

Wiltshire Council

Overview and Scrutiny Management Committee

28 February 2013

Overview and Scrutiny Constitutional Changes

Purpose

- 1 To report back to the Management Committee on the views of the Constitution Focus Group and subsequent discussion at Group Leaders regarding
 - (1) the changes to the Constitution including Call-in resulting from the new Overview and Scrutiny arrangements agreed by Council last May; and
 - (2) a refresh of the Task Group Protocol.

Background

- 2 These issues have previously been raised at the Management Committee and were brought together by the Scrutiny Manager in his report to the Constitution Focus Group (copy attached).
- 3 In summary, the Management Committee had determined its position on Call-in of executive decisions at its meeting on 13 December 2012 (ie that it was the responsibility of the Management Committee as demonstrated in the structure chart to full Council) but wished the reasonableness of its decision to be tested through the Constitution Focus Group. This, along with other associated matters, had implications for the amendments to be made to the Constitution which were originally delegated to the Solicitor to the Council.
- 4 The Task Group Protocol required updating to better reflect a number of recent experiences and a refresh generally.

Constitution Focus Group

- 5 It met on 24 January and the Chairman and Vice-Chairman of the Management Committee were in attendance to contribute to discussion. In respect of the scrutiny items the following outcome is recorded in its (draft) minutes:
 - (1) *That the Call-in Procedure detailed in Appendix A to the report be agreed*
 - (2) *That Overview and Scrutiny Management Committee has the power of direction and control over the select committees and, as such, requests for*

call-in and for matters to be considered by scrutiny should be referred to the Management Committee.

(3) That the revised protocol, setting out principles for the operation of task groups, including dealings with third parties, issues of confidentiality and publication of reports be agreed.

(4) That Article 6 – Overview and Scrutiny Committees and Part 8 – Overview and Scrutiny Procedure Rules be agreed subject to adding the words ‘Overview and Scrutiny’ before the word ‘Management’ on lines 2, 3, 4 and 5 of Article 6.

Group Leaders

- 6 The Solicitor to the Council brought an item to Group Leaders on 29 January providing an update on the work of Constitution Focus Group. The following is recorded in the notes of the meeting:

Group Leaders had reservations regarding some of the proposals [including those relating to overview and scrutiny] and suggested that the Standards Committee should be asked to defer these issues both for the new council and the new standards committee to consider.

What now?

- 7 The Solicitor to the Council recommends that in response to the suggestion of Group Leaders that the matter of Call-in and other Constitutional matters should now be held in abeyance until after the new Council is formed. Although not reflected in the notes, he further advises that comments made in discussion warranted a review of potential options for expanding Call-in so that the new Council could determine the way forward from an informed position. This should involve considering the originating legislation, review of how effectively it has been applied in Wiltshire, looking at the approach of other authorities and consulting the relevant national body/academic advice.
- 8 It is understood that the refreshed Task Group Protocol is not caught by this suggestion as it is a stand-alone operational document. The Constitution Focus Group had no negative observations to make on its content and therefore can be agreed with the approval of the Management Committee.

Recommendations

- 9 In response to the suggestion of Group Leaders, to agree to leave final decision on the Constitutional changes including Call-in until the new Council (and Standards Committee is constituted) but in the meantime to ask for a further review to be undertaken on other options including the possible expansion beyond the Management Committee.

- 10 To agree to the refreshed Task Group Protocol as circulated with the report to the Constitution Focus Group.

Paul Kelly

Scrutiny Manager (and Designated Scrutiny Officer)