

Item No.

13



NORTHAMPTON
BOROUGH COUNCIL

Ward/s ALL

Name of Group:	COUNCIL
Meeting Date:	24 May 2007
Directorate:	Chief Executive's
Corporate Manager:	Francis Fernandes, Solicitor to the Council
Agenda Status:	

Report Title	POLITICAL STRUCTURES
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Recommendations

1. That the Council makes the following changes to its executive arrangements and to its political structures:
 - 1.1 That the Leader be given the flexibility to appoint (and remove) the Members of the Cabinet within the statutory limits of a minimum of two and a maximum of nine; and for the Leader to determine and allocate the portfolios for himself and the other Cabinet Members. Any changes under this head will be reported to Council for information.
 - 1.2 That there be three Overview and Scrutiny Committees and a Scrutiny Management Committee as described in Section 5 of the Report.
 - 1.3 That there be an Appointments and Appeals Committee with the terms of reference set out in Section 6 of this Report.
 - 1.4 That there be a General Purposes Committee with the terms of reference set out in Section 7 of this Report.

- 1.5 That there no longer be a Tree Panel as a Committee of the Council; that the functions of the Tree Panel are transferred to the Planning Committee.
- 1.6 That the Council's guidelines for Open Government be amended in respect of Cabinet meetings by the introduction of a requirement that persons wishing to address Cabinet must register their intention to do so by 12 noon on the day of the meeting and by having an overall time limit of thirty minutes during which all such addresses must be made, with powers for the Chair to vary the requirements according to the circumstances.
- 1.7 That the Cabinet is empowered to set up Committees of the Cabinet according to its needs which can have delegated powers to take executive decisions.
- 1.8 That the Scheme of Delegations for Members be simplified as described in Section 3 of this report, together with a simplification of the associated protocol.
- 1.9 That the Solicitor to the Council make the necessary amendments to the Council's Constitution to accord with the changes set out above, and that a further report containing the Constitutional changes be brought to the next Council meeting.
- 1.10 That the Constitution, as amended, be reviewed in twelve months time by a working group to be set up at a future meeting.
- 1.11 To note that structures currently in operation and not amended by this report will continue in their current form.
- 1.12 That amendments to the Constitution allow the guillotine at Council meetings to fall at 9.30 pm.

Background

This report seeks decisions in principle on various changes to Member level structures that are clear, effective, responsive and which ultimately support clear political leadership. The report seeks adjustments in principle to the Council's executive arrangements and seeks to establish a number of new Committees and disestablish other Committees.

A: EXECUTIVE DECISION-MAKING

1. The Leader and Cabinet

- 1.1 The Council's Constitution currently provides for a Cabinet of 6 (including the Leader). Full Council appoints the Leader and the Portfolio-Holders, with the Leader having a limited power to allocate predetermined portfolios. Currently the Constitution only allows the Council to remove Portfolio-Holders or change the scope of the portfolios.
- 1.2 The executive arrangements available to the Council under the Local Government Act 2000 are varied. Even within the Leader and Cabinet form which the Council adopted there are various options. At one end of the spectrum, Council could keep control and retain the power to appoint (and remove) the Cabinet as well as keep a close control on the portfolios themselves. At the other end of the spectrum the Leader would have powers under the constitution to appoint to and remove members from the Cabinet and well as choosing the portfolios themselves. Hybrid arrangements along the spectrum are possible. However, Full Council will always need to elect the Leader of the Council and will have the power to remove the leader.
- 1.3 The Council is working within a difficult and challenging environment and there is an intense external and internal focus on improvement. There

is, therefore, a clear need for the executive to be given the capacity to focus on improvement and also to address some of the failures identified by the Audit Commission's progress assessment published in February 2007, particularly the criticisms of poor political leadership.

- 1.4 In order to address these important issues this report seeks authority to change the Constitution to allow the Leader maximum flexibility to choose the number in his Cabinet (subject to statutory maximum of nine); identify and realign portfolios according to the Council's needs; allocate the portfolios and remove or reshuffle portfolio holders. Under this model the Leader will be able to respond quickly and effectively to changing circumstances and ensure that executive decisions reflect the Council's needs in a timely and effective way. The Leader will, of course, remain fully accountable to Council.

