

Item 4

STANDARDS COMMITTEE

5th MAY 2006

REPORT OF CHIEF EXECUTIVE OFFICER

REVIEW OF THE CONSTITUTION – MEMBER INVOLVEMENT PROPOSED CHANGES TO ‘CALL-IN’ PROCEDURE

SUMMARY

The Council's Constitution was adopted on the 24th May 2002 as part of the Council's approach to implementing the Local Government Act 2000. A number of reviews have taken place since that time.

The Constitution itself must necessarily be kept under regular review so as to ensure that it reflects existing law and its operation continues to provide an efficient and effective framework for delivering the Council's aims and objectives.

Procedures have been agreed to provide for the engagement of Members in the Council's processes for the review of the Constitution. This report proposes amendments to the Constitution that have been initiated by members of Overview & Scrutiny Committees.

RECOMMENDATIONS

1. That the call-in rules be amended on a pilot basis to enable 3 Members of an appropriate Overview & Scrutiny Committee to call-in a key decision within 5 days of the decision being published.
2. That the pilot arrangements be reviewed before the Annual Council meeting to be held in May 2007.
3. That consequential changes be made to the Constitution as necessary.
4. That Standards Committee be consulted on the proposals prior to approval being sought at Council.

DETAIL

1. Article 15 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.
2. Officer arrangements are discussed via the Constitutional Review Group and are embedded within the process of review. The Council's Solicitor and Monitoring Officer heads a team of officers which reviews functional and operational arrangements for decision taking, including delegations to officers, and reports are submitted to the Standards Committee and Council from time to time in respect of these matters.
3. There is now a formal mechanism to allow Members to raise matters which they would like to have considered in a report reviewing the constitution. This process is set out below.
 - The work schedules of Overview & Scrutiny Committee annually include an item inviting Members to identify and submit proposals for changes to the Constitution.
 - The Chief Executive Officer is formally notified of such proposals.
 - The Chief Executive Officer will then convene a meeting of the Chairman of the Cabinet and Chairs of the Overview and Scrutiny Committee to discuss, consider and, if amendments are accepted, draft proposals for changes and amendments.
 - If proposals are taken forward they will form part of a report by the Chief Executive to be submitted to the Council for formal approval.
4. The Council's three Overview & Scrutiny Committees each considered the operation of the Constitution at their meetings held in February/March 2006 and made several proposals for amendments. In accordance with the above procedure the Chief Executive Officer was informed of the proposals, which were considered at a meeting with the Chairman of the Cabinet and Chairs of the Overview and Scrutiny Committee held on 7th April 2006. Notes of the meeting are attached at Appendix 1 for information.
5. Following detailed consideration of Overview & Scrutiny Members' suggestions, it was proposed that the call-in procedures be amended on a 12 month pilot basis to enable 3 Members of an appropriate Overview & Scrutiny Committee to call-in a key decision within 5 days of the decision being published. The purpose of the call-in procedure is to allow the appropriate Overview & Scrutiny Committee to require Cabinet, or an officer with delegated authority making a key-decision on behalf of Cabinet, to reconsider a key decision where it considers that there are compelling grounds for review. This inevitably causes a delay in the decision being made. There is an inherent risk that in relaxing the rules the number of call-in requests may increase to an extent that result will be

a slowing down of decision making. The revised rules will therefore be reviewed prior to the Annual Council Meeting in May 2007.

CONSULTATION

6. Proposals have been formulated in accordance with agreed procedures to provide for the engagement of Members in the Council's processes for the review of the Constitution

OTHER MATERIAL CONSIDERATIONS

7. **Links to Corporate Objectives/Values**
The proposed amendments to the Constitution relate to procedural arrangements to further improve scrutiny of executive decisions. The proposals, if approved, will support the achievement of the Council's overall corporate aims through the political process, but do not relate directly to specific corporate objectives/values.
8. **Sustainability**
No additional implications have been identified.
9. **Risk Management**
The relaxation of the call-in rules may result in many more key decisions being called-in, which could lead to a slowing down of decision-making. The effect of the amendments will be monitored and reviewed before the Annual Council Meeting in May 2007.
10. **Health and Safety**
No additional implications have been identified.
11. **Equality and Diversity**
No material issues have been identified.
12. **Legal and Constitutional**
The proposals, if agreed, will necessitate amendments to the Council's Constitution.
13. **Procurement**
No implications have been identified

OVERVIEW AND SCRUTINY IMPLICATIONS

14. The proposals were initiated by the Council's Overview & Scrutiny Committees. If agreed they will result in amendment to the 'call-in' rules which will allow Overview & Scrutiny Members more opportunity to examine the key decisions.

