

# **Council Meeting – 14 April 2009**

## **Changes to the Constitution**

### **Report of Legal and Democratic Services Manager**

(This matter is the responsibility of Councillor Ross Henley, Leader of the Council)

#### **Executive Summary**

This report details the changes to the Constitution that are required for the implementation of the revised processes and procedures for Overview and Scrutiny.

#### **1. Purpose of the Report**

- 1.1 Full Council is required to approve the changes as set out in this report in order for the Constitution to be updated.

#### **2. Background**

- 2.1 Every local authority is required to have a Constitution and that Constitution should be kept up to date with all relevant information on how the Council operates and gives details of its political and management structures.
- 2.2 The Council has been operating a revised Scrutiny process since October 2007 reducing its Scrutiny bodies from six to two with Task and Finish Groups also being set up.
- 2.3 In September 2008 the IDeA carried out a Peer Review and found that the changes that had been implemented had the potential to strengthen the role and impact of Scrutiny. However, there was some confusion around the structure and terminology which impacted on Members' ability to work with the new system.

#### **3. The current position**

- 3.1 Therefore work was undertaken with the Chairmen and Vice-Chairmen of the two Scrutiny bodies together with the Group Leaders and a new structure for Scrutiny was agreed.
- 3.2 The structure for Scrutiny will consist of a Community Scrutiny Committee and a Corporate Scrutiny Committee. In addition there will be a Co-ordinating Scrutiny Committee that will meet on a quarterly basis to manage the Forward Plan for both Committees to ensure that there is an even distribution of work.
- 3.3 The Task and Finish Groups will remain.

- 3.4 The changes to the Constitution reflect the changes that have been agreed with those Members. In addition the changes have also been through the Constitutional Sub-Committee and the Corporate Governance Committee.
- 3.5 A copy of the originally drafted version of Article 9 “Overview and Scrutiny Committees” is attached at Appendix A. A further version showing the changes made through the consultation process is attached at Appendix B.
- 3.6 Also attached to this report are some minor changes to standing orders regarding motions and the rescinding of decisions within 6 months (Appendix C). These changes are minor amendments but are required for clarification.

#### **4. Recommendation**

- 4.1 Council is **recommended** to approve the changes to the Constitution as set out in the Appendices attached to this report.

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# Appendix A

## Article 9 Overview and Scrutiny Committees

### 9.1 Terms of Reference

- (a) The Council has a legal duty to appoint “overview and scrutiny committees” to discharge functions as set out in the Local Government Act 2000. The functions of each of the overview and scrutiny committees are set out in this article but the Council seeks to ensure a robust scrutiny process which will be the ‘critical friend’ of the Executive but not subservient to the Executive.
- (b) The Council will operate two Overview and Scrutiny committees one will be called a Corporate Scrutiny Committee and the other will be a Community Scrutiny Committee. In addition there will also be a Co-ordinating scrutiny committee that will oversee the work of both committees. Both committees will also be able to set up sub-committees known as Task and Finish Groups for specific tasks.
- (c) Guidance on the procedures and process of the overview and scrutiny committee meetings are set out in Part 4 of the Constitution.

### 9.2 The general role of the Overview and Scrutiny Committees

Within their terms of reference, the Overview and Scrutiny Committees will:

- (a) Review and scrutinise decisions made or actions taken in connection and any joint or area committee with regard to the discharge of any functions of the Council or external agencies.
- (b) Make reports and recommendations to Full Council and/or the Executive and any joint or area committee with regard to the discharge of any functions of the Council or external agencies.
- (c) Consider any issue or topic affecting the area or its inhabitants
- (d) Review any decisions called-in but not yet implemented by the Executive or any area committee, calling special meetings if required.
- (e) Assist the Executive and Full Council in developing policies and strategies, which may become incorporated in the policy framework.

