



NORTHAMPTON
BOROUGH COUNCIL

STANDARDS COMMITTEE

10 January 2006

Item No. 7

Report of Solicitor to the Council

**Directorate: Finance Governance
& Citizens**

Author/Contact Officer
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**ROLE OF STANDARDS
COMMITTEE**

Purpose of Report

To inform the Committee of the changes to the Council's political structures and how it is envisaged this will affect the role of Standards Committee.

Recommendations

- (1) That the report be noted and the enhanced role of the Standards Committee in supporting the Council's recovery programme be embraced.
- (2) That the Solicitor to Council sends a statement of the Standards Committee's revised terms of reference to the Standard Board for England.

BACKGROUND

At the meeting of the full Council on 29 September 2005 a number of changes were adopted to the Council's political structures and governance arrangements. These changes were undertaken as an essential step in the Council's recovery process.

The main changes were:-

The formation of the Improvement Board, (to drive forward the Council's improvement and recovery agenda);

Replacing the previous seven different Overview and Scrutiny Committees with a single Overview and Scrutiny Committee, with power to set up task and finish panels;

Setting up an Audit Committee;

Providing for the delegation of decision making to individual portfolio holders in the Cabinet;

Setting out the commitment of the Council to the work of the Improvement Board in a "contract".

A copy of the Report that went to the Council, setting out these changes is annexed.

The "Contract" and the Role of Standards Committee

The terms of the "contract" are set out in Appendix 7 of the Report to Council.

While it is not a contract in the legal sense it states the commitment of the Council in setting up the Improvement Board, and deals with the relationship between the Board and the Council's other governance bodies. It also includes a statement of the behaviours expected of Councillors.

It is intended that the Standards Committee will monitor compliance with the contract; and if necessary report to the Council on any breaches, or take other appropriate action. This is referred to in clause 13 of the contract; Appendix 8 of the Council Report contains the specific amendment of the Standards Committee's terms of reference to include this role.

Requirement to Notify the Standards Board

Section 53(9) of the Local Government Act 2000 requires that a statement of any revised terms of reference of an authority's Standards Committee must be notified to the Standards Board.

Background Papers

Report to Council on 29 September 2005.



**NORTHAMPTON
BOROUGH COUNCIL**

Council

Date: 29 September 2005

Item No:

Directorate: Finance, Governance and
Citizens

Author/Contact Officer:

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Title of the Report:

Review of Political Structures and
Governance Arrangements –
Constitutional Amendments and Other
Matters

Purpose of the Report

To seek Council's approval to amend the Constitution to bring into effect the
Political Structures and Governance Arrangements agreed by Council on
21 July 2005.

Recommendations

Council is recommended to:-

1. Adopt the changes to the Constitution contained in the Appendices to this report.
2. Delegate specific powers to Members of the Improvement Board, the Chief Executive and Cabinet Members sitting on the Improvement Board.
3. To set up an Audit Committee.
4. To constitute the Tree Panel as a Committee of the Council. (Appendix 13)
5. To authorise officers to advertise the Constitutional changes as required by the relevant regulations.

Summary

This report seeks specific changes to the Constitution to implement Council's decision on 21 July 2005, seeking a review of the Political Structures and Governance Arrangements for the Council. The more important aspects of the changes, include the formation of the Improvement Board which will have the main purpose of driving forward the Council's Improvement and Recovery Agenda. All the old Overview and Scrutiny Committees will cease and be replaced by one single Committee, which shall have the power to set up Task and Finish Panels. New structures include an Audit Committee and the constitution of the Tree Panel as a Committee of the Council. A contract between the Council, Improvement Board, Cabinet and Overview and Scrutiny, will set the standards and behaviours required by the bodies and Councillors in interactions between them and will be monitored by the Standards Committee.

Context

Council approved a report on 21 July 2005, which sought significant changes to the Council's Political Structures and Governance Arrangements. Agreement in principle was sought and granted but could not be implemented until formal changes to the Constitution were drafted. This report brings forward the technical aspects of the amendments to the Constitution and if adopted by Council, new political arrangements will be able to commence immediately.

