



Policy and Resources Committee – 13 February 2012

Changes to the Constitution

Purpose of report

To seek Member endorsement of changes to the council's constitution to provide greater clarity and remove some redundant paragraphs. This report is also being submitted to the Scrutiny Committee on 6 February.

Attachment(s)

None

1.0 Background

1.1 The council's constitution provides an operational framework for the council's activities. As such, it is a 'living' document which needs to evolve to meet changing circumstances. Some of these changes will arise from legislation whilst others will arise from the need to clarify the position to be taken in new circumstances.

2.0 Proposed Changes

2.1 *Policy and Budgetary Framework*

2.1.1 Paragraph 4.02 of Article 4 defines the Policy and Budgetary Framework of this council. The list of plans and strategies does not currently provide that the Treasury Management Policy Statement and the annual Treasury Management Strategy Statement should be agreed by Council as best practice requires.

2.1.2 However, such Council approval is implicit in Part 4.5 paragraphs 3.2.3, and 3.2.4 and 5.7.3 which require the Policy and Resources Committee to propose these documents to Council for approval as follows:

3.2.3 *The Committee is also responsible for proposing any changes to the Treasury Management Policy Statement (TMPS) to Council (see paragraph 5.7.5).*

3.2.4 The Policy and Resources Committee is responsible for the implementation of the budgetary framework and the medium term financial strategy. Within the overall strategy it will agree the annual revenue budget, the capital programme, the financing of the capital programme, *the annual treasury management strategy statement (TMSS)* - on the recommendation of the Finance Working Party - and associated investment criteria, supplementary estimates, fees and charges and the level of contingencies and reserves. It will make recommendations to Council on borrowing limits, *changes to the Treasury Management Policy (TMPS)* and the council tax base.

2.1.3 In addition CIPFA's Treasury Management Code derives in England and Wales from regulations issued under the Local Government Act 2003. The Capital Finance and Accounting Regulations explicitly require English and Welsh authorities to "have regard" to this code.

2.1.4 This Code states the following "must be approved by the body that approves the budget":

1. A policy statement and suitable treasury management practices which set out the

means of achieving the policies and ensuring management and control – The Treasury Management Policy Statement.

2. The minimum reports should be an annual strategy and plan (Treasury Management Strategy Statement) prior to the start of the financial year, a mid year review and an annual report after its close. A local authority should ensure that its reporting enables those responsible for treasury management to effectively discharge their duties.

3. Details of delegated responsibility for implementation and monitoring of policies and for the execution and administration of treasury management decisions.

4. Details of the body responsible for scrutiny of treasury management strategy and policies.

2.1.4 Although the council does carry out and report these activities on a regular basis, currently approval of the mid year and post year reviews and annual Treasury Management indicator reports is delegated under paragraph 5.7.3 to Finance Working Party and Policy and Resources Committee.

2.1.5 In order to comply with the CIPFA Code it is therefore proposed that the following should be added to the list in paragraph 4.02 of Article 4 for clarity:

- **Treasury Management Policy Statement**
- **the annual Treasury Management Strategy Statement including the annual Treasury Management Indicators**
- **the mid year and year end reviews of the above**
- **the annual Prudential Indicators Report.**

2.1.6 It is further proposed that Part 4.5 paragraph 3.2.3 be **deleted** and paragraphs 3.2.4 and 5.7.3 be **amended** as follows (with appropriate renumbering of paragraphs)

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~~5.7.3 The Council The Finance Working Party and Policy and Resources Committee~~ will receive reports on ~~the its Council's~~ treasury management policies and activities including, as a minimum, an annual strategy statement in advance of the year, an annual report after its close, and a mid-year position statement in the form prescribed by best practice.

