



**NORTHAMPTON**  
BOROUGH COUNCIL

# COUNCIL

20<sup>th</sup> May 2010

**Agenda Status: Public**

**Directorate: Borough Solicitor's**

<b>Report Title</b>	<b>AMENDMENTS TO THE CONSTITUTION</b>
---------------------	---------------------------------------

## 1. Summary

- 1.1 The cross party Constitution Review Working Party (the "CRWP") has been meeting since 30<sup>th</sup> November 2009 to discuss amendments to Northampton Borough Council's constitution in order to improve and update the Council's internal governance arrangements and give effect to relevant new statutory provisions. It last met on 17<sup>th</sup> May 2010 and agreed the changes set out in the report.
- 1.2 This report brings forward to the Full Council for approval a number of the amendments to the Constitution that are proposed by the CRWP. Approval for the remainder of the proposed amendments to the Constitution will be sought at the next full Council meeting on 12<sup>th</sup> July 2010.
- 1.3 This report covers proposed amendments to the Constitution in respect of the following:
- Overview and Scrutiny arrangements
  - Standards Committee - Terms of Reference
  - General Purposes Committee - Terms of Reference
  - Audit Committee - Terms of Reference
  - Petitions

## 2. Recommendations

Council is asked to:

- 2.1 approve the revised Overview and Scrutiny Committee Article 6 (Appendix 2) and the revised Overview and Scrutiny Procedure Rules (Appendix 3);
- 2.2 approve the revised terms of reference of the Standards Committee (Appendix 4), the revised terms of reference of the General Purposes Committee (Appendix 5); and the revised terms of reference of the Audit Committee (Appendix 6);
- 2.3 note the information provided in respect of neighbourhood management arrangements;

- 2.4 approve the draft Petition Scheme (attached as Appendix 7); and
- 2.5 authorise the Borough Solicitor to make the necessary amendments to the Constitution to reflect the changes in paragraphs 2.1, 2.2 and 2.4 above and to make any typographical or other changes to the Constitution arising directly from the recommended changes.

### **3. Report Background**

#### **3.1 OVERVIEW AND SCRUTINY ARRANGEMENTS**

##### **3.1.1 Overview and Scrutiny Structure**

- 3.1.1.1 Full Council on 18<sup>th</sup> January 2010 considered a report from the Overview and Scrutiny Management Committee detailing a proposed new Overview and Scrutiny Committee structure. A copy of this report is attached for information as Appendix 1. The proposed new structure was noted by Full Council and referred to the CRWP for further consideration.
- 3.1.1.2 In summary, the new Overview and Scrutiny Structure will consist of only one Overview and Scrutiny Committee supported by three standing Scrutiny Panels. The CRWP has agreed that the Overview and Scrutiny Committee will have 15 places and will be populated with Councillors who are not members of the executive. The proposal is to disestablish the Overview and Scrutiny Management Committee.
- 3.1.1.3 The proposed Overview and Scrutiny Committee will agree the Panels' membership and terms of reference. The Scrutiny Panels will not independently carry out the functions of the Overview and Scrutiny Committee, but will report to the Committee. The role of the Scrutiny Panels will be to support the Committee by conducting scrutiny reviews and other work as dictated by the Committee in a work programme that has been agreed in advance.
- 3.1.1.4 For the avoidance of doubt, the Scrutiny Panels will not have the status of a committee and will have no formal decision making powers. The Scrutiny Panels will not for example, have formal Call-In powers and will not be able to compel members of the executive or officers to appear before them in the same way as the Committee can. However, it is anticipated that executive members and officers will cooperate with the Scrutiny Panels' work.
- 3.1.1.5 The CRWP has discussed and agreed the changes that are necessary to the Constitution to give effect to the structure described above. The revised Article 6 details the Overview and Scrutiny Committee's Terms of Reference (Appendix 2) and the revised Overview and Scrutiny Procedure Rules are set out in Appendix 3. It should be noted that it will be necessary to make minor consequential changes to other parts of the Constitution where for example, reference to Overview and Scrutiny Committees is in the plural.

##### **3.1.2 Criteria for Call-in**

The CRWP has agreed that in order to ensure that the call-in procedure can be administered fairly, effectively and efficiently, there should be 'Criteria for Call-In'. Paragraph 15.9 of Appendix 3 details the proposed Criteria for Call-in.

