

## **Constitution Review Working Party**

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held at Ryedale House, Malton  
on Wednesday 11 March 2009

### **Present**

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

### **In attendance**

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Mrs A Adnitt, S Copley, P Cresswell, Mrs M Jackson, Miss L Sandall, Miss J Waggott and A Winship

### **Minutes**

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#### **CRWP.24 Apology for Absence**

No apologies for absence were received.

#### **CRWP.25 Minutes**

The minutes of the last meeting of the Working Party held on 27 January 2009 (previously circulated) were presented.

#### **Resolved**

That the minutes of the last meeting of the Working Party held on 27 January 2009 be approved as a correct record.

#### **CRWP.26 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.27 Declarations of Interest**

No declarations of interest were received.

#### **CRWP.28 Items referred from Overview & Scrutiny Committee held on 25 February 2009**

- a) Terms of Reference for Overview & Scrutiny Committee**
- b) Terms of Reference for Community Services Committee**

The Chief Executive submitted the revised terms of reference for the Overview and Scrutiny, and Community Services Committees for the Members to consider.

Members discussed the proposed amendments in detail, and were of the opinion that they should be adopted.

## **Resolved**

That the amendments be adopted.

### **CRWP.29 Substitutions for Policy Committees from Overview & Scrutiny Members**

The Chief Executive submitted a report (previously circulated) in order to consider changes to the Council's Constitution relating to Members of the Overview & Scrutiny Committee being named substitutes for Policy Committees.

Members were reminded that it was a legal requirement for the Committee to have a known Membership, and for this reason named substitutes for committees were agreed at the annual meeting of Council. One of the central principles of the reform of the political management system of Council's implemented by the Local Government Act 2000 was the separation of roles between the Executive/Policy Committees and the Overview and Scrutiny Committee.

There had periodically been a request from Members, for Officers to explore the extent to which there may be dual membership of Members of Policy Committees and an Overview and Scrutiny Committee.

The legal position in relation to dual membership of a Policy Committee and an Overview and Scrutiny Committee was set out as follows:

- a. There was no legal prohibition on Members of a Policy Committee being Members of the Overview and Scrutiny Committee.
- b. Statutory guidance stated that a core group of between 5-10 scrutiny members should not be on a Policy committee, but subject to that other Members could be on both.
- c. The Members Code of Conduct provided that Members should not scrutinise a decision in which they had participated in making at a Policy Committee.
- d. The Council's constitution currently provided that Members of the Policy Committees could not be a Member of the Overview and Scrutiny Committee.

The Leader of the Liberal Group had previously expressed the view that if a separation was maintained between Members exercising a scrutiny role and Members exercising a role on a Policy Committee, as the Liberal group only had two Members, they could not substitute for each other if one Member was on a Policy Committee and the second Member was appointed to the Overview and Scrutiny Committee. This issue could be resolved by an amendment to the Constitution.

The Chair of the Overview & Scrutiny Committee was understood to favour the ability of all Members of the Overview & Scrutiny Committee to be able to substitute for Members on a policy committee.

The Officer recommendation was to amend the Council Procedure Rules to allow one Member from each political group who was a Member of the Overview and Scrutiny to substitute for a Member of the same group who had been appointed to the Membership of a Policy Committee. The proposed amendment to the Constitution was appended to the report at annex A.

The options were discussed at length, and Members were of the opinion that following the removal of the explanation section, the proposed amendment shown at annex A should be adopted.

Councillor Clark suggested that the role of Overview and Scrutiny Members, when observing policy committees, needed to be reviewed, and clarity on duties of that role needed to be included in the constitution.

### **Resolved**

- a) That the Policy & Resources Committee be requested to consider recommending Council to adopt the changes to the Council's constitution as shown at Annex A, following the deletion of the column entitled "explanation".
- b) Those guidelines are produced for Members of Overview and Scrutiny Committee in relation to the observation of policy committees.

### **CRWP.30 Council Procedure Rules**

The Chief Executive submitted the Council Constitution – Part 4 and asked the working party to take part in a review of the document, and discuss any suggested amendments.

The amendments were discussed at length and the following changes were agreed upon.

1. Page 12 Calling Extraordinary Meetings – (iv) replace "seven days" with "five working days".
2. Page 13 Notice of and Summons to Meetings – replace "three clear days" to 5 working days. Replace "by post" with "in writing". Delete "or leave it at their usual place of residence".
3. Page 13 Duration of Meeting – replace "four hours" with "3 ½ hours". Also record the closing time of the meeting.
4. Page 14 Notice of Questions – replace "seven working days" with "3 working days".
5. Page 15 Response – (c) add "and all Councillors" to the end of the sentence".
6. Page 15 Motions on Notice, Notice – replace "seven working days" with "12 noon eight days before".
7. Page 16 Voting on Motions – add "and the numbers be recorded" to the end of the sentence".

