

REVIEW OF DECISION MAKING & UPDATING THE CONSTITUTION

Agenda Item 6

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Background Papers:- The Local Government and Public Involvement in Health Act 2007 (LGPIHA 2007), White Paper: Communities in Control, the Councillors Commission

Financial Implications:- None

Equalities Implications:- None

Legal Implications:- The Council is required to pass a resolution to change its executive arrangements by 31st December 2010.

Options: The Council has the following options available:

- (a) to approve the recommendations of the Local Government Reform Sub-Group and authorise the Head of Law & Governance to commence the process for changing the executive arrangements.
- (b) to consider the recommendations and approve amendments to the recommendations.

Risks: The Council cannot vary its executive arrangements without prior consultation.

Without proper consultation the Council risks being open to criticism and legal challenge in addition to being unable to implement different executive arrangements

EXECUTIVE SUMMARY

At a meeting of the Local Government Reform Sub-Group on 4th August 2008, Members approved a project initiation document setting out the objectives for a review of decision making. The main feature of the review was to assess the impact of the changes made in May 2007 which introduced a central Planning Committee, three Local Committees and the role of Member Champions.

The review also considered a variety of national initiatives, policies and research reports relating to the role of the frontline Councillor as well as key provisions in the Local Government and Public Involvement in Health Act 2007.

The findings of the review were reported to the Local Government Reform Sub-Group on 3rd March and the sub-group have made a number of recommendations which include the retention of the central Planning Committee and the three Local Committees. It has also confirmed a preference for the Council to adopt the Leader and Cabinet Executive (England) model of executive arrangements as provided for by the Local Government and Public Involvement in Health Act 2007.

In considering the findings of the review, it was recognised that the Constitution should be updated in such a way to make it more accessible and easier to understand thus promoting an

open and transparent approach to decision making. The Sub-Group therefore proposed that a revised Constitution reflecting these points should be recommended to Council.

Recommendations have been made to Cabinet and these will be considered at their meeting on 30th March.

DECISION

Subject to the views of Cabinet on 30th March, the Local Government Reform Sub-Group **RECOMMENDS** to the Council that:

1. the Planning Committee and the three Local Committees continue in their current form and act in accordance with the roles and responsibilities as set out in Appendix 1.
2. the Leader and Cabinet Executive (England) model of executive arrangements as defined by the Local Government and Public Involvement in Health Act 2007 be adopted by the Council for the purposes of consulting the public and interested persons.
3. the Head of Law and Governance be authorised to undertake the process for changing the executive arrangements referred to in paragraph 3 above in accordance with the following implementation table:
 - Undertake consultation – to be completed by October 2009
 - Report to Special Council Meeting to adopt the Leader and Cabinet Executive (England) model – November/December 2009
 - Publish notice of adoption of the Leader and Cabinet Executive (England) model – After Special Council Meeting
 - Implement Leader and Cabinet Executive (England) model – On the third day after District elections in 2011
4. a revised Constitution is adopted by the Council reflecting the changes set out in Appendix 2 and that this it is structured so that it is capable of being read as a set of independent guides.

1. Background and Introduction

At the AGM in 2007, the Council approved a number of changes to the Constitution with the intention of giving frontline councillors greater focus on community leadership. Local Committees were introduced, each with their own budget and the freedom to financially support local projects. A single Planning Committee was also introduced with the aim of improving the speed and quality of decisions. These changes were made in light of emerging legislation and it was considered prudent that the arrangements should be reviewed by the end of 2008/09 so that any changes could be implemented for 2009/10.

2. Impact of Changes introduced in May 2007

Planning Committee

The introduction of a centralised committee has brought a number of benefits and these are set out below:-

The proportion of applications determined in the requisite timescale (8 or 13 weeks) has delivered improved performance. For example in the period October to December 2006, just 34% of applications determined at Area Committees met the timescale but for the period October to December 2007, the figure increased to 48%. At present the Council is achieving its targets in respect of the national indicators.

There is now consistency to the process and an enhanced service to the user in that all meetings have the benefit of Power point presentations. Causeway House is also the most accessible venue for wheelchair users, good parking facilities and reasonable public transport options. More recently the meetings have been webcast so as to increase public access.

