

By: Alex King – Deputy Leader
Peter Sass - Head of Democratic Services & Local Leadership

To: Selection & Member Services Committee – 8 October 2008

Subject: Amendments to the Constitution – Overview and Scrutiny

Summary: To recommend to the County Council amendments to the Constitution in relation to Overview and Scrutiny

Unrestricted

Introduction

1. (1) The Constitution currently reflects how in 2001 it was envisaged that the Overview and Scrutiny process would operate. Over time the Overview and Scrutiny process in KCC has developed through practical experience. It continues to evolve and respond to the changing framework in which it operates.

(2) This report reflects these changes and makes a number of suggested amendments/additions to the sections of the Constitution relating to Overview and Scrutiny so that it matches the operation and procedures in practise.

(3) In order to assist Members with their consideration of the suggested amendments, brief details of the reasons for each proposed amendment are set out below (with the relevant page number from the Constitution). Also attached as an **Appendix** is a table setting out the current parts of the Constitution together with the proposed amendments.

Proposed Amendments

Appointment of Select Committees

2. (1) Currently, the Constitution states that Policy Overview Committees (POCs) can “appoint Select Committees (with the legal status of Sub-Committees) to conduct reviews with the same powers as the main Committee.” However, in recognition of the role of the Policy Overview Co-ordinating Committee (POCC) in setting the Select Committee Topic Review Programme, what has happened in practise is that the POCs recommend the establishment of Select Committee to the POCC and the POCC balances competing priorities and deploys the resources available to the Committee when setting the work programme.

(2) It is therefore suggested that the Constitution is amended to read: “recommend to the Policy Overview Co-ordinating Committee the appointment of Select Committees ...” etc (Page 9).

Performance Reviews

(3) As the Council no longer conducts Performance Reviews, reference to this should be deleted from the functions of POCC (Page 25).

Select Committee – terms of reference

(4) In relation to Select Committees, the Constitution currently states that their terms of reference “are determined by the Policy Overview Co-ordinating Committee.” The practise that has developed is that the POCC agrees the general scope of the topic review. The specific terms of reference for the review are agreed by the Select Committee and endorsed by the parent POC. As part of the process for developing the terms of reference, informal cross party discussions are held with input from relevant directorates prior to the Select Committee discussing and agreeing them. This gives Select Committees the opportunity to shape the pieces of work that they have been tasked with carrying out (*Page 25/26*)

(5) The Policy Overview Co-ordinating Committee at its meeting on 23 May 2008 agreed the practise of setting the terms of reference of any new Select Committee topic review by a cross party Member Group (one Member from each group), prior to consideration and approval by the Select Committee (*Page 25/26 and Page 75*).

Lead Members

(6) The Constitution currently prohibits Lead Members from serving on the Cabinet Scrutiny Committee or Select Committees dealing with issues within their areas of responsibility, but is silent about them servicing on POCs or the Health Overview and Scrutiny Committee (HOSC). In practise, the appointment of Lead Members to POCs and HOSC has been discouraged as not giving a clear division and transparency between the Executive and Overview and Scrutiny functions. The proposed amendment seeks to formalise this (*Page 71*).

Cabinet Scrutiny Committee

(7) With the agreement and approval of the three Group Leaders there has recently been appointed a Research Officer to the Cabinet Scrutiny Committee. As the role of the Research Officer develops it may necessitate some changes to Appendix 4 – Part 4 of the Constitution “Additional Rules applying to Cabinet Scrutiny Committee” (*pages 73/74*). A report will be submitted to a future meeting of this Committee if this becomes necessary.

Financial implications of Select Committee recommendations

(8) On 5 June 2008, the Leader wrote to all POC Chairmen asking them to ensure that the implications of Select Committee reports were embedded into KCC’s priority setting, business planning and in particular the Budget and Medium Term Plan. Proposed amendments to take account of this are set out in the table and will amend pages 75 and 92 of the Constitution.

Rules applying to Select Committees (Appendix 4 Part 5 - Pages 75/76)

(9) A number of suggested amendments to these rules to reflect the practise that has developed are set out in the Appendix:

- 5.1 – the Topic Review programme was originally established to coincide with the publication of the Best Value Performance Review Plan. It is proposed that this paragraph now be amended by to reflect that the BVPRI is no longer produced and also to refer to a two year rolling programme, which is more appropriate when reviews last approximately 6 months.
- 5.2 – it is not always possible for a POC meeting to approve the Select Committee review plan prior to it commencing work, due to the fixed POC timetable. It is therefore proposed that the POC Chairman and spokesmen should be able to approve the plan and the POC receive it for subsequent endorsement.
- 5.2 (2) - although this paragraph states that co-optees on Select Committees will not have a vote, in practise co-optees have tended to be fully involved in the work of the Committee, including agreeing the final report.
- 5.2 (4) - the rules state that Select Committees normally run for 4 months. However, as they have evolved, the average period for a Topic Review tends to be 6 months.
- 5.7 – recording of Select Committee meetings – Members are requested to consider if they wish to continue with this as in practise the CD recordings are very rarely used. The summary notes taken at the meeting are agreed with the witness and form the evidence for the review.

