

BROMSGROVE DISTRICT COUNCIL

COUNCIL

17 SEPTEMBER 2008

REVIEW OF THE CONSTITUTION

Responsible Portfolio Holder	Councillor Roger Smith
Responsible Head of Service	Claire Felton, Monitoring Officer

1. SUMMARY

- 1.1 Part of the Constitution has been reviewed and members are asked to adopt the revisions.

2. RECOMMENDATION

- 2.1 Members are requested to consider and approve the proposal that the Constitution be amended to insert a mandatory provision that the role of Chairman and Vice Chairman of the Audit Board and Scrutiny Steering Board be occupied by members of the oppositions groups.
- 2.2 That authority be delegated to the Head of Legal Equalities and Democratic Services in consultation with the Leaders of the Opposition groups to determine a protocol that would detail the process through which the positions would be allocated.

3. BACKGROUND

- 3.1 Members will recall that in November 2007 the Council received a Report from the Head of Legal Equalities and Democratic Services detailing the initial review of and principal changes to the Constitution made in April 2007. A period of consultation was then agreed to capture Members' views on these changes and any others Members were minded to suggest within the context of a wider Constitution review. This review was completed and all proposed changes made to the Constitution at the beginning of the current municipal year.

As Members will recall, it was agreed and accepted throughout the review process that the Constitution should remain a live and working document that would accurately reflect the way that decisions were made at Bromsgrove District Council.

As an organisation that is committed to the provision of an open and transparent decision making environment it has been focusing on the procedural arrangements in relation to the Scrutiny Steering Board, the

Performance Management Board and the Audit Board as part of a wider review process over the last 12 months.

Scrutiny Steering Board

Members will note that there have been a number of development opportunities in relation to the positions on the Scrutiny Steering Board over the last 12 months and that the scrutiny task groups have received specialist training and mentoring support.

The Council has appointed the Scrutiny Steering Board to discharge the functions conferred by section 21 of the Local Government Act 2000 and the regulations made under section 32 of the Local Government Act 2000.

As a result the Scrutiny Steering Board has powers that are conferred on it by virtue of statute.

Scrutiny is by its nature a challenge Board. For it to undertake its role effectively the Board needs to look closely at the decisions being made by the Cabinet and it needs on occasions to enlist the views of the community to effectively gauge public opinion for the decisions that will effect them.

In order for this to work the Board needs to have the trust and confidence within the community that the process is robust and that the decisions are open and transparent.

During the course of the constitutional review last year members decided that it would be beneficial to the Council if the role of Chairman of the Scrutiny Steering Board was occupied by a member of an opposition group.

This would enable the powers conferred on it to be undertaken in a more open and transparent way and it would send a clear message to the community that the Cabinet welcomed constructive and well informed contributions to the process of decision making from members of opposition groups, the community and leading group back bench members.

Over the last 12 months the Scrutiny Steering Board Chairman has been a member of the opposition group and it is proposed that this should continue and that it be extended to include the position of Vice Chairman and that this be enshrined as a requirement in the Council's Constitution.

Audit Board

Members are aware that the Council has appointed an Audit Board.

The ultimate responsibility for the audit function rests with the Portfolio Holder responsible for Finance and the Section 151 Officer.

The function of the Audit Board is one of monitoring and compliance and it is therefore able to make informed recommendations in relation to this function.

The Audit Board does not have the power to make decisions with regard to internal audit or to direct the officers with regard to internal audit but it is recognised that the audit function is one that centres on monitoring and compliance and for the reasons identified above the Council decided in the process of reviewing Board arrangements that the role of Chairman would benefit by being occupied by a member from an opposition group.

This has been operating for over 12 months and it is proposed that this be extended to include the role of Vice Chairman and that it be further enshrined within the constitution as a requirement.

Performance Management Board

Members are aware that the Council has appointed a Performance Management Board.

The Performance Management Board works in partnership with the Cabinet.

This Board has overall responsibility for driving performance improvement and making recommendations to the Cabinet where it feels that performance is not progressing in accordance with the Council's overall priorities and the requirements of the Cabinet.

The function of the Board is therefore one of drive and improvement and seeks always to support and enable the Cabinet. The Board works in partnership with the Cabinet and it has been at the centre of the Council's journey of improvement.

Members who sit on this Board must be trained in accordance with the Constitution review and a programme of development for members wishing to sit on this Board has been identified and built into the Modern Member Development Programme.

Members determined during the Constitution review that the role of this Board was fundamentally different to the roles of the Scrutiny Steering Board and the Audit Board and that this was because the functions undertaken by the Performance Management Board were more of drive and improvement.

As a consequence it was not felt that the Constitution need determine the political group from which the role of Chairman or Vice Chairman should be drawn.

Members are requested to approve that the role of Chairman and Vice Chairman in relation to the Performance Management Board remain a matter for the Board itself to determine for the reasons outlined above.

Process for Selection of Chairman and Vice Chairman

Members are also requested to approve the proposed change to the Constitution and the associated changes to the Scrutiny Procedure Rules and Audit Board Procedure Rules.

In order to establish a process for enabling the opposition groups to fairly determine the members who should occupy these roles it will be necessary for a protocol to be developed that will fairly enable selection.

In any event the protocol will deal only with the process of selection as the numbers and political balance are determined elsewhere as a matter of fact.

This report proposes that authority be delegated to the Monitoring Officer in consultation with the leaders of the opposition groups to establish a protocol that will govern the process for determining the position of Chairman and Vice Chairman to the Scrutiny Steering Board and the Audit Board.

Members will appreciate that this is an arrangement that will require effective cross party working and the need for all elected members to undertake these roles with professionalism.

In any event the protocol will need to allow for the management of this process in the event that it does not operate effectively.

4. FINANCIAL IMPLICATIONS

- 4.1 This report has no financial implications

5. LEGAL IMPLICATIONS

- 5.1 The Local Government Act 1972 as amended and the Local Government Act 2000 as amended set out the statutory framework for local authority constitutions.

6. COUNCIL OBJECTIVES

- 6.1 This report does not link directly to Council objectives and priorities. However, sound ethical governance is the foundation of the Council's ability to carry out its functions, objectives and priorities.

7. RISK MANAGEMENT

7.1 The main risk associated with the details included in this report is:

- *Risk of challenge to Council decisions*

7.2 This risk is being managed as follows:

- Risk Register: *Legal, Equalities and Democratic Services*
Key Objective Ref No: 3
Key Objective: *Effective ethical governance*

8. CUSTOMER IMPLICATIONS

8.1 Any changes to the Constitution agreed by members will be displayed on the Council's internet.

9. EQUALITIES AND DIVERSITY IMPLICATIONS

9.1 None

10. VALUE FOR MONEY IMPLICATIONS

10.1 None

11. OTHER IMPLICATIONS

Procurement Issues	None
Personnel Implications	None
Governance/Performance Management	Improved and effective ethical governance
Community Safety including Section 17 of Crime and Disorder Act 1998	None
Policy	None
Environmental	None

12. OTHERS CONSULTED ON THE REPORT

Portfolio Holder	Yes
Chief Executive	Yes
Executive Director (Partnerships and Projects)	Yes

Executive Director (Services)	Yes
Assistant Chief Executive	Yes
Head of Service	N/a
Head of Financial Services	Yes
Head of Legal, Equalities & Democratic Services	N/a
Head of Organisational Development & HR	Yes
Corporate Procurement Team	<u>No</u>

13. WARDS AFFECTED

All Wards

14. APPENDICES

None

15. BACKGROUND PAPERS

None

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