

AMENDMENTS TO CONSTITUTION - LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH BILL

EXECUTIVE MEMBER: Councillor E Woodburn, Leader of the Council

LEAD OFFICER: Martin Jepson, Head of Legal and Democratic Services

REPORT AUTHOR: Tim Capper, Democratic Services Manager

Summary and Recommendation: This report summarises changes to local authority governance arrangements in the Local Government and Public Involvement in Health Bill now before Parliament and proposes limited changes to the Council's governance arrangements from May 2007

It is recommended that (a) the changes set out in paragraph 11 and the Appendices be approved and implemented from the Annual Meeting on 22 May 2007; and

(b) further reports be made to the Council on other changes required when the Bill receives Royal Assent.

1. INTRODUCTION

1.1 The Local Government White Paper "Strong and Prosperous Communities" published in October 2006 contained proposals for changes to the internal governance arrangements in local authorities, in addition to other initiatives which affect local government more generally.

1.2 The proposals in the White Paper have been set out in the Local Government and Public Involvement in Health Bill which is now before Parliament. Those affecting governance are in the following areas:

Appointment and term of office of the Leader in Leader and Executive Cabinet Model

Appointment of Executive members and determination of portfolio responsibilities

Functions and responsibilities of overview and scrutiny committees

Duties and responsibilities of frontline councillors
Ethical framework and code of conduct

- 1.3 This report summarises the proposals in the Bill for each of the above and proposes certain interim measures for introduction from May 2007 in anticipation of the Bill being enacted. It is not expected that there will be significant changes to the Bill before Royal Assent.

2. APPOINTMENT AND TERM OF OFFICE OF THE LEADER

- 2.1 The Bill provides for three forms of Executive model – directly elected Mayor, directly elected Executive (where the entire Executive is elected on a slate basis, with one name in the slate nominated as slate leader) and indirectly elected Leader and Cabinet. The directly elected Mayor and council manager model is no longer available.
- 2.2 All 3 models feature election or appointment of Mayors/Leaders for a 4 year term. The White Paper stresses that it is government's view that localities need clear vision and strong leadership to deal with constantly changing economic and social challenges, and that stable leadership will bring an element of certainty to members, management and employees, and will facilitate tough decisions which may bring short-term unpopularity.
- 2.3 The Bill provides for a Leader and Executive model with appointment of the Leader at the Annual Meeting following district elections. The Leader's appointment will continue until his/her retirement as a Councillor or until he/she is removed by resolution of the full Council. There will no longer be any provision for annual re-appointment of the Leader at Annual Meetings between elections. There is however a provision for the Leader to be removed from office at any time on passing of a resolution of the full Council.
- 2.4 Appointment of the Leader for a period longer than 1 year is possible under existing legislation. It is therefore proposed as an interim measure until the Bill becomes law that Article 7 of the Constitution is amended with effect from May 2007 to provide for appointment of the Leader for 4 years until the next District Council elections.

3. APPOINTMENT OF THE EXECUTIVE AND ALLOCATION OF PORTFOLIOS

- 3.1 The Bill provides for the determination of the number of Executive portfolios (subject to a minimum of 2 and maximum of 10), the allocation of portfolio responsibilities and the appointment of Councillors as Executive members, and their removal, to be the responsibility of the

Leader. The option of any of these matters being decided by full Council is no longer available once the Bill is enacted. This is consistent with the approach taken in the White Paper that the leadership of the Council (elected Mayor or Leader) should have responsibility for deciding how executive powers should be discharged.

- 3.2 Existing legislation provides for these matters to be determined by the Leader if the Council so chooses. It is therefore proposed to amend Article 7 of the Constitution to give effect to these provisions on an interim basis from May 2007.

