

Constitution Review Working Party

held at Ryedale House, Malton
on Monday 22 September 2008

Present

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

In attendance

Mrs L Carter, P Cresswell, G Housden, Mrs H Jackson, J Rudd, Mrs C Slater,
Miss J Waggott and A Winship

Minutes

CRWP.8 Minutes

The minutes of the last meeting of the Working Party held on 10 March 2008 (previously circulated) were presented.

Resolved

That the minutes of the last meeting of the Working Party held on 10 March 2008 be approved as a correct record.

CRWP.9 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.10 Declarations of Interest

No declarations of interest were received.

CRWP.11 Review of the Council's Constitution - Consideration by Council of Committee Minutes

The Chief Executive submitted a report (previously circulated), the purpose of which was to consider a draft report for submission to the Policy & Resources Committee meeting on 2 October 2008. The Chief Executive reported that the recently appointed Heads of Service had been invited to attend the meeting as the Council's Constitution was an internal document that all must be familiar with. Appropriate introductions were made. The report proposed:

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

Members were requested to consider the draft report as a basis for discussion, amendment and approval prior to submission to the Policy & Resources Committee. It was recommended that all Members of the Council be invited to attend the Policy & Resources meeting.

The Chief Executive introduced the report, which summarised the Council's political management system, and reminded Members that each Committee had Terms of Reference and may make decisions within those Terms of Reference. Full Council had no legal authority to set aside decisions that had not been called in by the Overview & Scrutiny Committee and that had legally been made within those Terms of Reference.

Council had reserved key decisions, as set out in the Constitution, including matters relating to the budget, setting the Council Tax and agreeing the policy framework. The Policy Committees made recommendations to Full Council on these issues. The Council may adopt a recommendation or reach a different decision. The report to the last meeting of the Working Party had explained these issues in detail.

Council had established Policy Committees to deal effectively and efficiently with Council business. The role of Council was to deal with the big issues such as policy, the budget and other major issues.

There were various ways that Members can contribute to the workings of the Council, for example through the Scrutiny function and by submitting questions on notice or motions on notice for inclusion on the Council agenda.

The Working Party's attention was drawn to the following issue which had been considered at the last meeting of the Working Party:

"The Council's responsibilities do not include reviewing decisions of its Policy Committees, Regulatory Committees or Standards Committees, which have been taken under their delegated or statutory powers."

Working Party Members were asked to consider paragraphs 4.7 to 4.10 as set out in the report.

The Chief Executive referred to the draft Policy & Resources report and to the different types of procedures followed by Councils in North Yorkshire set out in paragraph 7.1 in relation to the consideration by Council of Committee/Cabinet minutes, which are detailed below:

(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 included 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;
- (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.

The Chief Executive recommended that the Working Party support and recommend the Policy & Resources Committee to adopt the procedure outlined in paragraphs 7.1(i) and 8(i), namely that the Council would only receive and consider recommendations from Committees, and not the minutes of decisions made under the delegated powers of Committees thereby implementing the procedure already set down in the Constitution. The application of the Constitution was lacking and led to unnecessary double handling of decisions, which had an adverse impact on the efficiency and effectiveness of the decision making process and the implementation of Committee decisions. In supporting paragraph (i) Officers would be confident to implement decisions made within the delegated powers of the Committee and under Committees' Terms of Reference without awaiting the outcome of Full Council.

Committee agendas would clearly distinguish between those items, which were decisions made under the delegated powers of the Committee and fell within the Committee Terms of Reference on the one hand and secondly those, which would be recommendations to Full Council. All Committee minutes were available for inspection on the internet in advance of Council meetings, thereby enabling Members to inspect the minutes and submit any questions on notice to Council. The Chief Executive reported that a key issue appeared to be that of 'trust'. It was suggested that Members should trust their colleagues to deal effectively with Committee business. The Chief Executive drew Members' attention to the table at Annex 2 to the draft Policy & Resources report, which outlined the procedures adopted by other North Yorkshire Councils together with their Comprehensive Performance Assessment and use of resources scores.

Councillor Knaggs reported that Members were aware and concerned that meetings of full Council were not operating satisfactorily and provided a poor public image to the citizens of Ryedale. The existing Constitution had not been implemented and the Overview & Scrutiny function was ineffectual. Some Members were not willing to trust their colleagues appointed to Committees and suggested that Members were not seeking to 'challenge' but to 'bounce' colleagues into making decisions in the absence of advance notice of the issue and access to the relevant report. The submission of Motions on Notice provided the opportunity for mature debate.

It was moved by Councillor Knaggs and seconded by Councillor Raper that the Policy & Resources Committee be recommended to recommend Council to adopt option (i) as set out in paragraph 7.1 and paragraph 8(i) of the report, subject to the addition of:

- (a) That the time period for submission of questions on notice be reduced to three working days prior to the meeting of Council
- (b) That Council agendas include provision for the submission of a written Leader's Statement.

Councillor Keal expressed concern regarding the recommendation to adopt (i) (Council considers recommendations only) and reported that it was not a matter of not trusting colleagues, but that Council meetings presented an opportunity to challenge and debate decisions. Councillor Keal was of the opinion that option (i) represented a radical change in current procedures, which would disempower Council and would not be of benefit as there would be no opportunity to debate Committee decisions. Councillor Keal therefore supported the status quo. It was moved by Councillor Keal that the second sentence of paragraph 7.1(i) be amended to read 'Members can, however, still ask questions **and generate debate in relation to decisions made by Committees under their delegated powers**'. The amendment was not seconded.

Councillor Clark expressed support for Councillor Keal's views but thought that the amendment did not go far enough. However, Councillor Clark reported that he would prefer to see the introduction of a six-week Committee cycle of meetings as opposed to the current eight-week cycle. Councillor Clark reported that he could not support the proposed system of distinguishing between Committee decisions made under delegated powers of the Committee and recommendations to full Council unless all political groups were represented on both Policy Committees. Councillor Clark was also of the opinion that unless there was unanimous support for a decision by Members of the Committee then the Policy Committee should not be able to resolve to make a decision and the matter should be referred to full Council for consideration, debate and decision.

It was moved by Councillor Keal that Members should have the ability to submit questions on notice at any time and that there should not be a time limit. The amendment was not seconded.

Upon being put to the vote the proposal put forward by Councillor Knaggs and seconded by Councillor Raper was carried.

In addition, it was agreed that all Members of the Council be invited to attend the meeting of the Policy & Resources Committee on 2 October 2008 for consideration of the Constitution Review report.

Resolved

- (a) That the draft report be put to the Policy & Resources Committee meeting on 2 October 2008 and that the Policy & Resources Committee consider making the following recommendations to Full Council:
 - (i) That in relation to the consideration by Council of Committee minutes Council only considers recommendations made to it from Committees and does not debate or ask questions on decisions made within the delegation of the Committees. Members can, however, still ask questions by means of Members' Questions on Notice

- (ii) That the time period for submission of Members' Questions on Notice be reduced to three working days prior to the meeting of Council
 - (iii) That Council agendas include provision for the submission of a written Leader's Statement
- (b) That all Members of the Council be invited to attend the meeting of Policy & Resources Committee on 2 October 2008 for consideration of the report on the review of the Constitution.
- NB Councillors Clark and Keal recorded their votes against part (a) of the above decision.