

Report to Council

Subject: Proposed amendments to the Constitution: Scrutiny arrangements

Date: 11 September 2013

Author: Stephen Bray, Corporate Director and Council Solicitor and
Monitoring Officer

1. Purpose of the Report

To seek approval for amendments to the Contract Standing Orders and Standing Orders for Dealings with Land in the Constitution to reflect the proposed changes to the Scrutiny Committee structure.

2. Background

Members will recall that the attached report was presented to the Council meeting on 10 July 2013 recommending changes to the Constitution. The amendments to the Constitution set out in Appendix 1 were approved, however in view of the operation of Standing Order 29, consideration of the amendments set out in Appendix 2 were adjourned to the next ordinary meeting of the Council

3. Proposal

It is proposed that the Council approves the amendments to the Constitution set out in Appendix 2 to the attached report.

4. Resource Implications

None.

5. Recommendation

It is recommended that:

- 5.1 The amendments to the Constitution set out in Appendix 2 to the attached report are approved.

5.2 The Council Solicitor and Monitoring Officer is authorised to make the amendments to the Constitution set out in Appendix 2.

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1. Purpose of the Report

To seek approval for amendments to the Constitution to reflect the proposed changes to the Scrutiny Committee structure.

2. Background

2.1 Executive arrangements by a local authority must include provision for the appointment of one or more Overview and Scrutiny Committees. The Committee must have the power:

- a) To review or scrutinise decisions made, or other action taken, in connection with any functions for which the executive is responsible;
- b) To make reports or recommendations to the authority or the executive with respect to the discharge of such functions;
- c) To review or scrutinise decisions made, or other action taken, in connection with any functions for which the executive is not responsible;
- d) To make reports or recommendations to the authority or the executive with respect to the discharge of such functions;
- e) To make reports or recommendations to the authority or the executive on matters which affect the authority's area or the inhabitants of the area.

Whilst the powers are set out in statute, it is for the authority to determine how many Scrutiny Committees it wishes to establish.

2.2 The Council's scrutiny arrangements have changed over time and most recently consisted of an Overview Scrutiny Committee and two separate scrutiny committees (Policy Review and Performance Review).

3. Proposal

- 3.1 At the annual meeting, Council decided not to appoint to the Policy Review Committee and Performance Review Committee and therefore they do not appear in the Committee establishment. Council agreed that the Overview and Scrutiny Committee should consist of 13 members, which were appointed on a basis proportionate to overall party membership on the Council. It is proposed that both the Policy Review and Performance Review Committees are disestablished, leaving the Overview and Scrutiny Committee to fulfil their functions, and this report deals with the constitutional changes required to give effect to this.
- 3.2 It is envisaged that quarterly performance reviews, and a continuation of the practice of holding Cabinet members to account will be the 'core business' of the new Overview and Scrutiny Committee. Policy review work would be devolved to task and finish groups, membership of which could be drawn from the Overview and Scrutiny Committee and the wider Council (not including Executive members) or from other organisations if considered appropriate.
- 3.3 The implementation of these arrangements will generate a financial saving of £6,600 in Special Responsibility Allowances and reduce the administration involved in supporting three separate Committees.
- 3.4 It is proposed that the Council approves the amendments to the Constitution set out in the appendices to this report to reflect the fact that the Council has made appointments to a single Overview and Scrutiny Committee with no standing sub-committees.
- 3.5 At the same time as making the changes referred to above, there is also an opportunity to update the sections of the Constitution relating to the Budget and Policy Framework. These sections were prepared at a time when the Council was in a position of 'no overall control' and are not only out of date in this respect but also need to be amended to reflect changes in legislation and to bring them into line with the provisions in the national model constitution as prepared by the Association of Council Solicitors and Secretaries (ACSeS) in conjunction with Dickinson Dees Solicitors.
- 3.6 The proposed changes set out in Appendix 2 fall within Standing Order 29 which states:

"29. Variation and Revocation of the Constitution

Any motion to add to, vary or revoke the Articles of the Constitution, Procedural Standing Orders, Standing Orders relating to Contracts, Standing Orders for Dealings with Land and Standing Orders relating to staff except for the amendment of financial limits and other amendments appropriate to give effect to changes in officers' duties, responsibilities and titles, shall, when proposed and seconded, stand adjourned without discussion to the next ordinary meeting of the Council."

Consequently, the changes set out in Appendix 2 cannot be agreed straightaway.

4. Resource Implications

The disestablishment of the Performance Review and Policy Review Scrutiny Committees will result in a saving of the associated Special Responsibility Allowances paid to the Chairs of these Committees.

5. Recommendation

It is recommended that:

- 5.1 The amendments to the Constitution set out in Appendix 1 are approved.
- 5.2 The Council Solicitor and Monitoring Officer is authorised to make the amendments to the Constitution set out in Appendix 1.
- 5.3 The amendments to the Constitution set out in Appendix 2 are adjourned to the next ordinary meeting of the Council.

