



**REPORT TO**  
**Transformation and Resources Overview and Scrutiny Committee**  
**22 January 2013**

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**Introduction**

The Constitution Review Working Group wishes to put forward a number of recommendations to the Transformation and Resources Overview and Scrutiny Committee and to Full Council. The Group consists of three Members, Cllr Elizabeth Shenton (Chair), Cllr Mark Holland and Cllr Nigel Jones. Their work is supported by Officers of the Council.

**Questions to be Addressed**

Are Members happy to accept the recommendations of the Constitution Review Working Group? Do they wish to modify them?

What are the timescales for implementation?

Will there be a review of any changes in the future?

Do Members feel the Working Group should look at any other areas not covered in the report in the future?

## **Outcomes**

The recommendations are intended to enhance the Democratic processes of the Council and to ensure the Council's constitution reflects the current processes of the Council. A full discussion on the recommendations will ensure any changes are fully thought through, transparent and robust. It is recognised that some of the new processes may need to evolve in time to further enhance the Democratic process.

## **Main Report**

### **Scrutiny Chairs and Vice Chairs' Group**

The Working Group has had extensive discussions regarding the Overview and Scrutiny Co-ordinating Committee. They reached the conclusion that much of the work of this Committee could be completed outside of the formal Local Government Committee structure. In its place an informal Scrutiny Group would be setup, the Membership of which would consist of the Chairs and Vice Chairs' of all the Scrutiny Committees. Group Leaders would also be invited to attend the meeting. Senior Officers and Cabinet Members would be asked to certain meetings to discuss the Scrutiny process and topics on the work plans. The Committee has previously considered areas which were considered to be over-arching such as the Community Centre Review. The Scrutiny Chairs' Group in future could agree which Committee would be most suitable to consider topics which are believed to cross the remit of two or more Committees. The Scrutiny Chairs' meeting would be diarised and informal agendas sent out in advance of the meeting. The Chair of each Scrutiny Committee could provide an update to their respective Committees as and when required. The suggestion has also been made that the group could rotate the chair of the meeting on a regular basis.

**RECOMMENDATION:** That the Overview and Scrutiny Co-ordinating Committee should be replaced with an informal Scrutiny Chairs' Group meeting at least bi-monthly.

### **The Finance, Resources and Partnerships Overview & Scrutiny Committee**

The Constitution Review Working Group has discussed the title of the current Transformation and Resources Overview & Scrutiny Committee. It is felt that this title no longer reflects the Council's corporate priorities. The remit of the Committee would be extended to include matters relating to the change to a Co-operative

Council. This change reflects the corporate priority of 'becoming a co-operative council delivering high quality community driven services' replacing the former priority of 'transforming the Council to achieve excellence.' The Working Group recommends that the title of the Committee should change to 'The Finances, Resources and Partnerships Overview & Scrutiny Committee.'

#### **RECOMMENDATION:**

- A) That the Transformation and Resources Overview & Scrutiny Committee be renamed the 'Finances, Resources and Partnerships Overview & Scrutiny Committee.'
- B) That the remit be changed reflect the work to become a Co-operative Council

#### **Health Scrutiny Committee**

The Constitution Working Group has given considerable consideration to the governance arrangements of the Health Scrutiny Committee. The current Borough Council's Health Scrutiny Committee only consists of seven Members and does not have a Vice Chair. It is felt that there would be benefit to the Democratic process if the Membership was increased to eleven in line with the other Scrutiny Committees. The Committee should expand its remit to cover areas where there is apparent duplication with the other Scrutiny Committees, in particular the Cleaner, Greener and Safer Communities Scrutiny Committee and the Active and Cohesive Scrutiny Committee. It should be noted that the current Health Scrutiny Committee is technically a Joint Committee with the County Council and is subject to a 'Joint Code of Working Agreement' with them. There is one County Council representative on the Committee, this would stay as 1 even if the total membership of the Borough's Health Committee was increased to 11.