### **3.1.3 Councillor Call for Action**

3.1.3.1 The Councillor Call for Action ('CCfA') was implemented by the Local Government and Public Involvement in Health Act 2007 in relation to local government matters and by the Police and Justice Act 2006 in relation to crime and disorder matters.

3.1.3.2 The local government CCfA gives all councillors a statutory right to refer to the Overview and Scrutiny Committee any relevant local government matter which affects their ward or any person who lives or works in their ward. The crime and disorder CCfA gives all Councillors a right to refer certain types of crime and disorder matters affecting their ward or the people living or working in it to their authority's designated crime and disorder committee.

3.1.3.3 The purpose of the CCfA is to give Councillors a means to resolve issues on behalf of their residents when all other avenues of resolution have been exhausted. The CCfA process should make it easier for issues that would benefit from scrutiny to rise to the surface and for issues which are best dealt with through other means to be signposted accordingly. The CCfA is particularly significant in the respect that it enables a Councillor who is not a member of the Overview and Scrutiny Committee to request that the Committee consider certain matters.

3.1.3.4 This report proposes amendments to the Overview and Scrutiny Procedure Rules to reflect changes to the law that are already in force and as set out in paragraph 8.2 of Appendix 3. The CCfA is also referenced in Appendix 2 at paragraphs 6.3.8 which designates the Overview and Scrutiny Committee as the Council's Crime and Disorder Committee and 6.3.9 which deals with the local government CCfA. The CCfA provisions in the body of the Constitution will be supported by detailed protocols that will be approved by the Overview and Scrutiny Committee and which will reflect good practice.

## **3.2 STANDARDS COMMITTEE, GENERAL PURPOSES COMMITTEE & AUDIT COMMITTEE - NEW TERMS OF REFERENCE**

### **3.2.1 Standards Committee**

The proposed Terms of Reference for the Standards Committee (Appendix 4) were approved by the Standards Committee at its meeting in December 2009 following a report by the Monitoring Officer to the Standards Committee confirming that the proposed changes were required for legislative compliance and based on best practice. The Standards Committee itself could not agree changes, as these required constitutional amendments, so these changes are proposed through the CRWP which agreed with the proposed terms of reference, with minor amendments which are reflected in the appendix.

### **3.2.2 General Purposes Committee**

A review of the workings of the General Purposes Committee has indicated that its current role and remit is fairly narrow and that its terms of reference should be

widened to enable it to undertake a wider role. Research was conducted by the Borough Solicitor's governance team to determine the role such committees have in other Councils. The CRWP considered this research and agreed a wider role for the Committee, which will include: Electoral matters; Health and Safety Matters; objections to Tree Preservation Orders; Civic Matters etc. In essence, the Committee will undertake many of the matters that cannot be undertaken by the Executive, because of restrictions imposed by legislation (Functions Order). The General Purposes Committee will not be able to undertake any matters that are within the remit of other Committees. It is anticipated that the Committee would form a three member Sub-Committee in order to deal with Tree Preservation Order matters. The proposed Terms of Reference for the General Purposes Committee are attached as Appendix 5.

### **3.2.3 Audit Committee**

With regard to the Audit Committee, minor changes are being proposed which will allow the Committee to deal with the final accounts process. This will be in line with best practice as advised by the section 151 Officer. The proposed Terms of Reference for the Audit Committee are attached as Appendix 6.

## **3.3 NEIGHBOURHOOD MANAGEMENT ARRANGEMENTS**

The Council is asked to note that changes to the Neighbourhood Management Arrangements are currently being considered and piloted. Proposed changes to the Constitution in respect of Neighbourhood Management Arrangements will be brought to the Council at a later date following completion and assessment of the pilot.

## **3.4 PETITIONS**

**3.4.1** The Local Democracy, Economic Development and Construction Act 2009 was rushed through Parliament in the lead up to the recent General Election. The 2009 Act requires all principal local authorities in England to establish a scheme for handling petitions made to the authority. This first duty comes into effect from 15 June 2010 and the second to provide an e-petitions facility comes into effect from 15 December 2010. This short timescale has not given much time for a scheme to be prepared and it is intended that it should be reviewed in the light of experience in a year's time or earlier if it becomes necessary.