2. Delegated Decision-Making Cabinet Structures

- 2.1 Currently, the law allows Executive decisions to be made by:
- Cabinet Collectively
 - Cabinet Committees (delegated powers granted by Cabinet)
 - Portfolio Holders (including the Leader) – as delegated powers
 - Officers (as delegated powers).
- 2.2 Again, whatever the delegation accountability quite clearly remains with the executive, for executive decisions. The executive will retain accountability for executive decisions as well as the decision to delegate a matter, to for example officers.
- 2.3 The Council's current Constitution allows executive decisions to be made as follows:
- (i) Cabinet - collectively
 - (ii) Portfolio Holders - non-key decisions only
 - (iii) Officers – as identified in the Scheme of Delegations in the

Constitution.

- 2.4 There is a clear need, in order to enhance the effectiveness, efficiency and capacity of the Council's main decision making structures, for the relevant decisions within the scheme of delegations to be considered at the appropriate level. Broadly, Cabinet as a body should focus on broad strategic decisions, or issues that needed collective consideration; portfolio holders should focus on more operational issues and officers should be empowered to determine operational issues.
- 2.5 Guidance from the DETR (as the government department was then known) emphasises the importance of delegation by the Executive to Officers to prevent the Executive from "*becoming overwhelmed by a large volume of very detailed managerial, operational and professional matters*" (DETR guidance on Council Constitutions- paragraph 4.20).

3. Delegated Decision- Making Portfolio Holders.

- 3.1 Currently in the Council's Constitution the scheme of delegations for portfolio holders operates as follows:

Executive decisions are delegated to portfolio holders, for non-key decisions only (the Leader can however, in urgency cases make key decisions). For these types of decisions a notification procedure which mirrors the statutory forward plan applies. Therefore, there is a requirement for a delegated decision list to be published fourteen days before it takes effect at the beginning of the month with the delegated decision list covering a rolling four-month period. The delegated decision list is published and updated monthly.

- 3.2 From when the list is published to when it takes effect (fourteen days) members of the public or Councillors can request that an item on the

list is considered at a public meeting. If a notification within time is received by Meeting Services, the item is automatically referred to a public meeting and normal rules with regard to the publication of agenda, public notifications etc are then followed.

3.3 Where there is no request for a public meeting within the fourteen days the relevant portfolio holder is able to make a decision (not in public) subject to the following requirements:

3.4 The Council has been operating this system since last October. To date no member of the public has asked for a public meeting on any item determined by a Portfolio Holder.

3.5 The system currently used is cumbersome and has structural delays in decision-making. There is also a possibility that this system may be confused with the statutory forward plan.

3.6 There is a real need for Portfolio-Holders to be empowered to make decisions effectively and efficiently without the need for a quasi forward plan, which does not have any statutory basis whatsoever and which reduces business effectiveness.

3.7 However, clear accountabilities will remain for all decisions made by Portfolio-Holders in the following ways:

- (i) all decisions will need to be made in accordance with the delegated decisions protocol in the Constitution;
- (ii) all decisions will be published with a clear identification of the Portfolio-Holder that made the decision (to enhance accountability);
- (iii) normal call in procedures will apply.

3.8 If Council agrees this, a protocol will be brought to the next Council meeting for approval, together with a readjusted scheme of delegations

for portfolio holders.

4. Public Addresses at Cabinet Meetings

Under the Council's guidelines for Open Government the same rules apply to speaking at Cabinet as apply to most Council Committees i.e. members of the public may with the Committee's/Cabinets permission make an address of up to three minutes duration on any item on the published agenda for the meeting. In order to have consistency it is proposed that a requirement be added for Cabinet meetings (as happens with Planning Committee) that persons must register their intention to speak by 12 noon on the day of the meeting. In order to ensure that there is a focus on the decision making role of Cabinet it is further proposed that an overall time limit for such addresses be imposed of thirty minutes (i.e. a maximum of ten speakers.) These changes should help achieve better management of Cabinet meetings. The Chair will be given powers to vary or set aside arrangements according to the circumstances.

5. OVERVIEW AND SCRUTINY COMMITTEES

5.1 Up to 2005 the Council had seven separate Overview and Scrutiny Committees, each reflecting a portfolio. As part of the Constitutional changes made in September 2005 this was streamlined down to a single Committee, supported by various ad hoc task and finish groups. Whilst this has proved effective, it has been difficult to maintain the necessary breadth of overview across the range of the Council's activities.