The Working Group has come to the view that the Health Scrutiny Committee should cover the topic of health improvement which is currently within the Active and Cohesive Scrutiny Committee remit. The Group also feel that alcohol and Drugs, from a public health perspective, which is sometimes considered by the Cleaner, Greener and Safer Communities Scrutiny Committee should be solely within the remit of the Health Scrutiny Committee. Specific health issues relating to old people should also be covered by this Committee and removed from the Cleaner, Greener and Safer Scrutiny Committee remit with the Active and Cohesive Scrutiny Committee to taking on issues relating to social and cultural aspects of older people. To better reflect the extended remit it is proposed that the Committee change its name to the Health and Well-Being Scrutiny Committee. The suggested terms of reference are below:-

### **Health and Well-Being Scrutiny Remit**

- University Hospital North Staffordshire
- Combined Healthcare and Stoke and Staffordshire NHS Partnership
- Health organisations within the Borough area such as GP surgeries
- Health and Well-Being Strategy
- Health Improvement (Including but not exclusive – Diet, Nutrition, Smoking, Physical Activity, Poverty including Poverty & Licensing Policy)
- Specific health issues for old people
- Alcohol and Drugs Issues
- Formal Consultations
- Local Partnerships
- Matters referred direct from the County Council
- Referring matters to the County Council for consideration where a problem has been identified within the Borough

### **RECOMMENDATION:**

- a) That the Health Scrutiny Committee expands its remit to include Health Improvement and Alcohol and Drugs and new terms of reference be agreed which should not contradict the Joint Code of Working with the County Council.
- b) That the Membership of the Committee is extended to 11 Members and that a Vice Chair be appointed in the future. That the County Council be notified of the new arrangements.
- c) That the Committee is renamed as the 'Health and Well-Being Scrutiny Committee.'

### **Scrutiny Committee Remits**

A recommendation from the Working Group was for the remits of all the Scrutiny Committees to be listed on their work plans. This measure has been implemented and each Committee Chair will ask their Committee to feedback on the current

remits. The current (not-amended) remits are attached to the report as Appendix A. Any changes to these will be reported to Full Council.

### **Scrutiny Committee Mechanics**

#### **RECOMMENDATION**

The Working Group recommend that the word “overview” be removed from all scrutiny committee titles

#### **Items on the Work Plan**

#### **RECOMMENDATION**

That a member of the Council is entitled to ask for an item to be included on the work plan of a committee and that the Chair must give a valid reason if this request is to be declined.

#### **Public Question Time**

The Constitution Working Group is mindful that there is currently no provision for the public to be able to ask questions at a Scrutiny Committee. The Group is of the unanimous view that a Member of the Public should be able to serve notice of a question which falls within the remit of a Scrutiny Committee. The Working Group proposes that a Member of the Public would be able to ask a question if they served two clear working days’ notice. The Chair would be able to use their discretion if the deadline was missed. The item would become a standing one similar to apologies for absence. A limit of a total of five questions per meeting would be permitted, with the Chair having the ultimate decision on the permissibility of the questions. Consideration has also been given to whether the practice should be introduced to Cabinet.

#### **RECOMMENDATION:**

- a) That Public Question Time for Scrutiny Committees and Cabinet be incorporated into the Council’s Constitution.
- b) That a member of the public should serve two clear days’ notice in writing of the question to the appropriate Committee Officer.
- c) That the Chair be given the discretion to waive the deadline and to assess the permissibility of the questions. The Chair’s decision will be final.
- d) That a maximum of three public questions to be asked at any one Scrutiny Committee meeting or Cabinet meeting.

- e) That s maximum time of three minutes for each person to give an initial question / statement to the Committee.
- f) That a rule be included to disallow any questions that are deemed to be repetitious or vexatious.

### **Portfolio Holder Question Time**

The Constitution Working Group acknowledges that Portfolio Holder Question Time has been trialled at some of the Scrutiny Committees and has been received favourably to date. It is not proposed that this is a standing item but perhaps every six months at the discretion of the Chair of the Scrutiny Committee. Portfolio Holder Question Time provides an opportunity for the Portfolio Holder to talk about their priorities and work objectives and a chance to inform the Scrutiny Committee of any issues or concerns that they may currently be facing within their Portfolio. It is also an opportunity for them to flag up areas within their remit that they think may benefit from scrutiny in the future, this can include policy development. Portfolio Holder Question time is also an opportunity for scrutiny committee members to aske questions to the portfolio holder. This in turn could help inform the Committee's work plan, if appropriate.

**RECOMMENDATION:** That the concept of Portfolio Holder Question time at Scrutiny Committees be ratified in the Council's constitution.