Key Changes

Improvement Board

The Improvement Board is the most significant and innovative aspect of the Political Structures Review. The details of the Constitutional changes are contained in Appendix 1 to this report. By way of explanation, the Improvement Board will have wide powers delegated to it, some of its members and the Chief Executive by both Council and Cabinet and will be able to make decisions, individually or collectively on any matter related to the Council's recovery/improvement programme. The Improvement Board individually or collectively will make Executive and non-Executive decisions respectively. Membership of the Improvement Board is limited to Leader and Deputy-Leader of each group, with provision for substitute members in exceptional circumstances. It is anticipated that the Board will appoint co-opted members from relevant organisations, for example the trade unions, business community and the County Council.

The Improvement Board will however, be required to regularly report to Council and Cabinet on its decisions.

Given that there is a potential overlap of decisions made between the Improvement Board and Cabinet, there is proposed a dispute resolution procedure at Appendix 2.

Delegations to Cabinet Members

The changes to the Constitution will allow both Cabinet and individual Cabinet members, to exercise delegated powers. Both Cabinet as a body and individual members, will therefore be able to make Executive decisions.

The Constitution delegates powers to the Leader to specify a Scheme of Delegations for each Portfolio Holder within the Portfolios identified in Appendix 3. Once the delegations have been determined, copies will be sent to all Councillors for their information.

Connected to this, are the Procedural changes to the Constitution contained in Appendix 4 which allows individual Cabinet member decisions to be made in private, unless the Cabinet member determines otherwise. However, key decisions will need to be made in public. Although decisions may be made in private, there is a requirement for those decisions to be recorded and published and provided to Overview and Scrutiny Committee members as provided in the amendments to the Constitution in relation to Overview and Scrutiny Committee.

Audit Committee

Following Council's approval to the setting up of an Audit Committee, the membership and Terms of Reference of the Committee are contained in Appendix 5. Members should be aware that the role and Terms of Reference for the Committee follow very closely the advice on such Committees provided by CIPFA.

Overview and Scrutiny Committee

The amendments to the Constitution now provide for only one Overview and Scrutiny Committee. The Terms of Reference and the Overview and Scrutiny Procedure Rules are contained in Appendix 6. The Rules of Procedure differ very little from the old Rules except that the Committee will now have the power to appoint two Deputy-Chairs and the Committee will have the power to set up Task and Finish Panels to assist the Committee in carrying out reviews. Overview and Scrutiny Committee will also have the power to scrutinise Executive decisions made by the Improvement Board (through individual members or the Chief Executive).

The Contract

The amendments to the Constitution include a “Contract” which is to form part of the Code and Protocols contained in Part 5 of the Constitution. Although termed a Contract, in law, the Council cannot contract with itself. However, the Contract specifies the roles, responsibilities and behaviours expected by the main Council Governance bodies, the interaction between them, and their expected focus on improvement and recovery. Whilst the Contract cannot be enforced in the normal way, the Standards Committee will monitor members interaction vis a vis the Contract and if there are any concerns, the Standards Committee will use any powers available to it which could include making reports to full Council on the compliance with the Contract and issues arising. Accordingly, the Terms of Reference of the Standards Committee have been amended to enable the Committee to do this. The relevant amendment is contained in Appendix 8.

Rules of Procedure - Questions

The current Constitution allows questions to be asked on the day of the Council meeting. This causes practical and substantive problems in responding to the questions both for officers, administrators and members responding to the questions. Therefore, an amendment to the Constitution is proposed which requires a 12 calendar day notice period. This ties in with a notice period for normal motions.

Officer Delegations

The officer delegation amendments contained in Appendix 10 seek to regularise the position because the current delegations refer to officers who are no longer with the Council.

General Amendments

Appendix 11 proposes changes to the Constitution to implement the changes in the name of Executive to the Cabinet.

Appendix 12 inserts Council's Recovery Plan as part of the Council's Policy Framework Documents as agreed by Council in its July meeting.

It is likely that further minor changes to the Constitution will be sought, as the Political and Governance Structures settle in. Apart from these minor changes, Council at its July meeting authorised officers to commence a review of the whole Constitution. This work will be led and directed by the Political Structures and Working Practices Review Working Group and a new Constitution will be proposed to full Council after the group has considered and finalised proposals for a new Constitution.

APPENDIX 1

RULES OF GOVERNANCE AND TERMS OF REFERENCE OF THE IMPROVEMENT BOARD

Improvement Board

1.1 The Council meeting will establish an Improvement Board which shall be constituted as a committee of the Council

1. Membership

(i) Membership of the Improvement Board shall be composed as follows:

Leader of the Council
Deputy Leader
Leader of the Opposition
Deputy Leader of the Opposition
Leader of the Labour Group
Deputy Leader of the Labour Group.

