

## Implementation Executive

25 April 2008

### Interim Constitution



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## **Report of Lesley Davies, Acting Director of Corporate Services [Cabinet Portfolio Holder, Leader of the Council, Councillor Albert Nugent]**

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### **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 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 necessary changes 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:

#### **Article 3 – Citizens and the Council**

A new protocol for managing and responding to petitions will be presented to the Council on 23 May for inclusion in the Constitution. Cabinet agreed recommendations in this regard at its meeting held on 20 March 2008 (Minute No. A8 refers).

## **Article 6 – Overview and Scrutiny**

Currently the Overview and Scrutiny function is 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 will increase from 63 to 126. Of these, up to 115 Members will potentially be 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, and the Chairman of the County Council). [However if the proposed revision to Article 7 is approved the 10 members of the Executive Members' Support Working Group should not sit on Overview and Scrutiny.]

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 may 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 [17 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 19 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 [12 Members plus the Chairman and Vice Chairman of the Overview and Scrutiny Management Committee as Ex-officio – total 14 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.]

If Members were minded to endorse these proposals, then Article 6 of the Constitution together with the Overview and Scrutiny Procedure Rules and other related sections and Rules of Procedure within the Constitution would be revised to cater for the changes outlined above.

**(N.B.** Final numbers on Overview and Scrutiny Committees might need to be reviewed in the light of the political balance on the newly elected Council.)

### **Article 7 – The Executive**

Members may wish to consider that Article 7 be extended to provide for the appointment of an Executive Members' Support Working Group of not more than 10 members, 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 Committee or 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.

## **Article 9 – The Standards Committee**

The role and function of the Committee will be amended to include the power to grant exemptions on the political restriction of officer posts as conferred by the Local Government and Public Involvement in Health Act 2007. (This role has until now been carried out by an Independent Adjudicator appointed by the Secretary of State).

### **Responsibility for Council Functions – Size and Composition of Committees (Part 3)**

In order to accommodate the increase in councillor numbers from May 2008 it is proposed that we increase the membership of the Planning, Highways, Human Resources, Licensing and Appeals Committees from 30 to 40.

The Chief Officer Appointments Committee membership might need to be reviewed in the light of the political balance on the new Council.

To anticipate the new demands being placed on Standards Committees for the local assessment of complaints about member conduct, it is proposed that its membership be increased by four additional Independent Members and six additional Elected Members. The additional Independent Members would be recruited in the first instance from those already appointed to the Police and Fire and Rescue Authorities' Standards Committees.

### **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 will be included for the first time in the Constitution.

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

The new Councillor Compact will be presented to the Council on 23 May for inclusion in the Constitution.

### **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.

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

## **Consultation**

- 6 The Overview and Scrutiny Committee is being consulted on these proposals and their views will be reported to the meeting. The proposals are also being shared with the Implementation Executive.

## **Recommendation**

- 7 Cabinet is requested to support the proposals for submission to the Council at its Annual meeting.

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## **Appendix 1: Implications**

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### **Local Government Reorganisation**

The proposals provide for an Interim Constitution in the transitional phase towards Unitary Local Government.

#### **Finance**

N/A

#### **Staffing**

N/A

#### **Equality and Diversity**

N/A

#### **Accommodation**

N/A

#### **Crime and disorder**

N/A

#### **Sustainability**

N/A

#### **Human rights**

N/A

#### **Localities and Rurality**

N/A

#### **Young people**

N/A

#### **Consultation**

The Overview and Scrutiny Committee is being consulted on the proposals, which are also being shared with the Implementation Executive.

#### **Health**

N/A