

CENTRAL BEDFORDSHIRE COUNCIL

At a meeting of the **CONSTITUTION ADVISORY GROUP** held in Committee Room No. 2, Council Offices, High Street North, Dunstable on Tuesday, 21 July 2009

PRESENT

Cllr S F Male (Chairman)

Cllrs	Mrs C F Chapman MBE	Cllrs	D J Lawrence
	D Jones		A Shadbolt
	M R Jones		

Members in Attendance: Cllr D McVicar

C/09/1 ELECTION OF CHAIRMAN 2009/10

AGREED:

That Councillor S F Male be elected Chairman of the Advisory Group for the 2009/10 Council year.

C/09/2 NOTES OF PREVIOUS MEETING

AGREED:

That the notes of the previous meeting held on 14 January 2009 be confirmed as a correct record.

C/09/03 TERMS OF REFERENCE OF THE ADVISORY GROUP

The Advisory Group considered its draft Terms of Reference.

AGREED:

That the draft Terms of Reference be approved subject to:

- 1(a) The insertion of 'democratic' as follows:

To ensure that it assists in the delivery of efficient, transparent, accountable and democratic decision making
- Addition of new point 5 "To consider the outcomes of the constitution for the Council and propose any changes considered necessary to improve the Council's efficiency".

C/09/4

OVERVIEW AND SCRUTINY CONSTITUTIONAL CHANGES

The Advisory Group considered a report from the Overview & Scrutiny Manager proposing amendments to the Constitution to accommodate Councillor Call for Action Guidance, Crime & Disorder Regulations and a change of name of the Overview & Scrutiny Management Panel.

Members discussed the guidance relating to the Councillor Call for Action that had arisen out of the Local Government & Public Involvement in Health Act 2007 which introduced a mechanism whereby local ward Members could raise issues of significant community concern with a relevant overview & scrutiny committee. The regulations enacting this mechanism came into force on 1 April 2009 and the proposed Constitutional changes outlined in Appendices A & B to the report reflected best practice guidelines.

The Advisory Group then considered the Crime and Disorder Regulations. Members were advised that the Police & Justice Act 2006 provided similar overview & scrutiny powers to those contained within the Local Government & Public Involvement in Health Act 2007. Regulations enacting those powers came into force on 30 April 2009 and, whilst the Council's Constitution already took them into account, a specific change was required relating to the need for crime & disorder partners to respond within 28 days to a report or recommendation made by the relevant overview & scrutiny committee.

Members were advised that the proposed change of name of the Overview & Scrutiny Management Panel to Overview & Scrutiny Co-Ordination Panel had arisen out of a Member training event entitled 'Getting the most from Scrutiny'. It was noted that the suggestion was discussed at the first meeting of the OSMP where there was unanimous agreement to the change of name.

The Advisory Group in considering the proposed changes suggested a number of modifications to the guidance at Appendix D, including replacing any references to the crime and disorder committee by 'the Sustainable Communities Overview and Scrutiny Committee' and requested the Overview and Scrutiny Committee Manager to undertake the necessary amendments before submission to Council for approval.

AGREED TO RECOMMEND:

- 1. That the Constitutional changes outlined in Appendices A and B, as amended, to accommodate Government Guidance pertaining to the Councillor Call for Action and the Crime & Disorder Regulations, be approved.**
- 2. That all references to the "Overview & Scrutiny Management Panel" contained within the Council's Constitution be amended to read the "Overview & Scrutiny Co-ordination Panel".**

C/09/5

DEVELOPMENT MANAGEMENT COMMITTEE

The Advisory Group considered a report from the Head of Development Management seeking an amendment to the terms of reference of the Development Management Committee (Part E2 Page 1) and the Scheme of Delegation with regard to the handling of Regulation 3 and Regulation 4 planning applications.

Members were advised that since 1 April 2009 the Council's Development Management Committee had been meeting twice a month, alternating meetings between Priory House and Dunstable.

The Advisory Group discussed the proposal to move to single venue, 3-weekly meetings and considered the argument that such a move would balance the achievement of performance targets with a reduction in the administrative burden of preparing for a Committee every 2 weeks. It was noted that in order to meet nationally set performance targets, the meetings consistently contained applications from both the North and South teams and evidence to date suggested that the public will attend either venue.