4 FUNCTIONS AND RESPONSIBILITIES OF OVERVIEW AND SCRUTINY COMMITTEES

- 4.1 The Bill contains provisions for an enhanced role for overview and scrutiny committees through new powers to summons any members of the Council and representatives of partner organisations to appear before them or provide information within specified timescales.
- 4.2 There are provisions for Community Calls for Action (CCfA), whereby there must be constitutional provisions for any councillor to refer a matter to an OSC which is relevant to the committee's functions. There are further provisions in the bill which will require the Executive to respond to a report of an OSC within certain timescales, whether as a direct result of a CCfA or not. These will require extensive constitutional amendments once the Bill has been enacted. In the meantime it is proposed that as an interim measure from May changes are made to Article 3, Standing Order 6 and the Overview and Scrutiny Procedure Rules to provide for a CCfA to be instigated by any Councillor by writing to the relevant OSC Chair and for a meeting of the committee to follow within 5 working days.
- 4.3 The opportunity has also been taken, in consultation with the OSC Chairs, to review the present roles and responsibilities of the 4 OSC's. Two changes are proposed: first to formalise the existing OSC Chairs' Group, so as to ensure that scrutiny of Executive decisions is transparent, accountable and public. The Chairs Group will become the Overview and Scrutiny Management Committee, which will be politically balanced, consisting of the Chairs and Vice Chairs of the other OSC's plus three other members. It will retain the responsibilities of the existing OSC PR, and will have a co-ordinating role, including training, cross-cutting issues, and setting and monitoring work plans.
- 4.4 There will be 3 other OSC's (11 members each), with responsibilities centred around the main themes in the Local Area Agreement, for Children, Young People and Healthy Communities; Economic

Development and Enterprise; and Safer and Stronger Communities. Detailed functions of each are shown on the revised Article 7 attached.

5 DUTIES AND RESPONSIBILITIES OF FRONTLINE COUNCILLORS

- 5.1 The Bill makes provision for the exercise of functions of the Council by individual Councillors within their own wards, including expenditure, and for arrangements for the exercise of these functions to be made by the Leader. These provisions will be subject to Regulations to be made by the Secretary of State and further reports will be required when the Regulations have been made.

6 ROLE OF THE STANDARDS COMMITTEE

The Bill provides for additional roles for local authority Standards Committees in relation to initial assessment of allegations of breaches of the Code of Conduct. These will be the subject of reports direct to the Standards Committee and may need subsequent changes to the terms of reference of the Standards Committee in due course which will need Council approval.

7 OTHER MATTERS

- 7.1 There has been a previous provision in the Scheme of Delegations to Officers giving delegated authority to the Head of Leisure and Environmental Services to appoint and authorise officers to act under legislation which relates to the functions of his/her service. This provision has been deleted from the current version in error and it is recommended that it is re-instated as shown in Appendix "E"

8 FINANCIAL AND HUMAN RESOURCES IMPLICATIONS (INCLUDING SOURCES OF FINANCE)

- 8.1 There are none of this report

9. PROJECT AND RISK MANAGEMENT

- 9.1 There are no project and risk management issues at this stage.

10. IMPACT ON CORPORATE PLAN

- 10.1 There is no impact on the Corporate Plan at this stage.

11 SUMMARY OF RECOMMENDATIONS

- 11.1 That Articles 4 and 7 of the Constitution be amended to provide for the appointment of the Leader for 4 years, subject only to removal by resolution of the Council**
- 11.2 That Article 7 and the Scheme of Delegation be amended to provide for the appointment and removal of other Executive members (1-9) and determination and allocation of Executive portfolios by the Leader**
- 11.3 That Articles 3 and 6, General Standing Order 6 and the Overview and Scrutiny Procedure Rules be amended to provide for Councillors and/or petitioners to instigate Community Calls for Action, and for subsequent meetings of the relevant Overview and Scrutiny Committee**
- 11.4 That Article 6 be amended to provide for 4 new Overview and Scrutiny Committees as described in paragraph 4 of this report**
- 11.5 That further reports are submitted to Council and/or Standards Committee when the Bill receives Royal Assent on other issues as necessary**
- 11.6 That the minor textual revision set out in paragraph 7 be approved.**

List of Appendices

Appendix A Revised Articles of the Constitution
Appendix B Revised General Standing Orders
Appendix C Revised Scheme of Delegations
Appendix D Revised Overview and Scrutiny Procedure Rules
Appendix E Revised Extract from Officer Delegations

List of Background Documents: None.

List of Consultees: Leader, Portfolio Holder, Corporate Team

CHECKLIST FOR DEALING WITH KEY ISSUES

Please confirm against the issue if the key issues below have been addressed . This can be by either a short narrative or quoting the paragraph number in the report in which it has been covered.

Impact on Crime and Disorder	No issues
Impact on Sustainability	No issues

Impact on Rural Proofing	No issues
Health and Safety Implications	No issues
Project and Risk Management	No issues
Impact on Equality and Diversity Issues	No issues
Children and Young Persons Implications	No issues
Human Rights Act Implications	No issues

Please say if this report will require the making of a Key Decision: NO.