(ii) In exceptional circumstances a substitute member (appointed by Council) may attend and vote on behalf of an absent members.
The following Individuals shall attend, advise and participate in the meetings but not take part in decisions of the Improvement Board:

The 3 Council Directors
The Improvement Board shall co-opt non-voting members to the committee as it thinks fit.

(iii) The Chief Executive shall attend, advise and participate in meetings and take decisions within the delegations provided in these rules.

2. Meetings

The Improvement Board shall meet at the start of each Municipal Year, and, thereafter fortnightly and if appropriate the frequency shall reduce to monthly. Extra meetings will be held as and when required.

The Chief Executive will be permitted to call a special meeting of the Improvement Board, as and when the need arises.

3. Quorum

The Quorum for the Improvement Board shall consist of 3 members
If executive decisions are to be taken then at least one cabinet member on the Improvement Board or the Chief Executive shall be present.

4. Rules of Procedure

- (i) The Council Procedure Rules contained in part 4 of this constitution shall apply insofar as they do not conflict with the rules herein
- (ii) The Chair shall preside over the meeting when voting is to take place. In his/her absence, then a person appointed to do so by those present shall preside.
- (iii) The meetings of the Improvement Board shall be managed by the Chief Executive.
- (iv) There will be a Standing Item on the agenda of each meeting of the Improvement Board for matters referred by the Overview and Scrutiny Committee.
- (v) The Monitoring Officer and/or the Chief Finance Officer may include an item for consideration on the agenda of the Improvement Board and may require the Proper officer to call such a meeting in pursuance of their statutory duties. In other circumstance, where any two of the Head of Paid Service, Chief Finance Officer and Monitoring Officer are of the opinion that a meeting of the Executive needs to be called to consider a matter that requires a decision, they may jointly include an item on the agenda of an Executive meeting. If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

5. Terms of Reference

- (i) Without prejudice to the generality of clause (i) above, the Improvement Board shall have the following specific objectives it shall:
 - Set priorities for the Council
 - Produce and recommend for approval by Council the Corporate Plan and Medium Term Financial Strategy
 - Deliver the Recovery Plan and commission specific reports to inform the monitoring process
 - Respond to Government Monitoring Board on progress of recovery
 - Set the forward plan for Cabinet
 - Set the Audit Committee work plan
 - Propose work plan for Overview and Scrutiny, ensuring alignment with recovery priorities and reflecting capacity of the committee
 - Propose reviews for Overview and Scrutiny, ensuring alignment with recovery priorities and reflecting capacity of the committee
 - Identify additional projects and work

6. Delegations

- (i) The Improvement Board shall have powers delegated by Council and Cabinet to make any decision in relation to any function of the Council in so far as the decision is related to the Council's recovery/improvement agenda, current or future

- (ii) Where Executive decisions are made, Cabinet members on The Improvement Board will have delegated powers from Cabinet and Council to make any decision in relation to any function of the Council insofar as the decision is related to the Council's recovery/improvement agenda current or future.
- (iii) The Chief Executive shall have the general authority to take any action or to do anything or procure the taking or doing thereof which is calculated to facilitate or is conducive or incidental to the discharge of any of the Council's functions insofar as they relate to the improvement/recovery agenda so far as such action may be within the Council's approved policies and procedures.
- (iii) The Improvement Board, the Cabinet member or the Chief Executive shall regularly report to Council and Cabinet on decisions taken.

APPENDIX 2

DISPUTE RESOLUTION PROCEDURE CABINET AND IMPROVEMENT BOARD

The Council is operating a new and very innovative new decision making structure. The most important new bodies responsible for formal decision making are Cabinet and the Improvement Board. There will be a settling in period and it is possible that the functions of the 2 bodies will sometimes overlap or there may be general disagreements about how or which of the 2 bodies should be making a decision. This procedure provides a mechanism to resolve such disputes.

Who Can Use the Procedure?

Only Members of Cabinet and members of the Improvement Board and the Chief Executive will be able to invoke the procedure.

Stage 1 (the Informal Stage)

Any complaint must be put in writing and addressed to the Corporate Manager Democratic Services. The complaint must specify in sufficient detail the matter complained about together with details of a preferred outcome.

