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**REPORT TO:** POLICY & RESOURCES COMMITTEE

**DATE:** 2 APRIL 2009

**REPORTING OFFICER:** CHIEF EXECUTIVE

**SUBJECT:** REVIEW OF THE CONSTITUTION –  
SUBSTITUTIONS FOR POLICY COMMITTEES FROM  
OVERVIEW & SCRUTINY MEMBERSHIP

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**1.0 PURPOSE OF THE REPORT**

- 1.1 To consider changes to the Council's Constitution relating to Members of the Overview & Scrutiny Committee being named substitutes for Policy Committees as recommended by the Constitution Review Working Party meeting on 11 March 2009.

**2.0 RECOMMENDATIONS**

- 2.1 That Council be recommended to adopt the change to the Council's constitution as shown in Annex A attached.

**3.0 REASON FOR RECOMMENDATIONS**

- 3.1 To 'prepare and keep up to date' the Constitution in accordance with Section 37 of the Local Government Act 2000.

**4.0 REPORT**

- 4.1 It is a legal requirement for a Committee to have a known membership. For this reason named substitutes are agreed at the Annual Meeting of Council for Committees.

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 & Scrutiny Committee. Accordingly the Council's constitution maintained this separation of roles.

There has periodically been a request from Members for officers to explore the extent to which there may be dual membership of Members on Policy Committees and an Overview & Scrutiny Committee.

- 4.2 The legal position in relation to the issue of dual membership of a Policy Committee and an Overview & Scrutiny Committee is as follows:

- (a) There is no legal prohibition on Members of a Policy Committee being Members of the Overview & Scrutiny Committee;
  - (b) Statutory guidance states 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. There is, therefore, some flexibility to allow some Members to be on both. This would be convenient for a small group like the Liberal Group. If Members wished to disregard that statutory guidance they would need to give clear, and convincing reasons to depart from that guidance;
  - (c) The Members' Code of Conduct provides that a Member may not scrutinise a decision in which they participated in making at a Policy Committee; and
  - (d) The Council's Constitution currently provides that Members of the Policy Committees cannot be a Member of the Overview & Scrutiny Committee. This can be amended if Members so wish.
- 4.3 The Leader of the Liberal Group has previously expressed the view that if a separation is maintained between Members exercising a scrutiny role and Members exercising a role on a Policy Committee, as the Liberal Group only has two Members, they cannot substitute for each other if one Member is on a Policy Committee and the second Member is appointed to the Overview & Scrutiny Committee. This issue can be resolved by an amendment to the Council's Constitution. It is possible to relax the current rule in the Constitution which provides that Members of the Overview & Scrutiny Committee may not also sit on a Policy Committee.
- 4.4 The Chairman of the Overview & Scrutiny Committee is understood to favour the ability of all Members of the Overview & Scrutiny Committee to be able to substitute for Members on the Policy Committees. If implemented this would be contrary to the statutory guidance quoted above on having a core membership on the Overview & Scrutiny Committee.
- 4.5 The Constitution Review Working Party meeting on 11 March 2009 agreed that Members of the Overview & Scrutiny Committee who were acting as a substitute on a Policy Committee should not also discharge their role as an observer of the Policy Committee in accordance with the rota for shadowing Policy Committees adopted by the Overview & Scrutiny Committee. Accordingly a provision to that effect is included in Annex 1.
- 4.6 The Officer recommendation is to amend the Council Procedure Rules to allow one Member from each political group who is a Member of the Overview & Scrutiny Committee to substitute for a Member of the same group who has been appointed to the Membership of a Policy Committee. The proposed amendment to the Constitution is shown in Annex A attached.

#### **BACKGROUND PAPERS**

New Council Constitutions – Guidance Pack volumes 1 & 2 published by DETR on 27 October 2000.

**OFFICER CONTACT:**

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