

Committee:	COUNCIL	Agenda Item
Date:	April 17, 2007	8
Title:	CONSTITUTION TASK GROUP	
Author:	Alasdair Bovaird, Chief Executive, 01799 510400	Item for decision

Summary

This report sets out the conclusions and recommendations of the Constitution Task Group following its consideration of the issues referred to it by the council at its meeting of February 15, 2007.

Recommendations

1. That the amendments to the scheme of delegation etc set out in part 2 of Appendix 1, and those in Appendices 1A and 1B be agreed.
2. That the amendments to the articles of the constitution set out in part 1 of Appendix 1 and in Appendix 2 be moved, such that they are available for determination at the Annual Council Meeting on May 22, 2007.
3. That the proposals for the creation of a Housing Board as set out in the report be recommended to the incoming council with a view to establishing such a board at the Annual Council Meeting on May 22, 2007.
4. That the proposals relating to Member Briefing Days be noted, and that it be agreed that those proposals be adopted on a trial basis with a view to such a briefing day taking place before the end of July 2007.
5. That the proposals relating to the management of the length of agendas and of meetings be agreed.
6. That the sequence of meetings necessary to minimise unnecessary repeated discussion of issues be noted, and that the provisional calendar of meetings for 2007-8 at Appendix 3 be noted.

Background Papers

The following papers were referred to by the author in the preparation of this report and are available for inspection from the author of the report.

- The council constitution.
- The reports recently considered by the council regarding the council restructure and the Uttlesford 2011 programme.

Impact

Communication/Consultation	The changes to the constitution are largely technical in nature and have not been consulted upon other than within the council. Tenant representatives were able to express their views on the proposed Housing Board at the Community Committee. Once the new constitution is agreed, a 'plain English' summary of the way it operates will be prepared and made widely available. The full constitution will be incorporated into the necessary reference material for councillors and officers and will be made available online to the general public.
Community Safety	None
Equalities	All constitutional changes are consistent with the council's duty to promote equalities.
Finance	Minor potential savings in stewarding costs if meeting lengths are successfully reduced.
Human Rights	The council's constitution is subject to, and compliant with, human rights legislation.
Legal implications	None
Ward-specific impacts	None
Workforce/Workplace	None
Sustainability	Shorter and more productive meetings will have a marginally beneficial effect on energy consumption and travel requirements. Otherwise, no implications have been identified.

Background

1. The Council was due to consider a number of constitutional issues at its meeting of February 15, 2007. However, due to the length of the council agenda and some errors in the distribution of the associated reports the matters for consideration were instead referred to the Constitution Task Group for a further report to this council meeting.
2. The matters referred to the Constitution Task Group were:
 - The proposal for a housing board
 - The necessary changes to the scheme of delegation consequent upon the council restructure
 - Member concern regarding the length of meetings, the frequency with which certain items 'bounce' between committees and/or the council for decision
 - The slow progress which had been made in allowing the area panels to make more decisions affecting their own area.
3. In addition, the CTG has also considered the role of member workshops and the contribution they make to member development and the work of the council.
4. The CTG has met on two occasions to consider these issues and has reached its conclusions. These are set out as recommendations above, and in the appendices to this report.

Housing Board

5. The Constitution Task Group noted the consideration given in the report tabled for the February 15 meeting to the issue of the creation of a Housing Board.
6. The CTG took the view that it was clearly necessary that there should be an increased opportunity for member oversight of the strategic issues affecting the development of the council's housing stock. However, it also noted that there were a number of restrictions on the way that should be carried out:
 - The setting of rents and the budget for the Housing Revenue Account were matters reserved by law to full council. CTG took the view that there was no advantage to those issues being considered by the Housing Board, then by Community Committee and finally by council.
 - It was important that day to day management of the housing service be the responsibility of the Head of Housing Management and their officers. However, it was recognised that more needed to be done to ensure that local members were made aware of developments in relation to the housing stock within their own wards.

- It was recognised that there were statutory restrictions on the role of councillors in, for example, housing allocations but that these restrictions should not have the effect of inhibiting the ability of councillors to develop and agree policy in relation to these aspects of the management of the housing stock.
7. It was therefore agreed that a Housing Board be established as a Working Group (as described in Article 12.2 of the constitution) with the following remit:
 - Development of the Council's Housing Strategy (including stock and asset development, homelessness, allocations policy)
 - Liaison with Tenants Forum
 - Co-ordination of local development framework with housing policy.
 8. The Lead Officer for the Housing Board would be the Head of Housing Management. The Housing Board would report and make recommendations directly to any of the council's main policy committees, or to full council, according to the nature of the issue being dealt with.
 9. In addition to the agreed number of elected members, a tenant representative will be invited to join the Board as a non-voting member.
 10. In addition it was agreed that there should be an additional provision be added to the Member/Officer protocol which would require officers to inform the local member or members of any non-routine decisions in relation to the management of the housing stock within their ward.