The Corporate Manager (or person nominated by him or her) shall then take whatever steps he or she sees necessary or sensitive to resolve the complaint informally.

This can include setting up a meeting with whoever it is deemed necessary. However, the Monitoring Officer shall not be involved at this stage.

This stage of the procedure shall be completed (unless there are exceptional circumstances) within 5 working days.

If the matter cannot be resolved at this stage within the time limits outlined above, the Matter shall be referred to the next stage.

Stage 2 (the formal stage)

The corporate manager shall refer the complaint to the ¹Monitoring Officer, copying the complaint with a report of what steps were taken at the informal stage to resolve the issue and the required outcome.

The Monitoring Officer and the Section 151 Officer (or person nominated by him or her) shall then consider the issue and take whatever steps he or she sees necessary or sensible to resolve the complaint by negotiation between the parties/bodies. This can include setting up a meeting with whoever it is deemed necessary.

¹ If NBC's Monitoring Officer cannot be involved for whatever reason, for example because there is a conflict of interest a Monitoring Officer of another authority may be used.

If the complaint cannot be settled by negotiation the Monitoring Officer and the Section 151 Officer shall decide the issue by either upholding the whole complaint or part of it and directing how the matter is to be dealt with or rejecting the whole or part of complaint and directing any action as appropriate.

The Monitoring Officer's and the Section 151 Officer's views shall be final.

This stage of the procedure shall be completed (unless there are exceptional circumstances) within 10 working days.

APPENDIX 3

DELEGATIONS CABINET MEMBERS

- (i) The functions to be set out in a and b below have been delegated to the Leader and Deputy Leader.
- (ii) Each Cabinet member shall have delegated powers outlined in the Cabinets Scheme of Delegation.
- (iii) The Leader shall have delegated powers to specify the detail of the Cabinet's scheme of delegation but each Cabinet member shall have delegations in the following portfolios:
 - Community Engagement (Leader)
 - Financial Strategy; Democratic Services (Deputy Leader)
 - Business Intelligence; People Support; E- Government
 - Local Environment
 - Residential Operations
 - Economic and Infrastructure
- (iv) The Leader on specifying the Cabinets Scheme of Delegation shall notify the Solicitor to the Council of the scheme.

The latter will ensure that:

- 1. all Councillors are informed of the scheme;
- 2. the Constitution is amended accordingly;
- 3. the scheme is reported at the next available Council meeting;
- 4. the alterations are published.

General Delegations To the Leader and Deputy Leader

(a) Leader of the Council

- 1. To be responsible for the principal policy direction of the Council within its statutory functions.
- 2. To represent the Council in the community and in negotiations with regional, national and international organisations and others and reporting to Cabinet as necessary.
- 3. To identify the need for new strategies and policies for the better discharge of the Council's functions and to advise the Cabinet accordingly
- 4. To be responsible for the resolution of differences of opinion between portfolio holders acting within their delegated powers and reporting to Cabinet as necessary.

5. To take responsibility for or to assign responsibility to one or more Cabinet portfolio holders for issues not specifically allocated in these delegations or involving one or more portfolio holder.
6. To authorise another Cabinet member to deputise for any other Cabinet member in that person's absence.

(b) Deputy Leader

To assist the Leader in the exercise of his or her functions, and to deputise in his or her absence.

(c) Cabinet Delegations

To exercise all executive functions not otherwise delegated under the scheme of delegations.

APPENDIX 4

PART 4 AMENDMENTS – CABINET MEMBER DELEGATED DECISIONS

Cabinet Member delegated decisions shall not be taken in public unless they are Key Decisions or the Cabinet Member determines that they should be taken in public.

Clause 19 of Part 4 of the Access to Information Procedure Rules shall be construed accordingly.

All the other rules within the said Part shall apply insofar as they are relevant and do not conflict with the rules herein.

APPENDIX 5

AUDIT COMMITTEE

The Council will establish an Audit Committee:

Membership: The Audit Committee will be composed of:

6 Councillors, 2 from each political group excluding members of the Cabinet.

The Committee shall have delegated powers to appoint co-opted members, without voting rights, with expertise in relevant areas.

Improvement Board members and Cabinet members shall be excluded from sitting on the Audit Committee.

