



Ryedale District Council

REPORT TO:	Policy & Resources Committee
DATE:	2 October 2008
REPORTING OFFICER:	Chief Executive Janet Waggott
SUBJECT:	REVIEW OF THE CONSTITUTION – CONSIDERATION BY COUNCIL OF COMMITTEE MINUTES
WARDS AFFECTED:	All

1.0 PURPOSE OF REPORT

1.1 To propose:

- (i) Improvements in the application of the Constitution in relation to Council and Committee Meetings;
- (ii) changes to the Council's Constitution.

2.0 RECOMMENDATIONS

That the Policy and Resources Committee be asked to recommend Council:

- 2.1 To suspend in accordance with Council Procedure Rule 24.1, Council Procedure Rule 24.2 in Part 4 (Part 1) (Meetings and Proceedings of Council) during consideration of this item to ensure any Motion to adopt the recommendations of this report is not adjourned without discussion to the next ordinary meeting.
- 2.2 Resolve that after the Council meeting on 6 November 2008, Council meetings will consider recommendations from Committees but will not receive and debate the minutes of Committees (including the minutes of associated working parties and Sub-Committees) in relation to decisions which the Committee has delegated authority to make under the Terms of Reference of those Committees or pursuant to statute in the case of statutory committees.
- 2.3 That provision be made the business of Council meetings includes receiving a statement from the Leader of Council and receive questions and answers on that statement.

- 2.4 That the notice period for Members Question on Notice be reduced from 7 working days to 3 working days.
- 2.5 That Members wishing to read the minutes relating to decisions made within the Terms of Reference of the Policy Committees, Overview and Scrutiny, the Standards Committee and the Planning Committee which those Committees have delegated authority to make together with the minutes of associated Working Parties and Sub-Committees are asked to do so by looking at those minutes on the Council's web-site under Committee Meetings, Agenda and Minutes. One hard copy will be provided in the Members' Room.
- 2.6 That the agendas and minutes of Policy Committees be divided into the following two parts:-
- (i) PART A – Matters dealt with under delegated powers or matters determined by Committee.
 - (ii) PART B – Matters referred to Council
- 2.7 To adopt the changes to the Council's Constitution listed in the attached Annex B.

3.0 REASONS SUPPORTING DECISION

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

4.0 BACKGROUND

- 4.1 The Constitution Review Working Party was established by the Policy and Resources Committee meeting on 2 August 2007, with the brief to review the Council's Constitution.
- 4.2 The Constitution Review Working Party meeting on 24 September 2007 adopted a work programme for the review of the Constitution.
- 4.3 A Member Briefing open to all Members of Council held on Wednesday 3 October 2007, included a presentation from Mr Tony Kilner, the Policy and Development Officer of the Association of Council Secretaries and Solicitors, about the Governance Framework and considered a Constitutional Review Issues Paper as a basis for discussion. Eighteen Members attended the Members Briefing.
- 4.4 There was broad support by those Members at the Members Briefing for:
- 4.4.1 A review of the Constitution and the application of the Constitution; and
 - 4.4.2 consideration being given to the following list of changes to the Constitution and the application of the Constitution outlined in the Constitutional Review Issues Paper:

- (i) The Committee agendas being split between those decisions to be made within the Terms of Reference of the Committee and those non-delegated items which require Council decision;
- (ii) committee minutes relating to decisions within the Terms of Reference of the Committee are either not included on the Council agenda, or are included for information only with no discussion;
- (iii) the recommendations of Committees relating to matters reserved by Council are referred to Council for decision.

