



NORTHAMPTON
BOROUGH COUNCIL

Council

Date: 26th June 2006

Item No:

Directorate: Finance, Governance and
Citizens

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Title of the Report:

CONSTITUTION

Purpose of the Report

To seek Council's approval to various changes to the Constitution.

Recommendations

1. Note the Constitutional Review Working Group's intention, at a later stage, to set up a Ways and Means Committee, subject to further consideration by the Group.
2. Agree the various changes to the Constitution outlined in the body of the report
3. Agree to disestablish the Local Joint Committee and agree changes to the way Human Resource Policies for the Employee Handbook are ratified.
4. Appoint Cllr Palethorpe to the Chair of the Community Enabling Fund Advisory Panel instead of Cllr Hadland.

Background

Council will be aware that a cross party Constitutional Review Working Group (CRWG) was charged with reviewing aspects of the Council's Constitution, in order to make it modern and fit for purpose. Since the last Council meeting, the CRWG has met on two occasions. The first meeting on 1 June 2006 was a full day meeting to discuss the priority areas for changes to the Constitution. The second meeting on 15th June refined the thinking on the matter further.

A major priority area chosen by the CRWG was the functioning of Council meetings. This report contains recommendations from the CRWG, in relation to changes to the Constitution for the relevant priority area. The report also contains further suggested amendments which were not discussed by the CRWG, but are recommended for amendments for the reasons stated in the report.

Recommendations from CRWG

(i) Ways and Means Committee

The CRWG very carefully considered the operation of Council meetings. It was agreed that processes needed to be in place to ensure that the business before Council was proactively managed prior to the meeting. The CRWG discussed the establishment of a "Ways and Means Committee". Although styled a Committee, this would not formally be constituted as a committee but would be an internal meeting, with cross party membership, to allow pre-consideration of the Council agenda and associated business.

Suggested Membership:

Group Whips

Mayor

Leader or Deputy Leader

Chief Executive

Director Governing (as the Director responsible for the service area)

Monitoring Officer

NB Substitutes would be able to attend and in exceptional cases the Mayor's nominee could attend instead of the Mayor.

(ii) Business of the Ways and Means Committee

The Ways and Means Committee would comment or set the agenda for Council meetings; determine the order of motions; consider petitions and decide how these would be dealt with. For example petitions with extensive public interest could be referred to a sub-committee of Council and the Ways and Means Committee could, if appropriate, refer a petition to another decision-making body, for example Cabinet.

The above represents the line of thinking of the CRWG. However, it is important to note that the CRWG has not completed its deliberations on this the issue, and implementation of the Ways and Means Committee will take place at a later stage. The CRWG will consider a full paper outlining the possible workings of the Ways and Means Committee, taking into account best practice from other Councils. A further report outlining the final recommendations will, in due course, be brought to Council for authority to implement the changes.

(iii) Council Meetings – Changes to the Constitution

The operation and conduct of Council meetings were considered by the CRWG.

It was agreed that there needed to be clear timeslots for various aspects of the Council meeting.

Timeslots would be agreed by the Ways and Means Committee for motions and amendments. The allotted time period would be flexible, depending on how many motions were to be considered by the Council meeting, the business to be considered by Council and the actual content of the motion.

The intention is for the timeslots for motions to be implemented immediately. Pending the establishment of the Ways and Means Committee, it is proposed

that the constitution be amended to enable the mayor to make the decision on the allocation of time slots in consultation with the Leader and the Chief Executive. The way it will work in practice is that the Mayor will announce the allocated timeslots for motions at the start of the meeting. After the allotted time the guillotine will fall and the item will automatically be put to the vote. Constitutional changes will be made to implement all the above, including the use of the guillotine.

Question Time

The CRWG have developed a major innovation in the way Council deals with questions from Councillors and members of the public. This innovation is supported by research which shows that many councils, including many highly rated councils have a “question time” slot.

It is proposed that a public question time will provide for a slot for questions from members of the public and Councillors to the Leader and Chairs (or if unavailable the deputy chairs) of the Council’s committees, for example, Overview & Scrutiny, Improvement Board, Cabinet etc. The questions will have to be related to the work of the individual (in the case of the leader) and the Committees concerned.

