

CITY COUNCIL – 8 MAY 2006

JOINT REPORT OF THE LEADER AND CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE

AMENDMENTS TO THE CONSTITUTION

1 SUMMARY

- 1.1 This report sets out proposed changes to the constitution designed to further the development of the council's overview and scrutiny function.
- 1.2 The report also details amendments which have been made by the Monitoring Officer to update Appendix 6(i) of the constitution (Access to Information Procedure Rules) in line with new regulations.

2 RECOMMENDATIONS

IT IS RECOMMENDED

- (1) that the proposed changes to overview and scrutiny structures and procedures as detailed in paragraph 4.1 and appendix 1 to this report be approved;
- (2) that the amendments to Appendix 6(i) of the Constitution (Access to Information Procedure Rules) consequent upon the implementation of new regulations as set out in appendices 1 and 2 to this report be noted.

3 BACKGROUND

- 3.1 A detailed review of the Constitution, led by the Overview and Scrutiny Committee, was undertaken in early 2005 with the current Constitution approved by Council on 18 July 2005. Since then, (and in the context of growing expertise within overview and scrutiny, changes to the Council's management structure and corporate priorities and also observations on the function via the recent peer

review), a number of desirable changes to current overview and scrutiny structures and procedures have been identified.

3.2 Separately, Council also needs to note constitutional changes required as a result of new regulations effective from 1 March 2006 and which amend the categories of exempt information contained in Schedule 12A of the Local Government Act 1972 making them compatible with the Freedom of Information Act 2000 and the Data Protection Act 1998.

4 PROPOSALS

(a) Overview and Scrutiny

4.1 The following constitutional changes relating to the call-in procedure and to the number, composition and/or remit of the council's overview and scrutiny bodies are proposed. The detailed changes required to the Constitution as a result of each of the issues below are set out in Appendix 1.

(i) Call-in

That the financial threshold (either expenditure or savings) applicable to the call-in of an executive decision be reduced from £100,000 to £25,000 and the number of days within which a request for call-in can be made after publication of a decision be increased from 3 to 5 working days.

Incidental to this proposed change, a review of the timelines applied to the Call-In procedure currently and, in particular, the requirement in the Constitution to call a meeting within 5 working days of a request for call-in, has identified that these arrangements would not permit compliance with the statutory requirements for notice of a meeting. It is therefore proposed that this part of the procedure be amended to require that a meeting to consider a called-in decision be held within seven clear days after the receipt of a request. To simplify the arrangements further and remove the current incompatibility between references to 'working days' and 'clear days' (as required under the Access to Information Procedure Rules) it is

proposed that implementation of any called-in decision be suspended until it is determined by the Overview and Scrutiny Committee and to dispense with the current reference in the Constitution to suspension of a decision for 12 working days from the date of the decision.

(ii) Overview and Scrutiny Committee- Terms of Reference

That the Overview and Scrutiny Committee's terms of reference be amended by the addition of:

“To have specific responsibility for the overview and scrutiny of major corporate policies and for areas of service provision not provided for elsewhere including strategic housing and community safety.”

(iii) Overview and Scrutiny Committee – Membership

That the Overview and Scrutiny Committee's membership shall include, in addition to the Chair of the Committee him/herself, the Chairs of the standing panels and, within the overall membership, at least two representatives from the main minority groups with the appointment of such other members as are required to maintain political balance;

(iv) Standing Panels

That five standing panels be appointed.

NB: - if approved, any appointments to, and terms of reference for, these panels will be a matter for determination by the Overview and Scrutiny Committee at its meeting at the rising of Council on 8 May. It is intended, however, that in order to address members' capacity and to facilitate more effective scrutiny, panel membership should be reduced to 9 members (with the exception of the Children and Young People Standing Panel whose membership includes statutory appointments from school governors and the Roman Catholic and Church of England Dioceses). The panels proposed for appointment, including a new fifth panel, are as follows:-

Performance and Resources	(formerly Priorities, Performance, Personnel and Finance)
Regeneration, Infrastructure and Sustainability	(formerly Regeneration and Renewal)
Children and Young People	
Health Scrutiny	
Joint City and County Health Scrutiny Committee	
Serving the Adult Community	(a new panel with a remit to cover all adult services)

(v) Chairs of Standing Panels

That the allocation of chairs of standing panels to political groups be determined on a year by year basis.

(vi) Task and finish panels

That no more than three (previously two) task and finish panels be active at any one time.

(b) Access to Information Procedure Rules- Appendix 6(i) of the Constitution

4.2 New regulations amending the categories of exempt information contained in Schedule 12A of the Local Government Act 1972 have been issued. The effect of the changes has been to reduce the categories of exempt information from 19 to 7 and to introduce a public interest test making exemption possible if, and only so long as, the public interest in maintaining an exemption outweighs the public interest in disclosing the information. Categories of exempt information are contained in Appendix 6(i) of the constitution (Access

to Information Procedure Rules). This appendix has been amended by the Monitoring Officer at paragraphs 9.3 (Meaning of Exempt Information) and 20.1 (Additional Rights of Access for Members) to reflect the new regulations. These amended paragraphs are set out in the appendices to this report.

