

FOCUS GROUP ON THE CONSTITUTION

MINUTES of the FOCUS GROUP ON THE CONSTITUTION held at COUNTY HALL,
TROWBRIDGE on WEDNESDAY 10 DECEMBER 2008.

PRESENT:

Mr S Wheeler	-	Kennet District Council representative
Mr B Mudge	-	West Wiltshire District Council representative
Mrs C Soden	-	Wiltshire County Council representative
Mrs I McCord	-	Standards Committee representative of Wiltshire County Council
Mr S Gerrard	-	Solicitor to the Council and Monitoring Officer
Mr I Gibbons	-	Head of Legal and Democratic Services
Mrs Y Rhouati	-	Principal Democratic Services Officer
Mr S Milton	-	Area Board Team Leader

1. Apologies

Apologies for absence were received from Mr P Doyle, North Wiltshire District Council representative and Mr P Clegg, Salisbury District Council representative.

2. Introductions

Introductions were made.

3. Election of Chairman

On being proposed and seconded, it was

Agreed:

That Mrs I McCord be elected Chairman of the Focus Group on the Constitution,

4. Members' Interests

No interests were declared.

5. Terms of Reference of the Focus Group

The Group noted its following terms of reference as agreed by Implementation Executive at its meeting on 29 October 2008:

- To provide a forum for Member engagement in the drafting of the Constitution.
- To consider Member views ascertained through questionnaire responses on a number of key issues and make recommendations where appropriate.
- To offer a Member perspective on and accordingly influence key issues within the constitution.
- To consider the draft constitution.
- To consider responses to the draft constitution from Members and officers and make appropriate recommendations.

Members questioned whether the terms of reference should have perhaps reflected a stronger role for the Group other than to consider the draft constitution, but accepted that the sentiment of the terms of reference and more explicitly the last bullet point did allow the Group to make appropriate recommendations.

6. Constitution for Wiltshire Council

(a) Report to Implementation Executive (IE)

(i) Progress Report – 29 October

The Group was invited to note and comment on the progress report to the IE on 29 October 2008.

The Monitoring Officer reminded Members that Wiltshire County Council would be a continuing authority and therefore the current Wiltshire County Council constitution would be used as the basis for a new constitution for Wiltshire Council.

The new Council would expect to have in place a constitution which was lawful and fit for its purposes reflecting its new functions and responsibilities. It was pointed out that after a period of time, the new Council would in all probability require a review of the constitution in light of operational experiences. Members appreciated this position and considered that such a review could form one of its recommendations to the Council via the IE.

It was noted that a number of sections of the constitution as outlined would remain largely unchanged as they were mandatory. A number of sections had already been agreed or scheduled to be considered by the

IE over the next few weeks and would be incorporated in to the constitution. However, a number of sections such as Area Boards and Overview and Scrutiny arrangements would still remain a work in progress after the Council meeting which would be asked to consider adopting the constitution. These sections would be presented to the new Council for adoption.

Members were referred to a copy of the index of the constitution which had been reproduced in the agenda for the meeting and included a brief summary of where changes would and would not be required. Members appreciated this index and requested that it be further annotated with who was dealing with those changes and to what timescale.

It was noted that the IE had requested that in addition to the formal constitution, the production of a more user friendly summary be provided. The Monitoring Officer reported that whilst the constitution would be provided in full on the Council's website, the intention was to provide a slimmed down version of the document for Members which contained only those sections which Members were likely to refer to the most and these were outlined to Members.

Members referred to Part 15 – Member/Officer Relations Protocol and agreed that this should be treated as a protocol rather than a formal section of the document and linked with the job description for Unitary Councillor. Members requested a review of the Protocol to include full details of the service Members could reasonably expect from the Council and its officers including the level of ICT provision and a minimum response time to their telephone calls and emails. Members commented that communication would be crucial particularly during the first few months of the Unitary Council and suggested that an internal telephone directory would be useful to both Members and officers and officers were requested to follow this up.

Agreed:

That the progress report on the Constitution presented to the Implementation Executive on 29 October 2008 be received and noted.

