



Report of the Head of Scrutiny and Member Development

General Purposes Committee

Date: 17th May 2011

Subject: Overview and Scrutiny – Proposed Changes and Amendments to the Constitution

Electoral Wards Affected:

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

Executive Summary

1. The Administration proposes amendments to the current Overview and Scrutiny function in order to enable Scrutiny to be more strategic and outward looking in its operation and focus on the Council's City Priorities.
2. In addition the annual review of Scrutiny has identified a number of areas for amendment within Article 6 of the Constitution and the Scrutiny Board Procedure Rules. These are either to ensure consistency in wording or to provide procedural clarity.
3. Appendices 1 to 3 of this report detail the proposed amendments.
4. The General Purposes Committee is requested to consider the proposed changes and recommend to Council that the Constitutional amendments be approved.

1.0 Purpose Of This Report

- 1.1 The purpose of this report is to set out recommendations in respect of amendments to the Overview and Scrutiny function. In addition there are a number of minor changes to the Scrutiny Board Procedure Rules and Article 6 to ensure consistency in wording or to provide procedural clarity.

2.0 Background Information

- 2.1 The Administration proposes amendments to the current Overview and Scrutiny function in order to enable Scrutiny to be more strategic and outward looking in its operation and focus on the Council's City Priorities. This is reflected in changes to Scrutiny Board terms of reference.

3.0 Main Issues

Scrutiny Board Terms of Reference

- 3.1 To reflect their strategic nature it is proposed to have five themed Scrutiny Boards which mirror the Partnership Boards;
- Scrutiny Board (Children and Families)
Scrutiny Board (Safer and Stronger Communities)
Scrutiny Board (Sustainable Economy and Culture)
Scrutiny Board (Regeneration)
Scrutiny Board (Health and Well-being and Adult Social Care)
- 3.2 A sixth Scrutiny Board will be established and called Scrutiny Board (Resources and Council Services)
- 3.3 The Terms of Reference for the five themed Scrutiny Boards will determine the areas of review to be undertaken by those Scrutiny Boards in the municipal year. Council will be determining the work programme of the five themed Scrutiny Boards, which is appropriate given that Scrutiny Boards are Committees of Council. The review or scrutiny of decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive, which do not fall within the terms of reference of the five themed Scrutiny Boards will be considered by Scrutiny Board (Resources and Council Services). As such Scrutiny Board (Resources and Council Services) will consider all requests for Scrutiny and undertake any subsequent work.
- 3.4 The consequential changes to Scrutiny Board terms of reference are shown in Appendix 1

Call In

- 3.5 It is proposed that Call –Ins be considered by the themed Scrutiny Boards as appropriate to their subject.
- 3.6 It is also proposed that as part of the initial process for calling In a decision, those requesting the Call In, will be required to consider the financial consequences of calling In the decision. The financial implications will be detailed to those Calling In

the decision as part of the required pre Call In discussion with the Director or Executive Board Member.

- 3.7 Current procedures state that a Member cannot be a signatory to a Call In if they sit on the Scrutiny Board that will hear the Call In. It is proposed to remove that restriction and to allow a decision to be Called In by two non executive elected Member (who are not from the same political group) or any five non executive elected Members.¹

Appointment of Scrutiny Chairs

- 3.8 By law, Members of the Executive are not able to be members of Scrutiny Boards. This is because of the role of Scrutiny Boards in holding decision makers (including the Executive) to account. The ODPM guidance on constitution, (issued when the Local Government Act 2000 came into force), states that to effectively hold decisions makers to account “will require a change in the way members have traditionally questioned decisions. Although this is a matter for political parties to consider, both locally and nationally, the Secretary of State believes whipping is incompatible with overview and scrutiny and recommends that whipping should not take place”.
- 3.9 To demonstrate and re-enforce the importance of a non-political group approach to scrutiny, the Administration propose an amendment to Scrutiny Board Procedure Rules. The proposed amendment provides that Group spokespersons should not be appointed to Chair a Scrutiny Board which corresponds to the same portfolio.

Petitions

- 3.10 The Administration proposes an amendment to Scrutiny Board Procedure Rule 11.22, in relation to petitions. The amendment clarifies the process to be followed when a petition has been received by a Scrutiny Board Chair in their capacity as a Scrutiny Chair. The proposed amendment requires the Chair to forward the petition to the Scrutiny Officer after acknowledging its receipt to the petition organiser only. Thereafter the Scrutiny Officer will be responsible for notifying the petition organiser of the date on which the petition will be considered should the petition be requesting Scrutiny, and of the outcome of that meeting. If the petition is requesting Scrutiny, the matter will be considered by Scrutiny Board (Resources and Council Services).
- 3.11 In addition provisions under procedure rule 11.23 in relation petitions have been removed to reflect the fact that the Coalition government has not enacted those regulations previously laid out in the Local Government, Economic Development and Construction Act 2009.

Other Amendments

- 3.11 The annual review of Scrutiny has identified a number of areas for amendment within the Scrutiny Board Procedure Rules. These are either to ensure consistency in wording or to provide procedural clarity.
- 3.12 The current review has identified the following:

Scrutiny Board Procedure Rules

¹ Those Scrutiny Board Members not in a political group would be eligible but not co-opted Board members

- The Scrutiny Procedure Rules set out at Rule 20 details those decisions which are exempt from Call In. The list of exemptions is proposed to include decisions made during the development and approval of documents forming part of the Budget and Policy Framework. This amendment is in accordance with existing practice and procedure as the decision rests with full Council and not the Executive.
- Procedures in relation to Call In, which previously resided in The Scrutiny Board Guidance Notes, have been moved to within the Scrutiny Board Procedure Rules to provide clarity.
- A minor amendment is proposed to rule 1.6 of the Scrutiny Board Procedure Rules in relation to education co-optees. Current practice is that the number and term of office of education representatives is fixed by full Council and set out in Article 6. The Scrutiny Board, currently Children's Services, then receives nominees whom they confirm as representatives. Representatives of the Church of England and Roman Catholic dioceses are nominated by their diocese and the scrutiny board confirm their appointment. Parent governor representatives are elected, notified to scrutiny board and their appointment confirmed. The Scrutiny Board Procedure Rules do not reflect the current position in that they describe the scrutiny board as 'selecting' education representatives. A minor amendment is proposed to reflect the process of nomination and confirmation.

3.13 As a result of these proposed changes subsequent changes will be required to the Scrutiny Board Procedure Rules Guidance Notes. These will be undertaken by the Head of Scrutiny and Member Development under delegated authority after consultation with Scrutiny Chairs.

4.0 Implications For Council Policy And Governance

4.1 The Council's Scrutiny arrangements are one of the key parts of the Council's governance arrangements. This review of the Constitution seeks to ensure that the arrangements continue to be efficient and relevant to the work of the Council.

5.0 Legal And Resource Implications

5.1 There are no legal or financial implications to the proposed amendments

6.0 Conclusions

6.1 The Administration proposes changes to Scrutiny Board terms of reference (Appendix 1). In addition a number of areas for amendment within Article 6 (Appendix 2) of the Constitution and the Scrutiny Board Procedure Rules. (Appendix 3) are proposed to ensure consistency in wording or to provide procedural clarity.

7.0 Recommendations

7.1 The General Purposes Committee is requested to consider the proposed changes to Article 6, Scrutiny Board Terms of Reference and Scrutiny Board Procedure Rules and recommend to Council that:

- The Constitutional amendments as detailed in appendix 1 -3 be approved.

Background Documents Used

Council's Constitution