

TELFORD & WREKIN COUNCIL

COUNCIL CONSTITUTION COMMITTEE – 3 SEPTEMBER, 2009

REVIEW OF COUNCIL CONSTITUTION

REPORT OF THE HEAD OF LEGAL SERVICES

1.0 PURPOSE

- 1.1 To request the Committee to recommend that Council, at its meeting on 30 September 2009, approves the changes to the Council's current Constitution, as detailed in the report.

2.0 RECOMMENDATIONS

That the Committee recommend Council to:

- 2.1 **Approve the introduction of a Public Speaking Scheme for the Plans Board, as set out in Annex A, and an amendment to Part 4 (Rules of Procedure), Section 10 (Committee Procedure Rules), paragraph 16 to permit public speaking at meetings of the Plans Board, as set out in Annex B;**
- 2.2 **Approve the introduction of a Scheme for Dealing with Petitions, as set out in Annex C and an amendment to Part 4 (Rules of Procedure), Section 10 (Committee Procedure Rules), paragraph 19, as set out in Annex D, to allow the Council to respond to local petitions in line with The Local Democracy, Economic Development and Construction Bill 2008-09;**
- 2.3 **Approve the changes to Article 12 – Officers of the Constitution, as set out in Appendix F;**
- 2.4 **Approve changes to Part 4 (Rules of Procedure), Section 6 (Financial Regulations), sub-section 2 (Responsibilities) and sub-section 9 (Internal Audit), as set out in Appendices G1 & 2;**
- 2.5 **Approve the inclusion within Part 4 (Rules of Procedure), Section 5 (Overview and Scrutiny Procedure Rules) of a Protocol for Councillor Call for Action, as set out in Appendix H;**
- 2.6 **Approve changes to the Terms of Reference of the Audit Committee, as set out in Appendix I, and of the Scrutiny Leadership Board, as set out in Appendix J;**

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| <p>2.7 Approve the addition to the Functions, Powers and Duties of the Plans Board, the Licensing Committee, the Standards Committee, the Personnel Board, the Scrutiny Leadership Board and the Council Constitution Committee of a duty to annually review their effectiveness and their Terms of Reference;</p> <p>2.8 That the minor amendments, as set out in Appendix K, made to the Constitution by the Head of Legal Services under delegated authority be noted;</p> <p>2.9 Grant approval for the Head of Legal Services to review the current 100g(2) List of Delegations Granted to Officers and for the inclusion of appropriate wording in the 100g(2) List to cover the restructuring of the Council until such time as the review has been completed.</p> |
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3.0 SUMMARY

- 3.1 This report details proposed changes to Part 4 (Rules of Procedure) of the Council's Constitution relating to the following:
- (a) Approval of a Public Speaking Scheme within the Constitution and an amendment to Section 10 (Committee Procedure Rules), paragraph 16 to permit public speaking at meetings of the Plans Board.
 - (b) Approval of a Scheme within the Constitution to allow the Council to respond to local petitions in line with The Local Democracy, Economic Development and Construction Bill 2008-09 and an amendment to Section 10 (Committee Procedure Rules), paragraph 19 relating to the process for dealing with petitions.
 - (c) Section 6 (Financial Regulations), sub-section 2 (Responsibilities) and sub-section 9 (Internal Audit);
 - (d) Section 5 (Overview and Scrutiny Procedure Rules) to include a Protocol for Councillor Call for Action.
 - (e) The Terms of Reference of the Audit Committee and of the Scrutiny Leadership Board and an addition to the Functions, Powers and Duties of the Plans Board, the Licensing Committee, the Standards Committee, the Personnel Board, the Scrutiny Leadership Board and the Council Constitution Committee.
- 3.2 The report asks Members to note the minor administrative amendments made to the Constitution by the Head of Legal Services under delegated authority since the last meeting of the Council Constitution Committee.

- 3.3 To consider the recommendation that the Head of Legal Services review the current format of the 100g(2) (List of Delegations Granted to Officers) and to grant interim approval for the inclusion of appropriate wording to cover the restructuring of the Council until such time as the review has been completed.

