

23 May 2008

Interim Constitution



Report of Lesley Davies, Acting Director of Corporate Services

Purpose of the Report

- 1 To propose revisions to the County Council's existing Constitution which will then serve in the interim for the County Council in its transitional phase to becoming a unitary authority.

Background

- 2 The existing Constitution was revised as recently as April 2007 to reflect organisational restructures, to improve the Council's decision making process and to amend and rationalise the Policy Framework to reflect changes in Central Government requirements.
- 3 Against this background, the relevant Local Government Reorganisation Workstream has been examining what are the minimum further changes necessary to reflect the make up of the Council following the 1 May 2008 Elections, together with any other changes necessary as the result of relevant legislation or Council decisions in the intervening period, to address any other immediate operational needs of the Council or to extend the content of the Constitution where this would be relevant or helpful.
- 4 For Vesting Day in April 2009 a major revision of the Constitution will be needed reflecting both the governance arrangements for the Unitary Authority and its organisational structure/service responsibilities.

Areas of Change

- 5 Some of the changes proposed for the transitional period are of a minor drafting nature simply to reflect legislative change or Council decisions. Substantive or significant changes are proposed in the following areas:

Part 2 - Article 3 – Citizens and the Council

The former Cabinet endorsed a new Protocol for managing and responding to petitions. The Protocol has been included in the Interim Constitution.

Part 2 - Article 6 – Overview and Scrutiny

Previously the Overview and Scrutiny function was undertaken by 52 Members of the County Council (i.e. all Members of the County Council with the exception of the 10 Cabinet Members and the Chairman of the County Council) within the following structure -

The **Overview and Scrutiny Committee** (comprising all 52 Members, plus co-optees) and the following 6 Scrutiny Sub Committees -

Lifelong Learning (25 Members, plus co-optees)

Promoting Strong, Healthy and Safe Communities (25 Members)

Environment (25 Members)

Building a Strong Economy (25 Members)

Corporate Management Issues (25 Members)

Health (14 Members, together with 14 District/Borough Councillors)

Following the County Council Elections on 1 May the number of County Councillors increased from 63 to 126. Of these, up to 115 Members are potentially eligible to perform the County Council's Overview and Scrutiny function (i.e. all Members of the County Council with the exception of the 10 Cabinet Members, the Chairman of the County Council and also the Executive Support Members as proposed under Article 7 below).

Clearly it would be unwieldy to have an Overview and Scrutiny Committee consisting of over 100 members.

Therefore in order that the Overview and Scrutiny function can be performed efficiently and effectively it is recommended that a streamlined structure based on the principle of having an "over-arching" Overview and Scrutiny Management Committee, and converting the existing 6 Scrutiny Sub- Committees to Scrutiny Committees be introduced, as follows –

Overview and Scrutiny Management Committee (26 Members, to include the 12 Chairs and Vice Chairs of the 6 Scrutiny Committees plus co-optees)

Lifelong Learning Scrutiny Committee (18 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 20 Members, plus co-optees)

Promoting Strong, Healthy and Safe Communities Scrutiny Committee (18 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 20 Members plus co-optees)

Environment Scrutiny Committee (18 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 20 Members plus co-optees)

Building a Strong Economy Scrutiny Committee (18 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 20 Members plus co-optees)

Corporate Management Issues Scrutiny Committee (18 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 20 Members plus co-optees)

Health Scrutiny Committee (13 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 15 Members, plus 14 District Council Members plus co-optees)

This would enable each Non-Executive Member to serve on one Scrutiny Committee, which will enable them to build up appropriate expertise in that area.

In the Interim Constitution Article 6 together with the Overview and Scrutiny Procedure Rules and other related sections and Rules of Procedure have been revised to cater for the changes outlined above. In addition, because of the composition of the Management Committee, the Interim Constitution would provide for the appointment of Scrutiny Chairs and Vice-Chairs by Full Council.

The terms of reference of the Overview and Scrutiny Management Committee now includes provision for the scrutiny of preparations for Local Government Reorganisation.

Part 2 - Article 7 – The Executive

In anticipation of the higher workload during the Local Government Reorganisation process, Members are asked to consider the extension of Article 7 to provide for the appointment of up to 10 Executive Support Members at the discretion of the Leader, to assist with Cabinet workloads and support an individual member of the Executive in discharging his/her portfolio.

