



Report of the Assistant Chief Executive (Corporate Governance)

Council

Date: 19 November 2008

Subject: Amendments to the constitution / appointment of members to a new General Purposes Committee

Electoral Wards Affected:



Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

☐

Community Cohesion

☐

Narrowing the Gap

☐

Executive Summary

1. This report sets out recommendations to Council from the Constitutional Proposals Committee, together with a consequential recommendation to appoint members to a new committee.

General Purposes Committee

2. The principal recommendations to Council are to:
 - abolish the Constitutional Proposals Committee;
 - appoint a new General Purposes Committee with the terms of reference set out in appendix 1 to this report; and
 - amend the terms of reference of the Corporate Governance and Audit Committee to those set out in appendix 2 to this report.
3. This report also recommends Council to appoint members to the new committee, as set out in appendix 3 to this report.

Delegations to Assistant Chief Executive (Corporate Governance) – procedure for changing executive arrangements

4. The Constitutional Proposals Committee also considered the **procedure** for changing the form of the executive. Appendix 4 sets out which functions may be delegated, and which must be reserved to full Council.

5. The Committee recommended that to expedite the process, functions should where possible be delegated to the Assistant Chief Executive, with the proviso that the delegation to consult being subject to consultation with party Leaders about the consultation plan (See further appendix 4). The Committee also recommended Council to instruct the Assistant Chief Executive (Corporate Governance) to begin the consultation process on the change in form, subject to that proviso.

Scrutiny Board review

6. This report sets out proposed amendments to the Scrutiny Board Procedure Rules, relating to the Call in process. The proposed amendments are set out at appendix 5. These relate to signatories, substitutes, information submitted, witnesses and adjournments, and should improve the effectiveness and efficiency of the Call in process.

1.0 Purpose Of This Report

1.1 This report sets out recommendations to Council from the Constitutional Proposals Committee in relation to:

- appointing a new General Purposes Committee;
- amendments to the officer delegation scheme for the Assistant Chief Executive (Corporate Governance); and
- amendments to the Scrutiny Board Procedure Rules.

2.0 Background Information

2.1 The Constitutional Proposals Committee is authorised to consider proposals to amend the constitution and make recommendations about this to Council.

2.2 At its meeting on 30 October 2008, the Committee met to consider

- the appointment of a new General Purposes Committee;
- proposed delegations to the Assistant Chief Executive (Corporate Governance) relating to the procedure for changing executive arrangements; and
- proposed amendments to the Scrutiny Procedure Rules (Call in procedure).

3.0 Main Issues

3.1 General Purposes Committee

3.1.1 The Corporate Governance and Audit Committee currently has authority to consider and determine Council (non-executive) functions delegated to a director, where the director has decided not to exercise the delegated authority and has referred the matter to the Committee. However, because of the restricted membership of that committee, Executive Members, party group leaders and Whips are not able to participate directly in such decisions, other than, in some cases, by making representations, or attending and speaking at a meeting.

3.1.2 Also, there is no Member forum for making recommendations to Council, about some specific functions which are reserved to full Council. (For example, the new function introduced by the Local Government and Public Involvement in Health Act 2007 (the 2007 Act) of resolving to change the form of the executive).

3.1.3 At their meeting on 30 October 2008, the Constitutional Proposals Committee resolved to recommend to Council to:

- abolish the Constitutional Proposals Committee;
- appoint a new General Purposes Committee with the terms of reference set out in appendix 1 to this report;
- resolve that the Council Procedure Rules apply to the General Purposes Committee as if it were appointed at the annual meeting under Rule 1(1)(g);

- approve substitute arrangements for the General Purposes Committee, which allow an Executive Member, Deputy Executive Member, Whip or Assistant Whip to attend meetings in place of a regular member of the committee;
- amend the terms of reference of the Corporate Governance and Audit Committee to those set out in appendix 2 to this report.

3.1.4 If Council appoint a new General Purposes Committee, Council will also have to appoint members to it. The proposed membership is set out in appendix 3 to this report. It is proposed that the membership and political balance for this committee is the same as for the Constitutional Proposals Committee which it replaces.

3.2 Delegations to Assistant Chief Executive (Corporate Governance) – executive arrangements

3.2.1 The Constitutional Proposals Committee also received a report setting out how the 2007 Act:

- changed the forms of the executive;
- provided a mechanism which allows an authority to change its executive arrangements; and
- includes transitional provisions which require the Council to resolve to change the form of its executive by **31 December 2009**.

3.2.2 To change the form of its executive, the authority has to:

- **consult** before drawing up proposals for a change in form;
- **draw up proposals**;
- decide whether the change should be subject to approval by a **referendum**;
- **publicise** the proposals;
- **hold the referendum** if they have decided there should be one;
- **resolve** to change the form;
- **implement** the new governance arrangements; and
- **publicise** the new arrangements.

3.2.3 Functions relating to the procedure for changing executive arrangements have now been identified as council functions. Some of these must be reserved to full Council, such as resolving to adopt a new form, but others may be delegated. These are set out in appendix 4 to this report.

3.2.4 The Constitutional Proposals Committee recommended that to expedite the procedure to be followed by 31 December 2009, the Council delegate all of the functions which the regulations allow to be delegated, **except** the duty to draw up proposals (see further appendix 4). The Committee recommended that this function should rest with full Council, since it is such an important stage in the process.

3.2.5 The Committee recommended that the delegation to consult be subject to consultation with party Leaders about the consultation plan, and recommended Council to instruct the Assistant Chief Executive (Corporate Governance) to begin the consultation process on the change in form, subject to that proviso.

3.3 Scrutiny Board Procedure Rules – amendments to call-in procedure

- 3.3.1 The Constitutional Proposals Committee also considered a report from the Head of Scrutiny Support and Member Development about the Call In process. This process was amended at Council on 22nd May 2008. Since then, six Call Ins have taken place, which have raised a number of issues.