Workshops

11. During discussions with various members of the council it has become clear that there is general discontent with the current arrangements for member workshops. It is clear from the low attendance at recent workshops that they are serving the needs of neither members nor officers.
12. As an experiment it is proposed to do away with the practice of regular evening workshops. The monthly 'slots' for such events will be replaced with the concept of Member Briefing Days. These days will take place on three Saturdays a year (in June/July, October and February). The first such event will take place in June/July 2007.
13. The programme for the briefing day will cover a range of subjects and will be agreed between the Strategic Management Board of the council and Group Leaders. It will be designed to capture issues of current importance to both members and officers and to allow as many members as possible to attend and participate.
14. The continuation or otherwise of this approach will be reconsidered once the success or otherwise of the first such event is apparent.

Length of meetings

15. The Constitution Task Group considered a number of ideas to ensure that the length of meetings reduced. It was agreed to proceed with the following changes to agenda management:
 - That the practice – instituted in recent meetings – of a ‘Lead officers report’ should continue. This report should update members in writing on the progress of items and issues previously discussed – thereby avoiding lengthy discussions and/or questions under the broad heading of ‘Matters Arising’. The report would also provide an opportunity to incorporate a brief update on items of interest to members in respect of service delivery or the like which perhaps of themselves do not warrant a full report to the committee. This report should be taken as first substantive item on the agenda
 - Items for information will be clustered at the end of the agenda, and would not normally be discussed unless there was a clear need or desire on the part of a significant proportion of members to do so.
 - Members will be encouraged to notify declarations of interest in advance – as we do with apologies for absence – with an electronic form provided for this purpose. The chair and/or clerk of the meeting could then advise the committee/council of any declarations at the start of the meeting.
 - Provisional timings for each agenda item will be agreed in advance with the chair of the committee and published as part of the agenda papers. This will give an indication of which items appear to require substantial discussion and which might be dealt with more quickly. It will also give members of the public etc a better indication of when a particular item might arise. These items would be indicative only.
16. In addition, the CTG considered a model standing order that is used by Harlow Council which places a time limit on the normal length of meetings. This proposal is incorporated in the amendments to the articles of the constitution in Appendix 2.

‘Bouncing’ agenda items

17. A number of members have expressed frustration at the extent to which certain issues have proved difficult to resolve since they needed to be considered by more than one committee. Notably these items included the consideration of the proposal to support Thaxted Youth Club and the various skate park proposals.
18. This is very difficult to avoid since it stems directly from the council’s choice to use a committee system and the inevitable fact that certain issues will cross over the boundaries between committee responsibilities. In principle, the sequence should work as follows:

Area Panels	... will address/raise local concerns
Community/Environment Committees	... will resolve issues of council policy
Operations Committee	... will oversee the use of council finance if there is a need to vary overall budgets
Scrutiny Committee	... may need/wish to consider a call-in
Council	... will resolve any conflict or lack of clarity between the decisions made

19. Many decisions can be simply made by one committee or panel, but where this is not possible it is best if an issue can be raised and resolved within the context of one cycle. There are two keys to this:
- That the interval between one type of committee and the next is such that there is no difficulty ensuring that a recommendation made by, for example, an area panel is able to be considered by the relevant policy committee which meets in the same cycle. Generally this means that there should be an interval of two weeks between each stage set out above.
 - That where it is reasonably possible to anticipate that an issue which arises at one area panel might be of interest in one or both of the others then the lead officer and panel chairs ensure that it is on all agendas. A similar issue arises within the context of the Community and Environment Committees.
20. The broad timing of the cycle should therefore be:
- Week 1 Area Panel Meetings
 - Week 3 Community/Environment Committees
 - Week 5 Operations Committee
 - Week 7 Scrutiny Committee
 - Week 9 Council
21. Committee support staff have prepared a proposed calendar for meetings in 2007-8 which reflects this requirement. This calendar is attached to this report as Appendix 3. It should be noted that there is no particular need for Performance Select Committee to fit into this cycle since its workload is driven principally by the audit and performance review cycle rather than the decisions of other committees. The calendar cannot be finally agreed until the Annual Meeting on May 22, 2007, but members are asked to note the proposed arrangements at this stage.

