

## **COUNCIL CONSTITUTION COMMITTEE**

### **Minutes of a meeting of the Council Constitution Committee held on Thursday, 3 September, 2009 at 4.30 p.m. in the Civic Offices, Telford**

**PRESENT:** Councillors I.T.W. Fletcher (Chairman), R.K. Austin, A.J. Eade and J.M. Seymour

#### **CCC-01      MINUTES**

**RESOLVED** – that the minutes of the Council Constitution Committee held on 10 November, 2008 be confirmed and signed by the Chairman.

#### **CCC-02      APOLOGIES FOR ABSENCE**

Councillors G.M. Green, V. Tonks and D.R.W. White

#### **CCC-03      DECLARATIONS OF INTEREST**

None.

N.B. Prior to consideration of the report Councillor I.T.W. Fletcher requested that it be noted that he was the Chairman of the Plans Board and Vice-Chairman of the Audit Committee and Councillor R.K. Austin requested that it be noted that he was a member of the Audit Committee.

#### **CCC-04      REVISIONS TO THE COUNCIL'S CONSTITUTION**

The report of the Head of Legal Services sought approval of a number of changes to the Council's Constitution.

##### **Public Speaking at Plans Board**

Many local authorities had adopted schemes to allow public speaking at their meetings, including Plans Board, which had a number of clear benefits in terms of increasing public confidence in the openness and fairness of the decision making process.

A suggested Scheme for Public Speaking, which allowed for representation from the public, Parish/Town Councils and the Borough Ward Councillor was attached as Annex A of the report. If the introduction of the Scheme was approved, paragraph 16 of the Committee Procedure Rules would need to be amended to reflect this, as set out in Annex B of the report.

The Head of Planning & Environment advised the Committee that, while the introduction of public speaking at meetings of the Plans Board would offer the community more confidence in the planning processes, relevant issues needed to be properly aired within a process which would ensure fairness and effective management of the meeting. He said that the scheme should not require an applicant to speak at the meeting unless there was also an objector

who wished to speak and suggested that Best Practice in other authorities be considered for by adoption by this Council. If approved, training would be provided for members (including substitutes) of the Plans Board and appropriate officers.

Members discussed a range of issues arising from the proposed introduction of the Scheme but, as it would be for guidance and not prescriptive, the Chairman of the Plans Board would still be able to use his discretion as to which speakers he would allow.

The proposed Scheme stated that 'Additional material such as plans or photographs can not be handed out at the meeting' but the Chairman said that such material was currently permissible at the Plans Board as a means of assisting the Members to understand an issue or point of view being expressed. The Head of Planning & Environment agreed but said that, in order to avoid challenges to the decisions made by the Plans Board, all such material such be submitted in advance to allow officers to give a technical view on any issues that might arise. The Head of Legal Services emphasised that any material handed out at a meeting should not differ from that previously submitted during the application process but that the final decision should lie within the Chairman's discretion.

Members indicated their approval of the Scheme in principle but asked officers to make changes in line with the issues raised and with Best Practice elsewhere and to bring an amended Scheme, together with the reworded paragraph 16 of the Committee Procedure Rules, to a future meeting of the Committee with a view to implementing it from 1 January, 2010.

### Local Petitions

The Local Democracy, Economic Development & Construction Bill included provisions to establish a duty to respond to local petitions. Although the Bill had yet to become law, the Council had recognised that a procedure should be adopted for dealing with the receipt of petitions. Accordingly, a suggested Scheme for Dealing with Petitions was attached as Annex C of the report together with the revised wording of paragraph 16 of the Committee Procedure Rules, attached as Annex D, should the Scheme be approved. A flow diagram summarising the process in outline for dealing with petitions was attached as Annex E of the report.

Members accepted the principle of introducing such a scheme but suggested that the minimum number of signatures required to trigger the Procedure should be increased from 50, as shown at Annex E of the report, to 100. It was further agreed that a copy of the Scheme should not be included within the Constitution, which would allow future amendments to be made without referring them back to the Committee. Consequently, the changes required to paragraph 19 of the Committee Procedure Rules were agreed subject to the deletion of the words 'a copy of which is included in the Constitution.'