The Advisory Group whilst recognising the reasons for moving to single venue and 3-weekly meetings, agreed that a decision should be deferred to the next meeting to enable the Development Management Committee to be consulted on the proposals. It was further agreed that a communication should be put out to all members inviting comments.

Members then considered the proposal relating to Regulation 3 and 4 applications. Regulation 3 applications being applications for planning permission by the Authority to develop any land of the authority either solely or jointly with another party. Regulation 4 applications being applications for planning permission to develop land of the authority where they do not intend to develop the land themselves or jointly with any person.

The Advisory Group in discussing the proposal noted that the Constitution was currently unclear on these two types of regulations and for this reason agreed that the handling of these two regulations should be changed as follows:

- The scheme of delegation for Regulation 3 applications be amended to allow delegation to officers unless an objection is received to the proposed development. Regulation 4 applications are specifically excluded from the delegations and have to be determined by the Committee.

The recommendation to be put to Council was agreed as:

- **Paragraph 4.3.93 of Part H3 of the Constitution remains as drafted but with an additional exception being created to exclude Regulation 3 applications where an objection has been received.**
- **Paragraph 4.3.93.5 of Part H3 of the Constitution be amended to concern itself solely with Regulation 4 applications which would be reported to, and determined by, Committee.**

The suggested wording for this amendment was agreed as follows:-

Paragraph 4.3.93.5 The application is made on land owned by the Authority for development which the Authority does not intend to develop either themselves or jointly with any person in accordance with Regulation 4 of the Town and Country Planning (General) Regulations 1992.

AGREED:

That consideration of the proposal to amend the terms of reference of the Development Management Committee so that meetings are convened in one location on a three-weekly cycle be deferred to the next meeting of the Advisory Group to enable the Development Management Committee to be consulted on the proposal as well as affording all members of the Council the opportunity to comment.

AGREED TO RECOMMEND:

That the proposed changes to the Scheme of Delegation to Officers with regard to the handling of Regulation 3 & 4 Planning Applications as detailed in the preamble above, be approved.

C/09/6

SCHEME OF DELEGATION TO OFFICERS

The Advisory Group considered a report from the Head of Democratic Services seeking endorsement to changes to the scheme of delegation to officers.

Members were advised that subsequent to a number of changes to the Scheme of Delegation to Officers which reported to Council at the Annual meeting on 18 June 2009, the Director of Corporate Resources had advised that adjustments to the Scheme of Delegation were required to pick up certain functions which had been excluded or required amendment as follows:-

- (i) Tax and VAT matters

There was no specific delegation to permit the Director to manage tax and VAT matters. The following additional delegation was therefore requested:

<i>Delegation</i>	<i>Qualification</i>
<i>To manage all tax and VAT matters including arrangements made with HM Revenue and Customs.</i>	None

(ii) Property Matters

The existing delegation in relation to property matters needed to be amended to include **surrender or termination of leases, tenancies, licences, easements** which were included in the Shadow Constitution but had been omitted from the current version as follows:

<i>Delegation</i>	<i>Qualification</i>
<i>To authorise the development and appropriation of land and buildings, together with the granting or taking, assignment, surrender or termination of leases, tenancies, licences, easements, wayleaves and variations of rent, and, subject to a maximum value in any case of £200,000, to authorise the acquisition and disposal of land and buildings or any estate or interest in any land and buildings.</i>	<i>None</i>

The Advisory Group in supporting the proposed revisions noted that as both delegations were executive functions, it would also be necessary to seek the approval of the Leader of the Council to the proposed amendments. Power (ii) should be exercised in consultation with the relevant Portfolio Holder.

AGREED TO RECOMMEND:

That, subject to the approval of the Leader of the Council, the proposed revisions to the scheme of delegation to officers detailed in the preamble above be approved, subject in amendment (ii) to the qualification ‘None’ being replaced by ‘Subject to consultation with the relevant Portfolio Holder’.

C/09/7

COMPOSITION OF THE AUDIT COMMITTEE

The Advisory Group considered a report from the Head of Democratic Services to review the current restriction within the Constitution on members of the overview and scrutiny committees (OSC) serving upon the Audit Committee.

