



Policy and Resources Committee - 11 October 2010

Constitution Review Group - Update

Summary

This is a further report proposing changes to the Constitution and procedures in this Council year, following the previous reports to the Committee.

Attachment(s)

Appendix 1 - changes to Part 5.4 of the Constitution

1.0 Introduction

1.1 The Constitution Review Group (CRG) met in July and is proposing a number of changes in addition to those already approved at the January, March and April Council meetings. In summary, these are to:-

- Procedure Rules (Part 4.1 of the Constitution)
- Article 9 relating to the Standards Board (Part 2)
- Code of Practice for Planning Procedures (Part 5.4)

1.2 Proposed changes are shown in bold italics and deleted text in the report and appendix.

2.0 The Proposed Changes

2.1 Procedure Rules (Part 4.1)

On 26 April, the Council confirmed the view expressed by the Policy & Resources Committee that CRG should reconsider proposed wording on Partnership Boards. CRG now propose the insertion of an additional sub-paragraph in Part 4.1 of the Constitution, as follows:-

“25.5 Partnership Boards are not subject to these Procedure Rules. Council will decide if it wishes to send any representatives or delegates and who they shall be, but can not determine the Terms of Reference of each Board.”

2.2 Article 9 (Part 2)

The CRG has given further consideration to its initial conclusion that Independent members of the Standards Board should be appointed by a panel made up of a majority of District Councillors. This was referred back to the Group in view of concerns expressed by the Standards Board on 3 February.

The CRG felt that one member of the recruitment panel could be outvoted by the others. In the Group's view, the original proposed change to Article 9 should stand.

The following change to Article 9 is therefore proposed:-

“Independent Members will have equal rights on the Board and will be entitled to vote at meetings of the Standards Board. They will be appointed by the Full Council on the recommendation of a Panel **made up of a majority of District Councillors**. They must not be a member of a political party and must be either resident within the District or within 20 miles of the border of the District.”

2.3 Code of Practice for Planning Procedures (Part 5.4)

The CRG has discussed the requirement in the current Constitution for Planning Officers to make a recommendation on planning applications in the reports submitted to the Development Control Committee. It has recognised that there may be occasions when the issues are finely balanced and it would be more appropriate for arguments for and against to be stated instead.

Appendix 1 outlines the proposed changes to paragraphs 6, 23, 24, 26, 27, and 28 of the Code of Practice.

3.0 Recommendations

3.1 A similar report was submitted to the Scrutiny Committee on 27 September and that Committee endorsed the proposals. It is recommended that, subject to any comments made by Members at the meeting this Committee supports the proposals set out in the report and recommend that full Council:-

- (1) Adopt the proposed changes to Part 4.1 of the Constitution shown in paragraph 2.1.
- (2) Adopt the proposed changes to Part 2 of the Constitution (Article 9) shown in paragraph 2.2
- (3) Adopt the changes to Part 5.4 of the Constitution shown in Appendix 1.

Implications:		
Corporate Outcomes or Other Policy/Priority/Strategy		
Good Quality of Life	<input type="checkbox"/>	Good Reputation <input checked="" type="checkbox"/>
Good Value for Money	<input type="checkbox"/>	High Quality Service Delivery <input checked="" type="checkbox"/>
Effective Partnership Working	<input type="checkbox"/>	Strong Community Leadership <input type="checkbox"/>
Effective Management	<input checked="" type="checkbox"/>	Knowledge of our Customers and Communities <input type="checkbox"/>
Employees and Members with the Right Knowledge, Skills and Behaviours		
Other:		
Decision(s) would be outside the budget or policy framework and require full Council approval <input checked="" type="checkbox"/>		
Financial	There are no financial implications at this stage <input checked="" type="checkbox"/>	
There will be financial implications – see paragraph <input type="checkbox"/>		
There is provision within existing budget <input type="checkbox"/>		
Decisions may give rise to additional expenditure at a later date <input type="checkbox"/>		
Decisions may have potential for income generation <input type="checkbox"/>		
Risk Management	An assessment has been carried out and there are no material risks <input checked="" type="checkbox"/>	
Material risks exist and these are recorded at Risk Register Reference - <input type="checkbox"/>		
inherent risk score -		
residual risk score -		
Staff	There are no additional staffing implications <input checked="" type="checkbox"/>	
Additional staff will be required – see paragraph <input type="checkbox"/>		
Equalities and	There will be no impact on equality (race, age, gender, disability, religion/belief, sexual orientation) or human rights implications <input checked="" type="checkbox"/>	

Human Rights	There will be an impact on equality (see categories above) or human rights implications – see paragraph <input type="checkbox"/>				
Legal	Power: Local Government Act 1972				
	Other considerations: Council's Constitution				
Background Papers: Minutes of Constitution Review Group					
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Date: 16 September 2010					
CFO		MO		CX	

(Committee Report Normal Rev. 21)

Appendix 1 – Proposed Changes to Part 5.4 of the Constitution

“6. In making decisions on applications, officers will:

- provide professional and impartial advice;
- make sure that all information necessary for a decision to be made is given;
- set the application in the context of the Development Plan and all other material considerations;
- provide a clear and accurate written analysis of the issues in the report to Committee;
- give a clear recommendation ***unless the Head of Planning Services considers, in exceptional cases involving significant developments (where the issues are finely balanced), that arguments for and against should be stated instead.***

Note – this discretion is expected to be used infrequently and when it is used, it will be reflected in the Minutes

Reports to Committee

Section 5

22. Committee papers will be available for public inspection five clear working days prior to the meeting.
23. All applications presented to the Committee for decision will have a full written report from officers, including a summary of objections and the views of those who have been consulted, the relevant site or related planning history, the Development Plan context and relevant planning policies, any other material considerations, a reasoned consideration of the proposal and a clear recommendation. ***unless the Head of Planning Services considers, in exceptional cases involving significant developments (where the issues are finely balanced), that arguments for and against should be stated instead.***
24. Any material planning information that is received after the written report has been prepared will be presented orally by officers to the Committee. A written note of any oral report will be made and kept on the case file.
25. The Head of Planning Services has the discretion to withdraw any development control item from the agenda of the Committee subsequent to the preparation of the report, but prior to discussion by the Committee, if the circumstances of the consideration of the item change within that period.
26. Where an application is determined in accordance with an officer's ***the report's recommendations, the decision will be reported in the minutes in***

accordance with the report's recommendations, subject to any amendments which officers or Members put forward at the Committee meeting and as may be resolved by the Committee.

27. Where Members disagree with the officer **report's recommendation**, the reasons for rejecting that recommendation will be clearly stated at the meeting and recorded in the minutes of that meeting. A copy of the minutes shall be placed on the application file. Members need to be sure that when they do not follow officer advice **the report's recommendations**. their decision is based on sound planning reasons, which may need to be justified at an appeal. ~~Also, such decisions may be subject to scrutiny by the Monitoring Officer and the process by which such decisions are reached by Members may be subject to scrutiny by the Scrutiny Committee.~~
28. Before an application is determined at a meeting of the Committee, members of the public (an applicant or agent; a local resident; a Parish/Town Council representative) may address the Committee for no longer than **3** minutes, to outline points of concern or support, subject to compliance with the Council's published procedures on public speaking. This right reflects Articles 6 and 10 of the European Convention of Human Rights (Right to be heard and Freedom of Expression). **The Chairman has discretion, within the Council's published procedures, to allow more than a total of 3 speakers on any application which has created considerable interest.**