Role and terms of reference

- (a) Generally consider all relevant processes for risk, control and governance.
- (b) Approve (but not direct) internal audit's strategy, plan and performance.
- (c) Review summary internal audit reports and the main issues arising, and seek assurance that action has been taken where necessary.
- (d) Consider the reports of external audit and inspection agencies.
- (e) Consider the effectiveness of the authority's risk management arrangements, the control environment and associated anti fraud and anti corruption arrangements. Seek assurances that action is being taken on risk related issues identified by auditors and inspectors.
- (f) Be satisfied that the authority's assurance statements, including the Statement on Internal Control, properly reflect the risk environment and any actions required to improve it.
- (g) Ensure that there are effective relationships between external and internal audit, inspection agencies and other relevant bodies, and that the value of the audit process is actively promoted.
- (h) Review the financial statements, external auditor's opinion and reports to members, and monitor management action in response to the issues raised by external audit.
- (i) Monitor the implementation of Key recommendations and actions arising from the Councils Recovery Plan and/or improvement agenda.

- (j) Consider key performance management reports and monitor the effectiveness of performance against the Best Value Performance Plan and key targets in the Councils recovery plan.
- (k) Promote relevant value for money studies following particular themes or service areas as appropriate.

Rules of Procedure

- (a) The Council Procedure Rules contained in part 4 of this constitution shall apply insofar as they do not conflict with the rules herein.

APPENDIX 6

ARTICLE 6 – OVERVIEW AND SCRUTINY COMMITTEE

6.1 Terms of Reference

The Council will appoint an Overview and Scrutiny Committee which will have the powers and perform the functions (and only those functions) that are conferred by Section 21 of the Local Government Act 2000.

6.2 General role

The Overview and Scrutiny committee will:

- 6.2.1 review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- 6.2.2 make reports and/or recommendations to the full Council and/or the Executive as the case may be in connection with the discharge of any functions;
- 6.2.3 consider any matter affecting the area or its inhabitants; and
- 6.2.4 exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive.

6.3 Specific functions

6.3.1 **Policy development and review.** The Overview and Scrutiny committee may:

- assist the Council and the Executive in the development of its Budget and Policy Framework by in-depth analysis of policy issues;
- assist the Improvement Board by taking on any issues referred to them by the Board
- conduct research, community and other consultation in the analysis of policy issues and possible options;
- consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
- question members of the Executive and Directors about their views on issues and proposals affecting their functions; and
- liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

6.3.2 Scrutiny. The Overview and Scrutiny committee may:

- review and scrutinise the decisions made by and performance of the Executive, committees and Council Officers save that where the Overview and Scrutiny committee is reviewing the decisions of another committee of the Council it will not scrutinize individual decisions particularly in respect of development control, licensing, registration, consents and other particular matters other than within the general context of any wider policy review, and shall not act as an appeal forum in respect of such individual decisions.
- review and scrutinise the performance of the Council in relation to its Policy objectives, performance targets and/or particular service areas;
- question members of the Executive and/or committees and Directors about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
- make recommendations to the Executive and/or appropriate committees and/or Council arising from the outcome of the overview and scrutiny process;
- review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Overview and Scrutiny committee and local people about their activities and performance; and
- question and gather evidence from any person (with their consent).

6.3.3 Finance. The Overview and Scrutiny committee may exercise overall responsibility for the finances made available to them.

6.3.4 Annual report. Overview and Scrutiny committee may report annually to full Council on their workings and make recommendations for future work programmes and amended working methods if appropriate.

6.3.5 Officers. The Overview and Scrutiny committee may exercise overall responsibility for the work programme of the officers employed to support their work.

6.4 Proceedings of Overview and Scrutiny Committees

The Overview and Scrutiny committee will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution.

OVERVIEW AND SCRUTINY PROCEDURE RULES

1. What will be the number and arrangements for Overview and Scrutiny committees?

The Council will have a single Overview and Scrutiny committee as set out in Article 6.

2. Membership of the Overview and Scrutiny committee?

The Overview and Scrutiny Committee will be made up of 14 members. No member of the Executive or Improvement Board may sit on the Committee. A member may not be involved in scrutinising a decision in which he/she has been directly involved.

3. Meetings of Overview and Scrutiny committees

The Overview and Scrutiny committee shall meet normally six times in each year. In addition, other meetings may be called from time to time as and when appropriate. Such a meeting may be called by the chair of the Committee, by any 2 members of the committee or by the Proper Officer if he/she considers it necessary or appropriate.

