

# REVIEW OF THE CONSTITUTION

## PORTFOLIO RESPONSIBILITY: CORPORATE STRATEGY AND FINANCE

CABINET

20TH JULY, 2006

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### Wards Affected

County-wide

### Purpose

To update the Constitution to reflect changing Council requirements.

### Key Decision

This is not a Key Decision.

### Recommendation

**THAT Cabinet considers the recommendations set out below and recommends their approval to the Council.**

**THAT**

- (a) **the Council meeting in March be reserved to approve the budget and the setting of the Council tax and associated business, together with statutory plans that need to be approved by Council and that cannot reasonably be delayed;**
- (b) **a new Standing Order 4.25.10 “Questions will not be accepted at the March meeting of the Council that sets the budget and Council tax” be approved;**
- (c) **the revised Financial Standing Orders at Appendix 1 be approved;**
- (d) **the name of the Audit Committee be amended to Audit and Corporate Governance Committee;**
- (e) **the revised terms of reference for the Audit and Corporate Governance Committee at Appendix 2 be approved;**
- (f) **the facility to appoint an independent Chairman to the Audit and Corporate Governance Committee be approved**
- (g) **Appendix 23 of the Constitution be amended to provide for the Director of Environment to make a decision to advertise any proposals for a Traffic Regulation Order, (including traffic calming measures) and to proceed to make the same if no objections are forthcoming;**

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Further information on the subject of this report is available from  
Alan McLaughlin, Head of Legal and Democratic Services, on (01432) 260200

- (h) **Part 12, 12.7.4 of the Constitution be amended by adding a specific reference enabling the Director of Environment to commence prosecutions under the provisions of the Food Safety Act 1990 (as amended) and the European Communities Act 1972, including any regulations made pursuant to those Acts or any re-enactment thereof.**

## **Reasons**

To ensure the Constitution meets all legal and operational requirements.

## **Considerations**

The Constitutional Review Working Group met on 30th May, 2006 to consider a number of revisions to the Constitution as set out below.

### **Review of Political Management Structures**

1. The recommendations of the Constitutional Review Working Group meeting to be held on 17th July, 2006 will be reported to the meeting.

### **Agenda for the Council meeting to approve the Budget and Set the Council Tax**

2. All Council meetings, except for the annual meeting following an election, currently have a standing item for questions from Councillors. In line with revisions to government legislation the March meeting of Council will deal only with setting the budget and council tax and associated business such as the Capital Programme and Corporate Plan. In addition the meeting approves statutory plans and reports from West Mercia Police Authority and Hereford and Worcester Fire and Rescue Authority.
3. To reflect the role of the March Council meeting it is suggested that the agenda is amended so that Councillors no longer ask formal questions. An item on the agenda for questions from members of the public will remain.

### **Financial Standing Orders**

4. The Corporate Management Board, at the request of the Director of Resources, considered proposals for changes to the Financial Standing Orders covering the carry forward of budget overspends and underspends. Currently, Financial Standing Orders allow for the carry forward of underspendings and overspendings subject to certain percentage and other limits. The CMB agreed the wording and, in broad terms, it sets tighter arrangements for dealing with underspendings by permitting only the carry forward of managed underspendings and overspendings, by requiring action plans for dealing with identified overspendings to be produced early in the financial year.

### **Audit Committee**

5. The Audit Commission, in its Annual Audit and Inspection letter identified that the Council needed to develop the role of the Audit Committee in providing leadership on audit and governance issues, including documenting the overall assurance framework. In line with CIPFA guidance an analysis/self-assessment, of the Audit Committee was carried out. The analysis measures the Committee's work and its effectiveness. As a result of the analysis some of the points identified were:

- the need to align the Audit Committee's current terms of reference with the CIPFA guidance;
  - to develop the committee's role in relation to internal control strategies such as Risk Management;
  - that Committee Members are independent of the Executive and Scrutiny functions of the Council; and
  - that training is carried out for all Committee Members.
6. The work programme for the Committee was examined and an effective framework is to be put in place to ensure there is no overlap with the work of the Strategic Monitoring Committee and the Audit Committee. The current terms of reference for the Committee also includes its consideration of the terms of reference for Internal Audit, the Internal Audit Strategy and Resourcing of the Internal Audit. CIPFA guidance states the Chairman and members of the Committee need to be independent of the Executive and Scrutiny functions of the Council and it is suggested that the facility is put in place to appoint an independent Chairman. In addition it is proposed that the title of the Committee is revised to reflect that it deals with broader aspects of corporate governance issues and not solely financial matters.

#### **Delegated Powers for Traffic Regulation Orders and Food Safety Prosecutions**

7. Presently the Constitution does not allow for the Director of Environment to make any delegated decisions in relation to Traffic Regulation Orders (TROs) and they are all currently dealt with by the Cabinet Member (Highways and Transportation). The amendment to the Constitution is to allow authorisation for the Director of Environment to take certain decisions relating to TROs and also to give express authorisation to commence prosecutions for offences created by the Food Safety Act 1990 and regulations made in respect of such like matters under the European Communities Act 1972, or any subsequent re-enactment. It is proposed to amend Appendix 23 of the Constitution so that the Director of Environment has authority to make decisions on initial proposals for any TROs, but with the Cabinet Member having the final decision as to whether to proceed and/or modify any proposal where objections have been received as a result of any public consultation exercise.
8. Additionally Environmental Health Officers are required to investigate matters relating to food hygiene and whilst the Constitution currently provides a general delegation to Directors to act on behalf of the Council, it is desirable to have a specific reference to the Director of Environment to be able to authorise such prosecutions personally.

## **Risk Management**

Ensuring that the Constitution remains up to date and relevant will avoid legal challenge and uncertainty.

## **Alternative Options**

There are no alternative options recommended.

## **Consultees**

The Constitutional Review Working Group  
Directors

## **Appendices**

Not applicable.

## **Background Papers**

None identified.