

Southend-on-Sea Borough Council

Agenda
Item No.

Report of Corporate Director, Support Services

to

Council

on

28th February 2013

Report prepared by: John Williams,
Head of Legal & Democratic Services

Changes to the Constitution

Executive Councillor: Councillor Holdcroft

A Part 1 Agenda Item

1. Purpose of Report

- 1.1 To establish the Health and Wellbeing Board as a committee of the Council in accordance with the relevant statutory requirements.
- 1.2 To put forward minor changes to the Constitution for adoption.

2. Recommendations

- 2.1 That the Health and Wellbeing Board be established as a Committee of the Council consisting of 5 elected Members (to be appointed in accordance with political proportionality by convention) and 8 Co-opted Members.
- 2.2 That the Terms of Reference of the Health and Wellbeing Board be as set out in **Appendix 1** and that Section 6 of Part 3 Schedule 2 of the Constitution be amended accordingly.
- 2.3 That the Joint Health and Wellbeing Strategy be added to the Council's Policy Framework and that paragraph 4.02(b) of Article 4 (The Council) of the Constitution be amended accordingly.
- 2.4 That Council Procedure Rules 7.1 and 7.4 in Part 4(a) of the Constitution be amended as shown in **Appendix 2**.
- 2.5 That an amendment be made to the training requirements for members of the Development Control Committee and that footnote 1 to the terms of reference of the said Committee on page 23 of Part 3 Schedule 2 of the Constitution be amended as shown in **Appendix 3**.
- 2.6 That the terms of reference for the Grants Strategy Working Party (Section 3 of Part 3, Schedule 2 of the Constitution) and the delegations to officers (Section 4 of Part 3, Schedule 3 of the Constitution) be amended as shown in **Appendix 4**.

3. Background

Health and Wellbeing Board

- 3.1 The Health and Social Care Act 2012 (“The Act”) introduced a statutory requirement for local authorities to establish a Health and Wellbeing Board, as a committee of the Council), from 1st April 2013. The Board has been meeting in shadow form since May 2012.
- 3.2 The Act sets out the membership of the Board which must include at least one elected Councillor (nominated by the Council Leader), the Directors of Adult Social Services, Children’s Services and Public Health, a representative of a local healthwatch organisation and a representative of each relevant clinical commissioning group. Local authorities may also nominate such other individuals as they consider appropriate.
- 3.3 Research undertaken has revealed that other local authorities have appointed a small number of elected Member representatives to their Board, which in most cases does not reflect the political make-up of the Council. This is permissible by virtue of the recently introduced Public Health, Health and Wellbeing Boards and Health Scrutiny Regulations 2013 (Section 7) which disapply the political balance requirements. However, given Southend’s convention to apply the proportionality rules to all its bodies, it is suggested that the Member representation on the Board should be politically balanced. This could be achieved by appointing Members in the proportion 2:1:1:1 (2 Conservatives, 1 Independent, 1 Liberal Democrat, 1 Labour).
- 3.4 The purpose of the Board is to advance the health and wellbeing of the local population and to promote integrated working of all those engaged in providing health and social care locally. The Board will have a responsibility to develop a Joint Strategic Needs Assessment and Joint Health and Wellbeing Strategy covering issues such as health, social care, public health, health inequality and health improvement. In view of the strategic nature of the Joint Health and Wellbeing Strategy, it is proposed to add this to the Council’s Policy Framework.
- 3.5 It is proposed that the membership and terms of reference of the Board be as set out in **Appendix 1** and that Section 6 of Part 3 Schedule 2 of the Constitution be amended accordingly. Also, it is proposed that Article 4 in Part 2 of the Constitution be amended to refer to the Joint Health and Wellbeing Strategy as part of the Council’s Policy Framework.
- 3.6 Details about precisely how the Health and Wellbeing Board should operate are still emerging, including the arrangements for Scrutiny, declaration of interests and payment of allowances. In due course the arrangements set out above may need refinement.

Minor changes to the Constitution

- 3.7 I have been asked to make three minor changes to the Constitution.

- 3.8 The first change proposed is to prevent minutes of scrutiny committees being reserved at Council when they relate to pre-Cabinet scrutiny items. These minutes will be going back to the Cabinet to consider and so further debate at Council may be unnecessary. The only exception would be where the relevant pre-Cabinet scrutiny decision has been referred up to Council under Council Procedure Rule 39.

The proposed amendments to Council Procedure Rules 7.1 and 7.4 in Part 4(a) of the Constitution, as set out in **Appendix 2**, will give effect to this change.

- 3.9 The second change is to amend the training requirements for members of the Development Control Committee.

Instead of requiring Committee members and substitutes to attend two training sessions in each municipal year, with one in the first 3 months, the requirement would be that:

- (a) No Member shall sit on the Development Control Committee (whether for the first time or coming back to the Committee after a period of absence) without having first attended a training session on the principles of determining planning applications. Such Members shall also attend at least two further planning training sessions in accordance with (b) below; and
- (b) All members of the Development Control Committee and substitutes (if they are to sit on the Committee) must attend at least two planning training session in each Municipal Year.

The proposed amendment to footnote 1 to the terms of reference of the Development Control Committee on page 23 of Part 3 Schedule 2 of the Constitution, as set out in **Appendix 3**, will give effect to this change.

- 3.10 The third change is to make minor amendments to the terms of reference of the Grants Strategy Working Party to reflect the current operating arrangements of that body. In addition, a small amendment to the delegations to officers is suggested which will permit the Corporate Director Corporate Services/Head of HR and Communications, in consultation with the Chairman of the Working Party, to determine in-year grant applications in accordance with the agreed criteria (such applications were previously determined by the Chief Executive under the Standing Order 46 procedure).

The proposed amendments to Section 3 of Part 3 Schedule 2 and Section 4 of Part 3 Schedule 3 of the Constitution, as set out in **Appendix 4**, will give effect to these changes.

- 3.11 Members should also be aware that the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 have recently been passed which make minor changes, particularly around recording executive decisions by Officers. Guidance from the Department for Communities and Local Government (DCLG) is awaited on how these provisions should operate.

When this Guidance is received the minor technical changes necessary will be made and agreed pursuant to the delegation arrangements in Article 15.02(b) of Part 2 of the Constitution:

“The Chief Executive & Town Clerk in consultation with the Monitoring Officer and the Group Leaders shall have the power to make minor amendments to the Constitution to correct errors or to comply with any legal requirement or to reflect changes in the Council’s structure or to make minor adjustments to the duties under the portfolios in Part 3 – Schedule 1(a)”.

- 3.12 A number of further changes to the Constitution will be brought to the Council in April 2013 arising from the proposed revisions to the Scrutiny Committees and changes to the senior management structures. However, the delegations to the Corporate Directors of Adult and Community Services and Children and Learning need to be transferred to the Corporate Director of People in advance of the final changes to the Constitution. This is addressed in the recommendations in the report of the Chief Executive on the review of senior management arrangements.

4. Corporate Implications

4.1 Contribution to Council’s Vision & Corporate Priorities

Becoming an excellent and high performing organisation

4.2 Financial Implications

None

4.3 Legal Implications

The Health and Social Care Act requires the Health and Wellbeing Board to be established as a committee of the Council.

Amending the Constitution is a function reserved to the Council

4.4 People Implications

None

4.5 Property Implications

None

4.6 Consultation

Internal consultation

4.7 Equalities and Diversity Implications

None

4.8 Risk Assessment

N/A

4.9 Value for Money

N/A

4.10 Community Safety Implications

None

4.11 Environmental Impact

None

5. Background Papers

The Health and Social Care Act 2012

The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013

The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

6. Appendices

Appendix 1 - Membership and terms of reference of the Health and Wellbeing Board (Section 6 Part 3 Schedule 2 of the Constitution)

Appendix 2 – Changes to Council Procedure Rules 7.1 and 7.4 in Part 4(a) of the Constitution

Appendix 3 – Changes to Footnote 1 to the terms of reference of the Development Control Committee on page 23 of Part 3 Schedule 2 of the Constitution

Appendix 4 - Changes to terms and reference of the Grants Strategy Working Party (Section 3 of Part 3 Schedule 2 of the Constitution) and delegations to officers (Section 4 of Part 3 Schedule 2 of the Constitution)

Part 3 of Schedule 2 of the Constitution

6. Regulatory and other Non-Executive Committees of the Council

6.8 Health & Wellbeing Board

6.8.1 Membership

5 Members of the Council to include the Executive Councillor for Adult Social Care, Health and Housing. (The Mayor and members of Community Services and Culture Scrutiny Committee shall not be members of the Board).

The Health & Wellbeing Board shall also have the following co-opted members (with voting rights):

Chief Executive & Town Clerk
Corporate Director, People
Director of Public Health
Essex NHS Commissioning Board Authority (NHS CBA) – Local Area Team Director
Healthwatch Representative (x2)
Southend Clinical Commissioning Group (CCG):

- Chief Operating Officer
- Chair of CCG Board
- Accountable Officer

Should the Council wish to vary the composition of the Health & Wellbeing Board, it shall only do so after having consulted with the Board.

The meetings to be chaired by either the Leader of the Council or the Executive Councillor for Adult Social Care, Health and Housing.

Substitutes

Elected member substitutes to be appointed in accordance with Standing Order 31

Co-opted Member substitutes to be appointed must be at a sufficiently senior level for the organisation they represent.

Proportionality

Applies to the elected Members on the Board by convention.

6.8.2 Quorum

The quorum shall be 4 Members including as a minimum the following representatives:

- 2 Elected Members of Southend-on-Sea Borough Council
- 1 Representative from the CCG

6.8.3 Terms of Reference

- To provide strategic leadership, strengthen the influence of local authorities and elected representatives in shaping healthcare commissioning
- To oversee the development and refresh of the Joint Strategic Needs Assessment (JSNA) so that future commissioning/policy decisions and priorities are evidence based.
- To determine the health improvement priorities in Southend
- To promote integration, collaboration and partnership working
- To oversee development of a Joint Health and Wellbeing Strategy (JHWS), which sets out improvement for health and wellbeing outcomes, including reduction in health inequalities that provides a framework for commissioning plans related to health and wellbeing.
- To promote and encourage integration and partnership working including joint commissioning, pooled budgets and joint delivery across the NHS, social care, public health and other service providers.
- To initiate and support stakeholder and community engagement and consultation work in relation to health and wellbeing issues
- To appoint task and finish groups/sub-committees for specific pieces of work that support or inform health and wellbeing across Southend.
- To sign-off key commissioning plans, strategy and policy related to health and wellbeing and health inequalities.
- To oversee the development of the pharmaceutical needs assessment.
- To performance manage the achievement of and progress against key outcomes identified within the JHWS
- To provide leadership on any other emerging health and wellbeing related issues that may have a significant impact on the delivery of the JHWS

6.8.4 Status of Meetings

Open to the public

6.8.5 Reports to

The Council

Part 4(a) of the Constitution

7. Cabinet & Committee Minutes – Procedure for Submission to Council

7.1 Definitions

In this Standing Order the expressions set out below shall have the following meanings:

Reserved Minutes

Those minutes reserved by a Member for debate at Council in accordance with SO.7.4.

Tabled Minutes

Those minutes not included in the Minute Book, but circulated at a Council meeting and automatically available for debate, subject to SO7.4(c) and (e).

Black-Lined Minutes

Those minutes in the Minute Book marked with parallel black lines against the recommendation comprising:

- Minutes relating to Council Functions as defined in **Part 2 – Article 4**.
- Minutes referred up to Council under SO.39.

Committee

Any Committee, including a Sub-Committee.

7.2 Order of Minutes Taken

Minutes of the Cabinet, the Scrutiny Committees and other Committees will be dealt with in the order in the Minute Book and if there is more than one meeting of any such body, then the minutes shall be dealt with sequentially.

7.3 Moving the Minutes

- (a) In respect of each Cabinet, the Mayor shall refer to it by its title and the minutes shall be moved and seconded (normally by the Leader and Deputy-Leader respectively) for approval and adoption.
- (b) In respect of each Committee, the Mayor shall refer to it by its title and the minutes shall be moved and seconded (normally by the Chairman and Vice-Chairman respectively) for approval and adoption.

7.4 Reserved Minutes and Tabled Minutes

- (a) Subject to (e) below, a Member may request the reservation of any minute for debate by sending an e-mail to committeesection@southend.gov.uk not later than noon on the day of the Council meeting, quoting the minute number. Such minutes are referred to as “Reserved Minutes”.

Note: By reserving a Cabinet minute, any corresponding Scrutiny Committee minute shall automatically be reserved and vice versa.

- (b) Black-Lined Minutes must also be reserved for debate in accordance with the procedure in (a) above.
- (c) Members do not need to reserve Tabled Minutes which are automatically available for debate, subject to (e) below.
- (d) Matters on the Council agenda other than minutes of meetings do not need to be reserved and will automatically be available for debate.

(e) A minute of a scrutiny committee in respect of a pre-Cabinet scrutiny item cannot be reserved for debate at Council unless it was referred up under SO 39.

7.5 Questions and Comments on Reserved and Tabled Minutes

- (a) Immediately after the Mayor shall have called the Cabinet or Committee concerned and the minutes have been moved and seconded, the Mayor shall refer to each Reserved Minute and Tabled Minute in turn and invite questions:
- Members shall be entitled to ask not more than two questions in respect of any such minute.
 - In the case of questions relating to Cabinet business (including a called-in minute to a Scrutiny Committee), the Executive Councillor whose portfolio covers the area concerned shall reply.
 - In the case of questions relating to other minutes of a Scrutiny Committee and questions relating to minutes of any other Committee, the Chairman shall reply.
 - In the case of questions relating to the Police Authority or the Fire Authority, the Council’s representative on that body shall reply.
- (b) After all questions have been dealt with in respect of a Reserved Minute or a Tabled Minute, then Members shall be entitled to:

- Make a comment on the minute concerned (for the avoidance of doubt a Member may make a comment even if he or she has not asked any questions) and/or
 - Move a motion in accordance with SO.7.6.
- (c) When going through Cabinet minutes pursuant to (a) and (b) above, the Mayor will pass by any minute which has a corresponding Scrutiny Committee minute since the matter will be dealt with when that Scrutiny Committee minute is reached. Similarly when going through the Scrutiny Committee minutes the Mayor will only refer to a minute which has been to more than one Scrutiny Committee, when the last Scrutiny Committee minute is reached in the Minute Book.

7.6 Motions in respect of Reserved Minutes and Tabled Minutes

(a) Black-Lined Minutes relating to Council Functions

The following motions can be moved:

- To accept the Cabinet or Committee's recommendations;
- To refer the matter back; or
- To amend the Cabinet or Committee's recommendations, provided the amendment is not ultra vires, irrelevant or vexatious.

(b) Black-Lined Minutes referred up to Council under SO.39

The following motions can be moved:

- To note the Cabinet or Committee's recommendations; or
- To refer the matter back.

Note: Such minutes invariably relate to "executive matters" and so the Council does not have a free hand to reject the recommendations or to make a different decision – see paragraph 15g of the Scrutiny Procedure Rules in **Part 4(e)**.

(c) Reserved Minutes & Tabled Minutes which are not Black-Lined Minutes

No Motion shall be permitted except as to accuracy, since the Cabinet or Committee decision will already have been completed. In particular a motion to reject a minute is not permitted.

7.7 Summing Up

The relevant Executive Councillor in the case of Cabinet business (including a called-in minute to a Scrutiny Committee) or otherwise the Chairman of the relevant Scrutiny or other Committee at which a minute arose, (or any Member

who was present at that meeting and who has been deputed by the Chairman or called upon by the Mayor to move the minute) shall sum up at the end of the debate.

7.8 Deemed Approval of Minutes which are neither Reserved Minutes nor Tabled Minutes

In the case of minutes which are neither Reserved Minutes nor Tabled Minutes, these shall be deemed to be approved by the Council without debate.

Part 3 Schedule 2 of the Constitution

6.1 Development Control Committee

6.1.1 Membership

17 Members of the Council¹

Substitutes: Permitted in accordance with Standing Order 31
 Proportionality: Applies

Note 1

- (a) No Member shall sit on the Development Control Committee (whether for the first time or coming back to the Committee after a period of absence) without having first attended a training session on the principles of determining planning applications. Such Members shall also attend at least two further planning training sessions in accordance with (b) below;
- (b) All members of the Development Control Committee and substitutes (if they are to sit on the Committee) must attend at least two planning training session in each Municipal Year; and
- (c) The Chief Executive and Town Clerk shall keep a register of attendance of Members on the training sessions referred to in (a) and (b).

APPENDIX 4

¹ ~~**Note:** That all Members and substitutes of Development Control Committee are required to attend at least two training Seminars each Municipal Year, and that a register of attendance be maintained by the Chief Executive & Town Clerk and reviewed at the end of each Municipal Year. That all Members and substitutes of Development Control Committee are required to attend at least one of the training sessions within the first three months of the Municipal Year. (Agreed at Council 24/2/05)~~

Part 3 Schedule 2 of the Constitution

3.4 Grants Strategy Working Party

3.4.1 Membership

9 Members of the Council

Substitutes: Permitted in accordance with Standing Order 31
Proportionality: By convention political proportionality shall apply

~~Representatives of the Voluntary Sector~~

The Chairman shall be the Leader or such other Executive Councillor as the Leader shall appoint.

3.4.2 Quorum

3 Members of the Council

3.5.3 Terms of Reference

(a) To develop a corporate, co-ordinated approach to funding and supporting the voluntary sector to achieve best value and equity for the people of Southend and to identify policy and strategic issues.

(b) To make recommendations to the Cabinet on applications for financial awards to voluntary organisations, community groups and community interest companies.

3.4.4 Status of Meetings

Private

3.4.5 Reports to

The Cabinet

4. Specific Delegation to Chief Officers

4.3 The Corporate Director of Central Services and / or Head of HR & Communications

- To make, revoke or amend Human Resources Policies, in consultation with the Chief Executive & Town Clerk and after consultation with the Trade Unions if appropriate, save that where the Chief Executive & Town Clerk determines that the issues involved are significant (including but not limited to changes to disciplinary and grievance procedures), then the decision shall be for Cabinet.
- To agree gradings of new posts with the appropriate Chief Officer.

- To determine applications for in-year grants in accordance with the agreed criteria, following consultation with the Chairman of the Grants Strategy Working Party, or the Vice-Chairman in the absence of the Chairman.