**3.4.2** The scheme:

- must be approved by a meeting of the full council before it comes into force;
- must be published on the principal local authority's website and by any other method appropriate for bringing it to the attention of those who live, work or study in its area; and
- can be revised at any time but the revised scheme must be approved and publicised as above.

**3.4.3** The minimum requirements of a scheme set out in the 2009 Act are:

- anyone who lives, works or studies in the local authority area, including under 18's, can sign or organise a petition and trigger a response
- a facility for making electronic petitions is provided by the local authority
- petitions must be acknowledged within a time period specified by the local authority
- among possible steps that the principal local authority may choose to take in response to a petition, the following steps must be included amongst the options listed in the scheme:
  - taking the action requested in the petition
  - considering the petition at a meeting of the authority
  - holding an inquiry
  - holding a public meeting
  - commissioning research
  - a written response to the petition organiser setting out the authority's views on the request in the petition
  - referring the petition to an overview and scrutiny committee
- petitions with a significant level of support trigger a debate of the full council. Councils will determine this threshold locally but it must be no higher than 5 per cent of the local population (10,000 approx for Northampton)
- petitions with a requisite level of support, set by the local authority, trigger a senior local government officer to give evidence at a meeting of the authority's overview and scrutiny committee
- petition organisers can prompt a review of the local authority's response if the response is felt to be inadequate

#### **3.4.4** In designing their petition scheme Councils are expected to:

- take into account local circumstances to ensure that the scheme is locally appropriate; for example, the same thresholds set in a densely populated urban area may not be suitable for a rural authority
- ensure that the scheme is accessible to all; for example, the e-petitions facility is compliant with web accessibility standards
- ensure that the process is easy for citizens to use; for example, that the scheme sets thresholds which are achievable for petitions on very local, as well as authority wide concerns; that no previous knowledge of council procedure is needed in order to submit a petition; that the scheme is written in plain English; and people know what they have to do in order to receive a response.

**3.4.5** A petition is excluded by the 2009 Act where it is:

- vexatious, abusive or otherwise inappropriate (such as relating to ongoing litigation or which target individual members of a community);
- made under other legislation;
- in respect of individual planning decisions including about a development plan;
- in respect of any matter relating to an alcohol, gambling or sex establishment licensing decision; or
- in relation to an individual or entity who have a right of review or appeal under other legislation.

**3.4.6** E- Petitions

3.4.6.1 The petition scheme must ensure that the authority's e-petition facility allows citizens to create a petition which can be published online and made available to others for electronic signature. The Government does not consider that mere acceptance of e-mailed petitions meets this requirement.

3.4.6.2 Local authorities should consider how best to integrate their e-petition process with relevant online information and existing online functions, for example, linking petitions to council meetings, decisions, or minutes, to online forums and most importantly, to the authority's published response to the petition.

3.4.6.3 When taking the decision whether to host an e-petition local authorities should, in addition to following the guidance on vexatious, abusive and otherwise inappropriate petitions, consider issues such as data protection, libel and the statutory requirement, as a public body, to comply with equalities and anti-discrimination legislation.

3.4.6.4 The Council's existing meetings administration software Modern.Gov is currently being enhanced by the supplier (NTE) and will be compliant in terms of the e-petitions requirements. It is proposed to implement this later in the year but before the statutory deadline in December.

**3.4.7** A proposed Petition Scheme, as agreed by the CRWP, is attached as Appendix 7.

### **3.5 AMENDMENTS TO THE CONSTITUTION**

The Council is asked to authorise the Borough Solicitor to make the necessary amendments to the Constitution to reflect the changes discussed in this report and to make any typographical or other changes to the Constitution arising directly from the recommended changes.

## **4. Implications (including financial implications)**

### **4.1 Resources And Risk**

Should the proposed changes to Overview and Scrutiny arrangements be approved, there should be a reduction in the resources required to formally support the meetings.

#### 4.2 Legal

These are contained within the body of the report.

#### 4.3 Other Implications

### 5. **Background Papers**

Borough Solicitor's Constitutional Review File.

**Report Author and Title:** Francis Fernandes, Borough Solicitor

**Telephone and Email:** 01604 837334, [ffernandes@northampton.gov.uk](mailto:ffernandes@northampton.gov.uk)