

Constitution Review Working Party

held at Ryedale House, Malton
on Tuesday 27 January 2009

Present

Councillors Wainwright (in the Chair), Clark, Keal, Knaggs and Raper

In attendance

Mrs A Adnitt, P Cresswell, G Housden, Mrs M Jackson, P Long, Miss L Sandall, Miss J Waggott and A Winship

Minutes

CRWP.17 Apology for Absence

Apologies for absence were received from J Rudd and Mrs Slater.

CRWP.18 Minutes

The minutes of the last meeting of the Working Party held on 19 November 2008 (previously circulated) were presented.

Resolved

That the minutes of the last meeting of the Working Party held on 19 November 2008 be approved as a correct record.

CRWP.19 Urgent Business

There were no items that the Chairman considered should be dealt with at the meeting as a matter of urgency by virtue of Section 100B(4)(b) of the Local Government Act 1972.

CRWP.20 Declarations of Interest

No declarations of interest were received.

CRWP.21 Responsibility of Functions – Scheme of Delegation to Committee and Officers

The Chief Executive submitted a report (previously circulated), the purpose of which was to consider proposals for changing arrangements for the discharge of the Council's functions to deliver more efficient and effective decision making, including:

- (i) A revised Scheme of Committee delegation
- (ii) A new scheme of Officer delegation with Officer Scheme of Delegation Protocols.

The focus of the report was the proposed changes to the following parts of the Council's Constitution: -

- (i) Article 11 - Officers
- (ii) Part 3 - Responsibility for Functions

copies of the draft documents were appended to the report.

Members were reminded that at the Council meeting held on the 15 January 2009, a set of general principals and a method of delegation had been adopted. The draft documents were used as a basis for discussion, amendment and approval for submission to the Policy and Resources Committee on 12 February 2009.

The headline changes to the existing Constitution contained in the redrafted document were summarised as follows: -

- I. Extensive delegation of functions to Officers:
- II. A protocol to ensure that Members would still have adequate opportunity to comment on and be involved in the decision making process as appropriate;
- III. Changing the name of the Community Services and Licensing Committee to Community Services and allocating the licensing functions to the Licensing Committee;
- IV. Ensuring that Officers have powers to exercise the Council's functions in an emergency;
- V. Updating Article 11, which related to the management structure of the Council.

Councillors discussed the proposals in detail and were broadly of the opinion that they would be beneficial, although it was felt that there was a need for further clarity, with concerns raised regarding the method of reporting Officer's decisions, and political sensitivity.

Councillor Howard Keal expressed the view that it was important for any changes to the Scheme of Committee and Officer Delegation to make clear where the line is between what is an Officer decision and what is a Member decision. In his opinion it was a question of judgment and balance for Officers to know when to involve Members in making decisions in relation to issues which are politically sensitive. He hoped Officers would have the appropriate political "antennae" to be able to know when to refer such matters to Committee.

Councillor Knaggs considered the key word to be clarity about the respective responsibilities of Officers and Members. He thought the framework of the proposed Scheme of Committee and Officer Delegation was fine and had the potential to work well especially if Officers are given the opportunity to further develop their political awareness. He believed there was a safeguard in relation to the extensive delegation of functions to Officers in the form of the ability of any five Members to review an Officer decision. Councillor Knaggs mentioned that he had some technical issues to raise which he would send direct to Officers for consideration.

Councillor Clark expressed concern that the provision for a review of Officer decisions could be open to abuse and he thought that the ability for Officers to refer matters to Committee was the appropriate safety valve.

Councillor Clark stated he was pleased to see that the Scheme of Officer Delegation gave Officers the opportunity to refer matters to Committee if the Officer was of the opinion that the matter should be determined by Committee. Councillor Clark was also of the view that provided that there was an opportunity for Officers to refer matters to Committee and Committees could in appropriate circumstances refer issues of significant political sensitivity to meetings of Council he could be supportive of the proposed changes to the Scheme of Officer Delegation. Although Councillor Clark thought that the proposals had the potential to be a great success he was of the opinion that further work would be required on the issues he had raised, and felt that working examples of past decisions to illustrate the benefits that would be produced by the proposed changes would be valuable.

Following consideration of the report, it was moved, seconded and agreed that the draft documents subject to amendments, addressing the concerns raised by the Constitution Review Working Party be approved for inclusion on the agenda for the Policy and Resources Committee meeting on the 12 February 2009.

Resolved

That the draft documents (following amendments) be approved for inclusion on the agenda for the Policy and Resources Committee meeting to be held on the 12 February 2009.

NB. Councillor Clark requested that his vote against this decision be recorded.

CRWP.22 Statements to Full Council from the Chairman of Committees

The Chief Executive advised that following the recent changes to the agenda structure for Full Council meetings, the Chair of Overview & Scrutiny had expressed a concern that she had lost her opportunity to report to the Council meeting.

Members were reminded that if the minutes of Overview and Scrutiny did not contain any matters to be referred to Full Council, they would not be included on the agenda. For this reason the Chair of Overview and Scrutiny had requested that the opportunity for her to make a statement to Council be included on the agenda.

A discussion followed and the Council Solicitor advised that in order to accommodate the request, a change to the Council Procedure Rules would be required

Resolved

That a recommendation be made to amend Council Procedure rules to enable the Chair of Overview & Scrutiny to present a statement to Council Meetings, a report to be submitted to the next meeting of the Policy and Resources Committee on the 12 February 2009.

CRWP.23 Any Other Items that the Chairman Decides are Urgent

The Chair sought the Members views regarding whether they would like to appoint named substitutes for this working party. Members thought that this would be useful, and in order to proceed a report would be brought to the Policy and Resources Committee.