

BABERGH DISTRICT COUNCIL

FROM: Head of Corporate Services

REPORT NUMBER: G226

**TO: OVERVIEW AND SCRUTINY
(STEWARDSHIP) COMMITTEE**

DATE OF MEETING: 18 March 2008

CONSTITUTION REVIEW

1. PURPOSE OF REPORT

- 1.1 This report refers to the deliberations of the Constitution Review Task Group that was established primarily to review the Council's Constitution as regards the existing streamlined committee arrangements compared with Leader and Cabinet executive decision-making arrangements. It also concerns other previously agreed constitutional amendments, implementation of which has been deferred pending the outcome of this review. Changes to the Constitution may only be approved by the Council after consideration by the Overview and Scrutiny (Stewardship) Committee.

2. RECOMMENDATIONS

- 2.1 That the recommendation of the Constitution Review Task Group as set out below to suspend the review of the Council's political management structure be endorsed for recommendation to Council:

That the Council be recommended to defer the review of the Council's political structure in the light of the Government's announcement on the intended review of the local government structure in Suffolk, subject to the Council being prepared to recommence its review at short notice in the event that either the local government review is halted or the result of that review is that Babergh continues in existence but that the position be reviewed after one year, or earlier if the structural review is for any reason halted, or if the result of the review is known by then and, as a consequence, Babergh District Council will continue in existence, or if it becomes apparent that the outcome of the structural review will take longer to implement than originally anticipated.

Further, that it be recommended to Council that this Task Group, therefore, be stood down for the time being.

- 2.2 That it be noted that, following soundings taken by Group Leaders within their political groups, it has been established that there is not majority support for the election of a Council Leader at Annual Council on 15 April, and
- 2.3 That the Committee indicates its views on whether the remaining alterations to the Council's Constitution described in paragraphs 5.3 – 5.4 should be proceeded with at this stage, and make any appropriate recommendations to Council.

3. **FINANCIAL IMPLICATIONS**

3.1 There are no identifiable financial implications in this report.

4. **RISK MANAGEMENT**

4.1 This report is most closely linked with the Council's Significant Business Risk No. 4, Political Leadership and Governance. Key risks are set out below:

Risk Description	Likelihood	Seriousness or Impact	Mitigation Measures
Weakness of existing constitutional arrangements creates slow decision-making	High	Critical	Adopt any improved arrangements that could improve efficient decision-making within current constitutional arrangements
Weak political Leadership arrangements in comparison with most other councils e.g. no Council Leader, no portfolio holders	High	Critical	Local Government Review (LGR), or immediate reinstatement of constitutional review if LGR halted for any reason, or if review outcome proposes continued existence of Babergh

5. **KEY INFORMATION**

5.1 The Constitution Review Task Group was established at the end of October 2007 and, at its first two meetings (on 14 November and 4 December), attempted to develop the arguments for and against the creation of a Cabinet and Leader and began to consider the possible arrangements, including a timetable, for undertaking the review. Before the Task Group's next meeting, the Government announced its intention to ask the Boundary Committee for England to carry out a review of the structure of local government in Suffolk and, by 13 February, when the Task Group last met, the Boundary Committee had published a draft timetable for that review. In view of the impending structural review, the Task Group, the notes of whose meeting on 13 February 2008 are attached as Appendix 1, agreed to recommend that the Council's constitutional review be suspended on the basis that any unitary solution for Suffolk would create an authority or authorities that, because of their size, would not in any case be able to operate alternative or streamlined committee arrangements. Continuing the review under those circumstances would involve abortive work and confusing/conflicting public consultation issues arising. The Committee is therefore recommended to agree note 4. recommendation 1. of the Task Group's meeting on 13 February.

5.2 The Task Group's second and third recommendations concerned the possible appointment by the Council of a Leader (as already allowed for under the Constitution) and the appointment of a Deputy Leader (which would require amendment to the Constitution). Arrangements were made for the Political Leaders' Group to consider the matter, with a view, depending on the outcome of their consideration, to an appropriate item being placed on the agenda for the Annual Council Meeting on 15 April. Political Leaders have taken soundings within their Groups and, on that basis, reported to a PLG meeting on 4 March that there is not majority support for the election of a Council Leader at this stage, and it is not therefore proposed to make any such recommendation to Annual Council.

This leaves the Task Group's fourth recommendation concerning those areas where, for a variety of reasons, alterations and clarifications agreed by the Council in February 2006 have yet to be incorporated into the Constitution. The matters concerned are set out in the following extract of minute number 78 of the Council's meeting held on 23 February 2006 –

- (1)
- (2)The Strategy Committee's role should:
 - (a) be clearly defined as the decision maker on matters falling within approved strategies and / or matters not otherwise determined (or determinable) under officer delegations or by other committees or, reserved to Council;
 - (b) not be used simply as a conduit for items that would inevitably have to be referred to Council, although may be consulted on various proposals;
 - (c) include the power to ask the Overview and Scrutiny Committees to investigate matters and for recommendations to be made to it for consideration or, alternatively direct to Council.
- (3) That the terms of reference of the Overview and Scrutiny Committees should make it clear that those Committees have the power to make recommendations direct to Council where the matter is not within the decision making powers of the Strategy Committee.
- (4) That without prejudice to the right of Members to raise matters direct with Committee or Council, the following reporting procedure be followed when developing policy requiring Council approval:
 - (a) Officers should feed ideas through to Management Team or at least their Corporate Director / Chief Executive and if the latter consider such appropriate, the matter should be considered at the Political Leaders' Group (PLG);
 - (b) Members should feed their ideas through to their groups or at least their group leader and if the latter consider such appropriate, the matter should be considered at the PLG;

- (c) In both cases the PLG should establish a view as to whether such a policy proposal is viable and in particular worth referring to Strategy Committee for formal consideration;
- (d) Strategy Committee could refer the matter to Council for adoption or, to the Overview and Scrutiny Committees for more detailed investigation;
- (e) Unless the Strategy Committee has otherwise requested, on completion of an investigation by the Overview and Scrutiny committees the matter may be referred direct to Council.

(5)

(6) That the Overview and Scrutiny Committees be responsible for reviewing the progress made in achieving approved outcomes for each Priority as follows:

- (a) Stewardship Committee:
Individual and community ambitions, and active citizenship.
Access to quality services.
- (b) Community Services Committee:
Affordable housing.
Healthy living and health inequalities.
Safe, clean and sustainable environment.

(7).....

(8) That the Acting Head of Legal and Administrative Services be authorised to draft appropriate amendments to the Constitution in relation to Recommendations (2) – (6) above as appropriate and to bring the proposals to full Council for ratification.

5.3 Resolution 2 (b) suggests a principle underlying proposed amendments to the Role of the Strategy Committee envisaged in Resolutions 2 (a) and (c). Currently the section of the Constitution on “Responsibility for Functions” is broadly drawn in so far as the Strategy Committee is concerned. The resolutions envisage a more detailed description of the Committee’s functions and are intended also to avoid situations where the same item is considered on multiple occasions. Likewise, Resolutions 4 (a) to (e) describe the preferred route for the development of policy, which is via the Strategy Committee without the involvement of an Overview and Scrutiny Committee except at the Strategy Committee’s instigation. Apart from alterations to the Terms of Reference and Functions of the Committees, these changes would require some consequential amendments also to the Overview and Scrutiny Rules to remove references to a Policy Development role for the Overview and Scrutiny Committees. The Committee may wish to consider whether it would wish to see such a restriction on a policy formulation role for the Overview and Scrutiny Committees, or whether it would wish to see the Constitution reflect Resolutions 4(a) to (e) as the norm, but still retaining the remit for the O&S Committees, by exception, to undertake such a policy formulation role of their

own volition if appropriate e.g. if the Strategy Committee refused to consider a particular policy issue that O&S Members considered important. Resolutions 6(a) and 6(b) deal with the alignment of the Council's corporate priorities to the appropriate Overview and Scrutiny (O&S) Committee. Members will be aware that a Strategic Plan covering the next 10 years, with the following corporate themes, will be considered by the Council on 15 April:

- Quality homes local people can afford;
- A cleaner, greener Babergh;
- A safer and healthier Babergh;
- A strong and sustainable Babergh economy;
- Vibrant places, strong communities.

Because of the more outward-facing nature of the Strategic Plan, a cursory look at the themes would indicate that they should all be allocated to the O&S (Community Services) Committee. This would allow the O&S (Stewardship) Committee to focus on the more holistic corporate issues such as business planning, performance management and decision-making processes. However some themes, such as *Vibrant Places and Strong Communities*, have outcomes, such as *effective and convenient access to public services*, which historically would have come under the Terms of Reference of the O&S (Stewardship) Committee.

The Committee may wish to consider whether the Constitution should be amended so that the O&S (Community Services) Committee focuses on the provision of services, and the O&S (Stewardship) Committee on corporate issues; or whether it should be amended to reflect the allocation of Strategic Plan outcomes to a specific Overview and Scrutiny Committee according to its current Terms of Reference.

- 5.4 The Constitution Review Task Group decided that it could see no benefit in major alterations at the current time, although there have been previous suggestions of more fundamental change, such as having only one Overview and Scrutiny Committee. If the Committee wishes to consider this further, a more detailed assessment will be required. For now, however, the Task Group has asked the Committee to consider whether the constitutional amendments described in the above paragraph should now be addressed. If so, the intention will be to submit proposed alterations direct to the Council in accordance with its Resolution number (8), above.

6. **APPENDICES**

Appendix 1 - Minutes of the Constitution Review Task Group, 13 February 2008

7. **BACKGROUND PAPERS REFERRED TO**

None.