(ii) Follow Up Report

The Monitoring Officer presented a follow up report which charted progress made since publication of the progress report to the IE on 29 October 2008.

It was noted that the IE had agreed proposals for the development control service and membership of the Area Planning Committees and agreed the adoption of new Executive Arrangements, details of which

were presented. The Standards Committee had recommended its terms of reference and membership.

Reports would be considered by the IE in January 2009 in respect of Wiltshire Council's licensing arrangements and terms of reference of the Licensing Committee and proposals to establish an Audit Committee to replace the Final Accounts and Audit Committee. The Group was also advised of the latest progress being made in revising the Financial Regulations and Financial Procedure Rules and Contract Regulations. All of the aforementioned proposals once agreed would be incorporated into the draft constitution.

The Area Board Team Leader advised on progress with Area Boards and the pilot Area Boards that were currently taking place. He reported that a Handbook which included the operating procedure and guidelines for Area Boards had been drafted and was currently the subject of consultation with various interested parties. The Handbook once agreed would form the basis of the drafting of the corresponding section in the constitution.

Members noted a proposal to provide a member body dealing with appeals where there was no specific appeals body for the matter in question. Members requested a summary of areas which could give rise to appeals for their consideration to ensure appropriate arrangements would be in place for each category of appeal.

The Head of Legal and Democratic Services reported on a proposal to deal with issues such as the determination of applications for free school transport by a Cabinet member under delegated powers rather than a formal Committee as at present. This gave rise to a discussion on the determination of local issues such as planning, licensing and appeals which Members considered should be determined by local members who could support the decision making process with their local knowledge.

The Monitoring Officer explained that officers were working on reviewing the scheme of delegation to officers to incorporate the new functions and responsibilities of the Council. However, he pointed out that the Local Government and Public Involvement in Health Act 2007 provided for a strong leader who would be appointed by the Council for a period of 4 years to provide stability and continuity for the Council and it would be up to the leader to determine the level of delegation to portfolio holders appointed by the Leader and officers.

It was noted that it was not proposed to review the Members' Allowances Scheme at this stage, the exception being the introduction of special responsibility allowances for those chairing new member bodies. A member commented that whilst the basic allowance covered ICT consumables, consideration should also be given to a contribution being made towards postage and other incidental costs.

Agreed:

That the Focus Group:

- (A) note the work being undertaken and timescales involved to prepare a constitution for Wiltshire Council and that a draft constitution would be presented to the Implementation Executive on 28 January 2009 for consideration and recommendation to Council on 24 February 2009.**
- (B) That the next meeting of the Focus Group be held on Friday 16 January 2009 at 10.30am.**
- (C) That officers be asked to look into the following areas for consideration at the next meeting:**
 - (i) a summary of who was responsible for dealing with each of the areas being revised in the constitution together with timescales for their completion**
 - (ii) revisions to the Member/Officer Relations Protocol (Part 15) to include full details of the services Members could reasonably expect from the Council and its officers including ICT provision and minimum response times to their telephone calls and emails**
 - (iii) a summary of areas which could give rise to appeals to ensure appropriate arrangements would be in place for each category of appeal.**

(b) Responses to Questionnaire

A questionnaire on the constitution had been circulated to all Wiltshire district and county council Members on 1 August 2008 for their feedback on the constitution and its review. A summary of the responses received was presented for the Group's consideration along with officer comments on best practice being used by other local authorities on the areas highlighted by Members.

Members referred to references in the responses to examine ways of making council meetings more effective. Members further noted that each of the 5 Wiltshire Councils operated different rules for public participation and requested that these be examined carefully to draw out best practice in this area commenting that different rules may need to be engaged for different member bodies particularly when dealing with regulatory functions which attracted more public participation.

Agreed:

- (a) That Member responses to the questionnaire on the constitution be received and noted and**
- (b) to note that Members would have a further opportunity to comment when the draft constitution is circulated for consultation**

(Duration of meeting: 10.30am – 12.30pm)

The Officer who has produced these minutes is Yamina Rhouati, of Democratic & Members' Services, direct line (01225) 718024, e-mail yaminarhouati@wiltshire.gov.uk

Press enquiries to Communications, direct line (01225) 713114/713115.