



NORTHAMPTON
BOROUGH COUNCIL

Council

Date: 28 September 2006

Item No:

Directorate: Finance, Governance and
Citizens

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**Report of the Constitutional Review
Working Group**

Title of the Report:

CONSTITUTIONAL CHANGES

Purpose of the Report

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

Recommendations

1. To agree the setting up of a Business management group (BMG).
2. Agrees the changes to the constitution outlined in this report.

Background

Council will be aware that a cross party Constitutional Review Working Group (CRWG) was tasked with reviewing the Council's Constitution, in order to make it modern and fit for purpose. The CRWG has met on four occasions. The first

meeting was on 8th March. The second meeting was on 1st June 2006 and was a full day meeting to discuss the priority areas for changes to the Constitution. The third meeting on 15th June refined the thinking on the matter further. The fourth meeting on 21 August 2006 considered the whole issue again, following a reference by Full Council. This report contains the CRWG's recommendations to Council

The meeting on 21 August 2006 was, in addition to the normal group membership, attended by Cllr Tony Woods (all leaders were invited) and two group coaches.

There was clear agreement on the way forward and this report represents the group's recommendations on the changes required to the way Council operates and the changes to the Constitution.

It was also agreed that a new constitution would be brought to the November Council meeting for adoption. The new constitution will contain all changes agreed in this report and others already agreed by Council.

Recommendations from CRWG

(i) Business Management Group

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 efficiently, effectively and proactively managed prior to the meeting itself. The CRWG discussed the establishment of a "Business Management Group" (BMG). This group would not formally be constituted as a committee. It would be an internal meeting, with cross party and Officer membership outlined below.

Membership:

Group Whips (or representatives)

Mayor

Chief Executive

Monitoring Officer

(ii) Business of the Business Management Group

The Business Management Group would comment or set the agenda for Council meetings; agree 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 Business Management Group could, if appropriate, refer a petition to another decision-making body, for example Cabinet.

The issue of the legality of motions was discussed and it was agreed that it was imperative for all motions to be lawful in terms of what the motion was asking Council to do. It was agreed that the Monitoring Officer would be required to consider the legality of a motion and the constitutional power to rule a motion as unlawful. Such motions would not be accepted on to the Council agenda.

Further, it was agreed that to facilitate a better understanding of the issue of legality of motions generally the Monitoring Officer would provide guidance to Councillors, through a Monitoring Officer briefing note on the legality of motions.

(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 BMG 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.

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 slot will be provided for questions from members of the public and Councillors. The questions will be to the Leader, Portfolio Holders and Chairs (or if unavailable the deputy chairs) of the Council’s committees, for example, Overview & Scrutiny, Cabinet etc. The questions will have to be related to the work of the individual (in the case of the leader) and Portfolio Holders and the Committees concerned.

In relation to questions to Portfolio Holders, this slot will absorb the current question facility contained in procedure rule 5.

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 following order. Questions from Councillors will be considered first and in the order they are received and questions from members of the public will be considered next and in the order they are received.

The Mayor will have the discretion to rearrange the order of questions to ensure that there is a proper balance between Councillor and member of the public questions.

Individual Members of the public will be allowed to submit no more than two questions per meeting.

Written answers to all questions will be prepared in advance of the meeting and circulated to Councillors and others at the meeting as soon as they are available.

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.

Motions - Public Speakers

Members of the public will be given an opportunity to speak on motions and on any item of relevance on the agenda. However, a maximum of two will be allowed to speak on any motion. Further, no member of the public will be allowed to speak more than once at the same meeting unless there are exceptional circumstances that the Mayor deems relevant. The Mayor will have the discretion to allow particular speakers such as experts to speak on a motion if appropriate. 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 maximum 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.

Motions- Amendments

It was agreed that any amendments to motions would be circulated at least half an hour before the Council meeting and that the amender of the motion would be responsible for their own copying and circulating of the amendments. It is proposed that the Mayor be given the clear discretion to disallow an amendment not complying with this rule.

Portfolio Holder Presentations

Portfolio Holders presentations will, if appropriate, be made to each Council meeting, outlining areas and activities of interest to the relevant Portfolios. Thirty minutes maximum will be allotted for the presentations and questions. Three minutes maximum will be allowed for each portfolio, with the residue of the time being used for questions from Councillors. 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.

The CRWG were of the view that verbal presentations by Portfolio Holders should be the exception and not the rule. The group were clear that there needed to be a proper balance between the time allotted between oral presentations and questions. The group concluded that the Mayor should have the discretion to extend the time slot or cut down the oral presentation, so as to enable proper and effective questioning by Council.

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
- 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 who 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 will be amended to require motions to be submitted 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. However, minor amendments can be allowed at the discretion of the Mayor. Any amendments would need to be circulated at least half an hour before the Council meeting and the amender of the motion would be responsible for copying and circulating the amended notes.

The Right of Councillors to Speak at Cabinet Meeting

The CRWG also considered whether Councillors should speak, as of right, at Cabinet meetings. It was agreed that Councillors should be given the right to speak at Cabinet meetings, although they would not sit at the table. It was agreed that the Chair of Cabinet would have the discretion to control the number, length and engagement with the Cabinet at any such meeting.

There are many advantages and disadvantages allowing all Councillors to speak at Cabinet meetings. 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 then be decided by a vote (without discussion) on the following terms. The report would be accepted, rejected, referred, deferred or withdrawn.

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.

Background Papers

Constitution File FJF

Various Government Circulars