



East
Northamptonshire
Council

Policy and Resources Committee– 11 April 2011

Proposed Constitutional Changes

Purpose of report

To seek amendments to further parts of the constitution and other associated documents following a review of wording. For one year only, the Committee is being asked to delegate the approval of the accounts to a group of members of the Policy & Resources Committee

Attachment(s)

Appendix 1: Terms of Reference of the Scrutiny Committee
Appendix 2: Terms of Reference of the Policy & Resources Committee
Appendix 3: Terms of Reference of the Finance Working Party

1.0 Background

- 1.1 The need has been highlighted for some further minor changes to the constitution and associated documentation. This follows:-
- (a) The abolition of the Audit and Risk Management Committee and the Performance Management Panel and the tidying up of the Terms of Reference of the various committees and working parties.
 - (b) A tightening of procedures relating to confidential (pink) papers.
 - (c) Removal of references to council and committee forward plans
- 1.2 The implications for (a) have also been considered in relation to the approval of the annual statement of accounts in 2011.

2.0 Proposed Changes

2.1 **Scrutiny Committee Terms of Reference**

Consequent upon the abolition of the Audit and Risk Committee and the Performance Panel, Council agreed that the Terms of Reference of these bodies be subsumed into the Terms of Reference of the Scrutiny Committee (minute 245 (b) of Council – resolution (6) (1 November 2010). The Scrutiny Committee has also given some consideration to the detailed arrangements and reporting framework (minute 323 – 15 December 2010).

- 2.2 The Finance Manager has reviewed the Terms of Reference. There has been some discussion at officer level about the suitability of governance arrangements being considered by the Scrutiny Committee and a legal view has been sought. For the moment, the conclusion has been reached that it is acceptable for the Scrutiny Committee to have, under its remit, matters relating to the governance of the council but further consideration will be given by the Monitoring Officer to the whole issue once the position is clearer on the implications for Scrutiny of the Localism Bill.

- 2.3 The revised Terms of Reference for Scrutiny Committee is set out in Appendix 1. There are two specific terms which should rest with Policy and Resources Committee, however, and these are shown in bold text on Appendix 2. Some slight adjustments have also been made to the responsibility of Finance Working Party to review the Procurement Rules and Financial Regulations and make recommendations to Policy and Resources Committee. These minor changes are shown in Appendix 3.

- 2.4 It is also suggested the new Terms of Reference be reflected in Article 7 of Part 2 and Part 4.4 (Scrutiny Procedure Rules), and that any consequential changes be made if required to other parts of the constitution to reflect these current adjustments.
- 2.5 Now that the responsibility for approval of the statement of accounts before 30 June will rest with the Policy and Resources Committee, it will be necessary for delegation to be given to a group of members this year to give the approval. This will be a “one-off” and there will be a need for a Policy and Resources Committee meeting to be scheduled from June 2012 onwards to deal with approval of the statement of accounts. As the members of the Finance Working Party will be meeting on 28 June 2011 (albeit in a different capacity) it is suggested that those members be authorised to approve the accounts.
- 2.6 **Proposed Changes to Officer Code of Conduct**
As a result of a tightening of provisions relating to confidential (pink) pages it has been considered necessary to add further wording to Part 5.2 of the Constitution.
- 2.7 It is proposed the wording be added to section 2 (Disclosure of Information):-

2.3 Confidentiality

Employees are under an obligation not to make certain categories of information public or divulge such information to anyone other than a councillor or officer entitled to know it. This reflects a similar obligation on councillors under Part 5.6 of the constitution. Paragraphs 2 and 3 of that protocol specify the categories of information and the practice of containing written information on pink papers. The distribution and security of such information is strictly controlled by Democratic Services officers and there is an internal protocol governing this.

- 2.8 **Removal of References to Forward Plans for Council and Committees**
- 2.9 A recent internal audit report on corporate decision making and leadership noted that the constitution makes reference to the requirement that “At least once a year the chairman of each committee presents a statement to the council setting out the committee’s forward programme of key activity in support of the council’s corporate objectives. In this way major decisions are published as a forward plan in so far as they can be anticipated...” Since the constitution was adopted with this wording it has been established that local authorities adopting a committee rather than a cabinet model are not required to publish a schedule of key decisions. Since the internal audit team are satisfied that the current practice (established over the past few years of not publishing such schedules) is appropriate it is therefore proposed to amend the constitution as follows to remove these references.
- a) Remove from part 1 (page 3) under how decisions are made the following paragraph:
“At least once a year the chairman of each committee presents a statement to the council setting out the committee’s forward programme of key activity in support of the council’s corporate objectives. In this way major decisions are published as a forward plan in so far as they can be anticipated.
- b) Amend part 1 (page 5) the following bullet point under citizens’ rights as follows:
- “find out, ~~from the annual Performance Plan and the committees’ forward programmes,~~ from agendas published on the council’s website 5 working days in advance what major decisions are proposed, when they are to be discussed and by whom;”
- c) Remove from part 4.3 paragraph 2 (b) which reads as follows:

“ Within the overall programme, the chairman of the Policy and Resources Committee will be required to set out a forward programme of key activity in support of the council’s corporate objectives, as set out in the annual Performance Plan.”

- d) Remove the following from part 4.3 paragraph (c):
“In determining its forward programme the Policy and Resources Committee will take into account any policy studies previously undertaken by the Scrutiny Committee and the outcomes of any service reviews.”

3.0 Equality and Diversity Implications

- 3.1 There are no equality and diversity implications arising from the proposals.

4.0 Legal Implications

- 4.1 The legal position has been taken into account in relation to the Terms of Reference of the Scrutiny Committee and there is a legal requirement for the statement of accounts to be approved before 30 June 2011.

5.0 Risk Management

- 5.1 There are no significant risks to the council arising from the proposals.

6.0 Financial Implications

- 6.1 There are no financial implications arising from the proposals.

7.0 Corporate Outcomes

- 7.1 The following outcomes are applicable:-
- Good reputation
 - Strong Community Leadership
 - Knowledge of Customers and Communities
 - Employees and Members with the Right Knowledge, Skills and Behaviours.

8.0 Consultation

- 8.1 The views of the Scrutiny Committee are being sought. The committee meets on 4 April and an oral update will be given at the Policy & Resources Committee meeting.

9.0 Recommendation

- 9.1 The committee is requested to –
- (1) recommend that full council adopts the changes to the terms of reference of committees and the Finance Working Party as set out in Appendices 1 to 3 to this report.
 - (2) recommend that changes be made to article 7 and part 4.4 of the constitution to reflect the above adjustments and that any further consequential changes, if required, be made to other parts of the constitution to also reflect the adjustments
 - (3) agree the delegation to the named members appointed to the Finance Working Party on 18 May 2011 to approve the statement of accounts 2010/11 on 28 June 2011.

(Reason – to ensure that the constitution and associated documentation are continuously kept up to date, especially once a new council is elected in May 2011)

Legal	Power: Local Government Acts 1972 and 2000; The Local Authorities (Alternative Arrangements (England) Regulations 2001				
	Other considerations: Council's Constitution				
Background Papers: None					
Person Originating Report: Keith Osborne, Democratic Services Manager, 01832 742113					
Date: 14 March 2011					
CFO		MO		CX	

(Committee Report Normal Rev. 22)

Scrutiny Committee

Amended by Council – 1 March 2010 – Minute 385(b) and 1 November 2010 – minute 245(b)

- 1 The Council has appointed a single Scrutiny Committee, comprising 15 members of the Council appointed at the Annual Meeting. The Committee's purpose is to manage and co-ordinate the overview and scrutiny process in accordance with the Scrutiny Procedure Rules set out in Part 4.4 of the Constitution and to monitor statutory and local performance indicators and set standards and targets for performance improvement. The Scrutiny Committee has the power to appoint time-limited working parties, review teams and panels as necessary.
- 2 The Terms of Reference of the Scrutiny Committee are set out in Article 7 of the Constitution. These were approved and adopted by the Council on 1 March 2010 in accordance with Article 4.1 (c) of the Constitution and amended as above.
- 3 The Scrutiny Committee terms of reference are to
 - (i) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - (ii) make reports and/or recommendations to the full Council, the Policy and Resources Committee and/or any joint or area committee in connection with the discharge of any functions;
 - (iii) consider any matter affecting the area or its inhabitants;
 - (iv) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by a policy committee and/or any joint committees;
 - (v) liaise with the Standards Board to ensure adequate arrangements for codes of conduct and behaviour;
 - (vi) monitor Council policies on 'Raising Concerns at Work' and the anti-fraud and anti-corruption strategy;
 - (vii) oversee the production of the authority's Annual Governance Statement and to recommend its adoption as part of the annual accounts;
 - (viii) consider the Council's arrangements for corporate governance and agree necessary actions to ensure compliance with best practice;
 - (ix) consider the Council's compliance with its own and other published standards and controls
 - (x) consider reports including the external auditor's annual letter, relevant reports, and the report to those charged with governance and consider any other specific reports as agreed with the external auditor. Specifically to

consider whether there are concerns arising that need to be brought to the attention of the Policy and Resources Committee.

