

**BROMSGROVE DISTRICT COUNCIL**

**EXECUTIVE CABINET**

**24TH APRIL 2007**

**REVIEW OF THE COUNCIL'S CONSTITUTION**

|                              |  |
|------------------------------|--|
| Responsible Portfolio Holder | Councillor Mrs. Spencer                              |
| Responsible Head of Service  | Claire Felton, Head of Legal and Democratic Services |

**1. SUMMARY**

1.1 Parts of the Constitution have been reviewed and updated and members are requested to adopt the revised Constitution.

**2. RECOMMENDATION**

2.1 It is recommended that:

1. The Constitution be amended in accordance with the drafts appended to this report to take effect from 4 May 2007; and
2. Authority be delegated to the Head of Legal and Democratic Services to correct typographical and/or cross-referencing errors in order to give effect to the Council's intentions

**3. BACKGROUND**

3.1 The reasons for the review and updating of the Constitution are as follows:

- to take account of changes in structure;
- to ensure current legislation is being complied with;
- to ensure that the overview and scrutiny function is involved appropriately in decision-making;
- to review the composition and terms of reference of the Scrutiny Steering Board;
- to review the composition and terms of reference of the Standards Committee to enable the Standards Committee to operate in a non-political manner and that it is empowered to carry out its responsibilities including in respect of parish councils;
- to review the composition and terms of reference and Procedure Rules of the Audit Board and the Performance Management Board;
- to remove errors, inconsistencies and anomalies;
- to ensure that the language used in the Constitution is easy to understand and that it accurately reflects the way it operates.

3.2 The principal amendments are as follows:

**Standards Committee**

3.2 Proposed composition:

- the number of District Councillors is yet to be agreed. The Leader may not sit on the Standards Committee;
- three Independent Members. Independent Members cannot be Councillors or officers of the Council or any other body having a standards committee;
- one member from a Parish Council with a nominated and trained substitute.
- Chairman to be an Independent Member.

3.3 Principal Proposed Changes to the Terms of Reference:

- having an overview of the operation of the Constitution to the extent that decisions are being made in accordance with it;
- monitoring, and reviewing the operation of the Protocols on Member-Officer relations and Member-Member relations;
- having a proactive role in respect of both the District Council and the parish councils within the district.

**Scrutiny Steering Board**

3.4 Proposed Composition of Scrutiny Steering Board

- 7 members (none of whom may be members of the Cabinet or be a member of the Audit Board)
- Quorum of 4

3.5 Task Group Chairman

- To be drawn from members of the Scrutiny Steering Board or a pool of members trained in chairmanship skills.

**Cabinet**

3.6 Quorum – to be increased to 4

3.7 Delegation to Portfolio Holders

Currently the Constitution recognises that certain decisions might be delegated to individual Portfolio Holders although the necessary processes to enable this have never been implemented. The White Paper proposes delegating more functions to individual Portfolio Holders and in due course the Constitution will need to take account of any legislative changes. However, in the meantime it is proposed that the Cabinet should be required to take all decisions acting collectively, except:

- when the Cabinet has made a decision in principle, it may authorize the Leader or the relevant Portfolio holder to finalise outstanding details in consultation with the appropriate Head of Service ; or
- when a decision regarding a Cabinet function requires attention as a matter of such urgency that formal reporting to Cabinet is not possible

the Leader may take that decision in consultation with the Chief Executive, the s151 Officer and the Monitoring Officer;

- the Leader may suggest matters for consideration to the Scrutiny Steering Board, the Audit Board or the Performance Management Board as a result of a quarterly meeting with the Chairmen of those Boards;
- when the Cabinet has delegated a Cabinet function.

### **Audit Board and Performance Management Board**

#### 3.8 **Proposed Composition**

- 7 members, none of whom may be members of the Cabinet. Additionally in respect of the Audit Board, members must not be members of the Scrutiny Steering Board;
- Quorum of 4

### **Final Revisions**

- 3.9 Drafts of those parts of the Constitution which are proposed for amendment are appended to this report. Members must note that at the date of preparation of this report, final proof-reading and cross-referencing has yet to be undertaken; this will be finalised before implementation of the new Constitution. Members are requested to approve the changes to the Constitution and delegate authority to the Head of Legal and Democratic Services to correct any typographical or cross-referencing errors.

### **Implementation**

- 3.10 It is proposed that the new Constitution should take effect from 4 May 2007.

### **Future Revisions to the Constitution**

- 3.11 The draft revised Articles refer to Tables in Part 3 of the Constitution which set out the Responsibility for Functions (as between the Council and Cabinet) and the responsibility of Committees for functions including the terms of reference for those committees. These will be brought to the Annual Meeting for approval.
- 3.12 A revised Code of Conduct for Members has very recently been published by the Department for Communities and Local Government and must be adopted by the Council before October 2007. When this is brought for approval, the Council will be asked to consider a revised version of the document setting out Councillors' Roles, which currently forms part of the Constitution.

## **4. FINANCIAL IMPLICATIONS**

- 4.1 None

## **5. LEGAL IMPLICATIONS**

5.1 The various Local Government Acts and regulations must be adhered to and have been taken into account when preparing the draft.

## **6. CORPORATE OBJECTIVES**

6.1 Good governance is a key to the efficient running of the Council.

## **7. RISK MANAGEMENT**

7.1 Ensuring the Constitution is up-to-date minimises the risk of challenge to Council decisions.

## **8. CUSTOMER IMPLICATIONS**

8.1 The Constitution is a public document.

## **9. OTHER IMPLICATIONS**

|  |      |
|--|------|
| Procurement Issues   | None |
| Personnel Implications   | None |
| Governance/Performance Management                                    | None |
| Community Safety including Section 17 of Crime and Disorder Act 1998 | None |
| Policy   | None |
| Environmental  | None |
| Equalities and Diversity   | None |

## **10. OTHERS CONSULTED ON THE REPORT**

|   |               |
|---|---------------|
| Portfolio Holder                        | Yes           |
| Chief Executive                         | Yes           |
| Corporate Director (Services)           | No            |
| Assistant Chief Executive               | Yes           |
| Head of Service                         | Report author |
| Head of Financial Services              | No            |
| Head of Legal & Democratic Services     | Report author |
| Head of Organisational Development & HR | No            |
| Corporate Procurement Team              | No            |

## **11. APPENDICES**

- Appendix 1 Summary and Explanation of the Constitution - DRAFT
- Appendix 2 Articles of the Constitution – DRAFT
- Appendix 3 Council Procedure Rules – DRAFT
- Appendix 4 Cabinet Procedure Rules - DRAFT
- Appendix 5 Scrutiny Procedure Rules – DRAFT
- Appendix 6 Performance Management Rules – DRAFT
- Appendix 7 Audit Board Management Rules – DRAFT
- Appendix 8 Budget and Policy Framework Rules – DRAFT

**12. BACKGROUND PAPERS**

None

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