

ANNUAL MEETING OF THE COUNCIL - 30th June , 2004

AREA COMMITTEES/WARDS AFFECTED - None specific

REVIEW OF THE CONSTITUTION

Why is it coming here? What decision is required?

To put forward for agreement various detailed amendments to elements of the Constitution, following review of the past year's operation. **N.B. This report sets out the position as currently understood. Continuing negotiations and discussions may lead to amendments which will be reported at the meeting.**

What are the key points?

This report summarises proposed amendments to the Constitution, which have either been considered by the Council Business Committee or are dealt with elsewhere on the agenda of this meeting or are specifically explained in the body of this report.

Proposals for amendment in the light of experience over the last year were reported to the Council Business Committee on the 29th April. That Committee agreed to recommend to the Annual Meeting the following proposals which, if approved, will require amendment to those parts of the Constitution indicated.

1. Council Procedure Rules

- (i) **Budget meeting** - The current rules allow only the Annual Meeting, ordinary meetings (with a full agenda) and special, un-timetabled, meetings. This has made arrangements allowing a meeting to concentrate solely on the budget to be unnecessarily complex. It is therefore proposed to amend Rule 4 by adding a new paragraph (3) as follows (renumbering the subsequent paragraphs) :-

"The Council shall specify that one meeting will be the Council's budget meeting. At that meeting the only items will be to agree the budget, the capital programme and the level of Council tax for the following financial year, together with any issues connected with the budget and anything else which the Mayor in consultation with the Chief Executive considers appropriate for inclusion".

This will also require amendments to Rules 8 and 10, excluding from that meeting the ability of the public to present deputations or ask questions.

- (ii) **Questions by members of the public** - The current wording of Rule 10(1) has, on occasion, given rise to some confusion about what sort of questions can be asked and of whom. It is proposed that this is clarified as follows:-

"At a Council meeting any member of the public resident in Kirklees may, subject to the provisions of this Rule, ask the Mayor, the Leader, any member of Cabinet, any Chair of a committee or any joint authority spokesperson a question on any issue which comes within that individual's area of responsibility and which affects the area of Kirklees. At any

committee, sub-committee or panel meeting any such member of the public may similarly ask the Chair of that body a question on any issue over which that body has any powers or duties".

N.B. This process is also applied to Cabinet meetings by Cabinet Procedure Rule 4.

- (iii) **Confidentiality of meetings and recording of proceedings** - Rule 33 sets out the requirements for confidentiality and recording. At the moment that Rule is not referred to in Rule 40 which indicates which Rules apply to committees, sub-committees and panels. It is therefore proposed to amend Rule 40 to provide that the provisions of Rule 33 do apply to committees etc.
- (iv) **Motions on identical subjects** - On occasion motions have been submitted to Council by different groups saying much the same thing on much the same subject. These have been dealt with pragmatically at the time, but Council Business Committee considered whether to give the Mayor discretion to treat the first motion submitted as the motion, with any similar one received subsequently being treated as an amendment. Their view was that a better alternative, which is now proposed, would be to amend Rule 13 to provide for movers of the motions to be given the opportunity to agree a composite motion by 2 pm on the second day before the date of the Council meeting. Notice of that composite would then be given by the Head of the Democratic Support Service to other groups, or individual members to allow them to consider possible amendments.
- (v) **Points of personal explanation** - These are dealt with, along with points of order, under Rule 17(18) which currently says that "A personal explanation shall be confined to some material part of a speech by the member in the Council meeting which may appear to have been misunderstood in the present debate". Despite the number of times that this has been explained in Council meetings, many members believe that if their name is mentioned by another member in the course of the debate, they are entitled to get up and explain themselves. Council Business Committee considered whether to amend the current Rule to broaden the circumstances in which a point of personal explanation may be made. However, their view was that the Rule should remain as at present but the wording should be changed to make the limitations absolutely clear. It is therefore proposed that Rule 17(18) should be amended by the addition of the following sentence at the end:-

"A personal explanation may not be made in any other circumstances and in particular reference in a speech to another member does not give that member any right of personal explanation except in the circumstances specified above".

2. Officer Delegations

- (i) **Personnel matters - compromise agreements.** Paragraph 12(b) of the delegation of personnel matters indicates that compromise agreements (i.e. settlement of potential employment rights claims) may be approved by the Head of Service/Assistant Director in consultation with the Head of Human Resources and the Solicitor to the Council. Such agreements usually arise

as the method of settling disputes which have been referred to employment tribunals and include any financial terms of settlement. Indeed, this is essential if we are to be able to achieve settlement of such issues in appropriate cases without going to full tribunal hearings. Although this is clearly encompassed in the current delegation, officers concerned have asked that it be expressly stated in the delegation. This proposed amendment is therefore incorporated in the Officer Delegations elsewhere on the agenda of this meeting.

- (ii) **Delegations to specific officer posts** - On occasion, following restructuring, officer posts to which specific functions have been delegated are changed. Similarly, posts may sometimes be renamed. It is proposed that this is catered for by a provision to be inserted in the introduction to Part 3 of the Constitution (which sets out various general comments relating to delegations):-

"9. Where an officer post to which any function has been delegated, is renamed or is affected by a staffing reorganisation, then the relevant delegation shall be treated as applying to the renamed post or, as appropriate, to the post which has been allocated the same or substantially the same duties as the original post following that reorganisation".

3. Committee Issues

- (i) **Licensing and Safety Committee** - The provisions of the Licensing Act 2003, which transfer responsibility for liquor licensing and associated matters to local authorities are expected to take effect sometime during the next municipal year. These functions need to be delegated to the Licensing and Safety Committee, which for those purposes needs to have a membership of 15.

There is also a requirement that the committee set up sub-committees or panels of three members to make decisions on individual applications for licences under the 2003 Act which cannot be delegated to officers. The details of precisely how these need to operate are still awaited from The Department of Culture, Media and Sport but it is quite possible that particularly in the initial period of operation of the new Act, there will need to be very substantial numbers of such hearings. However, this is not entirely clear as the situation appears to change every day. The Council Business Committee approved proposals for those panels to be set up at the Council Meeting. However, it is now considered that it would be better for this to be dealt with later in the year when the position becomes clearer and guidance has been received from the DCMS.

- (ii) **Standards Committee** - Recent legislation allows the Standards Committee to appoint sub-committees. Since the committee now has the function of holding a hearing into any alleged breach of the Code of Conduct which may be referred to it by the Standards Board for England, this power needs to be taken up for that purpose. Again, because of statutory time limits, there would be insufficient time for the committee itself to appoint each sub-committee, so the proposal is that the Head of the Democratic Support Service should be given the power (in consultation with the committee chair)

to nominate the members of each sub-committee (referred to as Standards Panels) from within the full membership of the committee. Again, this proposal needs to be confirmed by the committee itself. The proposed Terms of Reference to be included in Part 3 of the Constitution are set out in Annex 1 to this report.

- (iii) **Planning Area Sub-Committees** - At the moment all of the planning and development control functions of the Planning & Highways Committee are delegated, except where the proposed decision would be contrary to the UDP; where the matter relates to an area which is within the remit of both sub-committees; and any other matter which is significant enough for the sub-committee to remit to the full committee. The second of these (issues effectively straddling the sub-committee boundaries) has caused unnecessary bureaucracy and delay and it is proposed that the decision should be taken by a joint meeting of the two sub-committees, effectively operating for that purpose as a single sub-committee. The relevant amendment to Part 3 of the Constitution is set out in Annex 2 to this report.
- (iv) **Area Committees and Housing Management Committees** - The provisions in Article 10 of the Constitution need to be amended to reflect the new ward boundaries and names. Also, to reflect the transfer of Shelley from the Kirkburton ward to the Denby Dale ward, the parish representation on the Denby Dale Area Committee needs to change from 5 Denby Dale and 1 Kirkburton representatives to 6 representatives of Denby Dale Parish Council. The revised Article 10 is set out in Annex 3 to this report.
- (v) **Council Business Committee** - A number of this committee's functions are, in practice, carried out by the Business Managers, subject to formal confirmation by the committee. These include member induction and development, appointments to outside bodies and members' allowances issues (though the allowance scheme itself has to be approved by the Council). It is proposed that the Business Managers team be constituted as a formal sub-committee (subject to the procedure for avoiding the political balance requirement) with those functions delegated to it. Some of the other less significant functions of CBC are also proposed for delegation to the new sub-committee. These proposals are set out in Annex 4 to this report.

Additional Proposals

A number of other matters are either included elsewhere on the agenda or are proposed for consideration.

- (i) Revised proposals for **officer delegations**, taking account of individual changes approved in the previous municipal year are dealt with elsewhere on the agenda. These will need to be incorporated in the Constitution.
- (ii) It is proposed to amend the terms of reference of the **Grants Advisory Committee** as previously approved by that committee and the Cabinet. The amendment will increase from £3,000 to £10,000 the threshold for individual grant applications above which the Committee's advice is required. It is also proposed to add the following to the definition of grant to avoid

misunderstandings:- “Contracts held with providers from the voluntary sector are not included as these follow the corporate procurement process.”

- (iii) It is proposed to amend the terms of reference to **Devolution Advisory Committee** to add a role for them to consider and advise the Council and Cabinet (as appropriate) on progress being made by Area Committees and services supporting them on the implementation of community engagements and delivery of community action plans.
- (iv) Overview & Scrutiny Management Group members have met to consider a revised structure of **standing scrutiny panels**. The proposed amended paragraph of Article 6 is attached as Annex 5. It is also proposed that the total membership of the Overview and Scrutiny Committee will change from 12 to 11 and the number of members of each standing panel will change from 5 to 6.
- (v) It is proposed that Rule 10 of the Council Procedure Rules (**Questions by Members of the Public**) should be clarified by amending paragraph (3)(d) (Questions which will not be answered) to read “Questions of a personal nature or which are defamatory, offensive, frivolous, repetitive or vexatious”.
- (vi) Finally, it is suggested that Rule 18 of the Council Procedure Rules should be amended so that it includes specific reference to the protocol which has always applied, to the effect that **amendments to the budget motion** cannot be accepted unless the Chief Executive is satisfied, on the advice of the Director of Finance, that the proposed amendment is financially sound and sustainable. This reinforces the legal requirements and includes them in the procedure rules for clarity.

5. Recommendation

It is recommended that the Council agree the amendments to the Constitution set out or referred to in this report and the Solicitor to the Council and the Head of the Democratic Support Service be authorised to finalise and implement the drafting required to give effect to those amendments.

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Background Papers:

Report to Council Business Committee 29th April, 2004

ANNEX 1

STANDARDS COMMITTEE

Amendment to Article 9 – add a new paragraph:-

“9.4 Sub-Committees – The Standards Committee may arrange the appointment of sub-committees for any of its functions. The details and terms of reference of such sub-committees are set out in Section 2 of Part 3 of this Constitution (Responsibility for Council functions.”

Amendment to Part 2 of Section 3

At the end of the Section headed “STANDARDS COMMITTEE” add the following:-

“STANDARDS PANELS

(Sub-committees of the Standards Committee)

Membership

Three members of the Standards Committee selected by the Head of the Democratic Support Service in consultation with the Chair of the Standards Committee, including at least one independent member and, where the issue relates to a parish council, one parish member.

Terms of Reference

To deal, with full delegated authority, with any report from the Monitoring Officer on any matter which is referred to him by an Ethical Standards Officer appointed by the Standards Board for England including holding hearings into allegations of breaches of the Council’s Code of Conduct investigated by or on behalf of either an Ethical Standards Office or the Council’s Monitoring Officer.”

PLANNING AREA SUB-COMMITTEES

Revise Terms of Reference in Section 2 of Part 3 as follows:-

“Delegated powers within their areas in respect of all planning and development control functions of the Planning & Highways Committee except:-

- (i) Where the proposed decision will be contrary to the Unitary Development Plan;
- (ii) Any other matter which, because of its particular significance, the Sub-committee remits to the Planning & Highways Committee for decision.

In respect of matters which relate to an area which is within the remit of both Planning Sub-committees decisions will be taken at a joint meeting of both Sub-committees which, for procedural purposes, will be regarded as a single Sub-Committee.”

ARTICLE 10 – AREA COMMITTEES AND HOUSING MANAGEMENT COMMITTEES

10.1 Appointment

The Council may appoint area committees and housing management committees as it sees fit, if it is satisfied that to do so will ensure improved service delivery in the context of best value; more efficient, transparent and accountable decision making; and improved ways of identifying and meeting the needs of local people.

10.2 Form, composition and function

a. Area Committees -

The Council may appoint the area committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column.

Each Area Committee will, on first appointment, progress through four stages of operation, as follows:-

Stage 1 – Committees will set out proposed ways of working

Stage 2 – Committees will set out their approach to community engagement

Stage 3 - Committees will develop community action plans, discuss issues of importance to the community and contribute to scrutiny

Stage 4 - Council and Cabinet confirm approach to devolution and support arrangements and may then allocate delegated powers to those area structures demonstrating that key tests are met and community plans developed. In order to move to this stage, an area would be expected to:-

- have agreed a community action plan
- be engaging with its communities
- have developed local partnerships
- demonstrate the relevance of its work and discussions
- demonstrate the quality of its contribution to scrutiny, best value and its influence on services and performance in the area

These key tests will be assessed by the Cabinet on the advice of the Devolution Advisory Committee.

The Cabinet or the Council (in respect of their different functions) may also provide small budgets prior to Stage 4 for spending on locally determined projects.

Name of Area Committee and Wards covered	Composition	Terms of Reference
<p>Batley Area Committee (Batley East and Batley West.)</p> <p>Birstall and Birkenshaw Area Committee (Birstall and Birkenshaw)</p> <p>Colne Valley Area Committee (Colne Valley and Golcar)</p> <p>Dewsbury Area Committee (Dewsbury East, Dewsbury South and Dewsbury West)</p> <p>Mirfield Area Committee (Mirfield)</p> <p>Spenn Valley Area Committee (Cleckheaton, Heckmondwike and Liversedge & Gomersal)</p>	<p>All elected members from the relevant wards, together with co-optees as approved from time to time by the Council</p>	<p>To consider and report and make appropriate recommendations to the Council and the Cabinet on:-</p> <p>(i) (Within the context of the Kirklees community strategy and with partner organisations to develop a strategic direction and community plan for the township/area. The whole approach needs to be informed by community action plans which should be the basis for devolution and elements of funding.</p> <p>(ii) To be consulted on Kirklees wide strategic issues, budget setting and service plans.</p> <p>(iii) To contribute to service reviews and scrutiny processes. Also, for area committees reaching Stage 4, to propose scrutiny activities and the Overview & Scrutiny Committee or Management Board may decide to draw the membership of ad hoc scrutiny panels or scrutiny commissions wholly from the membership of the relevant area committee, where considered appropriate.</p>
<p>Denby Dale Area Committee (Denby Dale)</p>	<p>All elected members from the relevant Ward together with:-</p> <ul style="list-style-type: none"> • 6 Parish Councillors nominated by Denby Dale Parish Council. • Other co-optees as approved from time to time by the Council. 	<p>(iv) To work closely with other public, private and voluntary agencies in the area.</p>
<p>Holme Valley North Area Committee (Holme Valley North)</p>	<p>All elected members from the relevant Ward together with:-</p> <ul style="list-style-type: none"> • 3 Town Councillors nominated by Meltham Town Council. • 3 Parish Councillors nominated by Holme Valley Parish 	<p>(v) To oversee the development of community action plans for areas within the township / neighbourhood and monitor their implementation.</p> <p>(vi) To be a focus for community involvement and consultation.</p>

Name of Area Committee and Wards covered	Composition	Terms of Reference
<p>cont'd</p> <p>Holme Valley South Area Committee (Holme Valley South)</p> <p>Kirkburton Ward Committee (Kirkburton)</p>	<p>cont'd</p> <p>Council from its Wards falling within the KMC Holme Valley North Ward.</p> <ul style="list-style-type: none"> • Other co-optees as approved from time to time by the Council. <p>All elected members for the relevant Ward together with:-</p> <ul style="list-style-type: none"> • 6 Parish Councillors nominated by the Holme Valley Parish Council from its Wards falling within the KMC Holme Valley South Ward. • Other co-optees as approved from time-to-time by the Council. <p>All elected members for the relevant Ward together with:-</p> <ul style="list-style-type: none"> • 6 Parish Councillors nominated by the Kirkburton Parish Council. • Other co-optees as approved from time-to-time by the Council. <p>For each of the above four Area Committees, 3 of the parish/town council nominees have voting rights only in respect of decisions on matters lawfully delegated to those committees as joint committees with the</p>	<p>cont'd</p> <p>(vii) To contribute, on the basis of local community engagement, to the work of the Kirklees Partnership.</p> <p>(viii) To carry out such delegated functions as may be determined by the Council and the Cabinet and set out in Part 3 of this Constitution.</p>

Name of Area Committee and Wards covered	Composition	Terms of Reference
cont'd	cont'd relevant parish/town council. The method of selection of those 3 nominees is as agreed by the Council on 18 September 2002 subject to any amendment which may be subsequently so agreed	cont'd
Huddersfield Committee (Almondbury, Ashbrow, Crosland Moor & Netherton, Dalton, Greenhead, Lindley and Newsome)	All elected members from the relevant wards	<p>(i) To carry out all the Area Committee functions set out above. For this purpose the Area Committee may make arrangements for community engagement and action planning to be worked up at Ward level for consideration by the Area Committee. A procedure for considering delegated budgets at Ward level is set out in the Area Committee delegated functions in Part 3 of this Constitution.</p> <p>(ii) To identify and consider issues of importance to Huddersfield as a whole, including strategic planning, economic development, health, strategic policing, etc.</p> <p>(iii) To provide Huddersfield-wide comments on district and regional issues and strategies</p> <p>(iv) To develop, discuss and adopt plans for issues best commissioned at Huddersfield level.</p> <p>(v) To contribute to Best Value reviews and scrutiny processes for issues affecting Huddersfield as a whole</p>

Name of Area Committee and Wards covered	Composition	Terms of Reference
cont'd	cont'd	cont'd (vi) To consider Huddersfield town centre issues (vii) To establish and commission sub-groups to work on specific issues and to engage with other agencies (such sub-groups not to constitute formal sub-committees) (viii) To monitor and review the operation of devolution and community engagement arrangements across Huddersfield
<hr/> Arrangements Sub-Committee of the Huddersfield Committee	<hr/> The Chair of the Huddersfield Committee and one other member of the Huddersfield Committee from each other political group with representation in Huddersfield	<hr/> Agenda planning for Huddersfield Committee and development of proposals for terms of reference and means of identifying membership of sub-groups

b. Housing Management Committees

The Council may appoint the housing management committees as set out in the first column of the table below, composed as set out in the second column of that table and with the terms of reference set out in the third column. Each committee will deal with the area covered by the Area Housing Offices referred to, which includes all or part of each ward mentioned.

Name of Housing Management Committee and area covered and relevant ward	Composition	Terms of Reference
<p><u>Batley HMC</u> (Batley & Birstall Area Housing Offices)</p> <p>(Batley East, Batley West and Birstall and Birkenshaw Wards)</p> <p><u>Calder HMC</u> (Ravensthorpe and Thornhill Lees Area Housing Offices)</p> <p>(Dewsbury South, Dewsbury West and Mirfield Wards)</p> <p><u>Colne Valley & Crosland Moor HMC</u></p> <p>(Colne Valley and Crosland Moor Area Housing Offices)</p> <p>(Colne Valley, Crosland Moor and Netherton, Golcar, Holme Valley North and Newsome Wards)</p> <p><u>Huddersfield South HMC</u></p> <p>(Almondbury and Dalton Area Housing Offices)</p> <p>(Almondbury and Dalton Wards)</p>	<p>All elected members from the relevant wards, together with co-optees as approved from time to time by the Council</p>	<p>Terms of reference as set out in Part 3 of this Constitution.</p>

Name of Housing Management Committee and area covered and relevant ward	Composition	Terms of Reference
<p>cont'd</p> <p><u>Huddersfield North HMC</u></p> <p>(Deighton and Huddersfield Central Area Housing Offices)</p> <p>(Ashbrow, Greenhead and Lindley Wards)</p> <p><u>Holme Valley and Newsome HMC</u></p> <p>(Honley and Newsome Area Housing Offices)</p> <p>(Denby Dale, Holme Valley North, Holme Valley South, Kirkburton and Newsome Wards)</p> <p><u>Dewsbury HMC</u></p> <p>(Dewsbury Central and Chickenley Area Housing Offices)</p> <p>(Batley West, Dewsbury East and Dewsbury West Wards)</p> <p><u>Spenningsdale HMC</u></p> <p>(Cleckheaton and Heckmondwike Area Housing Offices)</p> <p>(Batley West, Cleckheaton, Heckmondwike and Liversedge and Gomersal Wards)</p>		

The Council and the Cabinet will include details of the delegations to area committees and housing management committees in Part 3 of this Constitution, including the functions delegated, the composition and membership of the committees, budgets and any limitations on delegation

10.3 Conflicts of Interest - Membership of area committees and housing management committees and Scrutiny Committee and panels.

