

CAB1228  
FOR DECISION  
WARD(S): ALL

CABINET – 22 MARCH 2006

PRINCIPAL SCRUTINY COMMITTEE – 27 MARCH 2006

ANNUAL REVIEW OF THE CONSTITUTION

REPORT OF CITY SECRETARY AND SOLICITOR

Contact Officer: Stephen Whetnall Tel No: 01962 848220 [swhetnall@winchester.gov.uk](mailto:swhetnall@winchester.gov.uk)

RECENT REFERENCES:

PS167 – Review of Decision-Making Structures and Member Services – 29 March 2005

PS168 – Member Survey – Results - 29 March 2005

PS169 – Review of Procedures for Overview and Scrutiny – 29 March 2005

EXECUTIVE SUMMARY:

Each year the Council undertakes a review of its decision-making structures and of the Constitution. With the change to the Cabinet system since the Local Government Act 2000, a number of significant alterations have been made as experience has been gained. A number of reports each year are brought forward on changes to the Constitution to deal with issues as they arise – particularly those of a technical nature. It is the practice in the March to June period, however, to look forward to see if any significant issues need to be addressed.

Last year changes were made to some of the procedures for Council meetings. The move from performance improvement committees to the scrutiny panels with different terms of reference was also agreed. These procedures have been introduced - though experience is still being gained in implementation.

This year a “light touch” review is being undertaken – following consultation with the group leaders and the Chairman of Principal Scrutiny Committee. It raises a number of issues – and guidance from Members is needed at this stage before any detailed changes are drafted for consideration by full Council, if necessary. A further meeting of Cabinet is also being held on 13 April 2006 which could consider any points made by Principal Scrutiny Committee.

RECOMMENDATIONS:

- 1 That Cabinet and Principal Scrutiny consider the issues raised and take a view as to:
  - (a) whether any specific recommendations need to be made to Council on 19 April 2006;
  - (b) whether guidance is given to enable proposals to be refined and brought back to Cabinet and Principal Scrutiny Committee for further consideration, at a future meeting of Council. after the Annual Meeting on 17 May 2006.

CABINET – 22 MARCH 2006

PRINCIPAL SCRUTINY COMMITTEE – 27 MARCH 2006

ANNUAL REVIEW OF THE CONSTITUTION

REPORT OF CITY SECRETARY AND SOLICITOR

DETAIL:

1 Introduction

- 1.1 The Annual Review this year covers issues raised by Group Leaders and the Chairman of Principal Scrutiny Committee. It is a “light touch” review, given the number of changes made in recent years, which are still in the course of being fully implemented.
- 1.2 A full Member Survey on these issues was last undertaken in 2005 and considered in last year’s review – Report PS168 refers. It is proposed the next survey should take place for the 2007/08 review – in accordance with recent practice to undertake such surveys every two years.
- 1.3 The issues raised this year are set out below.

2 Procedures at Full Council – Recommended Minutes - Questions Prior to Debate

- 2.1 The current procedure (Council Procedure Rule 14(1)) allows Members to ask questions of the mover of the motion (usually the Leader or Portfolio Holders) after a motion has been moved and seconded but before the debate begins.
- 2.2 The purpose is to allow clarification of issues raised in the recommendations before the debate begins and to allow testing questions of the Portfolio Holders on their proposed policies.
- 2.3 However, Councillor Allgood has suggested that the intended purpose of the procedure is often not followed and it is sometimes used by Members to make their own points, rather than to ask probing questions. Often the points made would be more appropriately heard in the debate section rather than at the questions stage.
- 2.4 Comment: The amount of time taken by questions often reduces the potential focus and impact of the debate itself. Rather than a formal change in the Constitution, is this an issue that would be more effectively dealt with by discussion within the Groups?
- 2.5 Councillor Allgood has also raised the issue that some Members ask more than one question under this process. As the Procedure Rules only allow Members to generally make one speech on each item of business, he has suggested that it would be logical in the Constitution to limit Members to one question on each debate.
- 2.6 Comment: Such a change in the Constitution could give more focus to the use of questions – and lead to Member comments being raised at the proper stage of the debate.