Signatories to the Call in request

- 3.3.2 Since May these come from a much wider pool of Members (any non-Executive Members). To avoid the perception that decisions regarding the approval of Call Ins may have been pre-determined, the Constitutional Proposals Committee recommended that Scrutiny Board Members should no longer be signatories to Call Ins relevant to the Board on which they sit.

Substitutes for Call in meetings

- 3.3.3 The Head of Scrutiny Support and Member Development stated in his report that because of the requirement to hold a Scrutiny Board meeting within seven working days of a Call In request being received, full Board attendance cannot always be achieved. This is not always due to Member unavailability but sometimes is a result of a Member's declared interests preventing them from participating.
- 3.3.4 The Constitutional Proposals Committee recommended that to address this problem, for Call In meetings, a substitute Member should be entitled to attend in place of a regular Member. The Committee recommended the defined pool of substitutes to be any member of a Scrutiny Board *excluding* those who have been signatures to the Call In.

Information submitted to a Call In meeting

- 3.3.5 Currently the Scrutiny Board Procedure Rules are ambiguous about the type and quantity of information allowed to be submitted as evidence to Call In meetings by Members calling in a decision. The Constitutional Proposals Committee accepted that a blanket restriction on the submission of written evidence should *not* be imposed. The Committee recommended that any evidence submitted should clearly support the original justification for the decision having been Called In. The Head of Scrutiny Support and Member Development confirmed at the meeting that it would be the responsibility of the relevant Scrutiny Board Chair to determine whether all of the information received should be considered.

Witnesses to Call In meetings

- 3.3.6 The current Scrutiny Board Procedure Rules are ambiguous about the calling of witnesses to Call In meetings (outside the signatories to the Call In and the original decision maker). The Constitutional Proposals Committee considered that there should be no restrictions on witnesses, except that any called should be providing evidence to support the original justification for the decision having being Called In.

Adjournment

- 3.3.7 The current procedure rules assume that a Call In meeting will be concluded on the day it meets. The Constitutional Proposals Committee recommended that for clarity, the Scrutiny Board Procedure Rules be amended to allow an adjournment in exceptional circumstances, to receive information not available at the time, which is

considered crucial by the Scrutiny Board in order to reach a decision. In order to keep the process within a manageable timescale, it is recommended that a maximum of 5 working days be allowed for such an adjournment.

Amendments to the Scrutiny Board Procedure Rules

- 3.3.8 To implement these recommendations, the Constitutional Proposals Committee recommend Council to approve the amended Scrutiny Board Procedure Rules attached as appendix 5 to this report.

4.0 Implications For Council Policy And Governance

- 4.1 Reviewing the Council's committee arrangements and delegating specific responsibilities to officers will help the Council ensure that there are clear responsibilities and arrangements for accountability.
- 4.2 The Council's Scrutiny arrangements are one of the key parts of the Council's governance arrangements. This review of Scrutiny Boards will ensure that the arrangements will be more efficient and transparent.

5.0 Legal And Resource Implications

- 5.1 Under Article 15 of the Constitution, these amendments to the Constitution must be approved by full Council, after consideration from Constitutional Proposals Committee.
- 5.2 The Monitoring Officer can make any additional consequential amendments under her delegated authority set out in Article 15.

6.0 Conclusions

- 6.1 Appointing a new committee to consider miscellaneous council functions, and make recommendations to full Council on constitutional proposals and other issues, would enhance Member engagement in the decision-making process.
- 6.2 The delegations proposed to the Assistant Chief Executive (Corporate Governance) would expedite the procedure required to be followed by December 2009, particularly in relation to the consultation process.
- 6.3 The recommended amendments to the Scrutiny Board Procedure Rules would improve the effectiveness of the Scrutiny Call in process.

7.0 Recommendations

Council are recommended to resolve to:

- a) abolish the Constitutional Proposals Committee;
- b) appoint a new General Purposes Committee, with the terms of reference set out in appendix 1 to this report;
- c) appoint the membership of the General Purposes Committee as set out in appendix 3 to this report;
- d) resolve that the Council Procedure Rules apply to the General Purposes Committee as if it were appointed at the annual meeting under Rule 1(1)(g);

- e) approve substitute arrangements for the General Purposes Committee which allow an Executive Member, Deputy Executive Member, Whip or Assistant Whip to attend meetings in place of a regular member of the committee;
- f) amend the terms of reference of the Corporate Governance and Audit Committee to those set out in appendix 2 to this report;
- g) delegate the following functions relating to changes in executive arrangements, to the Assistant Chief Executive (Corporate Governance):
 - to consult prior to drawing up proposals¹, subject to consultation with party Leaders about the consultation plan;
 - to make arrangements to hold a referendum (where the Council has decided to hold a referendum)²;
 - to publish a notice if proposals are not approved in referendum³;
 - to implement new governance arrangements⁴; and
 - to comply with any direction given by Secretary of State.⁵
- h) instruct the Assistant Chief Executive (Corporate Governance) to begin the consultation process on the change in form, subject to consultation with party Leaders about the consultation plan.
- i) approve the Scrutiny Board Procedure Rules, as amended in appendix 5 to this report.

Background documents

Reports to Constitutional Proposals Committee 30 October 2008:

- Appointment of new General Purposes Committee
- New Executive arrangements – delegation of functions
- Proposed Amendments to the Scrutiny Board Procedure Rules – Call In

¹ S33E of the Local Government Act 2000

² S33K(2) of the Local Government Act 2000

³ S33K(6) of the Local Government Act 2000

⁴ S33G and S33H of the Local Government Act 2000

⁵ S33I of the Local Government Act 2000.