



DERBY CITY COUNCIL

**COUNCIL**  
**20 MAY 2009**

Report of the Director of Corporate and Adult Services as Monitoring Officer

## **Proposed Amendments to the Constitution**

### **RECOMMENDATION**

To approve the amendments to the Constitution set out in Appendix 2.

### **SUPPORTING INFORMATION**

- 2.1 It is customary to review and, where necessary, amend the Constitution at each Annual Meeting of the Council. The following amendments are proposed and the details are shown in Appendix 2.

#### **Councillor Call-for-Action (CCfA) and Related Scrutiny Functions**

- 2.2 Elsewhere on the Council Agenda is a report of the Chair of the Scrutiny Management Commission which proposes the adoption of a Protocol to regulate the use of the Councillor Call-for-Action which was introduced from 1 April 2009. Amendments to the Overview and Scrutiny Procedure Rules are required to give effect to these statutory requirements, together with certain other provisions in the Local Government and Public Involvement in Health Act 2007 relating to the scrutiny of public bodies.

#### **Nominations of Political Groups**

- 2.3 The Local Government and Housing Act 1989 requires the Council to determine the allocation of seats on committees etc to political groups (the Widdecombe Rules) and then to give effect to the nominations of the political groups to fill those seats. This is usually done at each Annual Meeting but, currently, mid-year changes require a Notice of Motion. As the Council must act on the wishes of the political group, it is proposed to delegate this to the Director of Corporate and Adult Services. Annual appointments will continue to be made at the Annual Meeting of the Council so that appointments of chairs and vice chairs can be determined.

#### **Standards Committee**

- 2.4 The Council's Standards Committee currently has four independent members and three councillor members. The Committee has two sub committees – one to assess complaints against councillors and the other to review that assessment. There can be situations where one or more members of the committee are prevented from attending an assessment, review or hearing because of a conflict of interest or prior involvement in the particular case. Regulations allow authorities in these circumstances to make a temporary appointment of an independent member

from another authority. It is proposed that the power to make such an appointment is delegated to the Monitoring Officer. Where a replacement councillor is required it is proposed that the power is delegated to the Monitoring Officer in consultation with the political group leaders.

### **Protocol on Call-in of Executive Decisions**

- 2.5 The Chair of the Scrutiny Management Commission (Councillor Graves) is recommending that amendments be made to the Protocol on Call-In of Executive Decisions to provide that, where none of the signatories to a call-in attends the scrutiny commission's meeting to consider the call-in, the commission may decide not to proceed. In these circumstances, the call-in would be decided on the basis that the commission has no concerns over the Council Cabinet decision.

### **Commons Act 2006**

- 2.6 This is a technical amendment resulting from a change in the relevant legislation.

### **Delegations to Officers**

- 2.7 To resolve an issue highlighted in recent months, it is proposed to delegate to the Corporate Director of Resources the power to accept grant offers by Government departments. Some departments insist on seeing proof that this power exists. Where it does not, a report has to be taken to the Council Cabinet for formal approval. If a particular grant condition presented significant issues for the Council, a report would be taken to the Cabinet in any case.

<b>For more information contact:</b>	Steve Dunning Tel 01332 255462 email <a href="mailto:steve.dunning@derby.gov.uk">steve.dunning@derby.gov.uk</a>
<b>Background papers:</b>	None
<b>List of appendices:</b>	Appendix 1 – Implications Appendix 2 – Proposed Amendments to the Constitution Recommended to Full Council on 20 May 2009

<b>IMPLICATIONS</b>
---------------------

**Financial**

1. None

**Legal**

- 2.1 Under Article 15, changes to the Constitution can only be approved by the full Council after consideration of a report by the Monitoring Officer.
- 2.2 The Councillor Call-for-Action and provisions relating to the scrutiny of other public sector bodies are contained in the Police and Justice Act 2006 and the Local Government and Public Involvement in Health Act 2007.

**Personnel**

3. None

**Equalities Impact**

4. None

**Corporate Values and Priorities**

5. The Constitution underpins and facilitates many of the Council's Corporate Values and Priorities.



## PROPOSED AMENDMENTS TO THE CONSTITUTION RECOMMENDED TO FULL COUNCIL ON 20 MAY 2009

### 1. Councillor Call-for-Action and Related Scrutiny Functions

Amend parts of the Overview and Scrutiny Procedure Rules (pages 4-50 to 4-52) as follows:

OS15 revoke as now unnecessary

OS15 (renumbered) Any ~~three~~ members of the Council ~~who are not members of the overview and scrutiny commission or the Council Cabinet~~ may give written notice to the proper officer that they wish an item to be included on the agenda of an overview and scrutiny commission. If the proper officer receives such a notification, then s/he will include the item on the first available agenda of the relevant overview and scrutiny commission for consideration by the commission.