### 3 Procedures at Full Council – Matters of importance upon which Portfolio Holders would like an input

3.1 Councillor Allgood has asked that consideration be given to possible changes in the Constitution which would allow Portfolio Holders to present some key items for discussion, to obtain Member input from the full Council. This occurs at the County Council, for example.

3.2 Comment: The process would not necessarily require changes to the Constitution. It is sometimes used in Winchester – though normally only after consideration by other bodies such as Cabinet, Principal Scrutiny Committee or the Scrutiny Panels.

### 4 Procedures at Full Council – Budget Debate

4.1 The Budget Debate and Council Tax setting is probably the most important debate in the Council's year. Councillor Allgood has suggested that in some councils the procedure is as follows:

1. The Leader of the Council presents the proposed Budget.
2. The Leader of the main Opposition Party replies and gives notice of an intended amendment.
3. Leaders of any other Opposition parties have the right to comment on the Budget and give notice of any intended amendment.
4. The debate opens with comments from Members, speaking only once.
5. The main Opposition party spokesman sums up and formally moves an amendment.
6. Other Opposition parties have the right to sum up and move amendments.
7. The Leader of the Council sums up.
8. Vote on the main Opposition party amendment.
9. Vote on the other party amendments.
10. Vote on the main motion.

4.2 Councillor Allgood suggests that the advantage of this model is that each party group has the chance to state its views on the Budget at the beginning and it is, therefore, fairer to each group. The debate can proceed with the knowledge of various proposals to be considered. There is one general debate rather a separate debate on each amendment.

4.3 Councillor Allgood also suggests there is no need for questions since every Member has the opportunity of asking questions at earlier stages of the budget process in advance of the full Council meeting.

4.4 Comment: The Council currently follows its standard debating rules (Council Procedure Rule 16) during the budget debate. It is for Members to consider whether some or all of these changes would help give more focus to the annual budget

debate. A permanent change could be made to the Constitution, with all or part of the above suggestions. An alternative might be to ask Council to undertake an experiment next year, incorporating some or all of the suggestions made above, with any permanent changes being considered afterwards.

## 5 Procedures for Cabinet – Review

5.1 At its meeting on 2 November 2006 Council considered a report upon the issues arising out of the PwC Review of the background to the circumstances in which the irrecoverable debt relating to the Winchester Alliance for Mental Health had arisen. (Report CAB1118 refers). The Council noted the lessons learnt and approved policy changes relating to the future nature of the payroll services to be provided to charities.

5.2 An issue raised by Principal Scrutiny Committee was also included in Council's decision to ask a review of Cabinet procedures as follows:

“That in view of the volume of executive business being conducted, Cabinet be asked to review:

- (a) the relationship of the respective roles of Members and officers in executive decision-making and whether any changes are necessary to ensure the efficient despatch of business.
- (b) whether Cabinet needs to meet more frequently and/or any other changes are required to the manner in which executive decisions are taken either by Cabinet itself or through the Portfolio Holder decision-making system.

5.3 Comment: The issues raised relate to the general volume of business being undertaken by Cabinet since the introduction of Cabinet style governance following the Local Government Act 2000.

### In relation to (a) above:

- Officers and Portfolio Holders have sought to improve communication on significant issues to ensure that Portfolio Holders are fully briefed and consulted on issues as they develop.
- The adoption of Member role profiles, including those for Portfolio Holders, means that respective responsibilities has been clarified – Part 8 of the Constitution refers - approved by Council on 13 April 2005 – CAB1021 refers.
- The introduction of the Council's Project Management system also includes specific provision for identifying the role of the Portfolio Holder as part of the Project Initiation Document (PID).
- Different styles of briefing between individual directors and Portfolio Holders has evolved to suit individual circumstances – and continue to do so as the emphasis of the role of the Head of Division on service delivery is developed.
- Adequate timing of officer briefing of Portfolio Holders can sometimes be an issue which officers are seeking to address.

- The use of the Strategic Liaison Group – a meeting of Cabinet Members to discuss emerging issues with directors helps communication. It is important to note that this is a normal practice in local government – and that no executive decisions are taken as a part of this process. Such decisions have to be taken by Cabinet or the Portfolio Holders in accordance with the Council's approved practices for advance availability of papers, so other Members have the opportunity to make comments. Alternatively more routine matters are dealt with by officers under the Council's scheme of delegation. It should also be noted that Members outside Cabinet can – and do – ask officers for advice on how they can take their own suggestions forward through the Council's decision-making processes.

