

Item 6

REPORT TO STANDARDS COMMITTEE; CABINET; COUNCIL

7TH JULY 2005

REPORT OF SOLICITOR TO THE COUNCIL AND MONITORING OFFICER

DISCUSSION PAPER : CONSTITUTIONAL REVIEW : MEMBER INVOLVEMENT

1. SUMMARY

- 1.1 This report which has been considered by the Corporate Steering Group on 4th May 2005, makes proposals for arrangements to provide for the engagement of Members in the Council's processes for the review of the Constitution.
- 1.2 Officer arrangements, via the Constitutional Review Group, headed by the Council's Solicitor and Monitoring Officer, are now embedded within the process of review.
- 1.3 These proposals will go further and ensure that all Members, particularly Cabinet Executive and Overview and Scrutiny Members, will have the opportunity to play a part in the evolution of the constitutional framework of the Council.

2. RECOMMENDATIONS

- 2.1 That Standards Committee be invited to comment, Cabinet consider and comment.
- 2.2 That Council approve the report.

3. DETAIL

- 3.1 From time to time it is necessary to review and amend the Constitution to ensure that it is both updated and ensures the smooth and efficient operation of the Council's decision-making framework.
- 3.2 Article 15 of the Constitution, Review and Revision of the Constitution, provides that the operation of the Constitution will be monitored and reviewed to ensure its aims and principles are given full effect. Changes require the approval of the Council, after consideration by the Chief Executive Officer.
- 3.3 The Council's Solicitor and Monitoring Officer currently heads a team of officers which review functional and operational arrangements for decision taking, including delegations to officers, and reports are made to the Standards Committee and full Council from time to time in respect of these matters. Occasionally reviews are required to meet changes introduced by the Functions and Responsibilities Regulations issued from time to time by the Government.

- 3.4 However, it is recognised that there are a number of areas where the Council's Members may have a legitimate expectation to be engaged in reviewing certain aspects of the Constitution, e.g. rules of procedure at meetings, call-in arrangements for Overview and Scrutiny Committees and so forth.
- 3.5 For these reasons, it is considered appropriate that an opportunity is provided within the working arrangements between Cabinet and Overview and Scrutiny Committees, to establish a formal review mechanism as follows:-
- That the work schedules of Overview and Scrutiny Committee annually include an item inviting Members to identify and submit proposals for changes to the Constitution.
 - That the Chief Executive Officer be formally notified of such proposals.
 - That the Chief Executive then convene a meeting of the Chairman of the Cabinet and Chairs of the Overview and Scrutiny Committee to discuss, consider and then formulate draft proposals for changes and amendments.
 - That, if necessary, such proposals form part of a report by the Chief Executive to be submitted to the Council for formal approval.

4. RESOURCE IMPLICATIONS

- 4.1 No specific financial implications have been identified.

5. CONSULTATIONS

- 5.1 This report was submitted to Management Team on the 27th June 2005 for discussion, to Cabinet and the three Overview and Scrutiny Committees for comment, to Standards Committee for comment and finally to Council for approval.
- 5.2 Since the report was considered by the Corporate Steering Group, the opportunity has been taken to consult a number of "excellent" rated authorities to compare practices: the results appear at the Appendix to this report.

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Ward(s)

Key Decision Validation

Background Papers

Examination by Statutory Officers

Yes

**Not
Applicable**

1. The report has been examined by the Council's Head of the Paid Service or his representative
2. The content has been examined by the Council's S.151 Officer or his representative
3. The content has been examined by the Council's Monitoring Officer or his representative
4. The report has been approved by Management Team