4. Quorum

The quorum for the Overview and Scrutiny committee shall be as set out for committees in the Council Procedure Rules in Part 4 of this Constitution.

5. Who chairs Overview and Scrutiny committee meetings?

The appointment of Chairs will comply with the general provisions as to Chairs set out in the Council Procedure Rules. However, the Committee will have delegated powers to appoint two Deputy Chairs.

6. Work programme

The Overview and Scrutiny committee will be responsible for setting their own work programme and in doing so they shall take into account wishes of members on the committee who are not members of the largest political group on the Council, and the wishes of the Improvement Board and the Executive. Requests from Elected Members, Area Partnerships and the public will also be taken into account.

7. Agenda items and References from the Cabinet

Any member of the Overview and Scrutiny committee shall be entitled to give formal notice giving the reasons therefor to the Proper Officer that he/she wishes an item relevant to the functions of the committee to be included on the agenda for the next available meeting of such committee. On receipt of such a request the Proper Officer will ensure that it is included on the next available agenda.

The Overview and Scrutiny committee shall also respond, as soon as their work programme permits, to requests from the Improvement Board or from the Council or the Cabinet. Any such request shall be directed to the Chair of the Overview and Scrutiny Committee. The committee shall report their findings and any recommendations back to the Improvement Board, the Executive and/or the Council as the case may be. The Council and/or the Executive and/or Improvement Board shall consider any report of the Overview and Scrutiny committee as soon as possible thereafter.

8. Policy review and development

8.1 The role of the Overview and Scrutiny committee in relation to the development of the Council's Budget and Policy Framework is set out in detail in the Budget and Policy Framework Procedure Rules.

9.2 In relation to the development of other matters not forming part of the Council's Policy and Budget framework, the Overview and Scrutiny committee may make proposals to the Executive if they see fit.

9.3 Subject to the relevant budgetary constraints the Overview and Scrutiny committee may hold enquiries and investigate the available budgetary options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may, subject to such budgetary constraints, go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

9. Reports, Recommendations and Reviews from Overview and Scrutiny Committee

9.1 Once they have formed recommendations on proposals for review or development, the Overview and Scrutiny committee will prepare a formal report with any recommendations and it will be submitted through the Chair for consideration by the Executive (if the proposals are consistent with the existing Budgetary and Policy Framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed Budget and Policy Framework). They may nominate one or two members to address the Executive thereon.

9.2 If the Overview and Scrutiny committee cannot agree on one single final report to the Council or Executive as appropriate, then one minority report may be prepared and submitted for consideration by the Council or Cabinet (as the case may be) with the majority report.

9.3 The Council or Cabinet, as the case may be, shall consider reviews and any recommendations or reports of the Overview and Scrutiny committee as soon as practicable thereafter and determine whether to accept some or all of them. Having considered them they should determine the effect of their decision(s); where recommendations are rejected reasons should be provided, and where accepted named officers (where appropriate) should be instructed to implement

them. The Executive should provide a written response from the Leader or relevant Portfolio Holder (who may instruct an appropriate officer to make the response on their behalf) to the Chair of the Overview and Scrutiny Committee explaining the outcome of the recommendations and any effect on their decisions.

10. Making sure that Scrutiny reports are considered by the Executive and the Improvement Board

10.1 The agenda for Executive meetings shall include an item entitled "Issues arising from Scrutiny". Any reports of the Overview and Scrutiny committee referred to the Executive shall be included at this point in the agenda (unless they have been considered in the context of the Executive's deliberations on a substantive item on the agenda) within two months of the Overview and Scrutiny committee completing its report/recommendations.

10.2 Once the Overview and Scrutiny committee has completed its deliberations on any matter it will forward a copy of its report for consideration by the Executive or the Council depending upon whether the contents of the report would have implications for the Council's Budget and Policy Framework. If the report is referred to Council, a copy will also be served on the Leader with notice that the matter is to be referred to Council. The Executive will have 4 weeks in which to respond to such Scrutiny report, and the Council shall not consider it within that period. When the Council does meet to consider any referral from an Overview and Scrutiny committee on such a matter which would impact on the Budget and Policy framework, it shall also consider the response of the Executive to the proposals.

