

CONSTITUTION COMMITTEE

14 MAY 2013

Present: County Councillor Furlong (Chairperson);
County Councillors: Aubrey, Cowan, Goodway, Hyde, Keith
Jones, Kelloway, Knight, Magill, Marshall and Walker.

Apology: County Councillor Gordon.

17 : DECLARATION OF INTERESTS

The Chairperson reminded Members of their responsibilities under Part III of the Members' Code of Conduct, to declare any interests in general terms and complete "personal interest" forms at the start of the meeting and then, prior to the commencement of the discussion of the item in question, specify whether it is a personal or prejudicial interest. If the interest is prejudicial, Members would be asked to leave the meeting, and if the interest is personal, but not prejudicial, Members would be invited to stay, speak and vote.

18 : MINUTES

The minutes of the meeting of the Constitution Committee held on 12 March 2013 were approved as a correct record and signed by the Chairperson.

19 : OFFICER DELEGATIONS – CHANGES IN THE COUNCIL'S MANAGEMENT ARRANGEMENTS

The Committee received a report setting out the amendments to the Scheme of Delegations which are necessary in order to reflect changes in the Council's management arrangements and facilitate the continuous and effective discharge of the Council's functions.

The changes in management arrangements addressed in the report related to appointments to new senior management posts established under the Council's new senior management structure; and interim appointments, agency workers and specialist consultants who may be required on a short term basis or in connection with collaborative work, to discharge managerial responsibilities necessary for the effective discharge of the Council's functions.

Members discussed the proposals in relation to Interim appointments, and individuals not direct employees of the Council, particularly matters relating to accountability; decision making; checks and balances; risks and indemnity insurance. It was recognised that individuals were appointed for specific purposes and in many cases to discharge the statutory functions of the Council, and that the authority may lawfully delegate functions to a paid office holders.

Members requested that further advice be sought from Finance and HR on the issue of individuals' indemnity insurance and their responsibility as individuals to make themselves aware of their responsibilities in fulfilling duties and delegated powers.

RESOLVED – That

1. the amendments to the Scheme of Delegations to refer to the new post designations of the revised senior management structure as indicated be approved, and
2. the amendment of the definition of “officer” in the Scheme of Delegations, Sub-Section 4A, paragraph 1.2, be approved to read as follows:

‘In this scheme “officer” means the holder of any post named in this scheme as having delegated powers and duties, and for the avoidance of doubt, the term “officer” shall be deemed to include any individual who is not an employee of the Council (for example a locum, agency worker, specialist consultant, joint manager appointed with another organisation or similar) who is engaged by the Council to take responsibility for discharging the delegated powers and duties concerned, unless legislation provides that the relevant power or duty can only be carried out by an employee of the authority.’

20 : REVIEW OF DECISION MAKING ARRANGEMENTS

The Committee at its meeting on 12 March 2013, received a presentation from the Monitoring Officer on delegations, and agreed that a scoping report should be submitted to the next meeting, setting out potential aspects of the Council's decision making arrangements for review.

The current Scheme of Delegations was approved in July 2006 (taking effect in October 2006), and has been amended from time to time, but largely reflects the approach to decision making of the administration at that time. Since the adoption of the Scheme, the Council's administration, senior management arrangements and ways of working have changed. The Committee are invited to consider what changes to the Council's decision making arrangements might be required in order to suitably reflect the changes in the Council and ensure that decision making is effective, transparent and accountable.

Decision making arrangements need to balance proper democratic process with operational expediency, so that significant decisions are taken by those who are accountable to the electorate, whilst still ensuring the Authority makes timely and effective decisions, with appropriate professional advice, and the checks and balances that scrutiny brings to ensure propriety and transparency in the decisions made.

Responsibility for discharging the various functions of the Council is allocated between full Council, the Cabinet, Committees and officers, and the current

arrangements are set out in Part 3 of the Constitution, 'Responsibility for Functions' ('the Scheme of Delegations' or 'the Scheme'). The allocation of functions reflects their statutory classification as either 'Council Functions' or 'Executive Functions'. There is a third category of 'Local Choice Functions', which the Authority must allocate to either the Council or the Executive – the list of such functions and their current allocation is set out in Section 3 of the Scheme.

