
Corporate Governance Panel

Report of the meeting held on 28th March 2007

Matter for Decision

23. REVIEW OF CONSTITUTION

By reference to a report by the Head of Administration (a copy of which is reproduced as an Appendix hereto), the Panel has undertaken a biennial review of the Constitution. The changes recommended by the Panel have arisen as a result of practical experience of the operation of the Constitution since its implementation in May 2002, subsequent reviews and comments received from the Cabinet, Panels, individual Members and Officers.

The Panel has considered a proposal to hold Council meetings at 5.00 pm. In view of other demands on Councillors' time during the evening and given the flexibility already contained in the Constitution to change meeting times, Members have not supported this proposal.

The Panel also has discussed a suggestion to formalise the procedure for amending a Motion. On the understanding that provision is available in the Constitution to waive the procedure, which will allow Motions to be moved arising from debate, it has been agreed that the wording of an amendment should be made available in advance of the Council meeting.

With regard to planning applications considered to be "significant" departures from the Development Plan, the Panel is of the view that the discretion available to the Development Control Panel either to determine such applications by way of refusal or to recommend them for approval by full Council should be conditioned by way of a facility whereby on the receipt of a requisition by nine Members within seven working days of the outcome of the Panel's deliberations the matter could be referred for decision by full Council.

In considering a proposal to introduce a public forum at Council meetings, the Panel has been mindful that Members' roles are to represent their constituents and that the implications of introducing public speaking at Development Control Panel meetings are not yet known. The Panel, therefore, has not supported this proposal.

Having considered a proposal to establish a District youth forum and suggestions for the way it might operate, the Panel has requested that the matter be referred to the Overview and Scrutiny Panel

(Service Delivery) to consider the practical and financial implications before a decision is taken.

A suggestion by the Overview and Scrutiny Panel (Service Delivery) that the consent of the Chairman or Vice-Chairman of the relevant Overview and Scrutiny Panel should be obtained before a decision is taken on a report on a date earlier than that referred to in the Forward Plan has not been supported on the grounds that it would introduce an excessive bureaucratic burden and would constrain the ability of the Cabinet to take decisions in a timely and effective manner. Moreover, the Constitution already provides for an item not listed on the Forward Plan to be considered by Cabinet as long as notice is given to the relevant Chairman before the Cabinet Agenda is despatched.

Having considered other issues raised during the review process, the Panel

RECOMMEND

- (a) that in Article 4 – The Full Council, the following words be added to Section 1 (a) – Policy Framework –**

“♦ Gambling Act – Statement of Principles”

and that the Statement of Licensing Policy in Section 1 (a) be reworded as –

“♦ Licensing Act – Statement of Licensing Policy”;
- (b) that in Article 4 – The Full Council, the following words be added to Section 2 –**

“(j) passing a resolution not to issue casino premises licences.”

and that the existing paragraphs (j) to (l) be renumbered accordingly;
- (c) that in Table 2 in relation to the of the Licensing Committee the functions column be amended as follows –**

“To discharge the functions of the Council as Licensing Authority under the Licensing Act 2003 and the Gambling Act 2005 (with the exception of those functions which are reserved to Council as defined in Article 4).”;
- (d) that the words “gaming, entertainment” be deleted from the functions column of Table 2 in relation to the Licensing and Protection Panel;**
- (e) that the addition of the following words on Page 51 and as a preamble to Table 5, pages 154/1 and 154/2 be noted –**

“A number of 'Member Champions' have been appointed by the Council. These are listed in Table 5. The Champions do not have executive or decision making responsibilities and as such Table 5 does not form part of the Council’s formal Constitution. However, the Champions are listed here for convenience and to highlight the role of each appointment”;

(f) that a proposal that Council meetings should commence at 5.00 pm be not supported;

(g) that Rule 10 (h) of the Council Procedure Rules be varied to read:

“(h) to amend a motion; (the text of the proposed amendment to be forwarded to the Chief Executive, or in his absence, the Director of Central Services prior to the commencement of the meeting of the Council).”;

(h) that the following be inserted into the Council Procedure Rules:

“17A Photography, Broadcasting and Recording of Meetings

Filming, videoing or audio recording of a meeting or photography at a Council meeting shall be permitted only with the consent of the Chairman of the meeting concerned. The necessary consent shall have been obtained and the Chief Executive, or in his absence, the Director of Central Services notified by no later than three working days before the meeting.”;