10.3 At the same time or prior to submitting the Report in the manner described in 10.2 above the Overview and Scrutiny Committee will also send the Report or a draft of it, to the Improvement Board for the Board's information or comment.

11. Rights of Overview and Scrutiny committee members to documents

11.1 In addition to their rights as Councillors, members of the Overview and Scrutiny committee have the additional rights to documents and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.

11.2 Nothing in these Rules prevents more detailed liaison between the Executive and Overview and Scrutiny committees as appropriate depending on the particular matter under consideration.

12. Councillors and officers giving account

12.1 The Overview and Scrutiny committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Council functions save that, as provided by Article 6, Overview and Scrutiny committees shall not scrutinize individual decisions of other committees of the Council, particularly in respect of development control, licensing, registration, consents and other particular matters other than within the general context of any wider reviews of policy and shall not act as an appeal forum in respect of any such individual decisions. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the Head of Paid Service and/or any senior officer to attend before it to explain:

12.1.1 any particular decision or series of decisions;

12.1.2 the extent to which the actions taken implement Council policy;

and it is the duty of those persons to attend if so required.

12.2 Where any Councillor or officer is required to attend the Overview and Scrutiny committee under this provision, the Chair of that committee will inform the Proper Officer. The Proper Officer shall inform the member or officer in writing giving reasonable notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the committee. Where the account to be given to the committee will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.

12.3 Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Overview and Scrutiny committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

13. Attendance by others

The Overview and Scrutiny committee may invite people other than those people referred to in Rule 13 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

14. Call-in

14.1 When a decision is made by the Executive, an individual member of the Executive or a committee of the Executive, or a Key Decision is made by an officer with delegated authority from the Executive, or an Area partnership (in the event of any delegation thereto) or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within three days of being made. The Chair of the Overview and Scrutiny committee will be sent a copy of the records of all such decisions within the same timescale.

- 14.2 That notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of three working days after the publication of the decision, unless the Overview and Scrutiny committee exercise the right to call-in within that period.
- 14.3 During that period, the Proper Officer shall call-in a decision for scrutiny by the committee if so requested by the chair or formally by any two members of the Council, and shall then notify the decision-taker of the call-in. The Proper Officer shall call a meeting of the committee on such date as he/she may determine, where possible after consultation with the chair or in the absence of the Chair the Deputy-Chair of the committee, and in any case such meeting shall be held within seven working days of the decision to call-in. The member or members requesting such call-in shall have the right to speak at such meeting, as shall the Leader and relevant portfolio holder or holders.
- 14.4 If, having considered the decision, the Overview and Scrutiny committee is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns, or, in the case of decisions outside the Council's Budget and Policy Framework, refer the matter to full Council as provided in the Budget and Policy Framework Procedure Rules. If referred to the decision making person or body they shall then reconsider as soon as reasonably practicable amending the decision or not, before adopting a final decision, which shall not then be subject to further call-in (provided that if such decision shall negate the previous decision or propose a significantly or entirely different final alternative course of action to that previously considered by the decision taker and Overview and Scrutiny Committee, such further action shall, notwithstanding the foregoing, be capable also of being called in.) In all cases of reference back, the Executive (or other decision taken), shall formally advise the Overview and Scrutiny Committee of their consideration of such referral and their final decision.
- 14.5 If following the call in of a decision, the Overview and Scrutiny committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body, the decision shall take effect on the date of the Scrutiny meeting, or the expiry of the period in which the Overview and Scrutiny Committee should have met, whichever is the earlier.
- 14.6 If the matter was referred to full Council as provided herein and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it will have no power to alter the decision unless it is contrary to the Policy Framework, or contrary to or not wholly consistent with the Budget.

Unless that is the case the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was taken by the Executive as a whole or a committee of it, a meeting will be convened to reconsider as soon as possible thereafter. Where a decision was made by an individual, the individual will reconsider within three working days of the Council request.

14.7 If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.

14.8 In the event that an Executive decision has been taken by an Area Partnership (having delegated power so to do) then the right of call-in shall extend to any other Area Partnership which resolves to refer a decision which has been made but not implemented to the Overview and Scrutiny committee for consideration in accordance with these provisions. An Area Partnership may only request the Proper Officer to call-in the decision of another Area Partnership if it is of the opinion that the decision will have an adverse effect on the area to which it relates. All other provisions relating to call-in shall apply as if the call-in had been exercised in accordance with paragraph 14.3.