- (xi) consider the Head of Internal Audit's annual report and opinion, and a summary of internal audit activity (actual and proposed) and the level of assurance it can give over the Council's corporate governance arrangements. Specifically to consider whether there are concerns arising that need to be brought to the attention of the Policy and Resources Committee;
- (xii) consider summaries of internal audit reports produced in accordance with the Annual Internal Audit Plan;
- (xiii) consider and accept the Annual Internal Audit Plan. Specifically to consider whether there are concerns arising that need to be brought to the attention of the Policy and Resources Committee;
- (xiv) commission work from internal and external audit including value for money and efficiency reviews.
- (xv) receive reports on the council's performance framework, which includes monitoring of:
 - high level risks where actions to mitigate have not been completed on time
 - high level internal audit recommendations that have not been implemented on time
 - emerging financial risks and significant budget variations
 - national and/or local performance indicators which are consistently not achieved
 - key service area achievements(see minute 323 of Scrutiny Committee 15 December 2010)
- (xvi) provide independent assurance of the council's risk management framework and the associated control environment;
- (xvii) To monitor the effective development and operation of risk management and corporate governance in the Council; to endorse the Business Continuity Plan and Risk Management Strategy; and to review the RISK Register.
- (xviii) assist the Council in the development of the Council's Budget and Policy Framework by in-depth analysis of policy issues;
- (xix) conduct research, community and other consultation in the analysis of policy issues and possible options;
- (xx) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- (xxi) question Members of the Council and the Policy & Resources Committee, and Chief Officers and Heads of Council Services, about: their views on issues and proposals affecting the area; and, in relation to particular decisions, initiatives or projects;

- (xxii) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working;
 - (xxiii) review and scrutinise the decisions made by and performance of, the Policy & Resources Committee and Chief Officers both in relation to individual decisions and over time;
 - (xxiv) review and scrutinise the performance of the Council in relation to its policy objectives;
 - (xxv) within the Council's published Petitions Scheme, consider petitions which call for a senior officer of the Council to attend the Committee to answer questions on how a particular service is being delivered; and also to review the Council's response to petitions in cases where the petition organiser feels this is inadequate;
 - (xxvi) make recommendations to the Council and/or appropriate policy committee arising from the outcome of the scrutiny process;
 - (xxvii) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Scrutiny Committee and local people about their activities and performance;
 - (xxviii) question and gather evidence from any person (with their consent).
 - (xxix) receive reports from Council Champions.
- 4 The Constitution requires the Scrutiny Committee to report annually to the full Council on the operation and effectiveness of scrutiny arrangements.
 - 5 Proceedings of the Scrutiny Committee and any Sub Committee, working party or scrutiny panel appointed by it take place in accordance with the Procedure Rules set out in Part 4.1 of the Constitution and the Scrutiny Procedure Rules set out in Part 4.4 of the Constitution.

TERMS OF REFERENCE

Policy and Resources Committee

Approved by Council - 1 March 2007 - Minute 391 and amended as a result of the introduction of the Planning Policy Committee in May 2008

Amended by Council - 26 April 2010 – Minute 472(c)

Amended by P & R as result of change of Finance Sub Committee to a working party (11 October 2010)

- 1 The Policy & Resources Committee is a policy committee within the meaning of Article 8.01 of the Constitution.
- 2 The Policy & Resources Committee comprises 15 members appointed by the full Council at the Annual meeting, in accordance with the statutory political balance requirements, to be responsible for the formulation and development of the Council's overall strategic policy (with the exception of the strategies and plans which together comprise the Local Development Framework), the formulation and development of its budgetary and financial management framework and its capital and revenue programme.
- 3 The Policy & Resources Committee coordinates the implementation of policy and strategic objectives across the Council and implements strategy in respect of the social, economic and environmental well-being of the citizens of East Northamptonshire, and the functions and services not otherwise the responsibility of the full Council or the Planning Policy Committee. In doing so, the Committee is responsible for formulating and resourcing the capital programme and for ensuring that the policies and strategic objectives of the Council support the Community Plan and take account of crime and disorder matters pursuant to the Police & Justice Act 2006.
- 4 Functions which are delegated on, for example to a standing Sub Committee or an Officer, and the limits of that delegation, are defined in Table 1 of the Constitution.
- 5 The Committee's terms of reference are
 - (i) To consider and make recommendations to the Council on all questions of major policy in accordance with the Budget and Policy Framework Procedure Rules and the Financial Rules in Parts 4.3 and 4.5 of the Constitution, and generally to promote a corporate approach to all of the Council's functions;
 - (ii) To consider the financial impact of policy decisions, including the allocation and reallocation of resources and future levels of local taxation;
 - (iii) To develop the budget and policy framework, identifying any strategic policy or resource issues on which studies by the Scrutiny Committee may be