### **9.3 Specific functions of the Overview and Scrutiny committees**

#### **9.3.1. Policy development and review**

- (a) Assist the Council and the Executive and any area committee in the development of its budget and policy framework by in-depth analysis of policy issues.
- (b) Conduct research, community and other consultation in the analysis of policy issues and possible options.
- (c) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (d) Question the Leader of the Council, members of the Executive and chief officers about their views on issues and proposals affecting the Borough. Under normal circumstances, the appropriate member/officer shall attend.
- (e) Liaise with other external organisations operating whether national or local, to ensure that the interests of the inhabitants of the Borough are enhanced by collaborative working.

#### **9.3.2. Scrutiny**

- (a) To monitor and review important and strategic decisions made by the Council, Executive (and any area committee) and officers to ensure consistency and compliance with the policy framework adopted by the Council. Where such decisions are not consistent with the policy framework, to review 'called-in' decisions and make recommendations to the Executive or Council;
- (b) To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets or such other matters that will come to its attention;
- (c) To monitor and review the performance of the decision making processes and other actions taken, in connection with the discharge of any functions which are the responsibility of the Executive and any area committee;
- (d) To monitor service performance against the standards identified in the Corporate Strategy and service plans;

- (e) To consider ombudsman reports and to monitor the operation of the complaints policy;
- (f) To be aware of reports from the Audit Commission and Internal Audit and recommend any appropriate action to the Council Committees as deemed appropriate;
- (g) To question the Leader of the Council and members of the Executive, member champions, senior officers and senior managers about their views on issues and proposals affecting the area generally and specifically about their decisions and performance comparable with relevant policies, strategies or plans;
- (h) Make recommendations to the Executive or Council arising from the outcome of the scrutiny process;
- (i) Review and scrutinise the performance of other public bodies, partnerships, 'quasi-autonomous government agencies or organisations' and voluntary organisations operating within the Borough and invite reports from them by requesting them to address the scrutiny committees and local people about their activities and performance;
- (j) Question and gather evidence from any person or organisation with their consent.

9.4 The Overview and Scrutiny Committees will consist of thirteen members each. They will be politically balanced in accordance with the Council's adopted political group scheme. The Committees will not be chaired by a Member of the controlling administration.

9.5 In undertaking their responsibilities, the Overview and Scrutiny committees will adopt a cross-cutting approach to support a holistic perspective of the service delivery and decision making processes of the Council.

9.6 Members of the Executive will not be eligible to sit on the overview and scrutiny committees whilst on the Executive and shall not take part in any scrutiny of a decision in which they were involved in whilst a member of the Executive. The Leader of the Council and any member of the Executive may attend to provide information to the overview and scrutiny committees.

- 9.7 It is recognised that whipping by political parties would be inconsistent with the purposes of scrutiny and therefore will not take place on overview and scrutiny committees. Any member sitting on an overview and scrutiny committee should not consider him or herself restrained by any political group whip on any matter the committee will examine.
- 9.8 Overview and Scrutiny committees will conduct their proceedings in accordance with scrutiny procedure rules as set out in Part 4 of this Constitution. Any co-opted member of the overview and scrutiny committee will be required to sign a declaration of acceptance and compliance with the national code of conduct for councillors.
- 9.9 Nothing in this Article shall prevent the two Overview and Scrutiny committees forming a joint committee should a matter not fall within the remit of either committee. This decision will rest with the Co-ordinating overview and Scrutiny committee as set out at 9.10 below.

#### **9.10 TERMS OF REFERENCE FOR THE OVERVIEW AND SCRUTINY COMMITTEES**

##### **COMMUNITY SCRUTINY COMMITTEE**

To examine the issues that impact on all segments of the community in respect of all services delivered by the Council and/or other public bodies or partnerships;

To examine the performance and management of the Council's services in delivering the Corporate Strategy.

