

COUNCIL – 4TH SEPTEMBER 2017

Report of the Scrutiny Management Board

ITEM 6.1 AMENDMENT TO THE COUNCIL'S CONSTITUTION – PROCEDURE FOR REFERRING ITEMS TO FULL COUNCIL

Purpose of Report

To consider an amendment to the Constitution recommended by the Scrutiny Management Board.

Recommendation

That the Council's Constitution be amended such that the provision to make reference to the minutes of scrutiny bodies at full Council (Full Council Procedure 9.11(b)) is extended to include the minutes of the Performance Scrutiny Panel and the Policy Scrutiny Group.

Reason

By convention, the minute referral procedure currently only applies to two scrutiny bodies, the Scrutiny Management Board and the Overview Scrutiny Group, as these are the only two bodies that are required to be politically balanced. The Board considers that extending that convention to the bodies outlined will assist in promoting the work of scrutiny, but noting that the procedure will need to be used judiciously. In particular, the scenarios stated in paragraph 7 of Part B the report considered by the Board provide good examples of where use of the procedure will be useful and appropriate.

Policy Justification and Previous Decisions

At its meeting on 14th June 2017, the Scrutiny Management Board considered a report of the Head of Strategic Support providing guidance as to the occasions on which it might be useful and appropriate to make reference to the minutes of scrutiny bodies at full Council meetings via the provision to do so in the Council's Constitution – Full Council Procedure 9.11(b), with a view to further promoting the working of scrutiny. That report is attached as an Appendix.

The full decision taken by the Scrutiny Management Board was as follows:

“6. REFERRAL OF MINUTES TO COUNCIL TO PROMOTE WORK OF SCRUTINY

Considered a report of the Head of Strategic Support providing guidance as to the occasions on which it might be useful and appropriate to make reference to the minutes of scrutiny bodies at full Council meetings via the provision to do so in the Council's Constitution – Full Council Procedure 9.11 (b), with a view to further promoting the working of scrutiny (item 7 on the agenda filed with these minutes).

The Deputy Monitoring Officer/Legal Services Manager assisted with consideration of the report.

RESOLVED

1. *that the report be noted;*
2. ***that it be recommended to Council*** (on 4th September 2017) *that the Council's Constitution be amended such that the provision to make reference to the minutes of scrutiny bodies at full Council (Full Council Procedure 9.11(b)) is extended to include the minutes of the Performance Scrutiny Panel and the Policy Scrutiny Group.*

Reasons

1. *To acknowledge the Board's consideration of the matter.*
2. *The report considered by the Board highlighted that, by convention, the minute referral procedure currently only applied to two scrutiny bodies, this Board and the Overview Scrutiny Group, as these were the only two bodies that were required to be politically balanced. The Board considered that extending that convention to the bodies outlined would assist in promoting the work of scrutiny, but noting that the procedure would need to be used judiciously. In particular, the scenarios stated in paragraph 7 of Part B the report considered by the Board provided good examples of where use of the procedure would be useful and appropriate."*

Implementation Timetable including Future Decisions and Scrutiny

Full Council Procedure 9.11(b) currently reads as follows:

"Where notice has been given to the Head of Strategic Support by five Councillors by noon on the fifth working day after the publication of the minutes of the Cabinet or a committee that they wish the minutes specified to be considered by Council, the consideration will follow the procedure for questions and statements without notice. No other debate will be allowed.

In order for minutes to be considered at a particular Council meeting, notice must be given to the Head of Strategic Support no later than noon on the sixth working day before the meeting. Minutes will be considered at the first meeting for which appropriate notice has been given."

It is suggested that the amendment be made via the insertion of the following wording at the end of Full Council Procedure 9.11(b):

"This provision also applies to minutes of the Performance Scrutiny Panel and the Policy Scrutiny Group".

If approved, the amendment will take effect on 5th September 2017 and the Monitoring Officer will publish an updated version of the Constitution accordingly.

Report Implications

The following implications have been identified for this report.

Financial Implications

There are no costs associated with making the recommended change to the Constitution.

Risk Management

No specific risks have been identified in connection with this report.

Appendix: Report considered by Scrutiny Management Board 14th June 2017 entitled "Referral of Minutes to Council to Promote the Work of Scrutiny".

Background Papers: None

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SCRUTINY MANAGEMENT BOARD – 14TH JUNE 2017**Report of the Head of Strategic Support****Part A****ITEM REFERRAL OF MINUTES TO COUNCIL TO PROMOTE THE
WORK OF SCRUTINY****Purpose of Report**

To provide the Board with guidance on how the procedure to refer minutes to Full Council for discussion could be used to promote the work of scrutiny.

Policy Context

At its meeting on 29th March 2017, the Board considered its Annual Report, which would be submitted to Full Council. Alongside this the Board considered further ways in which the work of scrutiny could be promoted.

As part of that consideration the Board discussed the provision in the Constitution that allows minutes of meetings to be added to the agenda for Full Council meetings. The purpose of this procedure is to enable those minutes to be discussed at Full Council, although Council is not able to change any resolutions that were made.