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Ward(s) Not ward specific

Key Decision Validation N/A

Background Papers

- Sedgefield Borough Council's Constitution
- Overview & Scrutiny Committee 1, 'Constitutional Review – Member Involvement' - 14th February 2006
- Overview & Scrutiny Committee 2, 'Constitutional Review – Member Involvement' - 28th February 2006
- Overview & Scrutiny Committee 3, 'Constitutional Review – Member Involvement' - 14th March 2006
- Centre for Public Scrutiny paper - "The Call-in Procedure – an Investigation into the Call-in Procedure Across English Local Authorities"
- Centre for Public Scrutiny, Scrutiny Survey 2005

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	<input checked="" type="checkbox"/>	<input type="checkbox"/>
2. The content has been examined by the Council's S.151 Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. The content has been examined by the Council's Monitoring Officer or his representative	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. The report has been approved by Management Team	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Constitutional Review - Member Involvement

Meeting with Leader and Chairmen of Overview & Scrutiny Committees

7th April 2006

Notes of Meeting

Present: Councillors R.S. Fleming, V. Crosby, A. Gray and J.E. Higgin
N. Vaulks, B. Allen, J.G. Turnbull and D. Anderson

In accordance with agreed procedures the Leader of the Council, Chairmen of Overview and Scrutiny Committees and the Chief Executive met to consider proposals made by Overview and Scrutiny Committees to amend the Council's Constitution. The incoming Chief Executive, Head of Democratic Services and Principal Democratic Services Officer were also invited to attend the meeting.

Members considered the following proposals.

1. That the current Overview and Scrutiny Committees be replaced with a single Scrutiny Committee

Members noted that research recently undertaken by the Centre for Public Scrutiny revealed that only 6% of Authorities had one Overview & Scrutiny Committee that did all the work. The most popular structure had multiple committees reflecting Cabinet Portfolios (34%). However it was explained that a growing trend was for multiple Overview & Scrutiny Committees that reflect the community plan priorities (currently 8%).

It was noted that Cabinet would consider the establishment of an Audit Committee at its meeting on 13th April 2006. The potential implications for Overview & Scrutiny Committee 1 were considered. Members were of the view that if an Audit Committee was established its responsibilities would have only a minor impact on the role of Overview & Scrutiny Committee 1.

Agreed: That the 3 Overview & Scrutiny Committees should continue as currently established.

2. That the call-in procedure be reviewed to ensure it was not excessively onerous.

Members were reminded that call-in was intended to be used only in exceptional circumstances. The current procedure allowed call-in of a key-decision when 5 Members of the appropriate Overview & Scrutiny Committee had evidence which suggested that the Cabinet, or an officer with delegated authority from Cabinet, did not make a key decision in accordance with the principles of decision making set out in Article 13 of the Council's Constitution. The call-in had to be requested within 5 days of the decision being published.

Consideration was given to research that had been undertaken to identify best practice across the North East. The Centre for Public Scrutiny (CfPS) had also recently published a paper following an investigation into the call-in procedure across English Local Authorities, which was also considered.

The CfPS's investigation concluded that the dominant model would allow 5 days to call in a decision following its publication with at least 3 authorised signatories being required to do so, comprising either Overview & Scrutiny Committee Members, or non-executive Councillors. The most popular model in the North East required 3 Members to call-in a decision within 5 days of it being published.

It was explained that there was a fine balance to be struck to make call-in effective. If the process was made too easy it could result in many more call-ins, which lead to a slowing down of decision-making. Conversely, if it was made too difficult it would not be possible to demonstrate that key decisions made by the executive were being held to account.

The current call-in rules at this Council required 36%-38% of an O&S Committee to sign a call-in request. A reduction to 4 Members to call-in a decision would equate to 29% - 31%, whilst a reduction to 3 Members would result in 21% - 23%. The average percentage of eligible Members required to call-in a decision in the North East was 25%.

- Recommended:
- 1 That the call-in rules be amended on a pilot basis to enable 3 Members of an appropriate Overview & Scrutiny Committee to call-in a key decision within 5 days of the decision being published.
 2. The pilot arrangements were to be reviewed before the Annual Council meeting to be held in May 2007.

3. That the Council should meet on a monthly basis

Meetings of Council are currently scheduled to be held 7 times a year. Additional meetings are arranged when necessary. For example an additional meeting was held in March 2006 in order to deal with the appointment a new Chief Executive.

Members thought that it was unnecessary to increase the number of scheduled meetings.

Agreed: That meetings of Council continue to be scheduled to be held 7 times a year.

4. Non-Cabinet Members should be able to speak at Cabinet meetings

Members were of the opinion that the responsibilities of each element of the political structure should be respected. Cabinet should be allowed to carry out their executive decision making responsibilities. Key decisions were subject to call-in. The call-in rules were to be relaxed which would allow Overview & Scrutiny Members more opportunity to examine the key decisions made by Cabinet.

Agreed

That Non-Cabinet Members should not be allowed to speak at Cabinet meetings.

5. Introduction of electronic voting in the Council Chamber, to ensure Members were not unduly influenced by Members of the public, particularly during Development Control meetings.

Members were of the opinion that decision-making should be open and transparent.

Agreed;

That Members continue to vote at meetings by show of hands.

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