



**CONSTITUTION COMMITTEE – 2<sup>nd</sup> MAY, 2002**

**REPORT OF THE CHIEF EXECUTIVE**

**REVIEW AND REVISION OF THE CONSTITUTION**

**Purpose**

1. The purpose of this report is to consider possible amendments to the Constitution relating to the establishment of an Employment Committee and certain aspects of overview and scrutiny.

**Previous Decisions**

2. At its last meeting the Committee considered a report of the Chief Executive recommending changes to the Constitution in the light of experience and, in particular, Regulations issued by the Government on the exercise of functions by local authorities. Most of the proposals involved technical amendments to the Constitution which the Committee agreed should be submitted to the Council for approval at its Annual Meeting. The Committee also agreed as follows:-
  - (a) that consideration of the proposal to establish an Employment Committee and the consequential amendments to the Constitution set out in the appendix to the report, be deferred in order to allow a report to be made to the next meeting dealing with the size and terms of reference of an Employment Committee and its relationship with other bodies;
  - (b) that consideration of the proposal to replace the Scrutiny Reference Group with a Business Management Group be deferred for discussion between the Group Leaders (together with the matters relating to the establishment of an Employment Committee) prior to being considered further by this Committee.

**Background**

3. As agreed at the last meeting a meeting of Group Leaders has been held at which a number of aspects of the Constitution and business management were discussed. The conclusions of that meeting are set out below.

### **Business Management**

4. The Group Leaders have concluded that whilst it is important to have a forum through which the business of the Council can be facilitated it is not necessary for this to be written into the Council's Constitution.
5. The arrangements agreed are that Leaders' Meetings should take place on a regular basis (possibly linked to the County Council meeting cycle) to undertake this function. By agreement, Leaders may be accompanied on occasions by their Deputy or some other member of their political group. Meetings will be informal and in private.

### **Scrutiny Reference Group**

6. It is proposed that the Constitution be amended to reflect that the membership of the Scrutiny Reference Group will be fixed by mutual agreement between the political groups and to confine its terms of reference to overview and scrutiny matters. The detailed changes necessary are set out in Appendix A to this report.
7. This will enable the membership to be changed as necessary to reflect changes in the political balance of the Council without the need to amend the Constitution every time a change takes place. For the time being it has been agreed that the membership of the Scrutiny Reference Group should comprise 2 Conservative, 2 Labour and 1 Liberal Democrat members.
8. The references to regular liaison with the Executive have been removed since these can now be regarded as within the ambit of the Leaders' meetings.

### **Overview and Scrutiny Committees**

9. The Group Leaders have reviewed the structure of the overview and scrutiny committees and proposed that the number of committees be increased to five plus the Commission. The proposal reflects the intended changes to the departmental structure of the County Council. The detailed proposals for committees are contained in Appendix B of this report.

### **Employment Committee**

10. As explained at the last meeting of the Committee, the Government has decided that functions under Section 112 of the Local Government Act 1972 should be "non-executive functions."

11. Section 112 decisions concern the power to appoint staff and to determine the terms and conditions on which they hold office (including procedures for their dismissal). The original Regulations only specified the power to appoint staff as a non-executive function, therefore the decision was taken to include in the terms of reference of the Constitution Committee the following matter – “Employment of Staff i.e. the Officer Employment Procedure Rules (Part 4H). Power to appoint staff”. Subsequently, amended Regulations were issued by the Government which made all Section 112 decisions “non executive” functions, which means that they cannot be determined by the Cabinet. This is despite strong representations from a number of local authorities questioning the logic of this approach.
12. This has left the County Council in some difficulty, particularly on matters needing decisions such as action plans where staff are to be made redundant, approving early retirements and agreeing pay settlements.
13. It is therefore being proposed to establish an “Employment Committee” to deal with Section 112 matters on behalf of the Council. The proposed terms of reference of the Committee are set out in Appendix C to this report.
14. The Leaders have agreed that the Committee should comprise 7 members, the political balance being 4 Conservative, 2 Labour and 1 Liberal Democrat.
15. Despite its insistence upon employment issues being categorised as non-executive functions, the DTLR has acknowledged that *“executives may of course consider decisions on terms and conditions of employment made by the full Council, or which the Council has delegated to a subcommittee or an officer. In turn, a subcommittee or officer may wish to consult with the executive before taking such a decision. It is also open to the executive to make recommendations on staffing issues to the full Council, particularly in the context of preparing a local authority budget.”*

### **Amendment to Article 12**

16. A minor change to Article 12 of the Constitution has been identified as necessary to achieve consistency with another part of the Constitution. The details are set out in Appendix D to this report.

### **Resources Implications**

17. A decision to establish an additional overview and scrutiny committee will involve the payment of Special Responsibility Allowances under the Members' Allowances Scheme to the Chairman and Spokesmen totalling £15,000 per annum. There is no specific provision for this expenditure in the budget. The position will be monitored and reported at the revised estimate stage if it is not possible to contain the additional costs within the overall budget for General Items.
18. The County Treasurer has been consulted in the preparation of this report.

### **Equal Opportunities Implications**

None.

### **Recommendations**

The Committee is recommended:-

- (a) to note that it is proposed that regular meetings of the Group Leaders should take place to facilitate the business of the Council on the basis set out in paragraphs 4 and 5 of this report.
- (b) to recommend the County Council at its Annual meeting to amend the Constitution on the basis set out in the Appendices to this report as follows:-

Scrutiny Reference Group – Appendix A.  
 Overview and Scrutiny Committees – Appendix B.  
 Employment Committee – Appendix C.  
 Article 12 – Appendix D.

### **Circulation under Sensitive Issues Procedure**

None.

### **Background Papers**

Report and Supplementary Report of the Chief Executive to the Constitution Committee on 18<sup>th</sup> March, 2002 on Review and Revisions of the Constitution.

### **Officer to Contact**

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