APPENDIX

Authority	Contact	Response
Blyth Valley	info@blythvalley.gov.uk	<p>BVBC reviews its Constitution through the Standards Panel, which is charged with considering and recommending any changes to Council. We have only had one review prompted by a request from Council to consider amending the Constitution by increasing the size of the Cabinet from 8 to 9 members following a by-election change. The Panel recommended leaving the Cabinet as it was and Council changed it anyway.</p> <p>Under a more fundamental review we would be likely to have a Member Working Group to research and debate the issues as we did for the original.</p>
Darlington	democratic@darlington.gov.uk	<p>All our Constitutional amendments are approved through Full Council.</p> <p>Officer recommendations are either submitted to Cabinet and then forwarded to Full Council for approval or direct to Full Council.</p>
Durham County	Val.Lee@durham.gov.uk	<p>Like most authorities, we have a standard article in our Constitution allocating responsibility to the monitoring officer to keep the Constitution under review. Changes need to be approved by full Council after consideration by Cabinet and Scrutiny. Because of operational changes, the Constitution needs to be regularly altered but often just to reflect changes in structures etc. A general report will cover these issues. As far as Scrutiny is concerned, the Annual Report to Council considers whether Scrutiny Members are of the view that there is a need for constitutional change.</p>

Authority	Contact	Response
Easington	Barry Garside (E-mail)	<p>Established a Political Management Group. Comprises Executive Members and Chairmen of 4 Scrutiny Committees, together with Assistant CEO Head of Democratic Services, Scrutiny Manager, Monitoring Officer plus other officer as relevant.</p> <p>Have looked at amendments to the Constitution and a range of other issues including:-</p> <ul style="list-style-type: none"> • Reviewed Terms of Reference of Executive to support Community Strategy, Service Plans etc • Member Development <p>Constitutional issues have been dealt with in 2 ways:-</p> <p>Amendment suggested by Officer e.g. delegations, changes in Regulations have been reported to the Group.</p> <p>The Group has also met in 'workshops style', with other appropriate officers in attendance, to consider constitutional related issues with a view to improve management of political arrangements.</p>
Gateshead	enquiries.legalservices@gateshead.gov.uk	<p>In Gateshead we carry out an annual review of the Constitution. Formally, the route for this is Strategy Group (chief officers) > Cabinet > Council. If there are any major political issues, we would normally convene an ad hoc members advisory group but this doesn't always happen. For example, the changes in this year's review were mainly technical so we didn't undertake any consultation outside the normal process. Last year however we made some changes to the terms of reference of Overview and Scrutiny Committees on which we consulted more widely (within the Council).</p> <p>There was a great deal of member involvement in the initial approval of the Constitution including an advisory group and a number of seminars for the whole Council.</p>

Authority	Contact	Response
Hambleton	info@hambleton.gov.uk'	Officers make recommendations to the Standards Committee which makes recommendations to full Council
Hartlepool	enquiries@hartlepool.gov.uk	<p>Further to your recent e-mail, I would advise that this Council has a Constitution Committee and a Constitution Working Group with responsibility for monitoring and reviewing the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The membership of both bodies comprise:-</p> <ul style="list-style-type: none"> • Chair of the Council • Vice-chair of the Council • Mayor • Deputy Mayor • Scrutiny Co-ordinating Committee Chair • One other member of the Scrutiny Co-ordinating Committee • Five other members of the Council <p>Changes to the constitution will only be approved by the full Council after consideration by the Constitution Committee (an item may be considered by the Working Group prior to its consideration by the Committee)</p> <p>Members have recently requested that meetings of the Working Group and Committee be held during each Council cycle (every 6 weeks)</p>

Authority	Contact	Response
Newcastle	sandra.ord@newcastle.gov.uk	
South Tyneside	Malcolm.Newman@s-tyneside-mbc.gov.uk	
Stockton	LDS@Stockton.gov.uk	Members Advisory Panel (Evaluating the New Constitution). Operates as an informal working Group comprising 12 members. The Panel acts as a consultative forum for member discussion before changes are submitted to Cabinet / Council.
Sunderland	enquiries@sunderland.gov.uk Lee.Stoddart@sunderland.gov.uk	Currently Sunderland has no formal review system for the Constitution. Parts of the constitution can come under review as part of wider reviews by Scrutiny Committee and Standards Committee recommends alterations to Council in the light of, for example, changes in advice from the Standards Board on Codes of Conduct. Changes required as a result of changes in legislation etc., are picked up by Cabinet with appropriate amendments being recommended to Council.

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