Given the quasi-judicial nature of decisions by the regulatory committees i.e. Planning and Licensing committees questions on the work of these committees will **not** be allowed.

Questions will have to be submitted, to Meeting Services, in writing, at least five clear days before the Council meeting. The questions will be responded to in the order they are received. A maximum thirty-minute timeslot will be allotted for this question time.

In relation to public questions, protections will be drafted into the Constitution that will give the Monitoring Officer powers, which will be used in consultation with the Chief Executive and Group Leaders, to decide whether public

questions should be excluded because they are either not relevant to the Council's functions, are vexatious, libellous or otherwise repetitious.

Questions will be read out and once responded to, only one supplementary question, based on the response will be allowed, at the discretion of the Mayor.

Once the timeslot for the question time has been reached the guillotine will automatically fall and questions not considered at the meeting will be responded to in writing.

After the thirty-minute public question time, ten minutes maximum will be allotted for Councillor questions for Portfolio Holders. The questions will be based mainly on the presentations given by the Portfolio Holders. There will **not** be a requirement for these questions to be provided in advance.

Motions - Public Speakers

Members of the public will be given an opportunity to speak on motions. However, a maximum of two will be allowed to speak for and a maximum of two will be allowed to speak against any motion. Proposed speakers will need to give notification to meeting services by 12 noon, on the working day before the Council meeting of their intention to speak. The right to speak will be based on the order the requests are received by meeting services. Each speaker will be allowed a speaking time of three minutes.

It is important to note that apart for speaking on motions and utilising the facility under question time, members of the public will not, as of right have an opportunity to speak at Council meetings.

Portfolio Holder Presentations

Portfolio Holders presentations will be made, to each Council meeting, outlining areas, and activities of interest to the relevant Portfolios. Eighteen minutes maximum will be allotted for these presentations. This amounts to three minutes maximum for each Portfolio. It is anticipated that Portfolio

Holder presentations will be submitted prior to the meeting and will be in bullet point format. Portfolio presentations can be taken as “read”, should the Portfolio Holder wish.

Protocols

It was agreed by the CRWG that the following protocols, which have been agreed by Overview and Scrutiny committee would form part of the Constitution:

- Call-in Protocol
- Co-Optees Guidance Booklet
- Inclusion of Non-Executive Councillors in the Scrutiny process
- Public Address at Overview and Scrutiny Committee
- Witness Protocol and Guidance Notes
- Witness Protocol and Guidance Notes
- Work Programme Protocol

Councillors should already have seen or received copies of these documents and in order to save unnecessary duplication the documents have not been appended to this report. However, copies will be provided to any councillors you require them.

Particular Amendments to Standing Orders

The CRWG discussed Standing Order 3.4. This Standing Order automatically refers a matter to Cabinet. In practice, this Standing Order has required an almost automatic request for suspension of the Standing Order concerned. Therefore, the CRWG were of a view that this Standing Order had no useful purpose and should be deleted.

Standing Orders were also to be amended to require motions to be submitted in a pre-determined format, i.e. properly structured and paragraphed. The point of the exercise is to ensure that the motion communicates each idea within it, clearly and effectively, so as to enable proper and effective debate on

the various facets of the motion. It is proposed that an additional Standing Order item be inserted into the constitution.

Standing Order 3.6.8 is to be amended to require amendments to motions to be provided in writing and available to all members, at or prior to the Council meeting itself.

The Right of Councillors to Speak at Improvement Board/Cabinet Meetings

The CRWG also considered whether Councillors should speak, as of right, at Cabinet and Improvement Board meetings. It was agreed that Councillors should be given a right to speak at Cabinet and Improvement Board meetings, although they would not sit at the table.

There are many advantages and disadvantages to this. For example, where Cabinet type decisions are being made the legislation has set up a system whereby Cabinet would be clearly identified to and therefore accountable for decisions made by Cabinet. By allowing other Councillors to participate in the debate, there is a danger that the accountability lines may become blurred. The CRWG therefore agreed to trial this for six months following which a decision will need to be made as to whether this should be a permanent arrangement.