To undertake consideration of the achievement of value for money in partnership working

To develop policies and initiatives to provide the service delivery needed by community and the promotion of neighbourhood renewal;

To encourage public participation in assessing the standards and level of service desired by the community and

the performance of the Council in achieving the desired outcomes for its service delivery;

To consider such decisions of the Executive as are within the remit of the committee and have been called-in by Members.

## **CORPORATE SCRUTINY COMMITTEE**

To examine the planning, performance and management of the Council's services in undertaking the key tasks to achieve the objectives of the Corporate Strategy priorities including monitoring compliance with budget, achievement of desired outcomes and customer satisfaction (where appropriate), best value and value for money reviews.

To monitor the Council's financial performance (including revenue borrowing and audit arrangements) and allocation of all resources in accordance with the corporate plan priorities, and the management of its assets and capital programme.

To carry out the responsibilities of an Audit committee;

To assess the attainment of performance measurements and overall performance of the Council in achieving the aspiration of the community it serves;

To consider such decisions of the Executive as are within the remit of the committee and have been called-in by members.

To consider matters that have come to the committee's attention.

## **9.11 CO-ORDINATING SCRUTINY COMMITTEE**

This committee shall consist of the chairman and vice chairman of each of the Overview and Scrutiny committees and shall meet on a quarterly basis or as deemed necessary. The Committee shall also invite the Proper Officer and Leader of the Council to these meetings.

The purpose of these meetings is to manage the forward plan for both committees to ensure that there is an even distribution of work. Where a matter for consideration by an Overview and Scrutiny Committee also falls within the remit of another Overview and Scrutiny committee the decision as to which Overview and Scrutiny Committee will consider it will be resolved by this committee in consultation with the Proper Officer.

### **9.12 TASK AND FINISH GROUPS**

- (a) The terms of reference will be laid down by the relevant Overview and Scrutiny committee;
- (b) There will be no more than seven members on each task and finish group and they will be members of the authority;
- (c) The group will elect its own chairman;
- (d) The group will decide its start and finish dates for the review;
- (e) The group will have the power of co-option but those co-opted members may not vote;
- (f) Conclusions will be presented to the relevant Overview and Scrutiny as recommendations for action;
- (g) The Overview and Scrutiny committee may either forward the recommendations to the Executive or the Council for action, remit it back to the task and finish group for further consideration or refuse to accept it as not acceptable for further action.



## Appendix B

### Article 9 Overview and Scrutiny Committees

#### 9.1 Terms of Reference

- (a) The Council has a legal duty to appoint “overview and scrutiny committees” to discharge functions as set out in the Local Government Act 2000. The functions of each of the overview and scrutiny committees are set out in this article but the Council seeks to ensure a robust scrutiny process which will be the ‘critical friend’ of the Executive but not subservient to the Executive.
- (b) The Council will operate two Overview and Scrutiny committees one will be called a Corporate Scrutiny Committee and the other will be a Community Scrutiny Committee. In addition there will also be a Co-ordinating scrutiny committee that will oversee the work of both committees. Both committees will also be able to set up sub-committees known as Task and Finish Groups for specific tasks.
- (c) Guidance on the procedures and process of the overview and scrutiny committee meetings are set out in Part 4 of the Constitution.

#### 9.2 The general role of the Overview and Scrutiny Committees

Within their terms of reference, the Overview and Scrutiny Committees will:

- (a) Review and scrutinise decisions made or actions taken in connection and any joint or area committee with regard to the discharge of any functions of the Council or external agencies.
- (b) Make reports and recommendations to Full Council and/or the Executive and any joint or area committee with regard to the discharge of any functions of the Council or external agencies.
- (c) Consider any issue or topic affecting the area or its inhabitants
- (d) Review any decisions called-in but not yet implemented by the Executive or any area committee, calling special meetings if required.
- (e) Assist the Executive and Full Council in developing policies and strategies, which may become incorporated in the policy framework.

(f) Review any decision or actions made by a ward member exercising his/her delegated functions of the Council should the Council authorise such delegation.

