

## COUNCIL 23 APRIL 2002

**Agenda Item No:** 7(i)

**Title:** The Council's Constitution

**Author:** Constitution Task Group, Tony Forrow ((01799) 510402)  
and Mick Purkiss ((01799) 510430)

### Summary

- 1 This report
  - a reminds the Council of the changes it has already approved to the Council's constitution since 1 September 2001.
  - b sets out further recommendations from the Council's Constitution Task Group
  - c raises other issues which have arisen but which the Constitution Task Group has not considered.
  - d recommends that the Task Group remain in existence, meeting only as and when necessary, except for a meeting towards the end of the year to review how the constitution continues to work.

### Background

- 2 The Council's Constitution Task Group consists of Councillors Mrs M A Caton, R J Copping, A Dean, Mrs S Flack, R D Green and Mrs S V Schneider. It has met 8 times since November and the minutes of all its meetings are contained in minute books number 4 and 5.
- 3 Although the amendments are comparatively few, copies of the full Council Procedure Rules and Delegation Scheme are attached to this report for ease of reference. It has not been thought necessary to attach the amended Employment Procedure Rules. Amendments which the Council has already approved are shown in **bold**; changes now being recommended are shown in ***bold italics***; and significant deletions are shown in **[bold or bold italics in square brackets]**.
- 4 Where felt necessary, the report draws attention to proposed amendments and explains the reasons for them. Any other queries from Members will be dealt with at the meeting.
- 5 The last section of the report deals with two issues not considered by the Task Group, which the Council may wish to determine now or refer to the Task Group.

## **Changes already agreed**

- 6 The Council has already made a number of amendments to the constitution. In relation to the *Council Procedure Rules*, it has
  - a increased the number of days notice to be given of meetings from three to five clear working days (CPR 5).
  - b reduced the required number of clear working days' notice of questions under CPR 8.2 from five to two.
  - c amended Overview and Scrutiny Rule 7.4 so that members of policy committees cannot be involved in initiating the call in procedure. (The Task Group debated this issue at its meeting on 3 April 2002).
- 7 With regard to the *Delegation Scheme*, the Council has
  - a included the authority to appoint task groups and working parties in the terms of reference of both Policy and Scrutiny Committees.
  - b decided that the Development Control and Licensing Committee will determine all planning applications.
- 8 The Council has amended its *Employment Procedure Rules* to comply with Regulations which took effect in late 2001.

## **Task Group Recommendations**

- 9 The Task group is making a number of recommendations concerning *Council Procedure Rules*. Many of these are in the interests of clarity and/or consistency. However, the Council's attention is drawn to the following recommendations:
  - a the amendment of CPR 1.2 so that committees appoint their Chairmen and Vice-Chairmen at the Council's Annual meeting. The Task Group considers that Task Groups and Working Parties should appoint their Chairmen at their first meeting.
  - b a new CPR 11.5(b) aimed at making the rules of debate more flexible, in recognition of the changing role of the Council meeting.
  - c a new CPR 14.4 formalising the decision list procedure.
  - d Overview and Scrutiny Rule 7.5 be expanded to give those committees the explicit option of taking no further action.
  - e there should be eight clear working days between meetings of policy committees and the appropriate scrutiny committees. This has not been written into the constitution, but the calendar of meetings for 2002/03 has been drawn up on this basis.
- 10 The Task Group's recommendations in relation to the *Delegation Scheme* are that:

- a Best Value be specifically written into the delegation scheme, and that Policy Committees should have delegated authority to determine the recommendations of overview and scrutiny committees following Best Value Service Reviews.
  - b the Overall Role and Delegation to all Policy Committees sections be amended to reflect the fact that, although not strictly a “policy” committee, the Development Control and Licensing Committee is a full committee with its own budget.
  - c the Overall Role of Policy and Development Control and Licensing Committees should include reference to the role of those committees in budget preparation. The Resources Committee should retain its coordinating role.
  - d reports from representatives on outside bodies should be submitted to the relevant policy committee.
  - e street naming and numbering should not be delegated to town and parish councils.
  - f the Community and Leisure Committee should determine Ad Hoc and Community Project Grants, unless urgent, in which case the Head of Community and Leisure should have delegated authority to determine them in consultation with the Chairman of the Committee.
  - g responsibility for Bridge End Gardens be transferred from the Community and Leisure Committee to the Environment and Transport Committee, which already has responsibility for all other such areas.
  - h responsibility for rights of way (in terms of planning applications and diversions) should stay with the Development Control and Licensing Committee.
  - i the delegated authority for Chief Officers to institute legal proceedings for breaches of the Building Act and Regulations be transferred from the Development Control and Licensing Committee to the Environment and Transport Committee, which is now responsible for dealing with Building Regulations matters.
  - j there should, at some stage, be a special joint meeting of three members of each of the two overview and scrutiny committees to scrutinise the Leisure (PFI) Project.
- 11 The *Job Descriptions for Members* which the Task Group has drafted have been circulated previously, and are now submitted for approval.
- 12 The Task Group has also considered a procedure for the *Area Meetings* which the Council has agreed should be held starting in the coming Council year, and this also is submitted for approval.

### **Outstanding Matters**

- 13 The detailed work on Financial Regulations and Contract Standing Orders is not yet complete. However, the existing interim arrangements are working satisfactorily and the final revisions will be ready for the Council to consider at its meeting in July.

RECOMMENDED that the Council approve

- a the amendments to the Council's constitution set out in paragraphs 9 and 10 above
- b the consequential and other minor amendments to the Council's Procedure Rules and Delegation Scheme
- c the attached draft Job Descriptions for Members
- d the attached procedure for Area Meetings

### **Other matters**

- 14 It is intended to submit the revised terms of reference of the Local Joint Committee to the June meeting of the Resources Committee. The Council will be considering recommendations from the Standards Committee and reports on NHS Scrutiny and the State of the District debate elsewhere on the agenda for this meeting.
- 15 There are three matters which the Task Group has not been asked to deal with but which Members may feel should be addressed . The first is that there is no longer a Council Procedure Rule regarding the Interpretation of these rules. The Council is, therefore, requested to consider whether a new Council Procedure Rule 20 should be added in the following terms:  
  
"The ruling of the Chairman as to the construction or application of these Council Procedure Rules, or as to any proceedings of the Council, shall not be challenged at any meeting of the Council."  
  
16 The second concerns Council Procedure Rules 12.1 (Motion to rescind a previous decision) and 20 (Application to Committees and Sub-Committees). The combined effect of these rules as they stand could effectively prevent the Council or any of its committees from revoking a decision within six months, even if there were good reasons for doing so, without suspending procedure rules. It is considered desirable to arrive at a satisfactory way of achieving of achieving an appropriate degree of flexibility without having to take this step. In the circumstances, the Council may feel that the Constitution Group should be asked to consider this issue.
- 17 The third matter concerns land and property transactions. Specific authority to acquire and/or dispose of land and/or property is delegated only to the Health and Housing Committee (for housing purposes and to a maximum value of £25,000). However, the Overall Role of Policy Committees includes "Control and review use and allocation of assets and resources, within approved budgets". In addition, the Terms of Reference of the Resources Committee include "Monitoring the use of the Council's assets and resources,....., and reporting to the Council as necessary."
- 18 The above provisions can be interpreted as authorising Policy Committees to make such acquisitions and /or disposals of the resources under their control, including land, as are necessary to enable to discharge their functions,

subject to any transactions being within the approved budget; the Resources Committee keeping a watching brief. If that is Members' intention and the delegation scheme is considered sufficiently clear, no action need be taken. If, however, Members consider that the delegation scheme needs clarifying, or if they interpret it in a different way, they may wish to refer this matter also to the Constitution Task Group.

## **Conclusion**

- 19 The present constitution has been in place for less than eight months, and is still evolving. Committees and individual members and officers are likely to continue to encounter new issues, and others that need revisiting. In the circumstances, the Task Group considers that it would be wise for it to remain in being for at least the next council year. It would aim to meet only as and when necessary until the autumn, when it would review any issues that might have arisen in the meantime.

RECOMMENDED that

- a the Council forms a view on the issues raised in paragraphs 15 to 18 of this report and
- b the Task Group continues in being at least for the year 2002/03.

Background Papers:            Various Council minutes  
   Constitution Task Group minutes