yorkshire nature of MCA transport activity)) the membership be varied to remove their membership from the Boards, except for Skills Board (where the membership will reflect Chesterfield's wish for the Leader to remain as an active participant) and Infrastructure Board (where the membership will reflect Bassetlaw's wish for the Leader to remain as an active participant).
- 2.2** It is proposed that the quoracy provision for each Board be reduced from 7 to 5 Members, but that to be quorate at least one LEP representative and 2 members from the Constituent Authorities must be present.
- 2.3** It is also proposed that the position of the Non-Constituent Authorities is clarified in the Terms of Reference to set out they will have the right to send an attendee to Board meetings and participate in discussions, but that they have no voting rights. It should be noted that these changes do not change the membership of the MCA itself and the Leaders of the 5 Non-Constituent Authorities remain members and free to attend as know. Changes to the MCA membership can only be changed by statutory instrument.
- 2.4** The Terms of Reference also include a process for taking decisions between meetings. The process is to be used by exception only. The drafting is unclear as to what counts as a "unanimous" decision, being either i) unanimity of those that respond by the decision deadline; or ii) unanimity of all members of the Board. The proposed is to clarify the drafting to reflect option i above.

3. Consideration of alternative approaches

- 3.1** Remain as is - This will mean there is an on-going issue over quoracy and the membership of the Boards will not reflect the position of the 3 Non-Constituent Authorities that have expressed the view that they do not want to have formal membership of these Boards.
- 3.2** Reduce the quoracy requirement to 5 members and leave all 5 Non-Constituent Authorities as having the right to nominate representatives to the Board- the membership of the Boards would not reflect the position of the 3 Non-Constituent Authorities that have expressed the view that they do not want to have formal membership of these Boards.
- 3.3** Remove all 5 Non-Constituent Authorities right to nominate a member of the Boards - This would not reflect the position of Chesterfield Borough Council, who, as a Member of the MCA has the expectation to be able to be represented at the Boards.

4. Implications

4.1 Financial

None.

4.2 Legal

The Constitution needs to be amended following the approval of the MCA. The proposed amendments to reflect the recommendations made in this report and set out in the Appendix to this report.

4.3 Risk Management

The changes will mitigate the present risk that Board meetings are not quorate.

4.4 Equality, Diversity and Social Inclusion

None.

5. Communications

5.1 None.

6. Appendices/Annexes

6.1 None.

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Other sources and references: