

REVIEW OF THE COUNCIL'S CONSTITUTION

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1. Purpose

- 1.1 To consider the outcome of a review of the operation of the Council's Constitution, and to consider recommendations to address the areas identified as in need of improvement

2. Recommendations

- 2.1 That the format of Council meetings be revised to include themed meetings, including an Annual State of the Borough debate, a higher profile for reports from the Cabinet and the Overview and Scrutiny bodies, and a fixed timetable for items.
- 2.2 That further discussions be held with those authorities which have already experimented, and with the Office of the Deputy Prime Minister, about possible ways of introducing a chair of Council Meetings, or equivalent, other than the Mayor, should the Council wish to do so.
- 2.3 That the Cabinet Procedure Rules be amended to require the Cabinet to respond specifically to each recommendation made by an Overview and Scrutiny body.
- 2.4 That the Cabinet Procedure Rules be amended to allocate the Chair or a nominated spokesperson of an Overview and Scrutiny body up to 10 minutes to present the findings, conclusions and recommendations of the body on a particular matter to the Cabinet.
- 2.5 That, from September 2003, the period of each Forward Plan be extended to cover the coming twelve-month period.
- 2.6 That all matters being referred to the Cabinet be included on the Forward Plan as soon as they are known.
- 2.7 That individual Cabinet Members be authorised to take Key Decisions, subject to the notification requirements of the Access to Information Procedure Rules and the call-in provisions.
- 2.8 That the financial threshold for Key Decisions be increased to £100,000.

- 2.9 That an Overview and Scrutiny Co-ordinating Board be established to oversee and prioritise the allocation of work and resources to the Overview and Scrutiny function.
- 2.10 That the Chairs of the four functional bodies be appointed to the Co-ordinating Board.
- 2.11 That the present service-based Overview Committees be replaced by functional bodies dealing with performance review, policy development, scrutiny of the Executive, and external scrutiny.
- 2.12 That task and finish scrutiny bodies be defined and established by the Co-ordinating Board.
- 2.13 That the role of the Business Management group be amended to deal with the programme and themes for Council Meetings; elections, electoral registration and boundary issues; Members' Services; information to Members and others on the operation of the Constitution; and monitoring and reviewing the operation of the Constitutional arrangements on an annual basis.
- 2.14 That the membership of the Business Management Group should always include a representative of the Cabinet and a representative of new or 'backbench' Members
- 2.15 That the necessary revisions to the Council's Constitution to give effect to the approved changes be drafted for consideration by the Council at its meeting in September 2003.
- 2.16 That the success of these changes be specifically considered in the first annual review of the Constitutional arrangements, in 2004

3. Issues and Choices

- 3.1 At the meeting of the Business Management Group held on 19 March 2003, consideration was given to two presentations on the role and operation of the Council Meeting, and on the current structure for delivering the Council's Overview and Scrutiny function. The meeting also considered comments from two Members with observations on the operation of the current constitutional arrangements, and suggestions for improvement.
- 3.2 Business Management Group was also aware of critical comment, particularly about the role of the Council's Overview & Scrutiny function, contained in several inspection reports, including the Ofsted report, the IdeA Peer review, and the Comprehensive Performance Assessment. BMG authorised officers to conduct further investigations and to report back to this meeting with some alternative suggestions.
- 3.3 The review has been conducted to take account of the following issues:
 - concern about the role and effectiveness of the Council Meeting in community leadership, public interest and accessibility;

- the need to ensure that decision-making is efficient, transparent and accountable;
 - concern over the effectiveness of the Overview Committees, in terms of their planning, content and contribution to the Council's performance review and policy development;
 - confusion about the role of the Business Management Group, and its continued relevance in any changed structure.
- 3.4 It is also clear that some Members and officers continue to be confused about their roles under the new democratic structures. There is evidence that the perpetuation of service-based Overview Committees, and the lack of significant change to the conduct of the Council Meeting, have contributed to a culture in which too much of the 'old' democratic structure has been transposed into the new.
- 3.5 Officers have consulted all Members of the Council, senior officers, and co-opted members about the Council's current democratic arrangements. A questionnaire circulated in late April has generated an encouraging 50% response. Of the 30 Members responding 20 were Liberal Democrats, 6 Labour Members, 3 Conservative members and 1 Independent Member. Responses were also received from 2 co-optees and 12 senior offices. An overall response rate of 51%. A summary of the responses received appears at **Annex A**.
- 3.6 The activities of Committees, the Council Meeting and the Business Management Group have been reviewed against their Terms of Reference contained in the Constitution.
- 3.7 Consideration has also been given to the way in which other Councils operate their democratic structures, to academic research, and to comment from inspectorate reports.
- 3.8 The conclusions of the review are contained in four separate annexes to this report as follows:
- **Annex B** – Council Meeting
 - **Annex C** – Cabinet, the Forward Plan and the [Scheme of Delegation
 - **Annex D** – Overview and Scrutiny
 - **Annex E** – Business Management Group
- 3.9 Each annex contains recommendations for review of the structures based on the research and on best practice elsewhere. If the recommendations are approved some changes to the Constitution will need to be introduced. Members will be aware that the Council is responsible for considering any changes to the Constitution, so any recommendations from the Group will need to be considered in due course by the Council.

3.10 It is considered that the proposals contained in the annexes will go some way to;

- improving the management and effectiveness of the Council Meeting by creating allocated space for wider discussion of matters of general importance to the Council and to the area of Milton Keynes;
- providing better organisation of the Executive decision-making process by improving the preparation of the Forward Plan, and by extending the use of delegated powers in appropriate circumstances, whilst also addressing the importance of effective scrutiny of decisions;
- creating a structure which will help to establish more effective overview and scrutiny of the Council's performance, decision-making, and policy development, and will address the growing expectation that the Council should be taking the lead in scrutinising other public bodies;
- clarifying the role of the Business Management Group by removing those functions which it has performed less effectively.

3.11 The Council has been operating its current democratic structures for nearly two years, but it is acknowledged that they are still widely misunderstood by both Members and the public. Nevertheless, they are in accordance with the provisions of the Local Government Act 2000, and it is unlikely that Parliament will be moving to change the provisions in the foreseeable future. It is the Council's duty, therefore, to make its executive and scrutiny functions as effective, open and accountable as possible, and the recommendations in the attached annexes are designed to assist in that process.

3.12 It needs also to be acknowledged, however, that Members need to be trained and equipped to carry out their roles within the Council's structures, and this is being addressed through a comprehensive training and development audit leading to a comprehensive review of Members' development opportunities later in the year.

4. Implications

4.1 Policy

It is the Council's policy to be an open and accountable democratic organisation.

4.2 Finance

The proposals in this report are not considered to have any financial implications in the short-term. In the medium-term, however, Members may wish to explore the use of alternative meeting venues, the use of expert speakers and witnesses, and the use of research facilities, for which no provision currently exists.

4.3 Legal

The Council needs to abide by the provision of the Local Government Act 2000. Previous inspection by the Audit Commission has confirmed that the present arrangements conform with the Act, and it is considered that the proposals contained in this report will continue to meet the requirements of the Act, but will enhance the effectiveness of the Council's constitutional arrangements. The Council must appoint one of its Overview and Scrutiny bodies to have responsibility for scrutiny of the National Health Service locally.

Background Documents

Audit Commission report on the new democratic arrangements – February 2002

The Future of Overview and Scrutiny published by the Office of the Deputy Prime Minister – September 2002

IdeA Peer Review report on Milton Keynes Council – July 2002

Ofsted report on Milton Keynes Local Education Authority – September 2002

Comprehensive Performance Assessment Report on Milton Keynes Council – December 2002

Results of Questionnaire to Members, Officers and Co-opted Members – April 2003