

## **10 : REPORT OF THE REGULATORY COMMITTEE**

### **Constitution**

- 1 The Constitution which includes the rules under which the County Council operates, was adopted by the Council in May 2001 and there is a statutory obligation to keep the Constitution under review. The paragraphs below illustrate the suggested changes for approval by Council.

### **Changes to the County Council Meeting**

- 2 The following changes are proposed for the County Council meeting:-
  - For the Council to meet 6 times a year and to allow the Council a greater flexibility in how meetings are held
  - To have the opportunity in exceptional circumstances to hold a Ceremonial Council which will give an additional public opportunity for the recognition of outstanding achievements and to award the Freedom of the County. The Ceremonial Council could be held as part of a Council meeting
  - To allow opportunities for briefing on developing plans and policies
  - Provision for the Chairman to invite outside speakers.

### **RECOMMENDATION**

**That the changes to the County Council meetings be approved.**

- 3 Questions to Council
  - To reflect that most questions are asked after the presentation of a report and to permit comments on reports
  - Slot for questions to be asked to the Overview and Scrutiny Committees
  - To clarify that Group Leaders may ask questions in addition to their initial leader's question
  - That questions be appropriately framed and relate to Council business, with the option of editing inappropriate questions by the Chairman and the Head of Legal and Democratic Services.

### **RECOMMENDATION**

**That the changes to the questions for County Council be approved.**

- 4 Notices of Motion
  - Order of paragraphs has been arranged and made less wordy
  - Introductory paragraph has been added
  - Notices of Motion changed to Motions with Notice because the section deals with the entire procedure for motions, not just giving notice of a motion.
  - 'Immediate' changed to 'urgent'
  - Deleted the paragraph referring to Committees in relation to motions disposed of in the previous 6 months.
  - Remove paragraph 9(f) as it does not apply to Council meetings
  - 9(m) removed from the list as it was not consistent with the list of motions which may be moved without notice.
  - Rephrased 'that the question now be put'.

### **RECOMMENDATION**

**That the changes to the Notices of Motion for the County Council be approved.**

- 5 Voting
  - To clarify that voting is not by show of hands only
  - The Chairman does not have to vote in the first instance but can just put forward their casting vote to allow more flexibility
  - A Member may only vote if they arrive before voting has been commenced
  - New guidance on voting for Chairmen of Committees

### **RECOMMENDATION**

**That the changes to the voting arrangements be approved.**

## 6 Additional Changes

- Changes have been made to clarify the writing in the Constitution to make it easier to follow and to update it where necessary eg to amend the number of Members to 57 in the new Council
- To add Committee Standing Orders for ease of reference and a new provision for election of Chairman of Committees
- To develop a process for public decision making by officers so that 'critical' decisions made by officers could be published, circulated to Overview and Scrutiny Chairman and be put on the Forward Plan
- To increase flexibility for the Leader by permitting a Cabinet of up to 10 Members

### RECOMMENDATIONS

#### That:-

- **the updates made to clarify the writing in the Constitution be agreed**
- **there will be an separate section for Committee Standing Orders**
- **the process for public decision making be agreed**
- **drafting to give increased flexibility be agreed**

#### Urgent Powers

This report recommends that the Council delegates its powers to the Chief Executive Officer to take such urgent action as he considers necessary to protect the interests of the authority and the inhabitants of the County. A report has also been submitted to the Cabinet Meeting on 25 April to delegate powers of the Executive to the Chief Executive Officer to take urgent action.

#### The present delegations

##### Non-Executive and departure decisions

At present all decisions on non-executive functions can only be taken at a formal meeting of Council, a Committee or Sub-Committee, convened on 5 clear days notice, although an urgent matter can be added to the agenda

at such a meeting with the consent of the Chairman. As a result, in the event that an urgent decision is required, it is a matter of chance whether a meeting of Council or an appropriate Committee or Sub-Committee has already been arranged. If not, it will take at least 5 clear days to arrange a meeting. Further, no Council or Committee or Sub-Committee meetings can be held between the automatic resignation of Councillors 4 days after a County Council election and the annual meeting of Council, usually a fortnight after the election

#### Urgency delegations to officers

The current scheme of delegations to officers provides no urgency powers for the Chief Executive. There is an urgency delegation to the Head of Legal and Democratic Services as follows:

"1 In consultation with the appropriate Strategic Director or Head of Service concerned to institute, defend, appeal from, settle or abandon legal proceedings whether administrative, civil or criminal in any matter in which the Council or its officers may institute or defend proceedings in any Court or arbitration or administrative tribunal.

2 To take all such steps as are in his/her opinion necessary, including the affixing of the Common Seal of the Council and the bringing of legal proceedings and the making of orders to give effect to any decision or action taken properly by the Council or any authorised body or officer acting on its behalf, or to protect the interests of the Council or any person (or) property to whom or for which the Council has responsibility and to sign on behalf of the Council contracts, agreements or other documents conferring benefits or imposing obligations upon the Council whether financial or otherwise and to terminate the same."

Whilst the delegation to the Head of Legal and Democratic Services is clear and sufficient, there is a gap in the delegations to the Chief Executive:

In accordance with the general principle which is stated in the Constitution of granting wide delegations and placing the responsibility

on the delegatee to consult or to refer matters up for decision where appropriate, it would appear sensible to grant a wide general urgency delegation to the Chief Executive as set out below.

## RECOMMENDATION

- i That the Council authorise the Chief Executive to take any actions required in cases of urgency to protect the interests of the Council or any person (or) property to whom or for which the Council has responsibility, subject to such consultation as may be appropriate and to reporting such urgency decisions as soon as reasonably practicable to the Council;**
- ii That the Council agrees the amendments to the Constitution to grant powers to the Leader and Deputy Leader to take such Executive action as may be necessary in the event of a major emergency.**

## 8 Overview and Scrutiny Committee

The changes to the Overview and Scrutiny Committees are outlined as follows:-

- Overview and Scrutiny Committee for Environment and Community Services
- Overview and Scrutiny Committee for Adult Services
- Overview and Scrutiny Committee for Children's Services
- Overview and Scrutiny Committee for Public Health
- Corporate Performance Taskforce which any three Chairmen can jointly convene a group to consider cross-cutting, finance and business planning issues. The Chairmen will be invited to nominate those members to form the Taskforce who are particularly interested in the specific issue under debate. The Taskforce will report directly to the Regulatory Committee and/or Cabinet.
- To meet bi-monthly but with additional meetings if necessary
- To form working groups to consider specific tasks
- Additional detail has also been added to paragraph 9 of the Overview and Scrutiny Standing Orders – clarifying the formulation of the Agenda.

## RECOMMENDATION

**That the Council agrees the proposed changes to the Overview and Scrutiny Committees.**

## 9 Further Work

Further work which needs to be undertaken on the constitution later in the year are as follows:-

- To redraw functions to take into account the changes resulting from the Children's Act and cabinet responsibilities
- To update Contract Standing Orders.
- To update Financial Regulations
- To update the Access to Information Standing Orders to take account of the changes to Schedule 12a of the Local Government Act 1972 as revised by the Office of the Deputy Prime Minister.

## RECOMMENDATIONS

- 1 That the changes outlined in the report as incorporated in the draft amended constitution be approved and;**
- 2 That powers be delegated to the Head of Legal and Democratic Services to agree minor changes to the constitution in consultation with the Deputy Leader and the Chairman of Regulatory Committee.**

**RICHARD PUSHMAN  
CHAIRMAN**