Members were advised that Constitution and Governance Working Group at its meeting on 26 November 2008 concluded that the draft Constitution should specify that no member of the Executive and no member of the Corporate Resources Overview and Scrutiny Committee should be a member of the Audit Committee and that no member of the Executive should serve upon the Committee. However it had not been accurately captured in Part E2 of the Constitution which states:-

“7 members including no more than one member of an overview and scrutiny committee other than Corporate Resources Overview and Scrutiny Committee. A member of the Executive may not be a member of the Audit Committee.”

Members were advised that as a result of appointments to the Committee at the Council's AGM, a number of members to the Audit Committee also sit upon overview and scrutiny committees. However, as there were 46 seats available on overview and scrutiny committees, avoiding overlap between overview and scrutiny and Audit committee would be difficult to achieve and a blanket restriction providing for just one overview and scrutiny member might not be practicable.

The Advisory Group in reviewing the current membership agreed it should have regard to CIPFA guidance in relation to Audit Committees having independence from both the overview and scrutiny and executive functions. For this reason the Advisory Group concluded that the Constitution should be amended to reflect Members' original intention in that no member of the Corporate Resources OSC should sit upon Audit Committee. It was recognised that it would then be necessary to replace the one member of the Audit Committee who currently sits on both the Corporate Resources and Business Transformation OSCs. It was also agreed that whilst the Constitution was silent as to any restriction upon Assistants to the Portfolio Holders, they should not sit on the Audit Committee.

AGREED TO RECOMMEND:

That the Constitution be amended to state that no member of the Executive, no Assistant to a Portfolio Holder and no member of the Corporate Resources Overview and Scrutiny Committee may sit upon the Audit Committee.

C/09/8

PETITIONS IN RELATION TO TRAFFIC REGULATION ORDERS ETC

The Advisory Group considered a report from the Head of Democratic Services in relation consideration of petitions relating to Traffic Regulation Orders and other highways-related matters.

Members were advised that the procedure within the Constitution currently provides for petitions to be presented to the Council, the Executive or a Committee. Given that the Leader of the Council had put separate arrangements in place for consideration of traffic regulation orders at meetings of the Safer and Stronger Communities Portfolio holder, it was proposed that petitions relating to road traffic regulation orders or other highways-related matters could be considered at these meetings.

The Advisory Group, in accepting the logic for such petitions being considered in greater detail at these meetings, felt that the agreed petition procedure in Part A4 of the Constitution should continue to apply i.e. Road traffic regulation and other highways-related petitions continue to be acknowledged by the Monitoring Officer and submitted to the next meeting of the Executive for public receipt, **but** then referred on to a public meeting of the Safer and Stronger Communities Portfolio holder. The petitioners and ward councillors would need to be advised of the date of the meeting and invited to make representations as currently set out in the petition procedure. Any particularly contentious matter should be referred back from the Portfolio Holder's meeting to Executive for decision.

AGREED TO RECOMMEND:

That petitions relating to Traffic Regulation Orders and other highways-related matters continue to be submitted to the Executive for public receipt for onward referral to meetings of the Safer and Stronger Communities Portfolio holder when dealing with Traffic Regulation Orders, and that Annex 2 to Part A4 of the Constitution be amended accordingly.

C/09/9

GUIDE TO THE CONSTITUTION

The Advisory Group considered a report from the Head of Democratic Services seeking comments on a draft Guide to the Constitution. Members' views were also sought on any other arrangements felt necessary to promote understanding and knowledge of the Constitution.

Members in discussing the draft guide suggested rather than having a guide it would be more helpful to have links set up on the web site that referred users to parts of the Constitution. Members also suggested that a list of frequently asked questions would be helpful and a list of "How to do things" e.g. How to deal with a call-in, how key decisions are made etc.

The Advisory Group, in discussing the proposals set out in the report to promote understanding and knowledge of the Constitution, also suggested that further guidance needed to be given to officers. It was suggested that officers

could look into developing an on-line test as a means of increasing awareness and understanding.

AGREED:

That the actions already taken or proposed to be taken to promote understanding and knowledge of the Constitution be noted.

C/09/10

DATE OF NEXT MEETING

Tuesday 25 August 2009 at 2pm at Priory House.

(Note: The meeting commenced at 2.30pm and concluded at 4.45pm.)