



OFFICER REPORT TO COUNCIL

AMENDMENTS TO THE CONSTITUTION

KEY ISSUE/DECISION:

To ensure the Constitution is in line with new legislation, the Council is asked to agree an updated Policy Framework list, information relating to the taking of executive decisions and a new process for granting dispensations.

BACKGROUND:

1. Given new legislation and associated regulations, some aspects of the Constitution are out of date or do not accurately reflect current working practices.
2. This report asks the Council to look at two specific parts of the Constitution and agree changes to ensure it accurately reflects current legislation.

POLICY FRAMEWORK:

3. *Article 4 – the Council* outlines how the Council operates, including those functions and decisions that the Council will undertake. It also includes the Council's Policy Framework, the list of Plans and Strategies that the Council will determine, either by virtue of regulation or using the Council's discretion.
4. The current Policy Framework included in the Constitution is out of date, with some plans (e.g. Local Area Agreement) no longer in existence. In order to reflect both the changes in the names of various plans and strategies and changes to the list of plans required by regulation, an updated Policy Framework is attached at appendix 1 for the Council to consider.

GRANTING DISPENSATIONS:

5. On 17 July 2012, the County Council adopted a new code of conduct and arrangements for dealing with standards allegations. As part of these arrangements, the County Council agreed to abolish the Standards Committee and re-allocate the functions previously covered by the Standards Committee.
6. One of these functions, "*Granting dispensations to Member (including co-opted members) from requirements relating to interests set out in the Members Code of Conduct*" has been delegated to the Audit and Governance Committee.
7. Given this transfer of responsibility, the Granting Dispensations Process included within the Constitution under *Part 6 – Codes and Protocols* is out-of-date and needs to be updated to reflect the new arrangements.
8. At its meeting on 3 October 2012, the Audit and Governance Committee considered a report on granting dispensations and the process the Committee would use to consider any requests for dispensation.
9. The Audit and Governance Committee agreed a new process, attached at appendix 2 to this report, and recommends this to the Council for inclusion in the Constitution.

EXECUTIVE REGULATIONS:

10. The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 revise, clarify and introduce new requirements on local authorities when taking executive decisions. Executive decisions are those made in connection with the discharge of a function which is the responsibility of the executive of a local authority. Responsibility for these functions is defined locally in the Scheme of Delegation in the Council's Constitution (which lists the decision making powers of the Cabinet, Cabinet Member, Local Committees, Member and officer delegations).
11. The aim of the Regulations is to improve transparency in local authority decision making. The general principle behind the Regulations is that the public should have access to meetings and documents when a local authority is taking an executive decision.
12. The key changes are summarised in the table attached as Appendix 3. The main points include:
 - The requirement on councils to publish a forward plan of Key Decisions to be taken in the following four months has been removed. This has been replaced with a requirement to publish a notice of Key Decisions 28 clear days before a decision is to be

taken (procedures around general exception to this requirement and special urgency remain).

- Councils are required to give 28 clear days notice of their intention to hold all or part of an executive decision making meeting in private (in effect, where confidential or exempt material will be considered by a decision maker). The public must be informed of how they can make representations that these meetings are held in public and the local authority has an obligation to provide a response.
 - Council officers taking decisions in relation to executive functions must publish notice of these decisions within three working days.
 - Copies of background papers (unpublished but not draft documents) used in the production of reports on executive decisions must be made available for inspection.
 - Additional rights of access to documents for Members and, in particular, members of overview and scrutiny committees
13. Surrey County Council is committed to openness and transparency in its decision making processes. As such, many of the procedures, responsibilities and access rights referenced by the Regulations have already been adopted in practice by the Council. There is, however, a need to update the Council's Constitution to reflect the changes and new wording introduced by the Regulations.
14. The Leader has indicated that, in addition to its legal obligation to produce a notice of key decisions for the following 28 days, the Council will continue to publish notice of proposed Cabinet and Cabinet Member decisions for the following four months.
15. With respect to the new responsibility on officers to publish executive decisions, work has been undertaken to ensure that this is enacted by each directorate. Notice of officer decisions will be made available via the Council's website.

<u>RECOMMENDATION:</u>

- (1) The policy framework included in Article 4 of the Constitution be replaced with the list attached at appendix 1.
 - (2) Audit and Governance Committee's process for granting dispensations attached at appendix 2 be included in the Constitution under Section 6 – Codes and Protocols.
 - (3) The relevant sections of the Constitution be revised to reflect the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012, as summarised in appendix 3.
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Sources/background papers:

Audit and Governance Committee, 3 October 2012, Item 11
The Local Authorities (Executive Arrangements) (Meetings and Access to
Information) (England) Regulations 2012