The Board resolved 'that the Democratic Services Manager be asked to submit a report to the next meeting of the Board (14th June 2017) setting out guidance as to the occasions on which it might be useful and appropriate to make reference to the minutes of scrutiny bodies at full Council meetings via the provision to do so in the Council's Constitution – Full Council Procedure 9.11(b), with a view to further promoting the work of scrutiny.' The Board considered that the provision could provide an effective way of promoting the work of scrutiny, but wished to ensure that it was used only when useful and appropriate, for example where scrutiny had achieved an outcome of particular value or where more focus needed to be given to that scrutiny. It might also be useful for the requested report to consider the practice of other councils (minute 37 16/17 refers).

Financial and Legal Implications

None

Risk Management

No risks have been identified in connection with this report.

Background Papers: [Select Committee Effectiveness, Resources and Powers, House of Commons Liaison Committee, 2012](#)

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Part B

Background

1. The Council's Constitution includes a procedure for councillors to ask for minutes of the Council's Cabinet and committees to be included on the agenda for meetings of Full Council. The purpose of this procedure is to enable all councillors to discuss, ask questions or make statements about decisions taken by the Cabinet or committees exercising their delegated powers. Council cannot change any decision or resolution that had been made but the opportunity for discussion forms part of the Council's arrangements to ensure transparency and accountability in its decision making. The procedure operates on the basis that a minute and the officer report in relation to the item will be included on the Council agenda if at least five councillors request this within five working days of the minutes being published.
2. If a minute is referred to Full Council, when the item is reached councillors can ask questions, which will be answered by the Leader, Cabinet Lead Member or Chair of the committee as appropriate, or make statements. Council would not, however, take a vote or make a resolution on the matter.
3. The procedure was introduced in 2004 and after initially being used frequently, with several referrals per Council meeting, it is currently used very little. The procedure only applies to the Cabinet and committees; it does not therefore apply to scrutiny panels. By convention the procedure has not been applied to the Performance Scrutiny Panel and the Policy Scrutiny Group as these bodies are not politically balanced. This convention could be changed if there was a wish to do so.

Practice in Parliament

4. A report was published by the House of Commons Liaison Committee (which comprises the chairs of the parliamentary select committees) in 2012 on the effectiveness of select committees). The report highlighted the benefits of enabling debate and discussion on the work of select committees, particularly at the stage where they publish their reports. Parliamentary procedures allow for this to happen through time set aside for debates in Westminster Hall on select committee reports, applying to the Backbench Business Committee for a debate in the House of Commons during time allocated for backbench business, or through a short speech to coincide with publication of a select committee's report.
5. As with the Council's procedures, procedures in Parliament distinguish between those where debates end with a vote on a substantive motion (the backbench business debates) and others where there is only the opportunity to make statements and ask/answer questions.

Use of Minute Referrals to Promote Scrutiny

6. The report of the Liaison Committee considered that the most useful purpose of enabling debate on the work of select committees was to publicise their final reports and, where procedures allowed, seek endorsement for their findings. The minute referral process could be used in this way if five councillors referred either the minute of the meeting of the Board at which a scrutiny panel, or other scrutiny body, report was agreed and submitted to the Cabinet or the minute of the Cabinet meeting at which the panel or other body's report was considered. Although the Council's procedures do not allow for Council to pass a resolution at the end of a minute referral item, councillors would have the opportunity to express their views and seek clarification of particular points, and a summary of the debate would be recorded in the minutes of the meeting.
7. There are other opportunities for minute referrals to enable Council to discuss scrutiny activity of different types and at different stages in the process. Examples include:
 - (i) Minutes of meetings of the Board at which items, such as but not limited to scrutiny panels, were added to the scrutiny work programme – to enable councillors' views on the matter to be sought and expressed. In particular this could enable councillors to promote the start of a new piece of scrutiny activity or make suggestions which could be used as part of that scrutiny.
 - (ii) Minutes of meetings of the Board at which the implementation of Cabinet decisions made following scrutiny recommendations were reviewed – to enable councillors to express their views on the progress that has been made.
 - (iii) Minutes of meetings of the Board and the Overview Scrutiny Group – to highlight particular examples of effective scrutiny and their outcomes. This may be useful as a complement to the process described in paragraph 6 as there are many ways in which scrutiny can be effective without resulting in a report to the Cabinet.
8. As stated in paragraph 3 above, by convention the minute referral procedure only applies to two scrutiny bodies: the Scrutiny Management Board and the Overview Scrutiny Group. The reason for this is that these are the only two scrutiny bodies that are required to be politically balanced. However the convention could be changed with or without changing the appointment arrangements for the Performance Scrutiny Panel and the Policy Scrutiny Panel. This would enable the work of these bodies to also be discussed at Full Council in the way set out in paragraph 7(iii) above.
9. The Board could also consider whether it wished to make formal reports to Council on scrutiny activity more frequently than the current Annual Report.