OS16 Where an issue is being raised as a Call for Action the member will use the agreed Protocol on Calls for Action. When assessing which is the appropriate commission the proper officer shall consider whether the issue is primarily in relation to a local government or crime and disorder matter. Where the commission decide not to make a report or recommendations it shall notify the member of its decision and the reasons for it.

#### **Making sure that overview and scrutiny reports are considered by the Council Cabinet**

OS24 Once an overview and scrutiny report on any matter which is the responsibility of the Council Cabinet has been completed, the commission may by notice require it shall be included on the agenda of the next available meeting of the Council Cabinet;

(a) ,to consider the report and/or recommendations, (b) to respond to the commission indicating what, if any, action the Council Cabinet proposes, to take, and (c) if the commission published its report or recommendations, to publish its response

and the Council Cabinet must do so within two months of receipt of the report or, if later, the notice.

Where a commission copied its report to a member in connection with a Call for Action, the Council Cabinet shall also provide a copy of its response to that member.

~~unless the matter which is the subject of the report is scheduled to be considered by the Council Cabinet within a period of two months from the date the report was adopted by the overview and scrutiny commission. In such cases, the report of the overview and scrutiny commission shall be considered by the Council Cabinet when~~

#### **Key**

Strikethrough = deleted words

Underline = inserted words

~~it considers that matter.~~ If for any reason the Council Cabinet does not consider and respond to the overview and scrutiny report within two months then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Council Cabinet.

### **Making sure that overview and scrutiny reports are considered by the partner organisations**

Where an overview and scrutiny commission report or recommendations:

a) relate to a target specified in the Local Area Agreement, the commission may in writing by notice require a relevant partner authority to have regard to the report and recommendations

b) are made by the designated crime and disorder commission, the commission shall provide a copy to each of the appropriate responsible authorities and/or co-operating persons and bodies. Each such recipient shall provide a written response to the crime and disorder commission within a period of one month from the date of the report or recommendations or, if not reasonably possible, as soon as possible thereafter

and the commission shall review responses and monitor the action, if any, taken by the relevant organisation.

OS25 Only one major report every six months may be submitted by each overview and scrutiny commission to the Council Cabinet, other than reports on matters i) referred to the commissions by the Council Cabinet or ii) resulting from a Call for Action.

### **Members and officers giving account**

OS29 Any overview and scrutiny commission may scrutinise and review decisions made or actions taken in connection with the discharge of Council functions, within its remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Council Cabinet, any member to whom powers have been delegated under section 236 of the Local Government and Public Involvement in Health Act 2007, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit.

RENUMBER RULES AS APPROPRIATE

## **2. Nominations of Political Groups**

PART B – LOCAL CHOICE FUNCTIONS – NON-EXECUTIVE FUNCTIONS  
(Page 3-60)

Add the following:

Giving effect to the wishes of Political Groups on appointments to relevant bodies		Corporate Director of Corporate and Adult Services
--	--	--

### 3. Standards Committee

#### PART B – LOCAL CHOICE FUNCTIONS – NON-EXECUTIVE FUNCTIONS (Page 3-60)

Add the following:

Appointment of an Independent Member of another authority's Standards Committee, where necessary because of a conflict of interest or non-availability, to serve as a temporary member of the Standards Committee, Assessment Sub Committee or Review Sub Committee.		Corporate Director of Corporate and Adult Services
In consultation with the Political Group Leaders, appointment of an Elected Member to the Standards Committee, Assessment Sub Committee or Review Sub Committee, on a temporary basis, where necessary because of a conflict of interest or non-availability		Corporate Director of Corporate and Adult Services

### 4. Protocol on Call-In of Executive Decisions

Amend paragraph 4. of the Protocol (page 5-61) to read as follows:

The CSO will invite the signatories to the call-in notice, the relevant Council Cabinet member(s) and the relevant Director to attend the call-in meeting. The [call-in signatories and the](#) relevant Council Cabinet member or a Cabinet member nominee would be expected to attend. The relevant Director may nominate a second or third tier officer to attend in his / her place. [If none of the call-in signatories attends, the Commission will decide whether to proceed. If the Commission decides not to proceed, then the call-in will be decided on the basis that the Commission does not have any concerns it wishes to refer to the Council Cabinet, and the Council Cabinet will not be required to reconsider the decision.](#)

### 5. Commons Act 2006

#### PART A – NON EXECUTIVE FUNCTIONS (Page 3-49)

Amend Item 37 as follows:

37. Power to register common land or town or village greens <a href="#">under Regulation 6 of the Commons Registration (New Land) Regulations 1969</a>	Planning Control Committee	Assistant Director - Regeneration
--	----------------------------	-----------------------------------

## **6. Delegations to Officers**

Add the following to the delegations to the Corporate Director of Resources (Page 3 – 32).

- 14) To accept offers of grants made by Government Departments.