A single committee also minimises the risk of the inconsistent application of the adopted Local Plan and also ensures that there is a consistent approach to meeting procedures.

There is greater scope for Member training as the number involved is fewer than before. The committee has already received training on sustainability considerations and proper behaviour in planning cases.

Local Committees

The terms of reference for these committees is set out in Appendix 1. Each Local Committee has a capital and revenue budget and they all operate a scheme whereby the community, with the support of their ward member, can apply for funding of local projects. The Local Committees have also been developing different approaches to identifying local priorities and ensuring that local decisions are implemented.

The Local Committees have made a promising start with each committee developing their own approach to meetings and addressing local issues. Each committee has operated a funding scheme that has been successful in attracting a wide range of applicants and also in promoting the role of the ward member who not only supports an application but is also involved in the monitoring process that ensues. There have been different approaches by the Local Committees in identifying local priorities with varying degrees of input from local people. Having identified local issues or priorities, Local Committees have dealt with them by working in different ways such as forming sub-groups, inviting Cabinet Members to their meetings to discuss solutions or instructing officers to take action. The funding and identification of local priorities is examined in slightly more detail in the following paragraphs.

Funding: There have been the benefits to the scheme with a wide range of projects being funded to address a local need. Members have also had the opportunity to work more closely with their community which was a key objective in establishing the scheme. The Local Government Reform Sub-Group discussed how the funding could be more closely aligned to local priorities and it was agreed that a recommendation that Local Committees review their criteria and direct their funding to local priorities to be identified at their first meeting of the Civic Year.

Local Priorities: At the recent Member Seminar, Members identified a number of measures that they consider would be beneficial in helping Local Committees identify local priorities. The suggestions included more information from officers about what is going on in their wards, consultation with parish councils and clusters and direct consultation with local people in order to produce a neighbourhood or parish plan. This latter suggestion is the subject of a pilot project currently underway in the Braintree area. The pilot is being undertaken by a multi agency, member-led group to co-ordinate and monitor support for Parish Plans and Neighbourhood Plans. The aim is to empower communities through the facilitation of the community-led planning process, to support delivery of actions arising from the plans and also enhancing the Member's leadership role.

3. Local Government and Public Involvement in Health Act 2007 – Executive Arrangements

The LGPIHA 2007 changes the political management arrangements introduced by the 2000 Act and replaces them with two models; the Leader and Cabinet Executive and the Mayor and Cabinet Executive. The main differences between the current Leader and Cabinet Executive and the new Leader and Cabinet Executive model is that under the latter, the Leader would be elected for a 4 year term and s/he must appoint a Deputy Leader. The Deputy Leader would remain in office until the expiry of the Leader's term unless the Leader decided to remove him/her during that period. Councils can also choose to adopt procedures which would allow the removal of the Leader from office during the 4 year period.

The Council needs to select one of these models before the 31st December 2010 and the LGR Sub-Group has indicated a preference for the new style Leader and Cabinet Executive. The new model would come into operation after the District Elections in 2011 and until then we are able to operate under the existing arrangements.

In order to change its governance arrangements, the Council would need to consult the public and other interested persons. A proposal for change must include a timetable for implementation and details of any transitional arrangements. In drawing up the proposals the Council must consider to what extent they would be likely to assist in securing continuous improvement in the way in which the authority's functions are exercised, having regard to a combination of economy, efficiency and effectiveness. The proposal must also state which functions are to be the responsibility of the new model.

The Council would have to make copies of the proposal available for inspection and it would also need to publish a notice in the local press. Having consulted, a special meeting of full Council would have to be convened in order to make a formal resolution. After that meeting the Council would publish a further notice in the local press stating that new executive arrangements have been adopted, the main features of the arrangements and when they would come into operation.

4. Constitution

The Constitution sets out how the Council operates and how decisions can be made at various levels within the organisation. Under the Local Government Act 2000 the Council is required to adopt a formal Constitution when operating executive arrangements. A number of Regulations

have also been made under the Act which, in part, prescribe in considerable detail how the Council should draw up the content of its constitution, how it allocates functions and how it conducts its business. The constitution, therefore, has to contain a large number of provisions and in this respect it reflects the Government Guidance and model documents.