2.1.7 The requirement to produce a Community Strategy was removed in the latest Best Value guidance issued in 2011. **It is therefore proposed to delete reference to “The Community Strategy” from paragraph 4.02 of Article 4.**

2.2 **Deputy Chief Finance Officer**

2.2.1 Paragraph 3.8.6 of Part 4.5 of the Constitution states that:

The Head of Resources and Organisational Development is nominated to deputise

should the Chief Finance Officer be unable to perform the statutory duties personally.

- 2.2.2 This is no longer considered appropriate as the position of Deputy Chief Finance Officer is a personal appointment of the Chief Finance Officer. **It is therefore proposed to delete paragraph 3.8.6 of Part 4.5, and renumber paragraphs accordingly. However it is suggested that the Monitoring be authorised to insert the following wording in another part of the Constitution (probably Part 7 - Management Structure):**

The Deputy Chief Finance Officer and the Deputy Monitoring Officer are personal appointments of the CFO and MO respectively.

2.3 ***Scrutiny Call In Timetable - Part 4.4 of the constitution***

- 2.3.1 Currently paragraph 14.1 requires that a summary of decisions is to be issued within 3 working days of the meeting and paragraph 14.2 provides that the decision stands unless call-in occurs within 5 working days. In theory this leaves councillors with just two working days to call in decisions. In practice the council has always allowed five working days after the issue of the summary of decisions and it is suggested that the Constitution be amended to reflect this.

- 2.3.2 It is therefore proposed that paragraph 14.2 be amended as follows:

14.2 A decision will come into force and may then be implemented on the expiry of five clear working days from the date of issue of the **summary of decisions the decision was made**, unless an objection is received which requests that the decision be 'called in' in accordance with Rules 14.3 – 14.7.

2.4 ***Scheme of Delegation***

- 2.4.1 The council's Disciplinary Policy and Procedure which was approved in April 2008, states that the dismissal of an employee can be decided by Heads of Service and chief officers (Paragraph 5.2.6.c). This is not a function currently formally delegated to Heads of Service and it is proposed to amend the Scheme of Delegation (Part 3.2) to bring this in line with the Policy:

206. To appoint, discipline and dismiss staff below the grade of Senior Officer and to initiate action for the discipline/dismissal of staff at/above that rank:
Chief Executive; Executive Director **and Heads of Service.**

- 2.4.2 Following the recent decision to review the council's Economic Development activities, it is proposed to delete the following power from the Scheme of Delegation as the budget for these grants has been deleted.

~~35 To approve Business Development Grants within the approved scheme~~

- 2.4.3 Finally in relation to the Scheme of Delegation it is proposed to add delegated powers to enable the Head of Planning Services and Development Control Manager to respond to the requirement to confirm within 14 days the new Infrastructure Planning Commission (IPC) that we are happy with the level of consultation that was carried out by the applicants prior to the applications submission. Under the regulations as the Local Planning Authority we will need to confirm that the events the applicants refer to in their Statement of Community Consultation have actually been held and also that they have responded to the comments.

- 2.4.4 Members will recall that the IPC was created to examine applications for nationally significant infrastructure projects such as railways, large wind farms, power stations, reservoirs, harbours, airports and sewage treatment works. It should be noted that as

the Local Planning Authority will always be consulted formally on the application proposals when they are registered and we then have to prepare something called a Local Impact Statement. It is not proposed to seek delegated powers in respect of these two aspects.

2.4.5 It is therefore proposed to add to the Scheme of Delegation the following paragraph:

36A To respond to requests from the Infrastructure Planning Commission for confirmation of the adequacy of the applicant's community consultation carried out at the pre-application stage.

**Head of Planning Services
Development Control Manager**

2.5 ***Mid-year appointment of Deputy Leader, Chairman or Vice Chairman.***

2.5.1 Currently Articles 5 and 6 - which cover the above positions - do not make provision for appointment to these posts outside of the Annual Council although there are obviously occasions where such elections may be necessary. It is therefore proposed to amend these articles to provide similar contingency provisions to those for the Leader of the Council.