## Article 12 - Officers

Amendment of this Article, as set out in Annex F of the report, was required for the purposes of simplification and to delete duplications within the Constitution. The deletion of full details of the responsibilities of the Chief Executive and each Corporate Director would remove the need to amend the Constitution whenever there was an organisational change.

## Part 4 (Rules of Procedure) - Section 6 - Financial Regulations

Sub-section 9 (Internal Audit) had been updated, as set out in Annexes G1 and G2, 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). It was suggested that a new paragraph 2.2 should be added to outline that the Chief Financial Officer would operate within professional standards and best practice as set out in the CIPFA Statement on the role of the Chief Financial Officer in public service organisations. A revised paragraph 2.4 (previously 2.3) 'Financial Training' also required amendment to recognise the duty of the Chief Financial Officer to ensure that the Cabinet and Corporate Management Team had the appropriate financial skills to undertake their duties.

## Part 4 (Rules of Procedure) - Section 5 – Overview & Scrutiny Procedure Rules

Councillor Call for Action (CCfA) had been introduced under the Local Government & Public Involvement in Health Act 2007 which would allow individual ward councillors to secure action from the Council or, in particular circumstances its partners, if they had been unable to address a particularly persistent problem in their area. If convinced of the merit of a CCfA, the ward member would refer the issue to the Scrutiny Leadership Board for review. The Board would have a duty to gather evidence and decide whether the issue was one which required resolution and then make recommendations for action to the Council's Cabinet, or in particular circumstances, to the Safer & Stronger Communities Partnership, all of which had a duty to respond. The essential principle of a CCfA was that all cases should be resolved at the earliest possible stage in the process and it was expected that the vast majority of cases would be resolved by the ward member. The CCfA was designed to complement existing methods of complaint and service enquiry and not to replace them.

In order to ensure that there was a clear process in place and as guidance for ward members, it was suggested that a Protocol for Councillor Call for Action be added to the Overview & Scrutiny Procedures within the Constitution. A copy of the Protocol, the proforma to be completed to initiate the process, and a flow diagram were attached as Annex H of the report.

## Changes to Terms of Reference - General

- (a) The Functions, Powers and duties of the Audit Committee included a duty to annually review its effectiveness and the Terms of Reference and it was 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. This was agreed by Members.

(b) Audit Committee

In March 2009 the Audit Commission had issued a report which reviewed the issues which had arisen for local authorities following the crash of the Icelandic Banks in September 2008 and made recommendations for action by central government, CIPFA, local authorities, the Audit Commission and its auditors. All councils had been advised to assess their current operations against the recommendations and to implement changes as appropriate. The external auditor would review this assessment and any action plans for implementing change, where appropriate.

This Council's assessment had identified that there should be increased Member knowledge and involvement in Treasury Management and, although the Cabinet had responsibility for approving the Treasury Management strategy and framework, the report had recommended that Treasury Management policies "are scrutinised in detail by a specialist committee, usually the audit committee, before being accepted by the authority." To meet this requirement the suggested changes to the Audit Committee's Terms of Reference, as set out in Annex I of the report, would enable the Council to implement this recommendation. Members of the Audit Committee and the Cabinet Member Resources and Cabinet Assistant would also be offered training to enable them to undertake their roles.

(b) Scrutiny Leadership Board

Under the Health & Social Care Act 2011 Health Overview and Scrutiny Committees of local authorities with social care functions were currently able to undertake joint scrutiny of health issues that cut across more than one local authority boundary. However, Department of Health guidance had suggested that Council Constitutions should be amended to specify how the appointment of Joint Health Scrutiny Committees should be made. Although the Council's Constitution already stated that the Scrutiny Leadership Board had the power to undertake health scrutiny, with the implication that it also had the ability to appoint to a Joint Health Scrutiny Committee, it was considered that this should be made more explicit. Following enactment of the Local Government & Public Involvement in Health Act 2007, which had amended sections of the Local Government Act 2000, references to

legislation in the Terms of Reference of the Scrutiny Leadership Board required amendment as set out in Annex J of the report.