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(g) The committee will not be able to review any of the 'excluded matters' which are set out in Part 4 of the Rules and Procedures

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### **9.3 Specific functions of the Overview and Scrutiny committees**

#### **9.3.1. Policy development and review**

- (a) Assist the Council and the Executive and any area committee in the development of its budget and policy framework by in-depth analysis of policy issues.
- (b) Conduct research, community and other consultation in the analysis of policy issues and possible options.
- (c) Consider and implement mechanisms to encourage and enhance community participation in the development of policy options.
- (d) Question the Leader of the Council, members of the Executive and chief officers about their views on issues and proposals affecting the Borough. Under normal circumstances, the appropriate member/officer shall attend.
- (e) Liaise with other external organisations operating whether national or local, to ensure that the interests of the inhabitants of the Borough are enhanced by collaborative working.

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- (a) To monitor and review important and strategic decisions made by the Council, Executive (and any area committee) and officers to ensure consistency and compliance with the policy framework adopted by the Council. Where such decisions are not consistent with the policy framework, to review 'called-in' decisions and make recommendations to the Executive or Council;
- (b) To review and scrutinise the performance of the Council in relation to its policy objectives, performance targets or such other matters that will come to its attention;

- (c) To monitor and review the performance of the decision making processes and other actions taken, in connection with the discharge of any functions which are the responsibility of the Executive and any area committee;
- (d) To monitor service performance against the standards identified in the Corporate Strategy and service plans;
- (e) To consider ombudsman reports and to monitor the operation of the complaints policy;
- (f) To be aware of reports from the Audit Commission and Internal Audit and recommend any appropriate action to the Council Committees as deemed appropriate;
- (g) To question the Leader of the Council and members of the Executive, member champions, senior officers and senior managers about their views on issues and proposals affecting the area generally and specifically about their decisions and performance comparable with relevant policies, strategies or plans;
- (h) Make recommendations to the Executive or Council arising from the outcome of the scrutiny process;
- (i) Review and scrutinise the performance of other public bodies, partnerships, 'quasi-autonomous government agencies or organisations' and voluntary organisations operating within the Borough and invite reports from them by requesting them to address the scrutiny committees and local people about their activities and performance;
- (j) Question and gather evidence from any person or organisation with their consent.

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- 9.6 Members of the Executive will not be eligible to sit on the overview and scrutiny committees whilst on the Executive and shall not take part in any scrutiny of a decision in which they were involved in whilst a member of the Executive. The Leader of the Council and any member of the Executive may attend to provide information to the overview and scrutiny committees.
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To undertaken consideration of the achievement of value for money in partnership working

To develop policies and initiatives to provide the service delivery needed by

community and the promotion of neighbourhood renewal;

To encourage public participation in assessing the standards and level of service desired by the community and the performance of the Council in achieving the desired outcomes for its service delivery;

To consider such decisions of the Executive as are within the remit of the committee and have been called-in by Members.

To review or scrutinise decisions made, or other action taken, in connection with the discharge of the Council's crime and disorder functions and to make such reports or recommendations as deemed appropriate.

**CORPORATE SCRUTINY COMMITTEE**

To examine the planning, performance and management of the Council's services in undertaking the key tasks to achieve the objectives of the Corporate Strategy priorities including monitoring compliance with budget, achievement of desired outcomes and customer satisfaction (where appropriate), best value and value for money reviews.

To monitor the Council's financial performance and allocation of all resources in accordance with the corporate plan priorities, and the management of its assets and capital programme.

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To assess the attainment of performance measurements and overall performance of the Council in achieving the aspiration of the community it serves;

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To consider such decisions of the Executive as are within the remit of the committee and have been called-in by members.

To consider matters that have come to the committee's attention.

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- (g) The Overview and Scrutiny committee may either forward the recommendations to the Executive or the Council for action, remit it back to the task and finish group for further consideration or refuse to accept it as not acceptable for further action.



