
REVIEW OF THE CONSTITUTION

1 SUMMARY

- 1.1 The Committee is invited to consider amendment and revision to the Council's Constitution with regard to the referencing up of decisions to Full Council, the handling of urgent business and contracts and financial regulation.

2 INTRODUCTION

- 2.1 Since March 2002 the Council has operated "alternative arrangements" in accordance with a Constitution adopted under the Local Government Act 2000. With the benefit of experience to date this report proposes alteration to the Rules of Procedure under Part 4 of the Constitution. In particular, substantive changes are proposed to the Overview & Scrutiny Procedure Rules, Financial Procedure Rules and Contract Procedure Rules.

3 OVERVIEW AND SCRUTINY PROCEDURE RULES

- 3.1 The operation of these rules has given rise to two issues, both in connection with Call-in under Paragraph 15. The first concerns referral of decisions to Full Council and the second, items of urgent business.

(a) Referral to Full Council

There is no provision in the current Constitution for decisions taken by Policy Committees to be referred to Full Council except by an Overview and Scrutiny Committee. This is based on the premise that, within the modernising agenda, Full Council cannot overrule decisions of the executive.

However, under alternative arrangements, policy committees hold their authority by delegation from Council. Ultimately, executive power rests with Full Council so that a mechanism for referral direct to Full Council does not contradict the above premise. Should the Council wish, it is possible to re-introduce this check.

(b) Urgent Business

Call-in cannot apply where the decision being taken is urgent and delay is likely to seriously prejudice the Council or the public interest. The "Guidance on New Council Constitutions" states that the procedure should include provisions to prevent urgent decisions from being called in or in any other way delayed. The model procedural rule adopted by the Council is better suited to executive arrangements and as drafted

makes it difficult for a Policy Committee, even when in session, to deal with matters that are urgent.

To permit referral of matters to Full Council and to resolve the difficulty with items of urgency it is suggested that Paragraph 15 of the Overview and Scrutiny Rules is replaced with the paragraph annexed to this report as Appendix 1

4 FINANCIAL AND CONTRACT PROCEDURE RULES

- 4.1 In adopting the Constitution, the Council' accepted that its Contract Standing Orders and Financial Regulations needed comprehensive review. Both have now been updated in line with the new Constitution and hopefully in plainer and more easily understood language. At the same time, the opportunity has been taken to address issues raised through the then Contracts Monitoring Sub-Committee (Minute368/01). The existing Standing Orders lead to difficulties concerning trends in partnership and negotiation, aggregation and dis-aggregation and the need at times to accept a tender that is not the lowest in financial terms when balancing quality, time and cost.
- 4.2 The revised Financial Procedure Rules and Contract Procedure Rules are annexed at Appendix 2. There will be consequential amendments to the Budget and Policy Framework if the revised Financial Procedure Rules are agreed.

5 RECOMMENDATION

- 5.1 That the revisions to the Constitution be agreed and referred to Full Council through the Policy and Finance Committee.

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Background Papers: None

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APPENDIX 1

15. Call-in and referral

Call-in and referral should only be used in exceptional circumstances.

- (a) When a decision is made by a Policy Committee or an Area Committee or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available to the all Chairmen of Committees within 2 days of being made
- (b) The decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision, unless referred to Full Council by a minimum of 3 Members or called in by an Overview and Scrutiny Committee.
- (c) During that period, the proper officer shall
 - (1) refer a decision to be taken at the Full Council if a Member(s) provides him/her with the names of three Members who require the relevant decision to be referred or
 - (2) call-in a decision for scrutiny by the relevant Overview and Scrutiny Committee if so requested by the Chairman or any 3 Members of that Committee, and in either case shall then notify the Chairman of the Policy Committee of the referral or call-in.

If, having considered the decision, an Overview and Scrutiny Committee is still concerned about it, then it may refer the matter back to be re-considered by the Policy Committee setting out the nature of its concerns in writing or refer the matter direct to the next Full Council.

- (d) Any matter referred to Full Council shall be included for debate on the agenda of the next ordinary Full Council meeting.

Call-in and urgency

- (e) The call-in and referral procedure set out above shall not apply where the decision being taken by a Policy Committee is urgent. A decision will be urgent if any delay likely to be caused would seriously prejudice the Council's or the public's interests.

- (f) The record and public notice of the decision shall state whether in the opinion of the policy committee the decision is an urgent one and therefore not subject to call-in. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.
- (g) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.