

MEETING:	AUDIT AND GOVERNANCE COMMITTEE
DATE:	15 MARCH 2013
TITLE OF REPORT:	CHANGES TO THE CONSTITUTION
REPORT BY:	HEAD OF GOVERNANCE

1. Classification

1.1 Open.

2. Key Decision

2.1 This is not a key decision.

3. Wards Affected

3.1 County-wide.

4. Purpose

4.1 To consider changes to the Constitution.

5. Recommendation(s)

THAT

- (a) it be recommended to Council that the Leader should include details of each executive decision taken during the period since the last report was submitted to the Authority where the decision was regarded as urgent in his regular report to each Council meeting (except the annual meeting); and**
- (b) the Committee considers what term of office it would wish to recommend to Council that Leaders of the Council should have.**

6. Key Points Summary

- The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 prescribe a number of procedural changes which the Council has no choice but to adopt. The general principle of the Regulations is for the public to have access to meetings and documents where a local authority executive, committee or individual is taking an executive decision.
- There is one issue that the Regulations require the Authority to determine. Regulation 19 requires the Leader to submit a report to the Authority containing details of each

executive decision taken during the period since the last report was submitted to the Authority where the decision was regarded as urgent (Regulation 11 - cases of special urgency). There must be at least one report annually. The previous Regulations specified that the Leader must report quarterly. It is proposed that the Leader should include this information in his regular report to each Council meeting (except the annual meeting to which it is proposed he will no longer report).

- The Local Government and Public Involvement in Health Act 2007 provided for a mandatory four year term of office for the Leader of the Council. The Localism Act 2011 removes the mandatory provision and leaves it to each authority to determine the term of office of the Leader.

7. Alternative Options

- 7.1 There are a number of different recommendations that could be made for both the frequency with which the Leader reports to Council and the Leader's term of office.

8. Reasons for Recommendations

- 8.1 The recommendations are made to ensure that the Council complies with relevant legislation and Regulations.

9. Introduction and Background

- 9.1 The Council needs to form a view on the frequency with which the Leader submits a report to the Authority containing details of each executive decision taken during the period since the last report was submitted to the Authority where the decision was regarded as urgent. The Authority also needs to consider the length of the term of office of Leaders of the Council.

10. Key Considerations

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

- 10.1 These Regulations made on 10 August 2012 came into force on 10 September. The explanatory note to the Regulations states that: *'The general principle of the Regulations is for the public to have access to meetings and documents where a local authority executive, committee or individual is taking an executive decision.'*
- 10.2 In the main, the Regulations prescribe a number of procedural changes which the Council has no choice but to adopt. The Monitoring Officer will simply amend the Constitution in particular the Access to Information Rules (Part 4 Section 2) and the Cabinet Rules (Part 4 section 4) accordingly.
- 10.3 The principal changes include:
- Local authorities must provide reasonable facilities to any member of the public who may wish to report the proceedings of a meeting of the executive as well as accredited newspapers. (This was hailed on the Department of Communities and Local Government press release as *'town hall doors unlocked to social media and bloggers'*.)

- The provision that the Council must prepare a Forward Plan listing key decisions to be taken in the ensuing 4 months updated on a rolling monthly basis has been removed. The Authority must, however, give 28 clear days notice of any key decision. There are, as under the previous Regulations, circumstances in which decisions may be taken at shorter notice (general exception and special urgency). The Regulations specify various procedural steps that have to be taken and the various notices that have to be produced including one explaining why a meeting is urgent and cannot reasonably be deferred.
- Where a meeting is to be held in private the executive must provide 28 clear days notice, during which the public may make representations about why they think the meeting should be held in public. Various other notices are also required to be produced including one setting out any representations received that the meeting should be open to the public and a statement of the response to those representations.
- Background papers listed in a report to the executive must be made available on the website.
- The Association of County Secretaries and Solicitors is seeking legal advice on the provision in Regulation 14 that refers to actions to be taken once an individual Member or an officer has made an executive decision, because this appears to impose requirements on non-key officer decisions. This is a procedural matter. Members will be informed of the outcome.
- Regulation 17 deals with additional rights of access to documents for members of overview and scrutiny committees. New features include a provision that where a member of an overview and scrutiny committee requests a document to which they are entitled under the Regulations the executive must provide that document as soon as is reasonably practical and in any case no later than 10 clear days after the executive receives the request. Also, where the executive determines that a member of an overview and scrutiny committee is not entitled to a document on grounds set out in the Regulations, it must provide the overview and scrutiny committee with a written statement setting out its reasons for that decision.

10.4 There is one issue that the Regulations require the Authority to determine. Regulation 19 requires the Leader to submit a report to the Authority containing details of each executive decision taken during the period since the last report was submitted to the Authority where the decision was regarded as urgent (Regulation 11 - cases of special urgency). There must be at least one report annually. The previous Regulations specified that the Leader must report quarterly.

10.5 It is proposed that the Leader should include this information in his regular report to each Council meeting (except the annual meeting to which it is proposed he will no longer report).

Term of Office of the Leader

10.6 The Local Government and Public Involvement in Health Act 2007 provided for a mandatory four year term of office for the Leader of the Council.

10.7 The Localism Act 2011 (Schedule 2 part 1) inserts Section 9 I into the 2000 Act. This removes the mandatory provision and leaves it to each authority to determine the term of office of the Leader. The Localism Act 2011 (Local Authority Governance Transitional Provisions) (England) Order requires the Authority to determine this issue as soon as is reasonably practicable after the order comes into force (4 May 2012).

10.8 The options would appear to be to provide for the Leader to hold office for a four year term or to return to the practice of annual election of the Leader.

11. Community Impact

11.1 There is no community impact.

12. Equality and Human Rights

12.1 There are no equality and human rights implications.

13. Financial Implications

13.1 There are no financial implications.

14. Legal Implications

14.1 The report has been prepared to comply with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 and the Localism Act 2011.

15. Risk Management

15.1 There would be a risk if the Authority were not complying with the relevant legislation and Regulations. The proposals in this report mitigate that risk.

16. Consultees

16.1 None.

17. Appendices

17.1 None.

18. Background Papers

18.1 None identified.