

## APPENDIX 2

### Proposed recommendations to Council with Commentary

It is proposed that Cabinet recommend to Council that:

- 1 *"The Democratic Services Manager be instructed to consider on an annual basis whether any of the policies in the policy framework set out in Article 3 of the Constitution are due for review or renewal and to liaise with the Council's officers to ensure that any such policies are brought to Council for consideration."*

**Comment**                    **This relates to the Group's recommendation about the sovereignty of Council and creates a new mechanism to ensure the policy framework is kept up to date.**

- 2 Article 7(3) of the Constitution shall be amended so as to read:

*"(3) The Leader will be a councillor elected to the position of Leader by the Council at its annual meeting for a term of four years, or until the day of the first annual meeting of the Council held after the expiry of their term of office as a councillor, if the latter is a shorter period. He or she will hold office until –*

- he or she resigns from the office; or*
- he or she is no longer a councillor; or*
- he or she is removed from office by resolution of the Council, whereupon his or her term of office as leader shall end on the day of that Council meeting. "*

**Comment**                    **This relates to the Group's recommendation about the Leader's term of office and the Leader's appointment of portfolio holders. The recommendation is that the Leader have a four year term of office so as to match the four year terms of office of members and the new arrangements for all out local elections every four years. Cabinet can recommend a shorter term of office to Council if it wishes to do so.**

#### Further Comment

**The recommendations of the Group included authority being delegated to the Leader to appoint his/her Cabinet and that Executive decisions should be taken collectively by Cabinet rather than by individual portfolio holders or the Leader. These**

issues are dealt with in the Local Government Act 2000 (as amended) which gives the power over how executive functions are exercised and who is to be appointed to the Cabinet to the Leader personally. The Council is not able to direct the Leader on those matters but the Cabinet has the option, should it wish to do so, of confirming that the Leader has decided that decision making should be collective.

Article 7 of the Constitution and the Executive Procedure Rules reflect the provisions of the Act. In order to ensure certainty about how those powers have been exercised by the Leader, Article 5(5) of the Constitution requires an up to date record of who has responsibility for decision making to be kept in the form of the Scheme of Delegation for Members and Officers

3 “Executive Procedure Rule 7(2) be amended so as to read:

*(1) The Assistant Director of Legal Services will arrange for the monthly publication of the plan of key decisions covering the forthcoming 2 months and shall circulate a copy of the plan to all councillors”.*

**Comment                      This implements the Group’s recommendation that the Forward Plan be circulated to all members.**

4 Overview and Scrutiny Procedure Rule 14(4) be amended so as to read:

*“4) The Chair of Overview and Scrutiny Board must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. The leader of the main opposition group shall be consulted on any decision to designate a Cabinet decision as urgent.”*

**Comment                      This implements the Group’s recommendation that the leader of the main opposition group be consulted about use of the urgency procedure which prevents decisions from being called-in.**

5 A new Article 8(2A) shall be inserted into the Overview and Scrutiny Procedure Rules which shall read:

*“(2A) The Overview and Scrutiny Management Board shall consider the plan of key decisions referred to in Rule 7 of the Executive Procedure Rules on a regular basis and shall identify decisions to be scrutinised and shall also meet prior to each meeting of the Cabinet to consider what recommendations to make to the Cabinet in respect of matters on the agenda for the Cabinet meeting.*

**Comment**                    **This implements the Group’s recommendations about the OSMB considering the Forward Plan on a regular basis and for the OSMB to meet before each Cabinet meeting to ensure pre-scrutiny of Cabinet decisions. The recommendation was that OSMB meet in the week before the Cabinet meeting, this wording creates more flexibility and the potential for Cabinet to have greater notice of recommendations from OSMB.**

6            That a Constitution Working Group with the same elected member representation as the Governance Working Member’s Group be established with responsibility for:

- Reviewing the scheme of delegation to officers
- Carrying out an annual review of the operation of the Constitution
- Reviewing the arrangements for recording Council decision making on-line
- Reporting back to Cabinet on these issues with a view to Cabinet making recommendations to Council

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**Comment**                    **This relates to the Group’s recommendation about the creation of a further Working Group.**

7            Paragraph (2) of Schedule 1 to the Overview and Scrutiny Procedure Rules be amended so as to read:

*“(2) The membership of the OSMB shall comprise –*

- *a chairperson who shall be a councillor appointed by the Council;*
- *a vice-chairperson who shall be appointed by the Council and who shall be a member of the main opposition group*
- *the chairs and vice-chairs of the overview and scrutiny select commissions who shall be councillors appointed by the Council so as to reflect the political balance of the Council*

• *sufficient opposition councillors nominated by Opposition Parties or councillors and appointed by the Council, to ensure political balance*”

**Comment**                    **This implements the Group’s recommendation about the Vice Chair of OSMB being a member of the main opposition group and the chairs and vice chairs of select commissions being politically balanced.**

8            Rule 13(6) of the Overview and Scrutiny Procedure Rules be amended so as to read:

*“6) During the notification period –*

*• in the case of a decision that does not relate to an education function, a member of the Council who is supported by at least three other members may request the chairman of the OSMB to call-in the decision for scrutiny by that board; and*

*• in the case of a decision that relates to an education function, a member or education representative who is supported by three members or three education representatives (or a combination of both members and education representatives) may request the chairman of the OSMB to call-in the decision.”*

**Comment**                    **This implements the Group’s recommendation about reducing the number of members required in order for a decision to be called in.**

9            Rule 5.5.1 of the Access to Information Rules be amended so as to read:

*“5.5. The right mentioned in rule 5.4 does not extend to a document or part of a document that in the opinion of the Assistant Director Legal Services –*

*5.5.1. contains confidential or exempt information (please see the Appendix), except where the exempt material is included within reports to Cabinet which are to be provided to the Chair of Overview and Scrutiny Management Board, the Chairs of Select Commissions and the leaders of the two largest opposition groups, or”*

**Comment**                    **This implements the Group’s recommendation about the circulation of exempt information on Cabinet agendas to certain members who are not members of Cabinet.**

10     A new Rule 5.6 shall be inserted into the Access to Information Rules which shall read:

*“5.6 The Democratic Services Manager will ensure that a copy of the agenda and the reports for each meeting of Cabinet that will be debated in the open part of the Cabinet meeting will be provided to all members who are not members of Cabinet and who are not referred to in Rule 5.5.1 above as soon as is practical after those documents are published.”*

**Comment**                    **This implements the Group’s recommendation about the circulation of the open papers for Cabinet meetings to all members.**