4.5 A meeting of the Constitution Review Working Party on 5 February 2008 considered the issue of putting all Minutes of Committees on the Council agenda and it was resolved as follows:-

- “(i) Committee agendas be split between those decisions to be made within the Terms of Reference of the Committee and those non-delegated items that require Council decision.*
- “(ii) That further information be provided to a future meeting of the Working Party on the issue of Committee minutes relating to decisions within the Terms of Reference of the Policy Committees are either not included on the Council agenda, or are included for information only with no discussion.*
- “(iii) That the recommendations of Committees relating to matters reserved by Council are referred to Council for decision.”*

4.6 After considering all the available information, it is suggested that the issues listed below have become apparent following the Constitution Review Working Party meetings on 24 September 2007 and 14 February 2008 and the Member Briefing on Wednesday, 3 October 2007:

- (i) Understanding and recognition about what the role of Full Council is;
- (ii) Understanding and recognition about what the roles of the Policy and Resources and the Community Services and Licensing Committee are (the Policy Committees).

4.7 An explanation of the role of Full Council and the Policy Committees is attached in Annex A.

4.8 The Constitution Review Working Party meeting on 22 September 2008 approved referring this report to this Committee with the recommendations to change the Council procedure rules as described in Annex B.

5.0 INTRODUCTION

5.1 This report seeks to provide Members with the further information about the issue of all minutes of Committees being included on the Council agenda.

- 5.2 A comparison of procedures on the issue of placing the minutes of Committees/Cabinet on the Council agenda has been made between Ryedale District Council and other local authorities in the North Yorkshire area. The outcome of this research is summarised in the attached Annex C.

6.0 POLICY CONTEXT

- 6.1 The Council's Constitution is the internal governance document that assists in the delivery of the Council's organisation goals, as expressed from time to time in the Council's Corporate Plan.

7.0 REPORT

- 7.1 The comparison exercise with other local authorities in the County of North Yorkshire reveals the following different ways of dealing with minutes of Committees/Cabinet at Council:-

(i) **Council considers recommendations only**

Council only considers recommendations made to it from Committees/Cabinet and does not debate or ask questions on decisions made within the delegation of the Committees/Cabinet. Members can, however, still ask questions by means of Members' Questions on Notice. Councils operating this system include Hambleton District Council, Harrogate Borough Council, North Yorkshire County Council and York City Council;

(ii) **Council considers recommendations and Members ask questions on decisions of Committee/Cabinet**

Council:-

- (a) Considers recommendations made to it from Committees/Cabinet; and
- (b) Affords Members of Council an opportunity of asking questions on decisions of Committees/Cabinet. There is no debate on these minutes.

Councils operating this system include Craven District Council and Scarborough Borough Council.

(iii) **Council considers recommendations and Members ask questions on Leaders and Chairman's Statement of Business**

Council:-

- (a) Considers recommendations made to it from Committees/Cabinet; and

- (b) Each Chairman of Committee provides a statement on the business of the Committee for that cycle of meetings. Members of Council have an opportunity of asking the Chairman of Committee questions.

Richmondshire District Council operates this system.

(iv) **Council considers all minutes of Committees**

Council considers all the minutes of its Committees which comprises:-

- (a) Recommendations made to it from Committees/Cabinet; and
- (b) Decisions made under the delegation of Policy Committees and the Overview & Scrutiny Committee but not the Planning Committee.

Councils operating this system include Selby District Council and Ryedale District Council.

7.2 It should be noted that in all the above cases, when Council receives a recommendation from a Committee, Members have a full opportunity to debate the recommendation with the ability to move amendments.

7.3 Members may recall that the Constitution Review Working Party meeting on 5 February 2008 made the following recommendation:-

“Committee agendas be split between those decisions to be made within the Term of Reference of the Committee and those non-delegated items that require Council decision.”

7.4 Members are advised that some Councils make the distinction between decisions and recommendations explicit on the Committee/Cabinet agenda and Committee minutes. The distinction can be made by providing the following split on the Committee agenda and minutes:-

(i) PART A – Matters dealt with under delegated powers or matters determined by Committee.

(ii) PART B – Matters referred to Council

7.5 Members are advised to recommend that the agenda of the Policy Committees be divided into two parts in the way described above.