Area Panels

22. The Constitution Task Group discussed the slow way in which the decision making ability of area panels had developed. It was clear that the original intention of the council – to enable local decisions to be made locally – had not been fully realised. It therefore took the view that the general role of area panels – and their ability to make local decisions – should be clarified.
23. It is therefore proposed that a ‘general power’ be defined for area panels. This proposal is incorporated in the proposals set out in Appendix 2.

Risk Analysis

24. The following have been assessed as the potential risks associated with this issue.

Risk	Likelihood	Impact	Mitigating actions
That the council is unable to conduct its business efficiently and effectively	Low: the amendments to the constitution are relatively minor in impact and should have the effect of improving clarity of decision making.	High: clear decisions are necessary to ensure that the business of the council is conducted fairly and legally.	We have sought to ensure that the changes to the constitution reflect the practice of the council and the learning which has developed as we have operated the current arrangements.
That the public and other stakeholders are unclear as to who is accountable for the decisions of the council	Low: the constitution addresses the extent of responsibilities available to councillors and to managers.	High: as above	Publication and communication of the arrangements will reduce the possibility of confusion or misunderstanding.

Appendix 1

Amendments to the Constitution arising from the restructure of the Council's management

Part 1: Amendments to the Articles of the Constitution

Page no.	Provision	Delete	Insert
A26	14.2	Executive Managers	Directors and other officers
A26	14.2	Executive Management	Corporate Management
A31	16.3, 16.4 & 16.5	Executive Manager Corporate Governance	Assistant Chief Executive
A31	16.5.3	Executive Managers	Directors
A31	16.5.4		The Assistant Chief Executive

Part 2: Amendments to other parts of the Constitution

Page no.	Provision	Delete	Insert
B30	Rule 1 1st paragraph	Executive Manager Corporate Governance & Executive Manager Finance & Asset Strategy	
B30	Rule 1 1st paragraph	other Executive Managers	Directors
B30	Rule 1, 4th paragraph	Executive Managers	The Chief Executive and the Directors
B30	Rule 1, 4th paragraph	Corporate Management Team	Strategic Management Board
B30	Rule 1, 5th paragraph	Executive Manager	Director
B33	2.5 & 2.6.1	Executive Managers	Directors
B35	3.3.2 & 3.3.3	Executive Managers	Directors
B36	4.2	Executive Manager Corporate Governance	Assistant Chief Executive
B37	4.3	Executive Managers	Directors
B37	4.4	HM Customs & Excise and the Inland Revenue	HM Revenue and Customs
B39	5.2 & 5.3	Executive Managers	Directors
B40	5.5	Executive Managers	The Strategic Management Board
B41	6.2	Executive Managers	Directors
C1-C30	Scheme of Delegation	All	Appendix IA
D11	4.3	Executive Manager	Director or the Assistant Chief Executive
D11	4.3	Statutory Officers	Chief Officers
D12	4.4	Executive Manager	Director, the Assistant Chief Executive
D14	6.5	Executive Manager	Head of Division

Page no.	Provision	Delete	Insert
D17	5	HM Customs and Inland Revenue	HM Revenue and Customs
D17	7	Executive Manager Finance & Asset Management	Director of Resources
D19	3.2	Executive Manager	Director
D19	3.2	Executive Manager Corporate Governance	Assistant Chief Executive
D30	1.1	Executive Manager Development Services	Head of Development Services
D39	3.6	Executive Manager Corporate Governance	Assistant Chief Executive
D40	1	Executive Manager	Director
D42	5	Executive Manager	Director
D46	1.3		New bullet point ; - The Code of Practice: Probity in Licensing
D54	3.3.3	Executive Management Team	Strategic Management Board
D54	3.3.5	Delete in full	
D58	6.1.2	Executive Manager Corporate Governance	Assistant Chief Executive
D60	7.5	Executive Manager Corporate Governance	Assistant Chief Executive
D62	9.1.2		New Equalities policies in relation to service procedures and provision are being developed in line with legislative requirements
D63	9.6.4	However risk management will be updated in the following areas:	
D63	9.6.5	Delete In full	9.6.5 The Council has a Risk Management Strategy and has embedded processes for managing risk. These requires the Council to: 9.6.5.1 identify corporate, operational and project risks 9.6.5.2 assess the risks for likelihood and significance 9.6.5.3 identify mitigating controls 9.6.5.4 allocate responsibility for the mitigating controls 9.6.5.5 regularly report on the status of risk management arrangements
D63	9.6.6	Delete In full	The Council maintains and reviews a register of its risks particularly those linked to corporate objectives and assigns ownership for each risk. This includes risks in relation to significant partnerships.