Length of Council Meeting

It was agreed by the CRWG that the guillotine would automatically fall at 10:30 pm unless Council agreed by vote, prior to the guillotine falling, to extend the Council meeting. This would mean that the Council meeting would automatically end at 10:30 pm. All business not transacted when the guillotine falls, would either be deferred to the next Council meeting or would be deemed to be agreed. It is important to note that the Constitution will be amended so that items not considered will automatically be deemed to be agreed unless Council specifically identifies items to be deferred to a future meeting.

Key Decisions

The term “key decision” has a specific technical definition in law. Key decisions are in essence the large, more important decisions made by the Cabinet. A number of implications flow from the categorisation of the decision as a key decision. A key decision needs to appear on the Council’s Forward Plan before it can be made (unless the emergency provision in the Constitution applies). The reason being that members of the public and other Councillors should have clear, prior warning of the larger more important decisions. There is a definition of key decision in the Local Authorities’ (Executive Arrangements) (Etc) (England) Regulations 2000. However, the definition is not extensive and it is permissible for the Council to define further what it means by key decisions in its Constitution. It would be of benefit to have a definition that is a bit more extensive and substantive than the statutory definition. It is therefore proposed that the following definition be adopted at Council’s definition of key decision.

- *Any decision in relation to an Executive function which results in the Council incurring expenditure which is, or the making of savings which are significant having regard to the Council’s budget for the service or function to which the decision relates. For these purposes the minimum financial threshold will be £50,000.*
- *Where decisions are not likely to involve significant expenditure or savings but nevertheless are likely to be significant in terms of their effects on communities in two or more wards or electoral divisions.*
- *For the purposes of interpretation a decision which is ancillary or incidental to a Key decision which has been previously taken by or on behalf of the Council shall not of itself be further deemed to be significant for the purposes of the definition.*

Call-In Times

Members of the CRWG were concerned about the requirement for call-in hearings to be completed within seven working days, failing which a decision could be implemented. There are sound reasons why very tight timescales apply. A balance needs to be struck between the rights given to a Scrutiny Committee to scrutinise an Executive decision and the ability of the Executive to go about its business. An effective call-in, in effect, suspends the decision. Therefore, too long a call-in hearing period could slow down implementation of

Executive decisions and thereby slow down the decision-making processes of the council.

It was agreed by the CRWG that amendments to the Constitution should be made to enable call-in hearings to take place between seven and twenty one days. Seven days would be the norm, but there would be a facility, in exceptional cases for this to be extended to twenty-one days at the Chief Executive and the Monitoring Officer's discretion.

It is proposed that Changes to the Constitution be allowed to enable this to happen.