7.6 In addition it is suggested that the minutes of those matters referred to Full Council with a recommendation should be explicitly minuted in one of the following ways by way of example:-

(i) “That it be recommended to Council that:-“ or

- (ii) "That the Policy & Resources/Community Services and Licensing Committee recommends that"

7.7 The recommendations of the Policy Committees would be a separate item on the agenda of Council.

At the Council meeting each of the recommendations from Committee would be the subject of a motion proposed and seconded "That the recommendations in the minutes for decision are approved".

A number of Councils refer the minutes of the Policy Committee/Cabinet containing recommendations only to the Council.

7.8 The recommendations of the Constitution Working Party meeting on 22 September 2008 will involve a need to change to the Council Procedure Rules which are set out in Annex B.

8.0 OPTIONS

8.1 The Council has the following options:-

- (i) Council only considers recommendations made to it from Committees/Cabinet and does not debate or ask questions on decisions made within the delegation of the Committees/Cabinet. Councils operating this system include Hambleton District Council, Harrogate Borough Council, North Yorkshire County Council and York City Council;
- (ii) Council:-
 - (a) Considers recommendations made to it from Committees/Cabinet; and
 - (b) Affords Members of Council an opportunity of asking questions on decisions of Committees/Cabinet. There is no debate on these minutes.

Councils operating this system include Craven District Council and Scarborough Borough Council.

The Council agenda for Craven District Council includes the following item:-

"8. **Minutes of Committees** – *Reports of the following meetings of Committees are circulated in the Minute Book as follows:*

(Note: In Section (A) below where the minutes are shown in italics, they are for report only and not open to debate by the Council. The Chairman of the Council will call the name of each of these meetings in turn. Any Member who wishes to ask the relevant Chairman a

question is asked to indicate before the Chairman of the Council moves onto the next set of minutes.

In Section (B), the Chairman of the Council will call upon the Chairman of each of these meetings to present the minutes to the Council. Those 'Minutes for Report' are subject to questions only, while the 'Minutes for Decision' are open for debate.)"

(iii) Council:-

- (a) Considers recommendations made to it from Committees/Cabinet; and
- (b) Each Chairman of Committee provides a statement on the business of the Committee for that cycle of meetings. Members of Council have an opportunity of asking the Chairman of Committee questions.

Richmondshire District Council operates this system.

The Council Procedure Rules for Richmondshire District Council includes the following provision for the business of Council meetings which is included on the Council agenda:-

"(vii) receive statement from Leader and receive questions and answers on that statement

(viii) receive statements from the Committee Chairmen and receive questions and answers on any of those statements

(ix) recommendations from policy committees"

The Constitution of the City of York Council makes provision for giving notice of questions to the Leader and portfolio holders.

(iv) Council considers all the minutes of its Committees which comprises:-

- (a) Recommendations made to it from Committees/Cabinet; and
- (b) Decisions made under the delegation of Policy Committees and the Overview & Scrutiny Committee but not the Planning Committee.

Council's operating this system includes Selby District Council and Ryedale District Council.

9.0 FINANCIAL IMPLICATIONS

9.1 Staff resources are needed to conduct a review of the Council's Constitution.

10.0 LEGAL IMPLICATIONS

10.1 The Council has a statutory obligation under Section 37 of the Local Government Act 2000 to 'prepare and keep up to date' the Constitution.

In so doing the Council must have regard, under Section 38 of the Local Government Act 2000, to any current guidance issued by the Secretary of State for such purposes.

11.0 RISK ASSESSMENT

11.1 The risk to the Council is that the Constitution, if not kept current, will be in breach of its statutory duty.

11.2 The risk to the Community is that confidence in democracy will be eroded if there is a lack of efficiency, transparency and accountability arising from a Constitution which has not been kept up to date.

12.0 CONCLUSION

12.1 Members are asked to consider the proposed changes to the application and contents of the Council Constitution.

Background Papers:

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

OFFICER CONTACT: Please contact Janet Waggott, Chief Executive, if you require any further information on the contents of this Report. The Chief Executive can be contacted at Ryedale House, Telephone 01653 600666 ext. 200 or e-mail: janet.waggott@ryedale.gov.uk