8. Page 17 – (m) amend “four hours” to “3 ½ hours”.
9. Page 18 – When a Member may speak again, add a new point (h) or at the discretion of the Chairman.
10. Page 19 – Right of Reply – Amend the sentence to read “The mover of a motion has a right to reply, if there had been a debate on the motion immediately before it is put to the vote”.
11. Page 20 – Motions, which may be moved during debate (g) – replace “four hours” with “3 ½ hours”.
12. Page 21 – Personnel Explanation – insert the words “or misrepresented” following misunderstood.
13. Page 21 – State of the District Debate – Calling of debate – delete this section.
14. Page 22 - Delete the following sections – Form of Debate, Chairing of Debate and Results of Debate.
15. Page 25 – Standing to Speak – This section to be re-written to comply with equality standards.
16. Page 26 – Recording and Other Apparatus – This section to be reviewed and re-written.
17. Page 26 – Petitions – This section to be re-written to take into account Councillor Call for Action.
18. Page 28 - Appointment of Standing Committees – this section to be rewritten to take into account any substitution amendments.
19. Page 29 – Working Parties section (ii) – amend the sentence as below “The Chairman of a standing committee shall have the right to be an ex officio member and Chairman of every working party appointed by that standing committee”.
20. Page 30 – Powers and Duties – delete the last sentence as below from the paragraph “or issues relating to legal agreements within their own Wards or the Wards of any Member for whom they are substituting”.
21. Page 31 – (iii) amend the sentence to read “after notifying the Proper Officer by 12 noon on the day of the meeting of the intended substitution”.
22. Page 31 – Overview & Scrutiny Committees – amendments to be made to reflect the substitute re-writes.
23. Page 31 – Power of Requisition, it was decided to delete this section  
**NB.** Councillor Clark requested that his vote against this decision be recorded.
24. Page 32 – Items for Agenda – amend “Monday” to “6 working days”.
25. Page 33 – Speaking Rights at Planning Committee (2) – amend “five minutes” to “three minutes”.
26. Page 33 – Planning Training (ii) delete this sentence.
27. Page 34 (ii) – delete this sentence
28. Page 34 Matters of Urgency – amend the second sentence to read “He/she were possible must only act after consultation with the Leader of the Council, the Chairman of the appropriate Committee and the relevant Ward Member(s) if any”.
29. Page 35 Scope- deletes “any Area Committees”.
30. Page 35 Notices of Meeting and Access to Agenda and Reports before the Meeting – amend “three clear days” to “five clear days”.
31. Page 42 Overview & Scrutiny Procedure Rules – This section to be

rewritten and resubmitted to a future meeting of Overview and Scrutiny Committee for their consideration.

### **Resolved**

That the changes be made as discussed.

#### **CRWP.31 Councillor Call in Action**

The Chief Executive submitted a report (previously circulated) in order to consider changes to the Council's constitution relating to Councillors Call for Action (CCfA) s119 of the Local Government and Public Involvement in Health Act 2007.

The Local Government and Public Involvement in Health Act 2007 continued to come into force on a piecemeal basis. The latest and perhaps most significant development, in terms of the impact on all Members, was the Overview & Scrutiny (Reference by Councillors) (Excluded Matters) (England) Order 2008. Coming into force on the 1<sup>st</sup> April 2009. This order effectively brings into force the Councillor Call in Action.

The current constitutional position was that the Constitution already provided for the following:

- The right of Members to request that an item is placed on a Scrutiny Committee agenda
- The rights of ward members to speak at meetings as representatives of petitioners.

It was recommended that the current Constitutional provisions were brought together in a protocol that set out Members' rights as well as reflecting the requirements of the 2008 Regulations. The Protocol, set out in Annex 1 of the report, was intended to ensure the process was not abused, the fundamental principle being that the exercise of CCA is an option of last resort.

It was recommended that the Protocol form part of the Constitution and become operative from the date approved by Council.

### **Resolved**

That the Policy & Resources Committee recommend to Council to adopt the following changes to the Council's constitution:

That the Constitution be amended to give effect to the following:

- I. The Councillor Call for Action set out in Annex 1, to be operative from the date approved by Council (21 May 2009).