Recommendation:

3. That the proposed amendments to the Constitution as set out in the Appendix be agreed and submitted to County Council for approval and incorporation into the Constitution.

Background documents - nil

Peter Sass
 Head of Democratic Services and Local Leadership
 01622 694002

List of Proposed Amendments

Page no*	Current Constitutional Provision	Proposed Constitutional Amendment
9	7.2(7) appoint Select Committees (with the legal status of Sub-Committees) to conduct reviews with the same powers as the main Committee	7.2(7) recommend to the Policy Overview Co-ordinating Committee the appointment of Select Committees with the legal status of Sub-Committees) to conduct reviews with the same powers as the main Committee
25	1.7(c) the allocation of topic and performance reviews to Policy Overview Committees and co-ordination of the composition and Chairing of Select Committees to conduct the reviews	1.7(c) the allocation of Topic Reviews to the Policy Overview Committees and co-ordination of the composition and Chairing of Select Committees to conduct the reviews
25/26	1.9 Their terms of reference are determined by the Policy Overview Co-ordinating Committee.	1.9 The general scope of each Topic Review is agreed by the Policy Overview Co-ordinating Committee when it is included in the work programme. The detailed terms of reference of each Topic Review are developed by a cross party Member group (one from each group), for approval by the Select Committee and endorsement by the parent Policy Overview Committee.
71	3.1(3) Lead Members appointed by Cabinet Members may not serve on the Cabinet Scrutiny Committee or on Select Committees dealing with issues that are within their own areas of responsibility.	3.1(3) Lead Members appointed by Cabinet Members may not serve on the Cabinet Scrutiny Committee, Policy Overview Committees, Health Overview and Scrutiny Committee or on Select Committees dealing with issues that are within their own areas of responsibility.
75	5.1 The Topic Review Programme will normally be set out for the year in March to coincide with the publication of the Best Value Performance Plan. This will be determined by Policy Overview Co-Ordinating Committee and reported to the County Council. In setting out the programme, the Policy Overview Co-Ordinating	5.1 A rolling two year Select Committee Topic Review Programme will be set as soon as possible after the Annual Council meeting following County Council elections and will be kept under review and added to on a rolling programme basis by the Policy Overview Co-Ordinating Committee. In setting out the programme, the Policy

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	Committee will be mindful of the resources and officer and Member time required to implement it.	Overview Co-Ordinating Committee will be mindful of the resources and officer and Member time required to implement it.
75	5.2 Topic Reviews will not commence before approval by the Relevant Policy Overview Committee of a detailed Review Plan covering:	5.2 Topic Reviews will not commence before approval by the relevant Policy Overview Committee, or by the Chairman and Spokesmen of the relevant Policy Overview Committee, of a detailed Review Plan covering:
	5.2(1) the terms of reference of the review, including the general nature of the expected outcomes.	5.2(1) the terms of reference of the review, including the general nature of the expected outcomes, which should be developed by a cross party Member group (one from each political group), for approval by the Select Committee and endorsement by the parent Policy Overview Committee.
	5.2(2) the names of any co-opted person from outside the Council to serve on the Select Committee (such co-opted Members will not have a vote)	5.2(2) the names of any co-opted person from outside the Council to serve on the Select Committee (such co-opted Members will have voting rights)
76	5.2(4) an approximate timetable of meetings and final reporting date (normally within 4 months of the review commencing)	5.2(4) an approximate timetable of meetings and final reporting date (normally within 6 months of the review commencing).
		5.2(6) a reminder that all final recommendations for implementation should be broadly costed and demonstrated to be feasible by being appropriately resourced.
		5.10(2) When producing their reports, Select Committees should make explicit the likely resource implications of their proposals and in making those proposals also have due regard to their likely affordability and deliverability taking account of the whole resources likely to be available to the Council.

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76	5.7 The Clerk shall electronically record meetings of a Select Committee unless the Select Committee decides it is inappropriate or raises objection. A written summary of evidence given at Select Committee meetings will be prepared by the Clerk and agreed with the witness prior to its publication.	5.7 A written summary of evidence given at Select Committee meetings will be prepared by the Clerk and agreed with the witness prior to its publication.
92		<p><i>Process for Developing the Budget</i></p> <p>As part of each Policy Overview Committee's consideration of the draft Budget, it should assess whether adequate resources have been allocated to take account of the endorsed recommendations of its own Select Committees. If it does not believe that these recommendations have been correctly taken into account then it should recommend appropriate changes to the draft Budget to the Leader, Cabinet and Council.</p>

*Page numbers refer to the Constitution as most recently amended on 19 June 2008.