



**NORTHAMPTON  
BOROUGH COUNCIL**

Council

Date: 27 March 2006

Item No:

**Directorate:** Finance, Governance and  
Citizens

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**Title of the Report:**

Political Structures and Miscellaneous  
Matters

**Purpose of the Report**

**To seek Council's approval to a number of changes to the Constitution and  
some miscellaneous matters outlined in the report**

## Recommendations

Council notes the report and:

- (i) Delegates powers to the Solicitor to the Council to make changes to the Constitution to enable delegated decision-making by Cabinet members to be made in the format outlined in the report.
- (ii) Agrees the changes to the format of Council meetings and delegates powers to the Solicitor to the Council to make changes to the Constitution (including standing orders) to implement the changes
- (iii) Agrees the principle of using a formula based approach for appointing the Mayor from May 2007.
- (iv) Confirms the appointment of the Chair and Deputy Chair of the Improvement Board.
- (v) Appoints any necessary members of the Cabinet and delegates powers to the Leader to assign portfolio responsibilities to members of the Cabinet.
- (vi) Appoints Councillor Roger Conroy to the Licensing Committee

## Background

An important aspect of the review of the Council's political structures is the use of delegated decision-making powers by Portfolio Holders. The concept of delegated decision-making has already been agreed by Council. One of the matters that needs resolution is how the decisions are actually made.

Council considered a report on 23 January 2006, which, amongst other things, recommended changes to allow delegated decision-making by Portfolio Holders to take place in non-formally constituted meetings subject to certain criteria.

Following that Council meeting, the Constitutional Review Working Group (CRWG) met on 8 February 2006 to consider a number of issues referred to it by Council.

A verbal update of discussions was given to the Improvement Board on 16 February 2006, and a further update report taken to Council on 27 February 2006. The CRWG undertook to bring its proposals to this Council meeting.

The CRWG met on 8 March 2006, to firm up its recommendations to Council in relation to three areas:-

1. The format of meetings for delegated decision-making.
2. The format of Full Council meetings.
3. Mayoralty formula.

### **Delegated Decision-Making**

The Local Government Act 2000 brought about a sea change in the way Councils operate in order to make "*decisions more efficient, transparent and accountable so that local authorities can be more open and responsive to the needs and aspirations of the communities they serve.*" (DETR guidance – new Constitutions). The Leader and Cabinet model, which in many ways emulates the parliamentary model, for the first time allows individual Portfolio Holders to make decisions and the legislation and its associated regulations clearly facilitate this.

The Government approach has been to encourage delegation and to ensure that there is clear accountability for the decisions made. Therefore, Councils have to ensure that it is clear who is responsible for a decision, how the public can access information and input in the decision-making and that there is effective scrutiny of decisions made.

The changes suggested in this report comply with the letter and spirit of the legislation.

### **What Other Councils Do**

Research was conducted on the delegated decision-making processes of a number of Councils chosen randomly. The findings of the research can be found at Appendix 1.

Local authorities can be placed on different ends of a continuum in terms of their approach to using delegated powers. At the extreme end of the continuum is Westminster City Council. The Council, as indicated in its Constitution, gives Portfolio Holders very broad and extensive delegated decision-making powers. Most executive decisions are made by the Portfolio Holders using delegated powers. It is only the very large and important decisions that are made by the Council's Cabinet. Many (if not most) of the decisions are made in private.

However this model does not in any way violate the ethos of openness and accountability outlined in the Local Government Act 2000 or related government guidance. The protection imposed by the law are still applied. Pre-decision requirements ensure that there is an opportunity for individuals to input into a decision before it is made and that other Councillors and the public are clear who made the decision; what that decision was and that there are effective scrutiny arrangements to influence the decision if need be. Key decisions are, as required by the law, made in public.

At the other end of the continuum, lies Chester City Council which does not have powers specifically delegated to Portfolio Holders and decisions are made collectively by Cabinet in a model of governance that is similar to the one currently used by NBC. This model does not enjoy many of the benefits offered by the Local Government Act 2000.

There are various hybrid models used by other Councils which lie along various ends of the continuum. The approach suggested in this report represents a further innovative hybrid model that seeks to enhance efficiencies in decision-making but has the facility for meetings to be held in public, if Councillors or members of the public require this.

### **Constitutional Review Working Group Recommendations**

The CRWG met and considered the approach NBC should adopt. The following has been agreed by the CRWG.



Prior to the making of delegated decisions, a Non-Statutory "Delegated Decision List" will be prepared and published on the inter/ intranet. The list will be fairly similar to the list provided for the Forward Plan, although care will be taken to ensure that the two lists are not confused. In order to maintain consistency the Forward Plan and the Delegated Decision List will be published as separate documents. The Delegated Decision List will mirror the publication dates for the Forward Plan.

### How it will work in practice

The Forward Plan comes into effect on the first working day of each month and covers a four month period, looking forwards. The actual statutory publication date for the Forward Plan is at least 14 days before the list comes into effect i.e. at least 14 days backwards from the first working day of each month. An updated Forward Plan is published each month.

The Non-Statutory Decision List will be published on exactly the same dates as the Forward Plan. Therefore, when the Non-Statutory Decision List is published, Councillors and members of the public would have at least 14 days within which to indicate which item on the list they would want to be considered in public. Councillors should be aware that at this stage it is unlikely that the full report will be available. Councillors and members of the public will therefore need to form a judgement about whether to request a public meeting, from an explanation of the decision to be made, in the subject line of the Decision List. Once the 14-day window has passed, Councillors or members of the public will not have an opportunity to request that the matter be heard in a public meeting, unless they have complied with the notification within the 14 days. The Decision List will be updated each month and re-published at least 14 days before it takes effect. Councillors or members of the public will only be able to request public meetings in relation to new items in the updated list.