2.5.2 It is suggested that the following paragraphs are added to the Constitution

Article 5 – Chairing the Council

5.04. Mid Year Changes.

A mid-year appointment may be made to the position of Chairman or Vice-Chairman at the next appropriate Council Meeting if the post-holder elected at the Annual Council is unable to complete the term of office for any reason.

Article 6 – 6.04 Deputy Leader of the Council.

The Council will, at the Annual Meeting, elect a Deputy Leader to act in the notified absence of the Leader, such notice to be given in writing by the Leader to the Chief Executive. Subject to political balance rules, the Deputy Leader shall serve as an exofficio member of the policy committees and their sub-committees (with voting rights) unless otherwise signified. **The post holder holds office until the next Annual Meeting unless that person is unable to complete the term for any reason, in which case a new Deputy Leader shall be elected at the next appropriate meeting in accordance with the above provisions.**

2.6 ***Removal of Duplicate Wording***

2.6.1 Currently Part 4.1 contains two paragraphs which contain duplicate wording. It is therefore proposed to **delete** paragraph 23.1 and **amend** paragraph 23.2 as follows (with appropriate renumbering):

~~**23.1 The Council and any policy or other committee may appoint such sub committees, boards, working parties and panels as they may consider necessary from time to time and shall specify the purpose, terms of reference and duration of such sub-committees and panels.**~~

23.1 The Council and any policy or other committee may appoint such sub committees, boards, working parties and panels ~~working parties~~ as they may consider necessary from time to time and shall specify their purpose, terms of reference and duration. ~~of such working parties~~. Any ~~such~~ working party shall be of an advisory or deliberative nature only and shall report back to the body that

appointed it, with or without recommendations, within the time set.

2.7 Public Speaking at Policy and Resources Committee

2.7.1 Following a recent complaint by a member of the public and comments by Members it is proposed to change Part 4.1 paragraph 9 to enable the Policy and Resources Committee to enable public speakers to be heard immediately before the matter to be considered rather than at the start of the meeting. It is proposed to amend Paragraph 9.1 as follows:

a) General

Members of the public who have given notice of their intention to speak may address the Council at ordinary meetings of the Council and committees in accordance with the Council's published procedures. A period of not more than 15 minutes will be allowed before the formal business of the meeting during which members of the public may speak for up to 3 minutes on a matter due for consideration at the meeting. A 'member of the public' includes a local resident, a Parish or Town Council representative and an applicant (in the case of the Development Control Committee, this can be an agent). This right reflects Articles 6 and 10 of the European Convention of Human Rights (Right to be heard and Freedom of Expression).

b) Development Control Committee and Policy and Resources Committee

The Chairmen of these ~~Development Control~~ Committees may, as ~~it~~ **they** think fit, modify this Rule to enable speakers on ~~development control~~ issues to be heard immediately before the matter to be considered, rather than at the start of the meeting.

3.0 Equality and Diversity Implications

3.1 There are no known equalities issues arising from this report.

4.0 Legal Implications

4.1 There are no legal implications arising from this report

5.0 Risk Management

5.1 There are no significant risks arising from this report.

6.0 Financial Implications

6.1 There are no financial implications arising from this report.

7.0 Corporate Outcomes

7.1 The following outcome is applicable:-

- Effective Management

8.0 Recommendations

8.1 The committee is requested to approve the changes noted in paragraphs 2.1.5-2.1.7, 2.2.2, 2.3.2, 2.4.1-2.4.2, 2.4.5, 2.5.2, 2.6.1 and 2.7.1 and recommend that full Council amends the constitution and authorises the Monitoring Officer to make any consequential changes as a result (renumbering of paragraphs and cross referencing)

[Reason – to ensure that the council's constitution is responsive to the changing working environment]

Legal	Power: Local Government Acts 1972 and 2000; The Local Authorities (Alternative Arrangements (England) Regulations 2001				
	Other considerations: Council's Constitution CIPFA				
Background Papers: None					
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Date: 18 January 2012					
CFO		MO		CX	

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