required, in accordance with the Budget and Policy Framework Procedure Rules in Part 4.3 of the Constitution. /continued

- (iv) To oversee the finances of the Council, and the implementation of the budgetary framework and the approval and implementation of the medium term financial strategy, considering the resourcing of policy decisions and the financing of capital expenditure, in accordance with the Financial Procedure Rules set out in Part 4.5 of the Constitution;
- (v) To publish an annual programme for establishing the budget and policy framework for the following year, for Council approval, taking into account any policy studies previously undertaken by the Scrutiny Committee and the outcomes of any service reviews or customer surveys;
- (vi) To co-ordinate, on behalf of the Council, the implementation of the Council's strategic aims and priorities, determining policies to deliver the Council's objectives;
- (vii) To review the need for existing services, and the method of provision.
- (viii) To carry out the duties imposed by the Council's financial regulations and any statutory obligations, including recommending the council tax to be levied for the ensuing year;
- (ix) To oversee and monitor matters determined by a Personnel Sub Committee relating to conditions of service, health and safety and employment policies relating to all council employees, and changes to the establishment, setting up a standing Sub Committee for that purpose;
- (x) To establish a Finance Working Party to manage revenue and capital expenditure and the progress of the capital programme and undertake other specific duties as set out in the Sub-Committee's Terms of Reference.
- (xi) To deal with applications for financial assistance not otherwise delegated;
- (xii) To consider recommendations from the Finance Working Party in respect of the sale of the Council's land, buildings or assets or the acquisition thereof;
- (xiii) To receive an Annual Asset Management Position Statement within the agreed Council Outcome RES02 (Well Maintained Assets – measure % of assets rated as in good/satisfactory condition).
- (xiv) To liaise with the Audit Commission over the appointment of the Council's external auditor**
- (xv) To approve the annual statement of accounts**

6 Proceedings of the Committee take place in accordance with the Procedure Rules set out in Part 4 of the Constitution.

Finance Working Party

Approved by Council – 1 March 2007 - Minute 391

Amended by:

- Policy & Resources Committee 21 January 2008 (Minute 291)
- Council – 21 July 2008 – (Policy & Resources Committee 16/06/08 Recommendation R2 - Minute 56)
- Council - 26 April 2010 – Minute 472(c)
- Policy and Resources Committee 12 October 2010
- Council – 1 November 2010 – minute 212
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The Finance Working Party is a working party comprising 6 members of the Council's Policy & Resources Committee established to manage the financial resources of the Council. It will meet quarterly, with additional meetings as and when required.

Terms of Reference:

1. To monitor and manage the capital programme and revenue expenditure and report to the Policy and Resources Committee accordingly (with power to vary the capital programme during the year and manage underspendings).
2. To consider the capital and revenue budgets and recommend to the Policy and Resources Committee the revenue budget, capital programme and fees and charges
3. To consider and make recommendations to the Policy and Resources Committee on the financial aspects of the long and medium term financial strategies of the Council.
4. To recommend to the Policy and Resources Committee any changes in the financial management arrangements set out in the Budget and Policy framework.
5. To review and approve Financial Regulations every three years, ~~taking into account any recommendation by the Scrutiny Committee on de minimis figures~~, and make recommendations to the Policy & Resources Committee.
6. To review and develop the detailed financial and procurement rules and recommend changes to the Policy and Resources Committee **and specifically to review the de minimis figure(s) contained therein.**
7. To recommend, to Policy and Resources Committee, approval of the Treasury Management Policy Statement (TMPS) and Treasury Management Strategy Statement (TMSS); to consider the annual report on investments and borrowing; and to review and scrutinise treasury management strategy and policy.
8. To ensure the Council maintains adequate and appropriate insurance cover.
9. To consider issues relating to be responsible for the strategic management of all Council land and property assets and co-ordinate the disposal and acquisition of any capital assets, making appropriate recommendations to the Policy and Resources Committee.