

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

To: Selection & Member Services Committee – 26 November 2008

Subject: Amendments to the Constitution – Overview and Scrutiny

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

## **Unrestricted**

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### **Introduction**

1. This Committee at its meeting on 8 October 2008 agreed to defer consideration of this report to enable it to be discussed by the Leaders of the three political groups. The Leaders met on 11 November and agreed the following recommendations which the Committee may wish to recommend to the County Council for amendment to the Constitution in relation to Overview and Scrutiny.

### **Background**

2. (1) The Constitution currently reflects how in 2001 it was envisaged that the Overview and Scrutiny process in KCC 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 practice.

(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*

3. (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 Programme, what has happened in practice 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*).

(6) At the meeting of the three Leaders the view was expressed that an alternative approach would be for the proposal form for a Select Committee to be revisited and for the terms of reference to be clear before the resources are allocated by the Policy Overview Co-ordinating Committee to the Select Committee. The Leaders suggested/confirmed that the three Members should be drawn from the membership of the intended Select Committee. The Selection and Member Services Committee’s views are sought on whether or not any amendment should be made to the current provision within the Constitution.

#### *Lead Members*

(7) 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*

(8) 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*

(9) 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)*

(10) 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 (4) - the rules state that Select Committees normally run for 4 months. However, as they have evolved, the average period Select Committee tends to be 6 months.
- 5.12 – The Policy Overview Committee do not actually publish the Select Committees final report. It is therefore suggested that reference to this is deleted.

### **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) <b>recommend to the Policy Overview Co-ordinating Committee the</b> 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 Select Committee 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 Select Committee 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 Select Committee 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, <b>Policy Overview Committees, Health Overview and Scrutiny Committee</b> 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 Committee will be mindful of the resources and officer and Member time required to implement it.	5.1 A rolling two year Select Committee Work 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 Overview Co-ordinating Committee will be mindful of the resources and officer and Member time required to implement it.

Page no*	Current Constitutional Provision	Proposed Constitutional Amendment
75/76	5.2 Topic Reviews will not commence before approval by the Relevant Policy Overview Committee of a detailed Review Plan covering:	5.2 Select Committee 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(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 <b>6</b> months of the review commencing).
		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.
	5.12 Once the draft report is prepared with its conclusions and recommendations, the Select Committee must ensure that relevant Cabinet Members and Directors have the opportunity to comment on the draft report before it is published <i>by the relevant Policy Overview Committee</i> .	5.12 Once the draft report is prepared with its conclusions and recommendations, the Select Committee must ensure that relevant Cabinet Members and Directors have the opportunity to comment on the draft report before it is published.
92		<p><b><i>Process for Developing the Budget</i></b></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.