

<b>MEETING</b>	<b>THE COUNCIL</b>
<b>DATE</b>	<b>7 MAY 2009</b>
<b>TITLE</b>	<b>AMENDMENTS TO THE CONSTITUTION</b>
<b>AUTHOR</b>	<b>DILYS PHILLIPS, HEAD OF DEMOCRACY AND LEGAL DEPARTMENT</b>
<b>ACTION</b>	<b>TO ADOPT THE RECOMMENDATIONS OF THE RESOURCES AND CORPORATE SCRUTINY COMMITTEE</b>

1. At its meeting on 16 April 2009, the Resources and Corporate Scrutiny Committee discussed the work of the Constitution Working Group on the amendments to the Constitution of the Council. The amendments are made as a result of the restructuring and other developments.
2. The documents appended to this report include the amendments shown in *bold italic* print. For convenience, the table below notes which parts of the documents have been amended and there is also a brief note on what the effects of those amendments will be.
3. There was a clear recommendation by the committee on each amendment except for one, namely the reference up procedure. It is believed that there is consensus amongst members that there is a need to exercise better discipline when referring matters up, but that there is no agreement regarding the best way of doing so. Following a discussion in the Business Group, two options are presented here for the Council to consider.
4. **Option 1**  
The wording of this option is seen in rule 21 (2) of the procedural rules in the appended documents. This is the option that the Resources and Corporate Scrutiny Committee recommends, by a small majority.

This option includes increasing the number required for referring up to 25 (from the existing 15) and requests that those who refer up ensure that the new decision is within the Council's policies and budget. No notice will be accepted if, having been adopted, it will lead to a decision which is outside the policy or budget.

5. **Option 2**  
The wording of this option is seen in the appendix to this report. This option means that there would be no referring up directly to the Council and that procedural rule 21 would disappear in its entirety. Rather, it would be possible for any five members of the Council to call a decision in to the Principal Scrutiny Committee for consideration. The Principal Scrutiny Committee could do one of three things:
  - (1) agree with the decision
  - (2) refer the decision back to the Board or committee for reconsideration
  - (3) refer the decision to the Council for consideration

The appendix shows that reasons must be given for calling in a decision under this procedure and that this can not be done *ad hoc*.

6. When considering both options, it is important that members realise that it is possible for the Principal Scrutiny Committee itself, through the Chairman and two of its members, to call in the decisions of the Board at present and that this right would continue no matter which one of the options is chosen.

Part	Title of Document	The amended part	Implications
A	Article 6 – Scrutiny Committees	Principal Scrutiny Committee terms of reference.	To transfer the <b>Principal Scrutiny Committee</b> 's call-in and overview functions to the Resources and Corporate Scrutiny Committee rather than to the Development Scrutiny Committee.
B	Article 9 – The Standards Committee	9.02 – a,b,c,dd and f.	To add another lay member to the Committee taking the total membership to 9.  Other amendments to comply with amended regulations.
C	Article 12 - Officers	12.1(b)	Changes to the description of the Corporate Leadership Team to comply with the new structure of the Council.
CH	Schemes for Delegation to Committees	2.4.9	To give Conwy and Anglesey co-opted members a vote on the Pensions Committee.  To delete the Môn-Arfon Waste Joint Committee.
D	Schemes for Delegations to Officers	3.13 4.3.4 4.9 4.11 4.13 4.14 4.15 4.16 4.17 4.18 4.20 4.21	Changes to comply with the new structure. Specifically, it is seen that the titles of a number of posts will change; that the responsibilities move from one head to another in many cases and that the descriptions of other fields of work have been refined. In addition, the list of legislation enforced by Public Protection officers has been updated.
DD	Procedural Rules	5(8) 12(6) 13(7) 16(6) 18 21 27	To re-establish the rule of not re-discussing a matter in the Council within six months; to amend the reference up procedure (namely option 1 and 2 referred to above); to introduce the right to give a written reply to a question; and other minor amendments.
E	Overview and Scrutiny Procedural Rules	1 2 10 17	Amendments to the wording to comply with changing the Principal Scrutiny Committee; ensuring consultation with the Chairman if a member submits a request to include an item on the agenda.

<b>Part</b>	<b>Title of Document</b>	<b>The amended part</b>	<b>Implications</b>
F	Financial Rules	1.4, 3, 4.1, 7.8, 7.21, 7.22, 7.37, 7.38, 20.12, 20.13, 23.3 and other minor amendments	To comply with the new structure; update the revenue and capital transfer thresholds, reduce thresholds in order to increase capital receipts to the central fund, standardise terminology and simplify to aid clarity.
FF	Contracts Procedural Rules	All of the rules	The rules have been re-written to comply with modern procurement arrangements and with the relevant regulations.
G	Members' Allowance Scheme	The whole scheme	Amendments in accordance with the decision of the Full Council to introduce a co-opted members' allowance and care allowance. An increase in the basic allowance of £600 to come nearer to the recommendations of the independent panel. Increasing the allowances of the Council's Chair and Vice-chair to reflect the allowances paid to chairs and vice-chairs of committees. Introducing travelling allowances for bicycles and one daily amount for subsistence. Adding inflation to all allowances in accordance with the recommendation of the independent panel.

### **Recommendation**

7. The Council is asked to:
  - i) Decide on amendments to the reference up procedure in accordance with either option 1 or option 2 in this report;
  - (ii) To adopt the remaining recommendations of the Resources and Corporate Scrutiny Committee to amend the Constitution in accordance with the changes in the appended documents; and
  - (iii) To delegate to the Head of Democracy and Legal the right to make the necessary arrangements to convene an interviewing panel for an additional lay member of the Standards Committee (part B) and to submit a recommendation on the appointment back to the full Council.

## OPTION 2

## 17. Call-in

- (a) When a decision is made by the Board, an individual member of the Board, a sub-committee of the Board or under joint arrangements (the decision-taker), the decision shall be published, including where possible by electronic means, and shall be sent to all members of the Council normally within 5 days of being made.
- (b) That decision notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the publication of the decision notice, unless the Principal Scrutiny Committee objects to it and calls it in.
- (c) During that period, *in the case of a body listed in paragraph (a) or within 5 days of the meeting in the case of a decision by any other committee*, the Monitoring Officer shall call-in a decision for scrutiny by the Principal Scrutiny Committee if so requested by the chair (or in his/her absence, the vice-chair) and any two members of the Principal Scrutiny Committee, *or any 5 members of the Council*, and shall then notify the decision-taker of the call-in. The decision shall be considered at the next scheduled meeting. In the case of urgency the Monitoring Officer shall call a special meeting of the Principal Scrutiny Committee on such date as he/she may determine, where possible after consultation with the chair of the committee.
- (ch) The request to call in a decision shall be made in writing and shall specify clearly the reasons for so doing. Those reasons may include:-
  - (i) A belief, on the basis of advice from the Monitoring Officer or the Chief Financial Officer, that the decision of the Board, *the member, the committee or sub-committee* is outside the Council's policy framework or the budget.
  - (ii) A belief that the Board, *the member, the committee or the sub-committee* has not followed consultation arrangements agreed and contained in the Council's constitution before reaching its decision.
  - (iii) A belief that the Board, *the member, the committee or the sub-committee* did not pay sufficient attention to legal requirements on statutory guidance in making its decision.
- (d) The Monitoring Officer may, after consultation with the Chairman of the Council and any other person he may consider appropriate, refuse to call in a decision if he considers that the reasons given are unreasonable, insufficient, frivolous or vexatious.