## Appendix C

### NOTICES OF MOTION

4.

- (1) If a councillor wishes to move a motion at a meeting of the Council then notice in writing shall be given to the Legal and Democratic Services Manager of its terms and the name of a Councillor who has agreed to second it. Such notices shall be dated, numbered as received and available for the inspection of councillors.
- (2) Twelve calendar days notice is needed in order to have a Notice of Motion included in the Summons. This means that written notice must be delivered to the Democratic Services Manager's office by 4.00 pm on the Thursday week prior to the day on which the Council Meeting is to be held.
- (3) The motion shall relate to the work of the Council or the interests of people living in the Borough.
- (4) A motion shall not be taken if its proposer is not present, unless another councillor has been asked to propose it and the Council so agree.
- (5) Such motions shall be taken before the reports of the Executive Councillors have been presented,

(6) A motion or amendment to rescind a decision within 6 months of it being approved should be made in accordance with Standing Order 24 of this Constitution.

### MOTIONS DURING A DEBATE \*

5. (1) A Councillor may at the conclusion of a speech of another Councillor, move without comment one of the following motions: -

- (a) to amend the motion;
- (b) to postpone consideration of the motion;
- (c) to adjourn the meeting;
- (d) to adjourn the debate;
- (e) to proceed to the next item of business;
- (f) that the question be now put;
- (g) to request a recorded vote; see standing order 19(2)
- (h) that Councillor \_\_\_\_\_ be not further heard;
- (h) that Councillor \_\_\_\_\_ do leave the meeting;

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¶ Where more than one such motion is submitted, then only one motion which the party group (or groups jointly) identifies to the Member Services Manager shall be treated in this way.¶

¶ For the purposes of this Standing Order "minority party group" shall mean any party group not represented on the Executive.

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- (i) that the (identified) recommendation be referred back for further consideration;
- (j) that the press and public be excluded;
- (k) to suspend any one or more Standing Orders during all or part of the meeting;
- (l) to refer a petition which has been presented to a meeting of the Council to a Panel for consideration;

5(2) If the motion is seconded then (subject to the proviso set out in (c) below) the Mayor shall proceed as follows:-

- (a) the motion shall be put to the vote forthwith and without discussion;
- (b) then - subject only to the right of reply of the councillor who either presented the report or who proposed the original motion - the motion shall be immediately acted upon;
- (c) The Mayor shall have the discretion not to accept such a motion when of the opinion that the matter before the meeting has not yet been sufficiently discussed.

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#### RESCINDMENT & VARIATION OF RESOLUTIONS \*

24. (1) A resolution passed within the previous six months shall not be rescinded or varied unless either:-

- (a) there has been a significant change of circumstances (noted in the minutes of the meeting) since the previous resolution was passed and is agreed by 50% of the members. or
- (b) by resolution of the Full Council on a motion of which notice has been given under Standing Order 4 signed by not less than 12 members.

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(2) Where it is intended that such an item should appear on the agenda for a meeting, the agenda item shall say that this “6 month rule” applies.

(3) This Standing Order shall not apply in the case of a planning or licensing application.

(4) Every such notice of motion shall specify the resolution to be rescinded or varied.

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#### TIME LIMITS FOR ALL MEETINGS\*

29 (1) A meeting of full council or other committees including Overview and Scrutiny committees shall not exceed three hours in duration except in accordance with 30 below.

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(2) If the business of the meeting has not been completed within that time the Mayor or Chairman will interrupt the debate to announce the time and call for a vote to be taken immediately on the item under discussion.

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(3) No member will be able to address the meeting after the Mayor's or Chairman's interruption on any item appearing on the agenda.

(4) Any items remaining on the agenda, which have not been considered, will be adjourned to the next scheduled meeting or a date to be fixed before the meeting adjourns.

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(5) Any suspension of time for adjournments during the meeting shall not count towards the 3 hour time limit.