14.9 **Exceptions**

In order to ensure that a call-in is not abused, nor causes unreasonable delay, a formal request from two members of the Council to the Proper Officer in writing giving the reasons for such request is required for a decision to be called in. (except in the case of a call in by the Chair of Overview and Scrutiny Committee or a call in under 14.8 above.

14.10 **Call-in and Urgency**

The call-in procedure set out above shall **not** apply where the decision being taken is **urgent**. A decision will be urgent if any delay likely to be caused by the call-in process would seriously 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 Mayor 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 Mayor, the Deputy Mayor'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 urgency.

14.11 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report may be submitted to Council, with any proposals for review if necessary.

15. The Party Whip

When considering any matter in respect of which a member of the Overview and Scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

16. Procedure at Overview and Scrutiny committee meetings

16.1 The Overview and Scrutiny committee shall consider the following business:

16.1.1 minutes of the last meeting;

16.1.2 declarations of interest (including whipping declarations);

16.1.3 consideration of any matter referred to the committee by way of call-in;

16.1.4 responses of the Executive Improvement Board or Council to reports of the Overview and Scrutiny committee;
and

16.1.5 the business otherwise set out on the agenda for the meeting.

16.2 Where the Overview and Scrutiny committee conducts investigations (e.g. with a view to policy development), the committee may also ask people to attend to contribute at committee meetings which are to be conducted in accordance with the following principles:

16.2.1 that the investigation be conducted fairly and all members of the committee be given the opportunity to ask questions of attendees, and to contribute and speak;

16.2.2 that those assisting the committee by giving evidence or otherwise contributing be treated with respect and courtesy; and

16.2.3 that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.

16.3 Following any investigation or review, the committee shall prepare a report of any recommendations or conclusions in the name of the Chair, for submission to the Executive and/or Council as appropriate and shall make its report and findings public.

17. Panels or "Task and Finish" Groups

- 17.1 The Overview and Scrutiny Committee may set up panels (which may be referred to as "task and finish" groups) to assist the Committee in carrying out reviews. Such panels will be given a brief for the work they are required to do, and will be wound up once the task is completed and they have reported back to the Committee.
- 17.2 Such panels will be Sub-Committees appointed by the Overview and Scrutiny Committee. Councillors who are not members of the Overview and Scrutiny Committee may and normally will be approached to sit on the panels. The Overview and Scrutiny Committee may specify who will chair a panel, or may leave the panel to select their own chair.
- 17.3 The provisions of paragraph 16.2 above shall apply with the necessary modifications to the meetings of such panels.

18. PRIVATE MATTERS

Where reports, documents or advice have been dealt with by the Executive or a Committee in private pursuant to Section 100 (1) of the Local Government Act 1972 they shall, in the absence of prior consent from the Executive or Committee concerned, be dealt with in like manner by any Overview and Scrutiny Committee considering the same.

APPENDIX 7

INCLUSION IN PART 5 OF THE CONSTITUTION

THIS IS THE "CONTRACT" between Northampton Borough Council ("the Council"), Cabinet, Overview and Scrutiny Committee and the Improvement Board ("the Board") which the Council has established

1. Background

- 1.1 A comprehensive Performance Assessment carried out by the Audit Commission and published in March 2004 accorded the Council a rating of poor; and a subsequent assessment by the Audit Commission published in June 2005 described the Council's progress in achieving improvement as slow.
- 1.2 The Council recognises the need to take urgent and decisive steps to improve its performance

2. Purpose of the Improvement Board

The purpose of the Improvement Board is to oversee and manage the implementation of all measures necessary to achieve improvement, meet targets and priorities and satisfy the Audit Commission and the Secretary of State that the Council is performing to an acceptable level

3. Commitment to the Improvement Board

The Council as a body together with its Leader and Cabinet, its Committees and all its members hereby states its commitment to supporting and facilitating the work of the Board in achieving the purpose above stated

4. Composition of the Improvement Board

4.1 The Board's membership will be as follows:-

4.1.1 *Council Members of the Board*

The Leader of the Council

Deputy Leader

The leader and deputy leader from each of the 2 main opposition parties

Substitute members (appointed by full Council).

4.1.2 *Co-opted Members of the Improvement Board*

Shall be appointed by the Board

4.2 Only the Council Members in 4.1.1 above will have a vote