(i) that the following be added to Rule 22 of the Council Procedure Rules:

“Regarding Rule No. 7 – in no case should the quorum of sub-committees and sub-groups be less than three Members.”;

(NB: This does not apply to meetings of the Licensing Sub-Committee)

(j) that the following be inserted as a new Rule 27 of the Council Procedure Rules:

“Rule 27 – Development Control Applications

(a) Public Speaking at Development Control Panel

Where a planning application falls to be determined by the Development Control Panel and where appropriate notice has been given, an elected Member of the relevant town and parish

council/meeting, the District Ward Member, the objector(s), the applicant(s) or their representatives shall be permitted to address the Panel on the application under the direction of the Chairman having regard to the guidelines at Annex (iii);

(b) Public Speaking at Council

In those circumstances where a planning application is to be determined by full Council, the Council's Head of Planning Services or his representative and other relevant Officers shall be permitted to present reports to the Council and the public speaking process adopted by the Development Control Panel be applied;

(c) Consideration of Departures from the Development Plan

Planning applications considered to be a "significant" departure from the Development Plan shall, on the recommendation of the Development Control Panel, be considered by the Council having regard to advice received from the Heads of Planning Services and Legal and Estates Services and guidelines at Annex (iii). Applications considered to be "significant" are those specified under the Town and Country Planning (Development Plan and Consultation) (Departures) Directions 1999 and having also to be referred to the Secretary of State as follows –

- ◆ a development which consists of or includes the provision of –
 - (i) more than 150 houses or flats; or
 - (ii) more than 5,000 square metres of gross retail, leisure, office or mixed commercial floorspace;
- ◆ development of land belonging to the planning authority by that authority or any other party; or for the development of any land by such an authority, whether alone or jointly with any other person;
- ◆ any development which, by reason of its scale or nature or the location of the land, would significantly prejudice the implementation of the development plan's policies and proposals: or
- ◆ any development in respect of which –
 - the Development Control Panel is minded to determine or to make a recommendation; and

- a requisition for determination of the application by full Council signed by nine (9) Members is received by the Head of Planning Services within seven (7) working days of the Panel's intimation to that effect.”;
- (k) that a proposal to introduce of a time limited session at the commencement of Council meetings in which Members of the public could be invited to put questions to the Leader of the Council, Cabinet Members and the Chairmen of the Overview and Scrutiny Panels be not supported;
- (l) that consideration be given to a proposal to introduce a biennial state of the district conference;
- (m) that a proposal to require Council meetings to be held in venues in different parts of the District be not supported, although the holding of Council meetings at other venues during construction of the new headquarters was noted;
- (n) that the incorporation into Section 6 of the Constitution of a revised scheme of Members Allowances be noted;
- (o) that revised Codes of Financial Management and of Procurement be adopted as attached as Appendices to the report submitted; and
- (p) that a proposal to require the permission of the Chairman, or in his absence, the Vice-Chairman of the relevant Overview and Scrutiny Panel to be obtained to take a decision on an item on a date earlier than that referred to in the Forward Plan be not supported.

Matters for Information

24. ANNUAL AUDIT AND INSPECTION LETTER

In receiving the Annual Audit and Inspection Letter, the Panel has been informed that the Council's rate of improvement in priority areas compared well with that of other District Councils. 31% of national performance indicators are in the best 25% of Councils, with 59% above the median.

Having also been informed that the Use of Resources scores compare performance against other local authorities, the Panel has discussed the criteria for various elements of the Use of Resources assessment and cost implications in seeking to achieve an improved score. Having been advised that the arrangements for undertaking a further assessment in October 2007 will be based on the assessment

of arrangements appertaining at 31st March 2007, the Panel has registered its concern at the absence of prior notice of the change of date given the likelihood that the performance criteria are likely to alter. In response the Panel has been assured that these changes will be reflected in the next Letter by the external Auditors.

**25. INTERNAL AUDIT:
TERMS OF REFERENCE AND AUDIT STRATEGY**

The Panel has approved revised Terms of Reference for Internal Audit and the Internal Audit Strategy 2007 – 2010. In so doing, Members have been informed of the arrangements that have been put in place to safeguard the independence of the audit function.

26. AUDIT PLAN 2007/08

The Panel has approved the Interim Internal Audit and Assurance Plan for 2007/08, which takes account of the Anti-Fraud and Corruption Strategy.

C J Stephens
Chairman