Because it has to be comprehensive and meet legal requirements and address new concepts, the Constitution is both long and complex and is not necessarily regarded as a user-friendly document. The revised version seeks to address this last point with the Constitution being broken down into a set of guides which can be read independently of each other.

Each guide describes the component parts of that particular section or part of the Constitution, outlining its main features and addressing some working or practical consequences. The aim of each guide is to simplify the complexities of the Constitution and in some instances what it says will be a general rule rather than explain all the exceptions to the rule. If the reader is in any doubt, reference is made to the relevant provision in the Constitution itself.

Set out in Appendix 2 is a schedule of all the proposed changes to the current version of the Constitution. These changes reflect decisions made at previous Council meetings and new legislation such as the Local Government and Public Involvement in Health Act 2007 and the Local Authorities (Functions and Responsibilities) (England) (Amendment) Regulations 2008.

Appendix 1

LOCAL COMMITTEES: BRAINTREE, HALSTEAD AND WITHAM

1.0 Introduction

Each of the Local Committees will be responsible for all functions set out in paragraph 3.0 arising solely within their areas and are granted full delegated powers and responsibilities to deal with these functions within the Council's policies and guidance of the Cabinet.

2.0 Strategic Responsibilities - Local Committees

Each Committee will consider aspects of the Corporate Strategy relevant solely to its area. The Committees will contribute to the Council's Direction and Ambition and ensure that it is implemented effectively by:

- . feedback from the community
- . regular monitoring and review of service quality and performance
- . the annual review of overall achievements
- . contributing to the annual budget setting process
- . providing leadership for its communities
- . giving focus to local issues
- . liaising and working with partner organisations on local issues

Each Committee will take steps to ensure that its decisions are guided by up-to-date information through consultation and dialogue with communities and disseminate information about its activities.

3.0 Areas of Responsibility

Each Committee will research, monitor and consider reports on the needs, quality of life and other relevant matters solely in its area including:-

Local Committees (8 weekly)

. Within its area, each Local Committee shall take decisions in respect of non-executive functions as listed in Section 3 of this Part 3 of the Constitution and take executive decisions as set out in Section 4 of this Part 3 of this Constitution. It may also take all other non-executive (regulatory) decisions required to be made by the Council and affecting its area only, which are not reserved to be taken by any other committee or the Council itself.

- . Appointments to outside bodies
- . Highway improvements including street naming and numbering.
- . Environmental maintenance and management of the area
- . Housing needs and housing land issues
- . Housing public health issues
- . Community and leisure issues of an area nature
- . Quality of life and social economic and environmental wellbeing of the area
- . Consultation and dialogue with all community interests
- . Allocation of Area budget
- . Approve sales of land up to the value of £10,000

4.0 Relationships with the Council and Other Committees

The work of the Local Committees will be reported to the Council or to the Cabinet (as appropriate).

The Committees will refer to any relevant decision making body any matters which:-

- . seek to introduce new Council policy or replace/amend existing Council policy or
- . have corporate implications
- . affect relationships with partner organisations

The Committees will refer to the Cabinet any appropriate matters outside their areas of responsibility, together with regular reports in order to monitor progress on any matters required by the Cabinet. The Committees will receive reports from other Groups as necessary.

The Committees may give guidance, advice or assistance to the Cabinet on appropriate functions or activities being carried out on the Cabinet's behalf. Any reference to the Overview and Scrutiny Committee will be through the Cabinet. The Committees will receive recommendations and reports from relevant Groups, where necessary.

5.0 Responsibilities which require referral to the Cabinet

1. **Any recommendations in respect of the Council's overall strategy and policies.**
2. **Any matter with corporate implications, operational matters with corporate implications and any issue that impacts upon the Council's resources.**
3. The establishment of any Groups and Sub-Committees to undertake specific tasks within an agreed timescale and terms of reference, which have an impact upon the Council's resources.
4. Requests to the Overview and Scrutiny Committee.
5. Expenditure not covered by an approved budget or within the approved capital programme.
6. Sales of land over £10,000

MEMBER CHAMPIONS

At its discretion, the Council may, from time to time, designate Champions from amongst Councillors who are not Members of the Cabinet.

Term of Office

Councillors who are designated as Member Champions shall hold office until:

- (a) they resign from office;
- (b) they are suspended from being Councillors under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);
- (c) they are no longer Councillors; or
- (d) the commencement of the next Annual Meeting of the Council, except that the Council may remove from office at its discretion.