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Page no.	Provision	Delete	Insert
D63	9.6.7	Delete In full	The Council's risk management steering group meets regularly and has adopted appropriate terms of reference. This includes matters relating to insurance, business continuity and health and safety.
D63	New 9.6.8		Reports to support key decisions and project initiation documents including a risk assessment.
D63			Existing 9.6.8 to be renumbered to 9.6.9
D66	3 & 4	Executive Manager Strategy & Performance	Director for Communities
E25 to E26		Delete all	Appendix IB

Appendix 1B

Part 9: Management

The following is the current management structure of the Council :-

Post	Functions and areas of responsibility
Chief Executive (and Head of Paid Service)	Overall corporate management and operational responsibility (including overall management responsibility for all officers). Provision of professional advice to all parties in the decision making process. Together with the Monitoring Officer, responsibility for a system of record keeping for all the Council's decisions. Representing the Council on partnership and external bodies (as required by statute or the Council).
Director of Business Transformation	Information and Communications Technology, Organisational Re-engineering, Uttlesford in 2011 Transformation Programme
Director for Communities	Community Development, Communications, Consultation, Performance Management, Service Planning, Strategic Partnerships, Community Safety, Leisure, Youth and Arts Development, Sport, Cultural Services, Museum, Democratic Services (including Elections), Scrutiny, UConnect – Customer Services Centre
Director of Development	Development Control, the Local Plan, Regeneration, Conservation, Highways, Transportation, Building Control Architectural and Engineering services, Economic Development, Tourism, Mapping.
Director of Operations	Environmental Health, Port Health, Waste and Recycling Collection, Cleansing, Vehicle Maintenance, Grounds Maintenance, Parking, Concessionary Fares and Housing Management.
Director of Resources	Accountancy and Exchequer services; procurement. Housing and Council Tax Benefits, Council Tax, human resources
Assistant Chief Executive	Benefit Fraud, Emergency Planning, Internal Audit, Legal Services, Licensing and Local Land Charges.

Appendix 2

Amendments to the Constitution: Recommendations by the Constitution Task Group

Page no.	Provision	Delete	Insert
A18	10.2.1	2 independent members	3 independent members
B15	New Rule 20 and re-number		Duration of Meetings Meetings of the Council should aim to cease after 2 hours duration. In the event that the business has not been concluded within that time the Chairman of the meeting shall seek the view of the meeting as to how long it should continue. Only in exceptional circumstances should a meeting continue after 10.30 pm. Where necessary the Chairman shall adjourn unfinished business to another date or to the next meeting of the Council.
B15	Rule 21 (will be 22)	"19.2"	"20.2"
C18	New		The power of decision on any given matter shall be delegated to the relevant area panel providing that :- <ol style="list-style-type: none"> 1 the potential decision is within Council policy and budget 2 the potential decision is not specifically reserved to another body of the council by legislation, regulation or a previous decision of the Council 3 the potential decision does not have clear and immediate impact on any territory outside the boundary of the relevant area 4 the potential decision does not relate to any of the matters delegated to the Development Control or Licensing Committees.

Provisional Committee Timetable 2007/2008 – subject to confirmation at Council Meeting, 22 May 2007

	Day	May	June	July	Aug	Sept	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May
East Area Panel			6 Wed		7 Tue		8 Mon			9 Wed	26 Tue			
South West Area panel			7 Thur		6 Mon		9 Tue			7 Mon	28 Thur			
North Area Panel			5 Tue		9 Thur		11 Thur			8 Tue	25 Mon			
Environment	Tues		19		21		23			22		11		
Community	Thurs		21		23		25			24		13		
Operations	Thur		28			6		8		31	7	27		
Scrutiny	Wed			18		19		21			20		9	
Council	Tues	22 Annual		31			2		11		14 Thur		24	15 Annual
Licensing	Wed		27			12	31			9		5		
Stansted Airport AP	Mon			9		10	29			14		24		
Standards Cttee*4pm	Mon		25			3		12		21		31		
Performance Select	Tue		12		2 Thur	27 Thur		6			5			6
Development Control 2pm	Wed	23	13	4 25	15	5 26	17	7 28	19	16	6 27	19	9 30	20

All meetings normally held at Saffron Walden except for the Area Panels.

Meetings normally commence at 7.30pm except Development Control which starts at 2.00pm and Standards Committee which starts at 4.00pm.

Details of timing and venue will be confirmed on publication of the relevant notice of meetings – members, press, public and others are advised to check details before finalising arrangements to attend meetings.