4.0 PREVIOUS MINUTES

Council Constitution Committee – 29 October 2007 (CCC-11)
Council Constitution Committee – 14 April, 2008 (CCC-19)
Council – 29 November 2007 (Min. No. 55)
Council – 24 April 2008 (Min. No. 89)
Council Constitution Committee – 29 September 2008 (CCC-04)
Council Constitution Committee – 10 November 2008 (CCC-08 & 09)
Council – 11 December 2008 (Min. No. 56)

5.0 PUBLIC SPEAKING AT PLANS BOARD

- 5.1 Many Councils have adopted schemes to allow public speaking at their Plans Board meetings. Research conducted with other Councils suggests that this Council is now one of a small minority of authorities who do not allow public speaking at Plans Board.

Many authorities have public speaking schemes in place to allow the public, Borough Ward councillors and Parish/Town Council representatives to speak at Planning meetings.

Allowing public speaking at Plans Board meetings has a number of clear benefits:

- Increases public confidence in the openness and fairness of the process
- Allows direct access to the process for members of the public
- Allows the public, Parish and Borough representatives the opportunity to make their views known in person to the Plans Board.
- The determination process is better informed.

A suggested Scheme for Public Speaking at Plans Board that allows for representation from the public, Parish/Town Councils and the Borough Ward Councillor is attached at Annex A. The revised wording of paragraph 16 of the Committee Procedure Rules to reflect the introduction of such a Scheme is attached at Appendix B.

6.0 LOCAL PETITIONS

The Local Democracy, Economic Development and Construction Bill [HL] Bill, introduced in the House of Lords in December 2008, includes provisions to establish a duty to respond to local petitions. Local petitions were discussed alongside other proposals to 're-invigorate democracy' in the Governance of Britain Green Paper published in July 2007. Further proposals were published in the local government White Paper Communities in Control: Real People, Real Power. This Bill has

yet to become law but the Council recognises that a procedure should be adopted for dealing with the receipt of petitions. Accordingly, a suggested Scheme for Dealing with Petitions is attached as Annex C and the revised wording of paragraph 16 of the Committee Procedure Rules to reflect the introduction of Local Petitions is attached as Annex D. A flow diagram summarising the process in outline for dealing with petitions is attached as Annex E.

7.0 ARTICLE 12 - OFFICERS

This Article has been amended, as set out in Annex F, in order to simplify the article and delete duplication within the Article and across the Constitution.

8.0 PART 4 (RULES OF PROCEDURE)

Section 6 - Financial Regulations

- 8.1 Sub-section 9 in respect of Internal Audit has been updated to clarify the extent and nature of the access and requests for explanations available to Internal Audit staff in order for them to undertake their statutory responsibilities on behalf of the Chief Financial Officer (s151 officer). A new paragraph 2.2 has been added to outline that the Chief Financial Officer will operate within professional standards and best practice referenced as the CIPFA Statement on the role of the Chief Financial Officer in public service organisations. Revised paragraph 2.4 (previously 2.3) Financial Training has been updated to recognise the duty of the Chief Financial Officer to ensure that the Cabinet and Corporate Management Team have the appropriate financial skills to undertake their duties. The changes are set out in Annexes G1 & 2.

Section 5 – Overview & Scrutiny Procedure Rules

- 8.2 Councillor Call for Action (CCfA) is a process introduced under the sections of the Local Government and Public Involvement in Health Act 2007 that will allow individual Ward Councillors a way to secure action from the Council or, in particular circumstances its partners, if they have been unable to address a particularly persistent problem in their area. If convinced of the merit of a Councillor Call for Action, the Ward Member would refer the issue to the Scrutiny Leadership Board for review. The Scrutiny Leadership Board will have a duty to gather evidence and decide whether the issue is one which requires resolution and then make recommendations for action to the Council's Cabinet, or in particular circumstances, to the Safer and Stronger Communities Partnership. These bodies will have a duty to respond. The essential principle of a CCfA is that all cases should be resolved at the earliest possible stage in the process. It is expected that the vast majority of cases should not reach the Scrutiny Leadership Board, as the expectation is that the Ward Member will be resolving them before they get to that point. The CCfA is designed to complement existing methods of complaint and service enquiry, not to replace them. In order to ensure that there is a clear process in place and guidance for

Ward Members it is suggested that a Protocol for Councillor Call for Action is added to Part 4, Section 5 to provide guidance to Ward Members on how the process will work, a proforma for them to fill out to initiate a Councillor Call for Action and a flow diagram summarising the process. This is attached as Annex H.

