

FOCUS GROUP ON THE REVIEW OF THE CONSTITUTION

MINUTES OF THE FOCUS GROUP ON THE REVIEW OF THE CONSTITUTION MEETING HELD ON 20 SEPTEMBER 2010 AT COMMITTEE ROOM VII - COUNTY HALL, TROWBRIDGE.

Present:

Cllr Trevor Carbin, Cllr Nigel Carter, Cllr Peter Doyle, Mrs I McCord (Chair), Mr S Middleton, Mr Paul Neale, Cllr Ricky Rogers, Cllr Anthony Trotman and Cllr Stuart Wheeler

Also Present:

Cllr Jeff Osborn

19. Apologies

An Apology for Absence was received from Councillor Newbury.

20. Declarations of Interest

There were none.

21. Minutes of Last Meeting

Resolved:

To confirm as a correct record and sign the minutes of the meeting on 29 July 2010.

22. Review of the Constitution

22a. Overview and Scrutiny - Parts 2 and 8

The Chairman welcomed Cllr Jeff Osborn, Chairman of the Organisation and Resources Select Committee and Paul Kelly, Scrutiny Manager to the meeting for this item.

The Scrutiny Manager presented a report on the overview and scrutiny arrangements together with details of the proposed changes to the articles and procedure rules for overview and scrutiny. These changes had been made

following a review by the Scrutiny Manager in consultation with the Chairman and Vice-Chairman of the Liaison Board.

It was noted that the changes made were minor as the procedure rules in particular, provided only the framework for overview and scrutiny. It was more about the application of these procedure rules which to a large extent had more to do with the style and culture of the Council's scrutiny process than the rules themselves.

A discussion ensued on the issue of chairmanship of the scrutiny select committees. Concern had been raised that of the 8 leading positions on scrutiny, 6 were held by the majority group. There were differing schools of thought with one being that given the primary purpose of scrutiny select committees was to hold the executive to account, they should be chaired by members not belonging to the majority group. Another school of thought was that the scrutiny process should be non partisan with a reliance on evidence based information and therefore each scrutiny select committee should continue to have the ability to elect its own chairman. The Scrutiny Manager was requested to obtain information on the arrangements adopted by other councils with a view to establishing best practice on this issue and report back to the next meeting of the Focus Group.

The Scrutiny Manager reminded the Focus Group that he had at the last meeting referred to the Executive/Scrutiny Protocol. The Protocol sought to establish and document a clear two way relationship between the Executive and Scrutiny. It had been hoped to bring details of the Protocol to this meeting following consideration by the Corporate Leadership Team (CLT). Unfortunately, due to other pressures, CLT had not yet considered the Protocol. Cllr Wheeler undertook to try and bring it to the attention of Cabinet Liaison to enable consideration by the Focus Group at its next meeting.

The status of portfolio holders was also considered. Portfolio holders were those members appointed by the Leader to assist Cabinet members and act as a resource for other members of the Council. Whilst their contribution was considered to be a valuable one, the issue was the extent to which they could be involved within the scrutiny arena without being conflicted out particularly on executive issues. The Monitoring Officer clarified that although Portfolio holders held no decision making powers, there was an issue around the perception of having a conflict of interest.

Cllr Osborn added that some councillors considered that ruling out the 13 Portfolio holders from the scrutiny process would reduce the number of backbench members involved in the scrutiny process at a time when more involvement was required.

Resolved:

- (a) To consider and approve the proposed changes to the overview and scrutiny elements of the Constitution as a result of the review as set out in appendix 1 of the report presented subject to the following amendments:

Part 8 Overview and Scrutiny Procedure Rules

Paragraph 9 – to make reference to the schedule on Governance Reporting Arrangements

- (b) To note the discussion paper at appendix 2 of the report presented on an intended Executive/Scrutiny Protocol and that the Protocol be considered at the next meeting of the Focus Group following consideration by CLT/Cabinet Liaison.
- (c) To note that national changes impacting on the statutory overview and scrutiny function would need to be reflected in the Constitution where appropriate at the time.
- (d) To note the issues raised concerning chairmanship of the Scrutiny Select Committees. That the Scrutiny Manager be requested to obtain details of arrangements which exist at other authorities with a view to establishing best practice on this issue for report to the next meeting.

22b. **Area Boards - Parts 2 and 3**

The Chairman welcomed Steve Milton, Head of Community Governance to the meeting for this item. Steve Milton responded to the questions raised by members through the questionnaire on the constitution.

A debate ensued during which the committee considered these responses and acknowledged the varying circumstances of the different Area Boards and their operation.

A discussion ensued on the issue of 'dual hatted' members where this leads to conflicts of interests and the process to obtain a dispensation from the need to declare interests. Members acknowledged the need for transparency but considered that the dispensation process should be simplified.

Attendance levels at Area Boards were said to be very good although the majority of those attending belonged to the various groups represented on the Area Boards. Members considered that agendas should have a degree of public interest items to encourage attendance rather than having agendas weighted with corporate items such as consultations. Concern had been expressed over the number of major consultations occupying much of the Area Boards time

recently eg waste, leisure and parking. The length of agendas was also considered to be an issue at some meetings.

Steve Milton referred to the outcome of the Leader's review on Area Boards. One of the outcomes of that review was to include the Area Boards and Delegated Decisions – A checklist for officers within the scheme of delegation to officers (Part 3 B). He also referred to the increased funding being made available to Area Boards.

A discussion ensued on the Area Board handbook, its format and presentation, level of detail, progress with its review and the need to ensure consistency with the constitution.

