



## **Democratic Renewal Working Party 8 September 2011**

### **Amendments to the Constitution**

#### **1. Background**

- 1.1 The Democratic Renewal Working Party has as part of its Terms of Reference, to 'recommend amendments to the Council's Constitution to full Council'.

#### **2. Overview**

- 2.1 Changes to the Constitution are considered on an ad-hoc basis, as the need arises, and are usually considered by the Democratic Renewal Working Party prior to approval by full Council.
- 2.2 However, Democratic Services fully updates the Constitution on an annual basis and the new edition is then distributed to officers and Members upon request. The Borough Council's intranet and internet sites are also updated at the same time.
- 2.3 It has been suggested that amendments to the Constitution are only undertaken as part of the annual review. However, it is imperative that amendments to the Constitution are approved by full Council as the need arises because there is usually a need for some urgency. For example, 'the last few items' that have been presented to full Council for approval included delegated authority to the Interim Joint Head of Planning, amendments to procedures concerning Members' travel expenses and delegated authority for officers of Anglia Revenues Partnership to represent the Borough Council at Court. These amendments could not wait until an annual review be undertaken.
- 2.4 It is proposed that when amendments to the Constitution are approved by full Council that the document on the Borough Council's intranet and internet are updated as soon as possible after the approval has been given.
- 2.5 The Working Party is asked to consider whether it wishes to undertake a major review of the whole Constitution, and if so, how this could be undertaken in that the current Constitution is in excess of 350 pages long. Appendix A attached lists the contents of the Constitution, and if considered appropriate the Working Party could review a part or two at each meeting.

#### **3. Overview and Scrutiny Procedure Rules**

- 3.1 Paragraph 15.4 of the Overview and Scrutiny Procedure Rules relates to Call-in and Urgency and is replicated below.

#### 15.4 Call-in and Urgency

- (a) *The call-in procedure set out above shall not apply where the decision being taken by the Cabinet is urgent. A decision will be urgent if any delay likely to be caused by the call-in process would **seriously prejudice the Council's or the public's interest**. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Mayor's consent shall be required. In the absence of both, the Head of Paid Service or his/her nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.*
- (b) *The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.*

- 3.2 It would seem more appropriate that the Chairman of the Overview and Scrutiny Committee should agree *'both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency'* rather than the Mayor, although, in the absence of the Chairman either the Deputy Chairman or Mayor could be required to give consent.
- 3.3 It should be noted that the Chairman of the Overview and Scrutiny Committee has to be informed under General Exception Rule of the Access to Information Procedure Rules (Paragraph 15.1 (b)) if a key decision has not been included in the Forward Plan. Paragraph 16, Special Urgency, under the same rules, also requires 'approval' from the Chairman of the Overview and Scrutiny Committee.
- 3.4 The Working Party is asked to consider whether an amendment is required to paragraph 15.4 of the Overview and Scrutiny Procedure Rules.

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