### Minor Amendments

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

### List of Powers Exercisable by Officers under Section 100g(2) of the Local Government Act 2000

The current 100g(2) List contained all the delegations of functions granted to officers. In its current detailed format the List was time consuming to maintain and update and there was a risk of inaccurate delegations being included. It was, therefore, requested that delegated authority be 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.

The 100g(2) List also required amendment to take account of the current restructuring of the Council but, given the recommendation above, Members were 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.”***

### **RESOLVED – THAT COUNCIL BE RECOMMENDED TO APPROVE:**

- (a) **That the proposed Scheme for Public Speaking at Plans Board, as set out in Annex A of the report, be amended in line with the comments made by Members and submitted to a future meeting of the Council Constitution Committee and, subsequently, Council, with a view to implementing the Scheme as from 1 January 2010;**
- (b) **The introduction of a Scheme for Dealing with Petitions, as set out in Annex C of the report, subject to the number of signatories being increased from 50 to 100 and an amendment to Part 4 (Rules of Procedure), Section 10 (Committee Procedure Rules), paragraph 19 (Presentation of Petitions), subject to the deletion of the words ‘a copy of which is included in the Constitution’, to allow the Council to respond to local petitions in line with The Local Democracy, Economic Development and Construction Bill 2008;**

- (c) The changes to Article 12 – Officers of the Constitution, as set out in Annex F of the report;
- (d) The 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 Annexes G1 & 2;
- (e) 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 Annex H;
- (f) The changes to the Terms of Reference of the Audit Committee, as set out in Annex I of the report, and of the Scrutiny Leadership Board, as set out in Annex J of the report;
- (g) 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;
- (h) The noting of minor amendments, as set out in Annex K of the report, made to the Constitution by the Head of Legal Services under delegated authority;
- (i) The Head of Legal Services to review the current 100g(2) List of Delegations granted to Officers and for the inclusion of the words *“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”* in the 100g(2) List to cover the restructuring of the Council until such time as the review has been completed;
- (j) That with respect to Rule 10 – Questions by Members, paragraph 10.3(d) be amended to read ‘within 10 working days’ and paragraph 10.6(c) be amended with the addition of the words ‘within 10 working days’.

#### **CCC-05      SUGGESTED AMENDMENTS TO THE CONSTITUTION**

Councillor R.E. Groom had submitted proposed amendments to Rule 10 (Questions by Members) within the Council Procedure Rules and to paragraph 16 (Member Attending Meetings of a Committee of which he/she is not a Member) within the Committee Procedure Rules, as set out in Appendix C of the agenda.

Councillor Groom wished to see Rule 10 amended in order to open up the question process for debate and to ensure a guaranteed written response. Members considered these suggestions carefully and agreed that adding a

time limit to the provision of a written answer, as required by paragraph 10.6(c) – Response, would be useful. However, Councillor Groom’s suggested time period of 5 working days was considered too short a time scale for an officer to respond to given work and leave commitments and it was agreed that this should be extended to 10 working days. Members noted that for the purposes of consistency, the wording of paragraph 10.3(d) – Question and Answer Process – should be amended from 5 working days to 10 working days for provision of a written reply.

With regard to the other suggested amendments put forward by Councillor Groom on Rule 10, the Committee considered that they would be impractical to implement and could not, therefore, recommend their approval.

Councillor Groom’s suggested amendment paragraph 16 of the Committee Procedure Rules had been addressed by the decision taken earlier in the meeting with regard to the introduction of a Scheme for Public Speaking at the Plans Board.

The meeting ended at 5.46 p.m.

**Chairman:** .....

**Date:** .....