Part 1 – Summary and Explanation (page 6 of the current Constitution)

Delete the following text:

Overview and Scrutiny

There are two scrutiny committees which support the work of the executive and the Council as a whole. They allow citizens to have a greater say in Council matters by holding public inquiries into matters of local concern. These lead to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. Overview and scrutiny committees also monitor the decisions of the executive. They can ‘call-in’ a decision which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

And replace with:

Overview and Scrutiny

There is one Overview and Scrutiny Committee which supports the work of the executive and the Council as a whole. The Committee can enable citizens to have a greater say in Council matters by holding public inquiries into matters of local concern, leading to reports and recommendations which advise the executive and the Council as a whole on its policies, budget and service delivery. The Overview and Scrutiny Committee also monitors the decisions of the executive. They can ‘call-in’ a decision which has been made by the executive but not yet implemented. This enables them to consider whether the decision is appropriate. They may recommend that the executive reconsider the decision. They may also be consulted by the executive or the Council on forthcoming decisions and the development of policy.

Part 2 – Articles of the Constitution (pages 8-35 of the current Constitution)

Article 4.01

Delete the following text:

Policy Framework

The policy framework means the following plans and strategies:-

- Strategic Corporate Plan incorporating the Best Value Performance Plan;
- Community Strategy;
- Crime and Disorder Reduction Strategy;
- Plans and strategies which together comprise the Development Plan;
- The plan and strategy which comprise the Housing Strategy;
- The Capital Strategy and any plan or strategy for the control of the Authority's borrowing and investments.

And replace with:

Policy Framework

The policy framework means the following plans and strategies:-

- Sustainable Community Strategy (incorporated within the Council Plan);
- Development Plan documents;
- Gambling Statement of Policy; and
- The Capital Strategy and any plan or strategy for the control of the Authority's borrowing and investments.

Article 5.02 - delete "Policy Review Scrutiny Chairman" and replace with "Chairman of the Overview and Scrutiny Committee".

Article 6, 11.05 and Schedule 1 –

Delete all references to "Scrutiny Committees" and replace with references to "Overview and Scrutiny Committee".

Part 3 – Responsibility for Functions

Scrutiny Committee Remits (page 70 of the current Constitution)

Delete the remit of the Overarching Scrutiny Committee, Performance Review Scrutiny Committee and Policy Review Scrutiny Committee and replace with the following:

Overview and Scrutiny Committee

Remit:

- Oversee the strategic direction of the scrutiny function and its methods of working
- Consider and agree all topics for scrutiny, to decide upon timescales, personnel and associated logistical issues
- Assist the Council and the Executive in the development of its budget and policy framework
- Establish task and finish working groups focusing on particular areas of policy development and review with a view to making recommendations to the Executive when necessary
- Conduct research, community and other consultation in the analysis of policy issues
- Consider and implement mechanisms to encourage and enhance community participation in the development of policy
- Question members of the Executive, Committees and Chief Officers about their views on issues and proposals affecting the area
- Liaise with organisations operating in the area to ensure that the interests of local people are enhanced by collaborative working
- Consider the impact of policies to assess if they have made a difference
- Review and scrutinise the performance of the Executive in relation to its policy objectives, performance targets and/or particular service areas
- Review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas
- Question members of the Executive, Committees and Chief Officers about their decisions and performance of any functions for which they are responsible
- Review and scrutinise the performance of other public bodies in the area and invite reports from them about their activities and performance
- Report to full Council, the Executive, or relevant committees with recommendations for improvements in service areas or other matters

within its remit

- Exercise the right to call in for reconsideration key decisions made but not yet implemented by the Executive and Officers
- Consider “Councillor Calls for Action” raised in accordance with agreed procedures

Part 4 – Rules of Procedure

Access to Information Procedure Rules (pages 90-100 of the current Constitution)

Delete all references to “Policy Review Scrutiny Committee” and replace with “Overview and Scrutiny Committee”.

Delete all references to “Scrutiny Committee(s)” and replace with “Overview and Scrutiny Committee”.

Budget and Policy Framework Procedure Rules (pages 101-108 of the current Constitution)

Delete the following text:

Process for developing the framework

2.01 The process by which the budget and policy framework shall be developed is as follows:

- (a) Policies and Strategies not required to be produced in partnership:
 - (i) The process shall commence under the auspices of the Policy Review scrutiny committee, which shall appoint a working party for the purpose.
 - (ii) The working party shall prepare the first draft of the policy or strategy in consultation as it sees fit or as directed by the scrutiny committee.
 - (iii) The working party shall refer the first draft to the Policy Review scrutiny committee, which shall consider it, amend it as it sees fit and forward it to the Executive.
 - (iv) The Executive shall undertake formal consultation as necessary and appropriate on

- the draft and prepare a second draft.
- (v) The Executive shall then present its draft policy or strategy to the Council for adoption.
 - (vi) If in any case the Leader is of the view that it is necessary in the interests of effective planning that a shorter process be adopted, he may seek the approval of the Policy Review Scrutiny Committee Chairman of a different procedure, in which case, if such approval be given, that different process shall be followed.
 - (vii) This process shall also be followed in the case of any other policy, strategy or plan outside the formal policy framework which the Executive is to formulate if in the opinion of the Executive this would be appropriate.
- (b) Policies and Strategies produced in partnership:
- (i) The relevant Cabinet Portfolio Holder shall be appointed the Council's representative on the partnership.
 - (ii) The partnership shall prepare the draft policy or strategy in consultation as appropriate.
 - (iii) The Portfolio Holder shall secure the inclusion of the Policy Review Scrutiny Committee in the list of consultees for the policy or strategy.
 - (iv) The Portfolio Holder shall present the draft policy or strategy to the cabinet for consideration and comment.
 - (v) The partnership shall adopt the policy or strategy.
 - (vi) The Cabinet shall present the policy or strategy to Council for adoption.