CHANGES NOT CONSIDERED BY THE CRWG BUT WHICH ARE RECOMMENDED

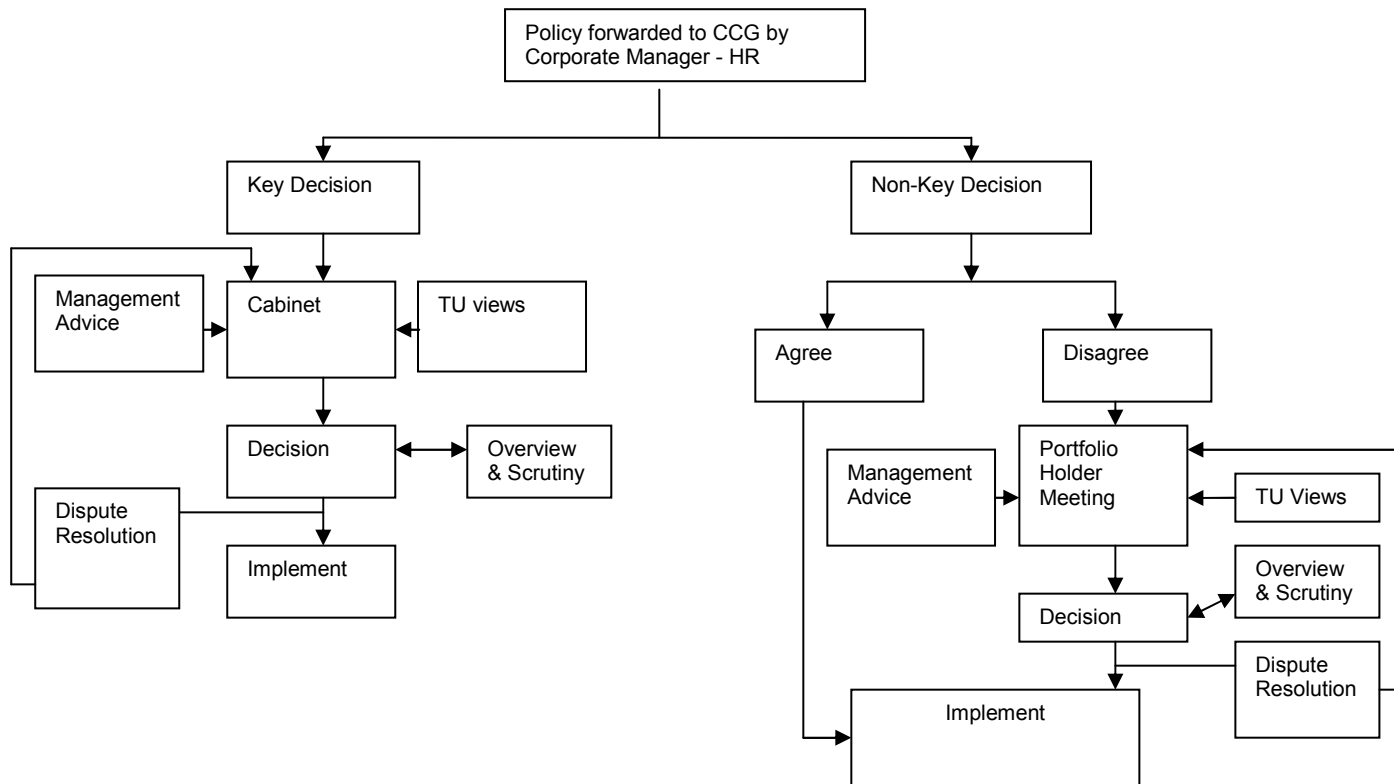
As stated earlier the CRWG met to consider priority changes to the constitution. However, there are other changes required which could not, because of time constraints be considered by the CRWG but which are nevertheless required. The suggested changes are outlined below.

Local Joint Committee

Trade Unions and Management have recently revised the Corporate Consultative Group which has become the forum for the exchange of information, views, communication and formal consultation and negotiation. Specifically discussion at the Corporate Consultative Group will take place on major strategic plans and priorities, HR policies and their application, and structural changes. It acts as a link for other joint forums, e.g., Pay and Grading Review Project Team, HR Policy Review Group and local consultative bodies. The CCG meets monthly to a jointly agreed agenda.

Local Joint Committee (LJC) has met quarterly and involves nominated Councillors in addition to the Trade Union and Management sides. It is a further consultative body but does not have formal decision-making powers. Agendas usually derive directly from CCG and often duplicate the same items.

In order to rationalise and increase the effectiveness of decision-making in this area it is proposed that the LJC be disestablished and the route for the adoption and consultation on human resource policy follows the route outlined diagrammatically below.



By way of explanation, it is proposed that Human Resources policy ratification for the employee handbook be referred to Cabinet (for Key decisions) and to the Portfolio Holder for non-key decisions. In accordance with good industrial relations practice there will be the facility for Trade Union and management views to be fed into the decision-making process with a dispute resolution procedure, which could include mediation through ACAS, or any such similar body. Where the dispute resolution procedure changes the cabinet or portfolio holder decision, there will be a need for the decision-making to taken through the cycle and back to Cabinet and Portfolio holder for decision.

Certain employment type decisions cannot be made by Cabinet or the portfolio Holder, because they are excluded from so doing by the Local Auths (Functions & Responsibilities)(England) Order 2000 . For example the determination of terms and conditions on which employees hold office. Where such decisions are required then it

is proposed that the Officers Scheme of delegation be amended to allow these decisions to be made by a Corporate Director or the Head of Paid Service.

Changes in Nomination Community Enabling Fund Advisory Panel

At the Annual Council meeting, Cllr Hadland was appointed to this group. This was an error as Councillor Palethorpe, whose portfolio responsibility this group falls under should have been nominated to the group. Council is asked to appoint Cllr Palethorpe instead of Cllr Hadland as the chair of the group.

Background Papers

Constitution File FJF

Various Government Circulars