If Councillors or members of the public have complied with the 14-day rule, the item identified for a public meeting will be considered at a public meeting in the normal way i.e. an agenda and report will be prepared and published.

All delegated decisions by Portfolio Holders will be made on the basis of reports prepared by Officers in the normal way. The report structure and format will, in the main, be similar to that currently used for Cabinet. The same rigour and depth of analysis will be required in the report and Portfolio Holders will have access to the same level of Specialist Officer support, for example legal and financial advice before the decision is actually made.

It should be noted that normal rules regarding exempt reports will apply, this would include circumstances where, for example, commercially sensitive or personal information was being considered. Therefore, if a report does contain exempt information as defined by the Local Government Act 1972 then this will be considered in private.

### **Delegated decision-making where no prior notification of requirement for a public meeting**

Where Portfolio Holder delegated decisions are not to be made in public meetings (where the requirement for a public meeting has not been triggered by a Councillor or a member of the public) there will be an additional requirement for the report to be published on the intranet and a decision will not be made until 5 clear days from publication has passed. This would mean that Councillors would have a 5-day window within which to read any reports published, and to pass any relevant comments to the Portfolio Holder or officer concerned. After the 5 days has passed the Portfolio Holder would be able to sign off the decision. A formal notification of the decision will then be published in a pre-determined format (Decision Notice) on the inter/intranet and Councillors would have a further 3 days from publication to call-in the decision, if appropriate.

Processes will immediately be put in place to ensure that the Chair of Scrutiny will automatically receive a copy of the Decision Notice as soon as the decision is available.

There will be protection in the Constitution to prevent **abuse of the requirement** for a delegated meeting to be held in public, for example **where block requests are made** for decisions to be referred to public meetings, **without good reason.**



A special urgency provision similar to the one in the Constitution (Part 5, clause 16, pp 4.24) will be drafted to apply to the decisions made by Portfolio Holders. This will allow a decision to be made, in exceptional circumstances, even if it does not appear on the Decision List as long as the Chair of Scrutiny, or if he is unavailable the Mayor or if she is unavailable the Deputy Mayor agrees that that the decision cannot for good reason be deferred.

Processes will also be in place to support Councillors in understanding and using the new system.

There will be a 6-month review, by the CRWP on how the new system is working and all Councillors will be encouraged to share their experiences and input into the review. A report outlining the review and proposing any necessary changes will be brought to Council soon after the review period.

A flow chart illustrating the main steps in the new process is attached at Appendix 2.

### Council Meetings

The CRWG also considered changes to the format of Council meetings.

It was noted by the Group that various piecemeal changes had already been made to the Constitution. In order not to add to the increasing complexity of the Constitution, it was decided that only changes that required minimal adjustments to the Constitution would be put to Council at this stage. The whole Constitution is to be reviewed by the CRWG and more fundamental changes will be proposed to Council later in the year.

It was agreed that in addition to the current items (minutes; apologies; Mayor's announcements; deputations; public addresses; Councillor questions; notices of motion and matters of urgency) the following would be added.

Portfolio Holder Presentations – Portfolio Holders will at the Council meeting present (in bullet point form) a report on relevant, significant or otherwise interesting issues

affecting their Portfolios. The allotted time for such presentations will be no more than 10 minutes. Councillors will then have a maximum of 5 minutes within which to ask any relevant questions based on the presentations. It should be noted that these questions are separate from the formal Councillor questions under Procedure Rule 5.2.

An additional item will be added to the agenda entitled Policy Framework. This will consider any policy issues that are relevant for Council. There will also be additional items for reports from Overview and Scrutiny and Audit Committee. In addition there will be the facility for a slot to be given for external presentations on issues of relevance.

In the longer term the CRWG will look at the whole issue of the format and approach to Full Council meetings and changes to the Constitution will be suggested.

### **Mayoralty Formula**

The Constitutional Review Working Group considered the preferred approach for appointing a Mayor. It was agreed that a formula based approach would be fair and therefore the best approach and that the formula based approach should be implemented from May 2007. As such, it is proposed that the exact formula be considered as part of the CRWG's work when it reviews the whole Constitution.

### **Miscellaneous matters**

Recent changes to the Leadership of the Council has given the need to reaffirm the memberships of certain committees.

### **The Improvement Board**

The Improvement Board, in its innovative design is managed by the Chief Executive but is chaired by a Councillor, when formal decisions are made. Given the change in leadership there is a formal need for the Chair and Deputy Chair of the Improvement Board to be appointed by Council. It is proposed by this report that the Leader and the Deputy Leader be appointed as Chair and Deputy Chair respectively.



## **Portfolios**

The Council's Constitution is currently unclear as to where the responsibility for assigning Portfolios lies. Given that Council has given the Leader delegated powers to agree the Scheme of Delegations for Portfolio Holders it would be logical and appropriate for the Leader to be given delegated powers to align the Portfolios to the delegated powers. Changes to the Constitution to enable this to happen are therefore suggested.

Following recent changes in the Leadership of the Council there is a need to clarify the composition of Cabinet. Council will be asked to confirm any necessary appointments.

## **Licensing Committee**

Councillor Concannon (as he then was) had a place on the Licensing Committee. His resignation has left a vacancy on the Committee. It is proposed that this vacancy is filled by Cllr Roger Conroy, on a like for like basis.

## **Background Papers**

Various papers File Ref FJF Political Structures  
New Council Constitutions – DETR – Guidance Pack