9.0 CHANGES TO TERMS OF REFERENCE

9.1 General

The Functions, Powers and duties of the Audit Committee includes a duty to annually review its effectiveness and its Terms of Reference and it is considered that it would be appropriate for consistency to add this duty to the Terms of Reference of the Plans Board, the Licensing Committee, the Standards Committee, the Personnel Board, the Scrutiny Leadership Board and this Committee.

9.2 Audit Committee

The Audit Commission issued at the end of March 2009 a report “Risk and Return – English local authorities and Icelandic Banks”. The report reviewed the issues arising for local authorities when the Icelandic Banks crashed last September. They have made recommendations for Central Government, CIPFA, local authorities and themselves and their auditors

All councils have been advised to assess their current operations against the recommendations made and implement changes as appropriate. The external auditor will review this assessment and any action plans for implementing change, where appropriate.

The Council’s assessment has identified that there should be increased Member knowledge and involvement in treasury management. The Cabinet has responsibility for approving the Treasury Management strategy and framework but the report recommends that Treasury management policies “are scrutinised in detail by a specialist committee, usually the audit committee, before being accepted by the authority.”

The changes to the terms of reference for the Audit Committee, as set out in Annex I, are to enable the Council to implement this recommendation. Members of the Audit Committee and the Cabinet Member Resources and Assistant will also be offered training to enable them to undertake their roles.

9.3 Scrutiny Leadership Board

Currently, under the Health & Social Care Act 2001, Health Overview and Scrutiny Committees of local authorities with social care functions are able to undertake joint scrutiny of health issues that cut across more than one local authority boundary. However, Department of Health guidance suggests that Council Constitutions should be

amended to specify how the appointment of Joint Health Scrutiny Committees should be made. Although the Council's Constitution outlines that the Scrutiny Leadership Board has the power to undertake health scrutiny and this implies that it also has the ability to appoint to a Joint Health Scrutiny Committee, it is considered that this should be made more explicit. Following enactment of the Local Government and Public Involvement in Health Act 2007, which amended sections of the Local Government Act 2000, references to legislation in the Terms of Reference of the Scrutiny Leadership Board in Part 4 - Section 5 – overview & Scrutiny Procedure Rules of the Constitution, require amendment as set out in Annex J.

10.0 MINOR AMENDMENTS

The Head of Legal Services was granted delegated authority by Council at its meeting on 11 December, 2008 to make future administrative amendments to the Constitution and those changes made under this authority are set out in Annex K.

11.0 LIST OF POWERS EXERCISABLE BY OFFICERS UNDER SECTION 100G(2) OF THE LOCAL GOVERNMENT ACT 2000

11.1 The current 100g(2) List contains all the delegations of functions granted to officers. In its current detailed format the List is time consuming to maintain and update and there is a risk of inaccurate delegations being included. It is, therefore, requested that delegated authority is granted to the Head of Legal Services to review the List and to submit a proposal to a future meeting of the Committee for a general, less specific scheme of delegation for Members' consideration.

11.2 The 100g(2) List also requires amendment to take account of the current restructuring of the Council but, given the recommendation at 10.1 above, Members are requested to approve the inclusion of the following words on the heading of the List:

“As a result of the significant re-structure taking place, the delegations rest with the Chief Executive and the responsible Corporate Director and Head of Service rather than as necessarily identified in the Scheme.”

12.0 OTHER INFORMATION

Equality & Diversity	The business of the Committee considers equality and diversity in an appropriate manner.
Environmental Impact	None arising directly from this report.
Legal Comment	The Local Government Act 2000 requires the Council to have a Constitution. This Committee has been established to review the Constitution and to provide advice and guidance to

	the Council on any proposed changes.
Links with Corporate Priorities	The Council seeks to deliver its objectives of providing leadership, accountability and high standards in local democracy.
Opportunities & Risks	The opportunities and risks associated with these proposals have been identified and assessed. Arrangements will be put in place to manage the risks and maximise the opportunities that have been identified.
Financial Implications	There are no financial impact implications arising from this report and any changes can be met from within existing budgets.
Ward Implications	Borough wide

13.0 BACKGROUND PAPERS

Council Constitution
 Relevant legislation
 Audit Commission report - Risk and Return – English local authorities and Icelandic Banks

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