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CONSTITUTION REVIEW TASK GROUP

NOTES OF MEETING HELD AT 4.30 P.M. ON WEDNESDAY 13 FEBRUARY 2008 IN COMMITTEE ROOM 1, COUNCIL OFFICES, CORKS LANE, HADLEIGH

MEMBERS

Mr D M Busby (Chairman)
Mr N A Bennett
Ms J A Jenkins
Mr N A Ridley
Mr C A Roberts
Mr G S White
Mrs S M Wigglesworth

OFFICERS

Pat Rockall - Chief Executive
Kathryn Saward - Solicitor to the Council
Ray Amesbury – Senior Democratic and Support Services Manager
Linda Sheppard – Senior Democratic Services Officer

1. APOLOGIES

Apologies were received from Mr D L Wood (Mr Bennett in attendance as a substitute).

2. NOTES OF MEETING DATED 3 JANUARY 2008

Agreed.

3. MATTERS ARISING

None.

4. GOVERNMENT ANNOUNCEMENT ON UNITARY STRUCTURES FOR SUFFOLK

Pat Rockall introduced Paper CR6 and the recommendations in 2.1 and 2.2.

Members were aware that the Council's current political management arrangements are identified as a key strategic risk in the Council's Risk Register (Paper CR6, para 4.1/Appendix 1), with a review of the Constitution in 07/08 being identified as the key mitigation of that risk (Appendix 2). Members were asked to recommend Council to defer the current review of the Constitution, and to address whether any other action should be taken to mitigate the risk, pending either the outcome of the local government review or a resumption of the Council's review.

Pat Rockall updated Members on the current position with regard to the Government's request to the Boundary Committee, the likely timescale for its review and the implementation of any recommendations. Members noted that more information should be available following the meeting of Suffolk Chief Executives with the Boundary Committee on 26 February.

Members gave further consideration to some of the advantages/disadvantages, as previously identified by the Group, of electing a Council Leader in accordance with the current Constitution. They also considered whether the election, or not, of a Leader (and possibly a Deputy Leader) would aid, or hinder, the Council in the discussions around future Unitary or other solutions for Suffolk, particularly in relation to the public and partner perceptions of a relevant Member representing Babergh's view. Members were aware of the Leader's role as set out in the current Constitution but recognised that further advice would be required if the Council wished to develop a role and an appropriate appointment procedure for a Deputy Leader.

Members were also aware that some matters which had been identified under an earlier review had been put on hold until other issues, including any changes to the Council's political structure, had been addressed. They considered whether these outstanding matters, which included those listed below, should now be looked at by the Overview and Scrutiny (Stewardship) Committee as part of its normal arrangements for reviewing the Council's decision-making process:-

- Clarification of the role of the Strategy Committee
- Terms of reference of the Overview and Scrutiny Committees
- The mechanism whereby Members and Officers are able to feed ideas into the process for developing policies.

As a result of its deliberations, the Task Group agreed the following:-

1. That the Council be recommended to defer the review of the Council's political structure in the light of the Government's announcement on the intended review of the local government structure in Suffolk, subject to the Council being prepared to recommence its review at short notice in the event that either the local government review is halted or the result of that review is that Babergh continues in existence but that the position be reviewed after one year, or earlier if the structural review is for any reason halted, or if the result of the review is known by then and, as a consequence, Babergh District Council will continue in existence, or if it becomes apparent that the outcome of the structural review will take longer to implement than originally anticipated.
2. That the Leaders of the political groups be asked to assess the extent of support within their groups for the election of a Council Leader at the annual Council meeting in April 2008, with the results of that exercise being reported to the meeting of the Political Leaders' Group on 4 March 2008.
3. That if a recommendation is to be made to Council to appoint a Leader at its Annual Meeting in April, consideration also be given as to whether or not to appoint a Deputy Leader. Any such recommendations to take into account the advice of the Solicitor to the Council regarding relevant issues.

4. That, whilst the Task Group does not recommend major alterations at this time, the Head of Corporate Services be asked to submit a report to the meeting of the Overview and Scrutiny (Stewardship) Committee on 18 March to enable Members to permit consideration of whether the outstanding matters referred to above should now be addressed, with a view to making appropriate recommendations being made direct to the Council at its Annual meeting.
5. Members noted that a report relating to the time spent by Member Champions on their roles would be submitted to the Annual Council when appointments are made for 2008/09.

5. LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007 – TIMING OF ANY CHANGE TO EXECUTIVE ARRANGEMENTS

The Solicitor to the Council reported that the intended regulations that would amend the provision in the above-mentioned Act that any change to executive arrangements could only come into force three days after the authority's next elections had still not been made. Noted.

6. DATE OF NEXT MEETING

No action as further meetings of the Group are not required for the time being.

The meeting concluded at 5.45pm.