In relation to (b) above:

- When Cabinet was first established, it met approximately every two weeks. This cycle presented difficulties in that, taking despatch times into account, it left little time for adequate consultation between officers and Portfolio Holders before report despatch.
- The cycle was changed to a three week cycle for most of the year. At times this has led to longer meetings because of increased volume of business at each meeting. However, more time for communication between meetings has the balance of advantage.
- It is still possible to arrange additional meetings as necessary should the nature of the business so require. A recent example is the meeting held to discuss the application for landowner approval in relation to the Silver Hill development.

In relation to (a) and (b) above:

Is the current balance of work that goes through the following processes the correct balance?

- Cabinet
- Cabinet Committees – the Cabinet (Traffic and Parking) Committee was introduced in 2005/06 to provide a specific forum for public participation.
- Policy pre-scrutiny reviews or reviews led in informal member/officer groups
- Portfolio Holder decision-making processes and
- Officer delegated decision-making

Comment: There have been no significant adverse comments made about the Portfolio Holder decision-making process since it was introduced. The officer delegated scheme is regularly reviewed so that it is kept up-to-date.

Are there any significant changes that Members wish to consider to any of the above processes to improve efficiency and accountability?

The Chief Executive is currently considering how to take forward Member participation and community involvement, in the production of documents in the Local Development Framework, following the implementation of the changes in the Planning and Compensation Act 2004. This may involve a different approach to that used by the Winchester District Local Plan Committee. Following consultation with Members proposals for changes will be brought forward in the May/June cycle.

## 6 Planning Protocol

- 6.1 Councillor Davies has asked that consideration should be given to a review of our current practices in relation to Members representations on applications by others which affect a Member's own property. This subject is not specifically covered by the current wording of the Protocol, but the same approach is advised by the City Secretary and Solicitor as if the application was the Member's own application. This is covered by the Protocol and follows national guidance that such matters should be dealt with in public session for the sake of openness and transparency – and not by officers under delegated powers. Such applications are automatically referred to the Planning Development Control Committee.
- 6.2 A Member is still able to lodge an objection in writing in their private capacity as any other individual can. However, as they have a personal and prejudicial interest in the matter, they cannot lobby other Members or officers. They also cannot be present in the public gallery.
- 6.3 Councillor Davies suggests that it would be better if such applications were dealt with by officers under delegated powers, rather than by Committee, to provide a separate process where Members are not involved in the decision making process. He believes it would appear better, from a probity point of view, if such applications were dealt with in this way.
- 6.4 Comment: On balance, it is recommended that the existing practice be continued, but specifically referred to, when the Planning Protocol is updated in the 2006/07 Municipal Year. It is in the public interest for such matters to be dealt with openly in a public session so that they can be seen to have been dealt with fairly. The topic should also be covered in training sessions.

## 7 Future Programme

- 7.1 Apart from the regular technical amendments to keep the Constitution up-to-date, the Business Plans for the City Secretary and Solicitor's Directorate elsewhere on this agenda, include reviews of the following:
- Planning Protocol
  - Licensing Protocol
  - Members Charter
  - Member web-sites
  - Scheme of Portfolio Holder decision making
- 7.2 The Finance Directorate are also reviewing the Anti-fraud and Corruption Policy. It will also take the lead in updating the ICT Security and Conduct Policy.

- 7.3 The Director of Community Services also intends to review processes for Member involvement in Community Safety when revised guidance at national level becomes available.

OTHER CONSIDERATIONS:

8 CORPORATE STRATEGY (RELEVANCE TO):

- 8.1 Relevant to – making our working practices fit for the 21<sup>st</sup> century; managing the Council effectively; and creating an efficient, effective working environment.

9 RESOURCE IMPLICATIONS:

- 9.1 Unless significant changes are made to the Council's procedures, improvements can be accommodated within existing resources.

BACKGROUND DOCUMENTS:

None

APPENDICES:

None