### **Chairing of Meetings**

Whilst the Constitution Review Working Group recognises that Member Training and Development is not strictly within their remit, the subject has naturally arisen within the discussions. The group recognises that some Scrutiny Chairs' and Vice Chairs' are fairly new in the position. The group wishes to ensure that all Scrutiny Chairs' and Vice-Chairs' are offered learning and development opportunities, which could include in-house training, observing meetings at other Councils and attending official external courses. The Centre for Public Scrutiny also offers a number of useful guides.

**RECOMMENDATION:** That learning and development opportunities for Chairs and Vice-Chairs of Scrutiny be enhanced in line with current budget constraints.

### **Cabinet Panels**

There has been much discussion amongst the Working Group Members about Cabinet Panels. For the purposes of clarity the Constitution Working Group is of the view that the Constitution should detail the purpose of Cabinet Panels, the process of communication, how they are setup, the need for terms of reference and how their Membership is formed. In essence a form of protocol should be added to the Constitution.

**RECOMMENDATION:** That Cabinet Panels be formally recognised in the Council's constitution detailing the process on how they are setup, communicated, the needs for terms of reference and details on their Membership composition.

### **Pre-Cabinet Scrutiny**

The Constitution Review Working Group acknowledges that pre-cabinet Scrutiny is an area where the Scrutiny process can have a positive impact. This pre-cabinet approach can help inform future decisions and reassure the Council that the decision making process is robust, fair and transparent. It is evident from looking at the work plans of all of the Scrutiny Committees that considerable work has already taken place in this area. The group wishes to include a statement in the Constitution that formally recognises the important function of pre-Cabinet Scrutiny.

**RECOMMENDATION:** That a statement be written into the Constitution formally acknowledging the importance of pre-Cabinet Scrutiny as a function of Scrutiny Committees.

### **Policy Development**

The Working Group acknowledges that Policy Development is an important area where Scrutiny Committees can have a positive impact. Draft policies are often received by Scrutiny before being finalised, allowing Scrutiny Committees to have an input into the process. As part of Portfolio Holder Question Time, the Portfolio holder is asked to consider areas that may benefit from the input of Scrutiny in the field of policy development. Whilst the group acknowledges that policy development and review is already referred to as a Scrutiny function in the Constitution the Group wishes Council to reaffirm this as an important part of Scrutiny's work

**RECOMMENDATION:** That Members reaffirm the importance of policy development as an important part of the Scrutiny process.

### **Officer Presentations at Scrutiny Committees**

The LGA Peer review recommended that Officer presentations at Scrutiny Committees should be limited to 15 minutes. Whilst the Group sees a benefit in limiting presentations to allow a full debate by Members of the Committee, it believes that the Chair should have discretion to waive such a limitation if there is good reason to do so and that the recommendation should cover all presentations, not just those given by officers. The group was unsure as to whether a section relating to this should be included in the constitution or whether it was sufficient to communicate this presentation givers at the time of their invitation to the meeting.

**RECOMMENDATON:** That presentations at Scrutiny Committees be limited to 15 minutes unless permission is sought from the Chair to extend the time of the presentation before the start of the meeting.

### **Changing the Constitution - Process**

The Constitution Working Group are of the view that there should be a nominated Council Officer responsible for changing the Constitution administratively. They gave some considerable thought to the definition of a minor change. They concluded that minor changes should be defined as administrative errors, typing mistakes, omissions etc and should only be taken to Annual Council, but the change would be made to the Constitution in the interim.

The constitution currently contains the following paragraph regarding approval of changes:-

*'Changes to the Constitution will only be approved by the Full Council after consideration of the proposal by the Monitoring Officer, save that the Monitoring Officer may make consequential changes to the Constitution, to reflect resolutions of the Council or Cabinet or decisions properly made under delegated powers and changes of fact and law subject to regular notification of Members to such changes.'*

The group recommends that the following wording from the of the above be removed:

***'or Cabinet or decisions properly made under delegated powers and changes of fact and law subject to regular notification of Members to such changes.'***

So therefore with the exception of consequential changes as defined above (includes minor changes), it is only Full Council that can authorise a change in the Constitution. Committees and working groups can of course recommend changes to Full Council. Any minutes where changes to the Constitution are made are to be sent to the nominated Constitution Administrative Officer, this will include any policy changes and updates. Any changes to the scheme of delegation relating to Officers will be amended and recorded by the nominated Officer subject to the approval of the Monitoring Officer. A change in the scheme of delegation relating to Officers will be seen as a consequential change and therefore not require approval by Full Council. Regular notification of such changes would be reported to Members in line with the current provision in the Constitution.