5.2 It is therefore recommended that the number of Overview Scrutiny Committees be increased to three, in addition to a Scrutiny Management Committee. The Committees will mirror the executive portfolios and will be identified as OS1; OS2 and OS3.

The Three Overview and Scrutiny Committees will cover the areas outlined in Appendix 1 (which mirror groups of portfolio responsibilities):

- 5.3 Details of suggested co-option arrangements onto Scrutiny Committees from outside bodies or interests will be brought to the next Council meeting.
- 5.4 The Scrutiny Management Committee will co-ordinate the work of the Overview and Scrutiny Committees to avoid duplication and ensure that suitable arrangements are made where the remit of the Committees overlaps; and to assign to one of the Committee any areas which arise where it is not clear which Committee's remit they fall under. The Management Committee will also consider issues, such as training needs, which are relevant to the overall scrutiny function of the Council. Details and terms of reference of the Scrutiny Management Committee will be brought to the next Council meeting.

6. APPOINTMENTS AND APPEALS COMMITTEE

- 6.1 The Council's Employment Procedure Rules provide for the Head of Paid Service (Chief Executive) to be appointed by full Council on the recommendation of a Committee or Sub-Committee in accordance with statute and for certain other key officers to be appointed by a Committee or Sub-Committee. However, no standing Committee to exercise these functions was created until February of this year when an Employment Committee was established to exercise those functions, among others. That Committee comprised only three members, one from each of the political groups. Given the changed situation after the election the make up needs to be reconsidered.
- 6.2 It is recommended that an Appointments and Appeals Committee be established with the following terms of reference and powers:

- To oversee the recruitment of persons to the following post as required:
 - Head of Paid Service (Chief Executive)
 - Director
 - Chief Finance Officer (Section 151 Officer)
 - Monitoring Officer
- To consider and agree in respect of such posts the job description; person specification; expenditure in relation to such recruitment (including advertising); interview procedures; and long-listing and short-listing of candidates, and other associated procedures.
- To interview Short-listed candidates.
- In the case of Head of Paid Service to make a recommendation to Council regarding the appointment.
- In the case of the other officers to make the appointment.
- To act as a Staff Appeals Committee in relation to any disciplinary or capability issues affecting relevant staff.

6.3 Currently the Council's Constitution contains an omission in that it does not have provisions to deal with the complex procedures involved with the taking of disciplinary action against Statutory Chief Officers. It is normal for Constitutions to have these provisions. The Appointment and Appeals Committee will have these issues within its remit.

6.4 It is intended that more general functions regarding employment should fall to the General Purposes Committee referred to below.

6.5 It is recommended that the current Employment Committee is disestablished.

7. GENERAL PURPOSES COMMITTEE

7.1 The Council's previous General Purposes Committee was removed in 2005 to establish focus and prioritisation on key decision-making structures, such as the Improvement Board.

7.2 However, there is a now need to re-establish the committee to be responsible for areas that do not fall within the powers of the executive and which, given full Council's current focus, need to be considered at committee level (as opposed to Full Council). This committee would deal with general issues such Health and Safety issues; employment issues (other than those considered by the Appointment Committee); electoral issues etc.

7.3 It is recommended that the formal terms of reference for the Committee is as follows:

To exercise those functions which under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, or other relevant legislative provision, are not to be the responsibility of a local authority's executive; and which have not been made the responsibility of any other Committee of the Council and are not functions that only the full Council can exercise (whether by law or under any provision of the Constitution or because of a specific direction or election by Council to that effect).

8. TREE PANEL

In 2005 the Tree Panel was constituted as a Committee of the Council, although it had been operating for some years before that on a less formal basis. The panel has met fairly infrequently and it is proposed to disestablish it as a separate committee. Instead the function can be assigned to the Planning Committee which will be empowered to appoint ad hoc sub-committees to deal with cases as they arise.

9 Other Issues

9.1 Council meetings normally start at 6.30 pm. The Constitution currently allows the meeting to continue until 10.30 pm, after which the guillotine

falls and items are either agreed (without debate), deferred or referred.

9.2 As things currently stand the guillotine falls four hours after the commencement of the meeting. In order to enhance the effectiveness of the meeting, it would be prudent to limit the meeting to three hours maximum. This would mean that the guillotine would fall at 9.30 pm.

10. Background Papers

- Constitution file
- Various Government circulars
- Various CPA inspections and progress reports

John Edwards
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