And replace with the following and renumber the subsequent paragraphs accordingly:

Process for developing the framework

2.01 The process by which the Policy Framework shall be developed is:

- (a) The Executive will publicise by including in the Forward Plan a timetable for making proposals to the Council for the adoption

of any plan or strategy that forms part of the Policy Framework, and its arrangements for consultation after publication of the initial proposals. The Chairman of the Overview and Scrutiny Committee will also be notified.

- (b) At the end of the consultation period, the Executive will draw up firm proposals having regard to the responses to the consultation. If the Overview and Scrutiny Committee wishes to respond to the Executive in that consultation process then it may do so. As the Overview and Scrutiny Committee has responsibility for fixing its own work programme, it is open to the Overview and Scrutiny Committee to investigate, research or report in detail with policy recommendations before the end of the consultation period, having particular regard not to duplicate any consultation carried out by the Executive. The Overview and Scrutiny Committee shall report to the Executive on the outcome of its deliberations.
- (c) The Executive will take any response from the Overview and Scrutiny Committee into account in drawing up firm proposals for submission to the Council, and its report to Council will reflect the comments made by consultees and the Executive's response.
- (d) Once the Executive has approved the firm proposals, it will refer them at the earliest opportunity to the Council.

Delete all references to "Policy Review Scrutiny Committee" and replace with "Overview and Scrutiny Committee".

Delete all references to "Scrutiny Committee(s)" and replace with "Overview and Scrutiny Committee".

Overview and Scrutiny Procedure Rules (pages 109-113 of the current Constitution)

Delete the following text:

- 1.01 The Council will appoint scrutiny committees from time to time as set out in Article 6. Such committees may appoint sub-committees. Scrutiny committees may also be appointed for a fixed period, on the expiry of which they shall cease to exist.
- 1.02 Before the commencement of each year financial year which is not an election year and as soon as practicable after the

annual meeting of the council in a financial year which is also an election year the chairmen of the scrutiny committees shall meet to agree the work programme for the year which shall be recommended for adoption by each scrutiny committee, such work programme to take into account resources available and the best value reviews which are scheduled to be undertaken by the scrutiny committees in the year in question.

- 1.03 Subject to paragraph 1.02 above, the scrutiny committees will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on that committee who are not members of the largest political group on the Council.

And replace with:

- 1.01 The Council will appoint an Overview and Scrutiny Committee as set out in Article 6. Such committee may appoint working groups to carry out a detailed assessment of particular topics for report back to them. It is anticipated that such groups would be appointed for a specific task, on the expiry of which they shall cease to exist.
- 1.02 The Overview and Scrutiny Committee will be responsible for setting its own work programme and in doing so they shall take into account resources available and the wishes of members on that committee who are not members of the largest political group on the Council.

Delete the following text:

3. Meetings of the overview and scrutiny committees

There shall be at least one ordinary meeting of each scrutiny committee in each committee cycle year. In addition, extraordinary meetings may be called from time to time as and when appropriate. A scrutiny committee meeting may be called by the chairman of the Policy Review scrutiny committee.

And replace with:

3. Meetings of the Overview and Scrutiny Committee

The Council may determine a cycle of meetings for the Overview and Scrutiny Committee. The Chairman or in their absence Vice-

Chairman may change the date or cancel meetings or call additional meetings as they consider necessary to deal with the Committee's work programme.

Delete all references to "Scrutiny Committee(s)" and replace with "Overview and Scrutiny Committee".

Part 5 – Codes and Protocols

Petitions Policy (pages 219-224 of the current Constitution)

Delete all references to "Scrutiny Committee(s)" and replace with "Overview and Scrutiny Committee".

Part 8 – The Executive

Executive Procedure Rules (pages 219-224 of the current Constitution)

2.02 – delete "Policy Review Scrutiny Committee" and replace with "the Chairman of the Overview and Scrutiny Committee".

APPENDIX 2

Contracts Standing Orders (pages 114-123 of the current Constitution)

Standing Order 7, 10 and 12.02 – delete “Chairman of the Policy Review Scrutiny Committee” and replace with “Chairman of the Overview and Scrutiny Committee”.

Standing Order 9.09 – delete “Policy Review Scrutiny Chairman” and replace with “Chairman of the Overview and Scrutiny Committee”.

Standing Orders for Dealings with Land (pages 124-126 of the current Constitution)

Delete all references to the “Chairman of the Policy Review Scrutiny Committee” and replace with “Chairman of the Overview and Scrutiny Committee”.