

Meeting: COUNCIL

Date: 4th OCTOBER 2006

SCRUTINY – CONSTITUTIONAL ISSUES

(Constitutional Services)

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1 PURPOSE

To consider changes to the Constitution concerning the Scrutiny function to allow Vice-Chairs of Scrutiny & Value for Money Panels to serve on the Scrutiny Overview Committee in the absence of their respective Chairs; and to tighten provisions for Urgent Key Decisions being taken.

2 RECOMMENDATIONS

- 2.1 That the Constitution be amended to allow Vice-Chairs of Scrutiny & Value for Money Panels to serve on the Scrutiny Overview Committee in the absence of their respective Chairs.
- 2.2 That the “Call-In and Urgency” provisions of the Overview and Scrutiny Rules of the Constitution be amended to specify that in the event of the Chair of Scrutiny Overview Committee permitting an urgent Key Decision being considered by the Executive and where that decision taken differs significantly from that proposed, further approval be sought from that Chair (or in his absence Vice-Chair) before the decision may be implemented.

3 BACKGROUND

- 3.1 The membership of the Scrutiny Overview Committee comprises all the Chairs of the Scrutiny & Value for Money Panels and four others. Currently there is no provision for the Vice-Chairs of the Panels to serve as reserve Members to cover in the absence of their Chairs at the Scrutiny Overview Committee meetings.
- 3.2 In the event of the Executive being asked to take an urgent decision that needs to be implemented immediately, i.e. without the usual 5 days notice providing the Scrutiny Overview Committee the opportunity to call-in the decision, the Constitution requires the Chair of that Committee to agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The Constitution is silent in the circumstances where the actual decision finally taken by the Executive differs at all from that proposed.

4 REASONS FOR RECOMMENDED COURSE OF ACTION AND OTHER OPTIONS

- 4.1 As the Scrutiny Overview Committee has the central co-ordinating role for the Scrutiny functions for the Council it is important that each of the specialist Panels are

represented at its meetings. Provision can be made in the Council's Constitution for all Vice-Chairs of individual Panels to serve on that Committee in the absence of their respective Chairs.

- 4.2 The Overview and Scrutiny Procedure rules set out at Section 4 of the Constitution include the following provision in relation to call-in and urgency-

CALL-IN AND URGENCY

The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Chair of the Scrutiny Overview Committee must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for the urgency.

- 4.3 With the Chair of the Scrutiny Overview Committee agreeing that the decision proposed is reasonable, there is subsequently no provision for input from that Chair if the actual decision taken differs in any way to that proposed, even if that decision is significantly different or contrary to the recommendation. Consideration should therefore be given to this omission in the provisions.

5 IMPLICATIONS

5.1 Financial Implications

There are no financial implications arising from the recommendations in this report.

5.2 Legal Implications

The Council's Constitution has been drafted in accordance with the Guidance produced following the enactment of the Local Government Act 2000. The Constitution provides Council with the opportunity to review arrangements relating to call-in and urgency.

BACKGROUND DOCUMENTS

- The Council's Constitution

APPENDICES

- None