The report identified the following potential areas for review:

- Decision making by Members;
- Decision making by Officers;
- Procurement decisions;
- Property decisions;
- Transparency and Scrutiny of Decision making;
- Council Functions;
- Local Choice Functions;
- Other aspects relating to the decision making process.

The Committee was invited to consider these aspects of the Council's decision making arrangements and consider the prioritisation; method of review – for example by Task and Finish Group; and the timescales for each element for review.

In discussions it was considered that the areas of Procurement and Property should be the priority focus for initial review and that this would allow the Committee also to reflect on the wider issues around Member and Officer decisions. In addition, it was suggested that the Scrutiny Call-In procedure could be reviewed to ensure it was fit for purpose.

RESOLVED – That

1. the detail contained in the report was welcomed and noted;
2. the two main areas of focus would be Procurement and Property decision;
3. the Monitoring Officer prepare a scoping report setting out the options for consideration in respect of the Council's decision making arrangements around Procurement and Property matters for consideration by a Task and Finish Group of the Committee.

21 : COUNCIL PROCEDURE RULES- MEMBER FEEDBACK

The Committee received a summary of the feedback from Members following the first Council meeting on 25 April 2013 conducted under the new Council Procedure Rules for consideration. The Chair indicated that subject to the discussions at the meeting that it maybe prudent to vary parts of the revised CPR for the remainder of the trial period.

The Committee considered each of the revised elements introduced as part of the trial and the feedback received. In discussions the following observations were made:

Feedback Forms

- named individuals on the summary of feedback sheet be removed;
- concerns were raised that individual Councillor comments could be identified on the summary sheet.

Oral Questions

- the purpose of oral questions?
- the time allocation was restrictive;
- reading out answers was slow – there was a need for a change in the way questions are formulated and answered;
- the ability within the new rules for back bench Members to hold Cabinet and Chairs to account was more restrictive;
- that oral questions be put earlier on the agenda;
- copies of the oral questions to be made available at the beginning of the meeting to all Members – the questions to be asked orally;
- where practicable oral questions be published on the website in advance of the meeting;
- questions be grouped by portfolio;
- the lack of a second supplementary question did not provide an opportunity for engagement from other Councillors or for Ward Councillors to have a supplementary question on matters raised by another Member that may relate to their ward;
- the opportunity for a second supplementary from a different group is also a tool to be used to hold Cabinet/Chairs to account;
- it was noted that the 90 minutes allocated for oral questions was utilised fully on this occasion with some questions not being answered because the Member was not in the Chamber;
- it was confirmed that if the Member was not in the Chamber the question falls.

Member Debate

- should these be called debates?
- the restrictions on speakers isolated the vast majority of the Members for this item;
- topics need to be within the remit of the Council.

Green Papers

- clarification on the Green Paper procedure is required and how these link to the procedure on Statements by Cabinet Members;
- all Green Papers should be for debate at Council.

Statements

- consider the practicality of circulating and/or publishing Cabinet Statements prior to the Council meeting.

The Chair thanked Members who had provided feedback and suggested that for the next meeting that further consideration is given to: -

- the order of business be varied to include Statements and Oral Questions earlier on the Agenda;
- the circulation of oral questions to Members prior to the start of the meeting and if practicable these be published on the website as part of the Council business.

Further feedback would be sought from Members following the June Council meeting for consideration by this Committee at its next meeting.

RESOLVED – That

1. the contents of the feedback on the revised Council Procedure Rules from all Members be welcomed and noted;
2. the pilot revised Council Procedure Rules be varied as follows:
 - (i) the order of business be varied to include Statements and Oral Questions earlier on the Agenda;
 - (ii) the circulation of Oral Questions to Members prior to the start of the meeting and if practicable these be published on the website.