Steve Milton confirmed that the Handbook was being reviewed although it was difficult to finalise it due to other potential influencing factors such as knowing the full extent of the implications of the Localism Bill. He agreed that from the point of view of Area Board participants it was far too long and detailed but that from an operational point of view some level of detail was required. One of the options considered was having a summarised version.

The Focus Group considered the articles and Part 3 in so far as they related to Area Boards.

Resolved:

- (a) To note the presentation on Area Boards from the Community Governance Manager.**
- (b) To agree the following changes:**
 - **Article 10.2 c. – to include 'Wiltshire Fire and Rescue Service'**
 - **Article 10.2 c. – to distinguish between the standing membership and other participatory groups.**
 - **Article 11.1 – to insert a section on 'dual hatted' members and dispensation.**
 - **Part 3 – paragraph 4.9 – to clarify that a Cabinet member would attend those area boards which do not have a Cabinet member as a standing member of the Area Board.**
 - **Area Board Handbook – to include information on how groups could become involved in Area Boards as regular participants.**

22c. Contract Regulations - Part 11

As part of the review of the constitution, the opportunity had been taken to review the Council's Contract Regulations. The Chairman welcomed Tony Brett, Head of Procurement who presented the draft revised Regulations for the Focus Group's consideration.

It was noted that the Regulations had undergone a light-touch review, mainly responding to the revisions in EU procurement thresholds and other directives and to provide greater clarity to the reader over their responsibilities to comply with this section of the constitution.

The revised draft had been formulated by a dedicated group of officers comprising the Head of Procurement, Procurement Departmental Business Partners and the Senior Commercial Solicitor.

A detailed discussion took place on various aspects of the draft revised Regulations summarised as follows:

- Paragraph 4.2 makes reference to extensions of contract. The Focus Group asked for specific reference to extensions to include how contracts would be reviewed and scrutinised prior to extending. To ensure that continued extensions of a contract would not result in breaching the EU Regulations ie an extended contract should not be significantly at variance with the original contract otherwise it could warrant a fresh tendering exercise depending on the magnitude of the changes made. To ensure that Value for Money issues were taken into account when extending contracts.
- To include provision for ensuring that financial controls were in place to ensure contracts were affordable.
- Opening of Tenders – In order to secure member involvement at the opening of tenders stage, to include provision for contracts which had been the subject of Cabinet approval, the relevant Cabinet member be given the opportunity to be present at the opening of the tender in relation to that contract.
- Framework Agreements – to include more explicit information relating to these types of agreements.
- The removal of named individuals from the document.
- For appendices to be correctly labelled.

Resolved:

That the draft Contract Regulations be amended to take into account the above changes and be brought back to the next meeting highlighting the changes made as tracked changes for ease of identification.

22d. **Council Rules of Procedure**

Petition Scheme

John Quinton, Head of Democratic Services explained that the Local Democracy, Economic Development and Construction Act 2009 imposed a duty on local authorities to respond to petitions and to tell local people what action is going to be taken. In response to this, Annual Council at its meeting in May 2010 adopted a Petition Scheme and asked the Focus Group to review it as part of the review on the constitution. Accordingly, the Petition Scheme was presented for the Focus Group's consideration.

John Quinton explained how the Petition Scheme operated and the various signee thresholds. Council in adopting the Petition Scheme was keen to emphasise that it should supplement not replace the Council's existing scheme which was more generous than the new legislation required. Details of the Petition Scheme had been posted to the Council's website and the e-petition scheme which enabled petitions to be lodged electronically would go live shortly to initially trial it.

The section on Petitions within Part 4 – Rules of Procedure – Council had been amended in the draft constitution to reflect the Petition Scheme. The Focus Group whilst content with the Petition Scheme itself requested that the suggested wording for Part 4 be amended to distinguish between the mandatory scheme and the Council's own discretionary scheme.

Par 4 - Rules of Procedure - Council

Yamina Rhouati, Democratic Governance Manager invited the Focus Group to consider Part 4 – Rules of Procedure - Council. Due to time constraints, members were asked to consider in particular the sections on:

- Public Participation
- Public Questions
- Member Questions
- Motions on Notice

To facilitate debate, suggested revisions were presented for the Focus Group's initial views before submitting them to the next meeting for more detailed consideration.

Resolved:

That Part 4 – Rules of Procedure – Council be considered in more detail at its next meeting.

That due to constraints of time, the following items at minute no. 27 and 28 be deferred until next meeting on 8 October 2010.

22e. Protocol (i) - Briefing and Information for Local Members

Resolved:

That this item be deferred to the meeting on 8 October 2010.

22f. Protocol (vi) - Media Relations

Resolved:

That this item be deferred to the meeting on 8 October 2010.

23. Date of Next Meeting

The next meeting will be held on Friday 8 October 2010 at 10:00am to consider the following areas:

Part 3B – Scheme of Delegation to Officers

Part 4 – Rules of Procedure – Council

Part 6 – Budget Policy and Framework

Part 11 - Contract Regulations

Overview and scrutiny arrangements: Executive/Scrutiny Protocol and issue of chairmanship of scrutiny committees

Protocol (i) – Briefing and Information for Local Members (deferred item)

Protocol (vi) – Media Relations (deferred item)

Protocol (viii) – Complaints Procedure

Partnership Protocol (not previously included in this constitution)

To consider a redrafted constitution taking into account the changes so far recommended by the Focus Group.

(Duration of meeting: 10.00 am - 2.40 pm)

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