Role and Functions

To act as a positive focus for the local community at elected member level in respect of the relevant section of the community or range of activities designated by the Council so as to ensure that full consideration is given to the impact of Council activities and decisions upon the section of the community or range of activities.

Key Tasks

- (a) To make contact with local organisations concerned with the designated section of the community or range of activities and to establish effective and regular consultation arrangements with those organisations.
- (b) To represent the views of such organisations to officers, the Council, the Cabinet, Overview and Scrutiny and other Committees, on all relevant aspects of the Council's activities.
- (c) To act as an advocate on behalf of the relevant section of the community or range of activities within the Council as an organisation and to the wider community.
- (d) To become familiar with the needs and priorities of the relevant section of the community, or range of activities concerned, and to weigh up interests expressed in order to provide sound advice on the implications of alternative courses of action.
- (e) To feedback decisions of the Council and to explain the Council's position on specific issues of concern to relevant organisations and to individuals involved.
- (f) To publish an annual report on work undertaken over each year for consideration by the Council.

Appendix 2

CONSTITUTION – STATUS SCHEDULE

Part 1 – Summary and Explanation	
Pages 1 and 2	Change references from Executive to Cabinet
Page 2	Change references from the Scrutiny Panel and Policy Review Groups to Overview & Scrutiny Committee and Task & Finish Groups
Page 4	Remove references to the Standards Board for England
Part 2 – The Articles	
Article 3	Change references from Standards Board for England to the Standards Committee
Article 4	Change contents of Policy Framework to reflect changes in legislation. Proposed policy framework comprises:- <ul style="list-style-type: none"> • Sustainable Community Strategy • Local Development Framework • Corporate Strategy • Medium Term Financial Strategy • Crime & Disorder Annual Partnership Plan • Licensing Authority Policy Statement
Article 6	Change references from Scrutiny Panel, Audit Panel and Policy Review Groups to Overview & Scrutiny Committee, Audit Committee and Task & Finish Groups
Article 8	Change references from District Development Committee to Planning Committee and delete 15 members and insert 21
Article 9	Insert revised terms of reference for the Standards Committee
Article 10	Change references from Area Committee to Local Committees
Article 12	Update Chief Officer designation to reflect current management structure
Schedule 1	Change references to various committees to reflect changes made in preceding Articles
Part 3 – Responsibility for Functions	
Section 1	No change
Section 2	Updating to reflect legislative changes
Section 3	Updating to reflect legislative changes
Section 4	Updating to reflect legislative changes
Section 5	Updating to reflect legislative changes and current management structure. Also incorporating an amendment to clarify and remove any ambiguity regarding the power of the Finance Director to grant discretionary rate relief.
Section 6	Update terms of reference and membership for Planning Committee, Local Committees, Licensing Committee, Standards Committee, Independent Remuneration Panel, Audit Committee, Overview & Scrutiny Committee and Task & Finish Groups
Section 7	Update role descriptions for various member roles
Part 4 – Rules of Procedure	
Council Procedure Rules	No change
Access to Information Procedure Rules	No change
Budget & Policy	No change

Framework Procedure Rules	
Executive Procedure Rules	No change
Overview & Scrutiny Procedure Rules	Changes to reflect Task & Finish Groups Further changes needed to take into account Councillor Call for Action guidance – separate report to next meeting of the Local Government Reform Sub-Group
Financial Procedure Rules	Full review to be completed by June 2009
Contracts Procedure Rules	Full review to be completed by June 2009. Minor change made to select list provisions to enable use of BiP Supplier Portal for capital projects.
Officer Employment Procedure Rules	No change
Petitions Procedure Rules	No change
Part 5 – Codes and Protocols	
Members' Code of Conduct	No change for now but revised Code expected October 2009
Officers' Code of Conduct	No change for now
Protocol on Member/Officer Relations	No change
Code of Practice for Councillors & Officers engaged in the determination of Planning Applications	No change
Gifts & Hospitality	No change
Part 6 – Members' Allowances Scheme	
Include SRA for Planning Committee Members	
Part 7 – Management Structure	
Insert updated structure	
Part 8 – Proper Officer Provisions	
Update to reflect legislative changes and current management structure	