Conflict of interest – If the Scrutiny Committee or a scrutiny panel is scrutinising specific decisions or proposals in relation to the business of an area committee or housing management committee of which the councillor concerned is a member, then the councillor must withdraw from the Scrutiny Committee or scrutiny panel meeting unless the member is attending for the purpose of answering questions or otherwise giving evidence.

10.4 Area Committees and housing management committees – access to information

Area committees and housing management committees will comply with the Access to Information Rules in Part 4 of this Constitution. Agendas and notices for area committees which deal with both functions of the Cabinet and functions which are not the responsibility of the Cabinet will state clearly which items are which.

10.5 Cabinet members on area committees and housing management committees

A member of the Cabinet may serve on an area committee or a housing management committee if otherwise eligible to do so as a councillor.

10.6 Area Committees as joint committees in parished areas

In parished areas the Council may establish area committees as joint committees with the relevant parish or town council in respect of any functions which may, in accordance with the law, be the subject of joint arrangements between the Council and a parish council.

COUNCIL BUSINESS COMMITTEE

Add at the end of the Terms of Reference of Council Business Committee in Section 2 of Part 3 of the Constitution:-

“BUSINESS MANAGERS’ SUB-COMMITTEE

(A Sub-committee of the Council Business Committee)

Membership

Four members of the Council, being the business managers of each of the political groups (subject to the necessary Council approval in respect of political balance).

Terms of Reference

Delegated authority in respect of the following functions of the Council Business Committee as set out above:-

- 5 (Members’ allowances)
- 6 (Other elected member issues)
- 7 (Elected member training)
- 8 (Civic office and ceremonial)
- 9 (Civic insignia)
- 10 (Armorial designs and heraldry)
- 11 (Representation on outside bodies)
- 12 (Charities and Charitable Trusts, so far as not the responsibility of the Cabinet)”

6.3 Standing Scrutiny Panels

6.3.1 The Scrutiny Committee will appoint the standing scrutiny panels set out in the left hand column of the following table to discharge an overview function in relation to the matters set out in the right hand column of the same table.

Panel	Scope
Regeneration (including Housing, Culture and Leisure)	All matters, Cabinet decisions, service provision (in particular those services that the relevant Cabinet Member(s) is responsible for), and activities of other organisations relating to the Regeneration portfolio (including Housing, Culture and Leisure)
Environment	As above in relation to the Environment portfolio
Transportation	As above in relation to the Transportation portfolio
Education and Young People's Services	As above in relation to the Education and Young People's Services portfolio
Social Affairs and Health	As above in relation to the Social Affairs and Health portfolio
Corporate and External Affairs	As above in relation to Corporate and External Affairs
Children Bill	As above in relation to issues arising in connection with the progress and implementation of the Children Bill

Membership

6.3.2 The membership of each standing panel (with the exceptions set out below) will consist of the Panel Chair, 5 other elected Members, and co-opted members with appropriate knowledge/expertise. Other elected members and members of the public will be encouraged to attend.

Exceptions:

- a) The Education and Young People's Overview and Scrutiny Panel shall include in its membership (if nominated by the relevant body) the following representatives with rights to vote on education matters.

- (a) 1 Church of England diocese representative ;
- (b) 1 Roman Catholic diocese representative ; and
- (c) 3 parent governor representatives.

- b) The Social Affairs and Health Panel shall also include the Lead Member for Overview and Scrutiny of Health.
- c) The membership of the Special Standing Panel (Children Bill) comprises the Lead Member plus Members drawn from the Education and Young People's Services Panel and the Social Affairs and Health Panel. The statutory education co-optees (detailed above) will receive information and have the right to attend all meetings of the Panel and vote on education matters.

6.3.3 The Chairs of the standing Overview and Scrutiny Panels will be known as Lead Members for the relevant functions.