The Working Group are of the view that the constitution should be in PDF format so it is easier to navigate and copies of the constitution should be provided to newly elected members at their induction by Democratic Services.

### **RECOMMENDATIONS:**

A) That there be a nominated Constitution Administration Officer to make the necessary approved changes to the Constitution.

B) That the following wording from the current constitution relating to the approval of changes be removed:



***'or Cabinet or decisions properly made under delegated powers and changes of fact and law subject to regular notification of Members to such changes.'***

C) Minor changes should be defined as administrative errors, typing mistakes, omissions etc and should only be reported to Annual Council, but the change will be made to the Constitution in the interim.

D) Any changes to the scheme of delegation relating to Officers will be amended and recorded by the nominated Officer subject to the approval of the Monitoring Officer. A change in the scheme of delegation relating to Officers will be seen as a consequential change and therefore not require approval by Full Council.

E) Regular notification of changes in the constitution will be reported to Members in line with the current provision in the Constitution.

F) With the exception of minor changes and consequential changes (as already defined within the Constitution), it is only Full Council that can authorise a change in the Constitution. Committees and working groups can of course recommend changes to Full Council.

G) That all changes to Committee membership be reported to Full Council

### **Scheme of Delegations**

**To be considered at the meeting of the Constitution Working Group to be held on 4<sup>th</sup> February 2014.**

### **Substitutes**

Full Council have already established their support for substitutes in principle. The Constitution Review Working Group has given some thought to the actual process for substitutions. They wish to propose that at the Annual Council Meeting when the Membership for each Committee is put forward that the substitutes for each Committee are also confirmed.

For every Member on the Committee there can be one substitute. For example if there were 7 Labour Members, 2 Conservative Members and 1 Liberal Democrat, there would be 7 Labour substitutes, 2 Conservative substitutes and 1 Liberal Democrat substitute. There is however no need to have a substitute for every member on a committee and training for all substitutes will be required for regulatory committees. The nominated substitute could represent any Member of the same Political Group. The Working Group proposes that at least 24 hours' notice should be served to the Chair and Clerk of the Committee by the Member apologising. Where possible it would be the responsibility of the Member apologising to arrange a substitute and this responsibility should not be delegated to an Officer of the Council.

**NUL Grants Assessment Panel**

The panel currently consists of nine Members and is politically balanced. It has been suggested that the Grants Assessment Panel could increase its remit to cover other funds that the Council currently administers. One option available to the Council would be to transfer the administration of the grant money to an independent organisation, such as the Staffordshire Community Foundation. This would mean there would no perception of any Member favouring a particular project within their own ward or personal interest. A list of the Grants is below:

**GRANT ASSESMENT PANEL (GAP)**

<b>GRANT</b>	<b>BUDGET 2013/14</b>	<b>TIME SCALES</b>	<b>DECISION MAKER</b>
Community Chest	£60,000	Ongoing	By Exception – GAP
Cultural Grants	£14,000	Quarterly	GAP
Green Grants	£4,000	Ongoing	No Officer Decision – Dave Adams
Homelessness Grants	£17,500	Fourth-Quarter	GAP
Small Grants	£22,000	Quarterly	GAP

**OTHER GRANTS ADMINSTERED**

<b>GRANT</b>	<b>BUDGET HOLDER</b>	<b>DECISION MAKER</b>
Community Centres	Rob Foster	
Conservation & Heritage	Guy Benson	Planning Committee
Sports Grants	Dave Roberts	Sports Council

**RECOMMENDATION:**

- A) That Members consider extending the remit of the Grants Assessment Panel to cover some of the other funds that the Council currently administers.
- B) That Members explore if it would be beneficial to use an independent organisation to issue grants in future.

**Conclusions**

The report has provided a number of Recommendations for Members to consider and the background to explain how the Constitution Review Working Group has come to develop these recommendations. The Constitution Review Working Group's parent Committee is the Transformation and Resources Overview and Scrutiny Committee and therefore seeks approval of the recommendations, as listed within the report. It is recommended that an update report giving an overview of the work being carried out be taken to full council in February and a final report in April requested all changes to be implemented.

**Relevant Portfolio Holder(s)**

Cllr Gareth Snell

**Local Ward Member (if applicable)**

All

**Appendices**

Current Scrutiny Remits (Appendix A)