These members would -

- Not be members of Overview and Scrutiny, the Audit or Planning Committees or be the Chairman of the County Council
- Not be able to substitute for or represent an Executive Member at Cabinet meetings, nor exercise any executive function, but provide a support role only.

Part 2 - Article 9 – The Standards Committee

The role and function of the Committee will be amended to include the full range of responsibilities for assessment, investigation and determination of allegations of misconduct on the part of Members previously the responsibility of the Standards Board for England) as well as power to grant exemptions on the political restriction of officer posts, both extensions conferred by the Local Government and Public Involvement in Health Act 2007.

Part 3 - Responsibility for Council Functions – Size and Composition of Committees

In order to accommodate the increase in councillor numbers it is proposed that the membership of the Planning, Highways, Human Resources, Licensing and Appeals Committees be increased from 30 to 40. A similar proposal is made for the Corporate Parenting Panel.

It is proposed that the Chief Officer Appointments Committee membership be reduced to 11 from 17 to make the appointment process more manageable. The membership of 11 would include the Leader and Deputy Leader and the Chair and Vice-Chair of the Human Resources Committee.

In order to fulfil its new responsibilities for local assessment of allegations of Member misconduct, it is proposed to extend the membership of the Standards Committee by four additional Independent Members and six additional Elected Members, making this a Committee comprising 6 Independent Members and 12 Elected Members.

Part 4 - Rules of Procedure

Upper value limits in the Contract Procedure Rules for quotations and tenders, together with a minimum value to which these rules apply, are proposed in the Interim Constitution for reasons of operational efficiency.

Revisions have been made in the Officer Employment Procedure Rules in the Interim Constitution to reflect current practice.

Part 5 – Codes and Protocols

The Planning Code of Practice was last updated in April 2007. A further revision is proposed to reflect the Committee's current practice of taking oral representations from the applicant after objectors have spoken rather than before.

The Council's revised Code of Corporate Governance recently endorsed by Cabinet has been included for the first time in the Interim Constitution.

Similarly, the Council's Confidential Reporting Code (Whistleblowing) has been included in order to further raise awareness and understanding of this important issue.

A new Councillor Compact, developed by a Member/Officer Working Group (which included representation from the District Councils) has been included in the Interim Constitution.

The Compact aims to bring more clarity to the role of a councillor and how they perform their duties. But just as importantly, the Compact contains a commitment about the support, advice and guidance that will be provided by the Council to help councillors effectively fulfil that role.

Part 6 - Members' Allowances Scheme

The current Members' Allowances Scheme will continue for the time being, although Allowances will be revised in due course, effective from 1 April 2008, to reflect changes in local government pay scales. The Chair and Vice-Chair of the proposed Overview and Scrutiny Management Committee would receive the same Special Responsibility Allowances (SRA) as the former Committee. The Chairs and Vice-Chairs of the proposed six Scrutiny Committees would receive the same SRAs as the former Sub-Committees.

A new independent Remuneration Panel will be formed to review and recommend to the Council a new Scheme of Allowances to be effective from 1 April 2009.

Part 10 – Member Role Descriptions

As an interim measure, the existing role descriptions have been combined and consolidated with the illustrations used in the Unitary Council bid to produce revised descriptions for a Frontline Councillor, an Executive Councillor, the Chairman of the Council, the Leader of the Council and finally, a Committee Chairman and Vice-Chairman.

These will be further reviewed and refined in due course in conjunction with Members themselves.

Consultation

- 6 The former Cabinet, Overview and Scrutiny Committee and Implementation Executive all supported these proposals. However, the provisions in relation to Part 4 have been included since then.

Recommendations

- 7 The Council is recommended to approve the Interim Constitution, which includes the changes detailed in this report.
- 8 A copy of the Interim Constitution will be placed on deposit in the Members' Resource Centre and on the Council's Intranet for reference as soon as possible and will be supplied to all Members in due course.
- 9 As is normal practice with Constitution reviews, the Council is asked to authorise me to make future changes to the Constitution to reflect decisions of the Council or a Council Body or to comply with legal requirements.

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