

REPORT OF THE
Cabinet / Leader
Review of the Constitution

PART I

155. EXECUTIVE SUMMARY

1. By virtue of Part 1, Chapter 12, Paragraph 12.4 of the County Council's Constitution, the Monitoring Officer has the duty to maintain the Constitution. The Audit Committee, with guidance from the Monitoring Officer, is required to monitor and review the operation of the Constitution, and to report to Cabinet any changes it considers necessary. Cabinet is then required by virtue of Part 1, Chapter 15, Paragraph 15.1 of the Constitution to consider any advice from Audit Committee, and to monitor and review such aspects of the Constitution as it considers appropriate, and to make any recommendations to full Council.

2. The revised Constitution was presented to Audit Committee on 4 March 2011, to a full briefing of Members of the County Council on 7 April 2011, and to Cabinet on 4 July 2011.

3. This report takes account of the comments of Audit Committee, comments from the Member briefing, and the recommendations of Cabinet.

4. The purpose of this report is to present the revised Constitution to the County Council, and to seek the approval of the County Council to adoption of the revised document. The revised Constitution is attached at Appendix 1.

156. CONTEXTUAL INFORMATION

1. As a consequence of operating Executive Arrangements, the County Council is required, in accordance with Section 37 of the Local Government Act 2000, to prepare, keep up-to-date, and publicise a Constitution. The present Constitution is based on a modular version and guidance provided by the then Department of the Environment, Transport and the Regions to Local Authorities in consequence of changes in governance arrangements from the Committee model of Member decision making to the Executive Model introduced by the Act. The County Council's Constitution was adopted in March 2001 and has been updated from time to time since this date as a result of changes in the law and in the County Council's own procedural requirements. There has not, however, been a full review of the Constitution since its adoption in March 2001.

2. The County Council at its meeting on 16 July 2009 considered it appropriate as a matter of good governance, that there should be a review of the County Council's Constitution to ensure best practice and continued fitness for purpose, and to ensure that the Constitution continued to meet operational needs. The County Council also considered that following this review, there should thereafter be an annual review of the Constitution as part of the County Council's Corporate Governance arrangements, and the Chief Executive in consultation with the Monitoring Officer was instructed to carry out this task. This paper sets out the revised Constitution.

3. It should be noted that the revised Constitution does not contain any changes proposed by Government in the Localism Bill. The Constitution will be revised further

once proposals in the Localism Bill become law, and any consequential changes to the County Council's governance arrangements are determined.

4. It should also be noted that the revised Constitution does not currently contain provision in respect of the appointment of Deputy Members to the Buildings, Land and Procurement Panel (BLAPP). The Constitution will be updated in this regard by the Monitoring Officer to include similar provision to the appointment of Deputy Members to Regulatory Committee A, included at Part 1, Chapter 6, Paragraph 6.5 of the revised Constitution.

157. SUMMARY OF MAIN CHANGES

1. The revised Constitution is divided into four Parts. Part 1 contains 16 Chapters explaining the business model of the County Council, including the appointment of its various Committees, Executive Arrangements, and Chief Officers.

2. Part 2 sets out in one place the allocation of functions of the County Council, making it clear which functions are reserved to the County Council either by law, or by choice, which functions are allocated to Committees (and to which particular Committee), and which functions are the responsibility of the Executive, either by law or by choice of the County Council. This Part also sets out clearly, delegations to Chief Officers.

3. The statutory functions of Select (Overview and Scrutiny) Committees are also set out in Part 2, with a specific section allocated to the functions of Scrutiny Committees. There is also a new section setting out clearly the role and the functions of the Heath (Overview and Scrutiny) Committee (HOSC).

4. Part 3 sets out clearly the rules of procedure of the County Council. Chapter 1 contains a full revision of the County Council's Standing Orders, which now follow the order of the County Council's business at Council meetings. Points of ambiguity raised over the last two years at County Council meetings are addressed, in particular rules of debate, and there are now specific and separate rules of debate for Part I items and for Notices of Motions. Matters which can be moved without notice are now referred to as 'Proposals', to avoid confusion with Notices of Motions. Procedures in respect of the rules of debate of Part I items and Notices of Motion are amended so that voting on amendments is carried out in reverse order to reflect County Council preferred custom and practice. It is also made clear in Standing Orders which Standing Orders also apply to Committees. The definitions of quorum are made clearer, with specific references for County Council meetings, and for meetings of Committees, Sub-Committees and Standing Panels. It should be noted that for clarity, the exact requirements in respect of quorum of individual Committees, Sub-Committees and Standing Panels of the County Council will in future be included in the proportionality table.

5. Executive Procedures are fully revised in Chapter 2, with inclusion of all procedures and rules relating to the Executive and the conduct of Executive Meetings, (for example requirements and procedures relating to the Forward Plan and Key Decisions) all in one place. This Chapter also makes it clear which Standing Orders also apply to the Executive. Procedures relating to Scrutiny are similarly revised in Chapter 3 with a new section on Scrutiny Procedures as they apply to the HOSC.

6. New Access to Information Procedure Rules are included at Chapter 4. Requirements in respect of publication and access to Reports, Records of Decisions made and Background Papers are set out, with separate sections for

Council/Committee Reports and Documents, and Reports and Documents of the Executive. Chapter 4 also includes rules in respect of rights of public access to confidential and exempt information.

7. Chapter 5 contains revised Financial Regulations, and Chapter 6 includes revised Contract Standing Orders, as approved by the County Council at its meeting in November.

8. Part 4 contains Appendices, Codes, and Protocols. A revised Protocol for Member/Officer Relations is contained at Part 4 Appendix C. A new protocol in respect of Members' Access to Information and to County Council documents (including rights of access to confidential and exempt information) is included within this Protocol as a new Paragraph 5.

158. COMMENTARY

1. The draft attached to this report responds to comments raised by Audit Committee, at the Member briefing, and by Cabinet. It is considered that the revised Constitution now reflects the current law and is therefore legally compliant, reflects in the best possible way the business protocols and procedures used to run the County Council's business, and is thus better in both these regards than the previous document.

2. Whilst much has been done to improve the presentation of the document and its content, it is nonetheless still 211 pages long. An index will therefore be prepared by the Monitoring Officer and included within the Constitution by the end of August 2011.

RECOMMENDATIONS

That the County Council

- (a) authorise the Monitoring Officer to include in the revised Constitution provision for the appointment of Deputy Members to BLAPP, and an index to the document.
- (b) approve the revised Constitution as set out in Appendix 1, for adoption by the County Council and operation with effect from 18 July 2011.