5 LIST OF BACKGROUND PAPERS OTHER THAN PUBLISHED WORKS OR THOSE DISCLOSING CONFIDENTIAL OR EXEMPT INFORMATION

Note from Overview and Scrutiny Manager to Head of Democratic Services dated 21 April 2006.

6 PUBLISHED DOCUMENTS REFERRED TO IN COMPILING THIS REPORT

The Council's Constitution

The Local Authority (Executive Arrangements)(Access to Information)(Amendment) (England) Regulations 2006

The Local Government (Access to Information)(Variation) Order 2006

The Local Authorities (Executive Arrangements)(Access to Information) (Amendment)(England) Regulations 2006

The Relevant Authorities (Standards Committee)(Amendment) Regulations 2006

**COUNCILLOR JON COLLINS
LEADER**

**CHAIR OF THE OVERVIEW AND SCRUTINY COMMITTEE
COUNCILLOR M WOOD**

APPENDIX 1: SUBSTANTIVE CHANGES TO NOTTINGHAM CITY COUNCIL CONSTITUTION – MAY 2006

REPORT REFERENCE	CURRENT LOCATION AND WORDING IN CONSTITUTION	PROPOSED LOCATION AND REVISED WORDING IN THE CONSTITUTION (revisions highlighted in bold type)
<p>Para 4.1(i)- Call-In</p>	<p><u>Appendix 6(i) - Paragraph 14 (c)</u></p> <p>“Within three working days of publication of an executive decision, five councillors (who must include members of more than one political group) may request reconsideration of that decision (call-in). The request must:-</p> <ul style="list-style-type: none"> • Relate to a decision likely to result in expenditure which is , or savings that are, above a figure to be determined by the Council (currently £100,000);” <p><u>Paragraph 14 (d)</u>:-“Within five working days of receipt of a request the Overview and Scrutiny Committee or a sub-committee thereof will meet to consider the request.”</p> <p><u>Paragraph 14(e)</u>:- “ Implementation of the decision is suspended for 12 working days from the date of the decision or until the call-in request is determined by the Overview and Scrutiny Committee.”</p>	<p><u>Appendix 6(i)- Paragraph 14 (c)</u></p> <p>“Within five working days of publication of an executive decision, five councillors (who must include members of more than one political group) may request reconsideration of that decision (call-in). The request must:-</p> <ul style="list-style-type: none"> • Relate to a decision likely to result in expenditure which is , or savings that are, above a figure to be determined by the Council (currently £25,000);” <p><u>Paragraph 14 (d)</u>:-“ Within seven clear days after the day of receipt of a request the Overview and Scrutiny Committee or a sub-committee thereof will meet to consider the request.”</p> <p><u>Paragraph 14(e)</u>:- “ Implementation of the decision is suspended until the call-in request is determined by the Overview and Scrutiny Committee.”</p>

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<p>Para 4.1(ii)- Overview and Scrutiny Ctte Terms of Reference</p>	<p><u>1.Appendix 6(c)</u></p> <p><u>Terms of Reference for the Overview and Scrutiny Committee.</u></p> <p>(a) Oversees and manages the council’s overview and scrutiny function, setting terms of reference and membership for its standing panels;</p> <p>(b) Oversees and manages the council’s overview and scrutiny programme to an annual plan;</p> <p>(c) Commissions reviews from its standing panels, setting terms of reference, membership and timescales as necessary, and may undertake reviews itself, if considered necessary, in respect of policy development, executive decisions and matters of wider local concern;</p>	<p><u>1.Appendix 6(c)</u></p> <p><u>Terms of Reference for the Overview and Scrutiny Committee.</u></p> <p>(a) Oversees and manages the council’s overview and scrutiny function, setting terms of reference and membership for its standing panels and task and finish panels;</p> <p>(b) Oversees and manages the council’s overview and scrutiny programme to an annual plan;</p> <p>(c) To have specific responsibility for the overview and scrutiny of major corporate policies and for areas of service provision not provided for elsewhere including strategic housing and community safety;</p>

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	<p>(d) Ensures that all responsibilities placed upon overview and scrutiny bodies are carried out, including holding the Executive to account, undertaking a policy development and review role and scrutinizing and making recommendations on matters which are the responsibility of the council and on concerns or areas of interest in the wider City;</p> <p>(e) Manages the call-in process in accordance with the Overview and Scrutiny Rules in appendix 6(i) of the Constitution and, may for this purpose, appoint a sub-committee with delegated powers.</p>	<p>(d) Commissions reviews from its standing panels, setting terms of reference, membership and timescales as necessary, and may undertake reviews itself, if considered necessary, in respect of policy development, executive decisions and matters of wider local concern;</p> <p>(e) Ensures that all responsibilities placed upon overview and scrutiny bodies are carried out, including holding the Executive to account, undertaking a policy development and review role and scrutinizing and making recommendations on matters which are the responsibility of the council and on concerns or areas of interest in the wider City;</p>

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	<p><u>2. Appendix 6 F (Roles and Responsibilities)</u> <u>Section 25 Chair of the Overview and Scrutiny Committee</u></p> <p>“(i) Chairing meetings of the Overview and Scrutiny Committee which is responsible for :-</p> <ul style="list-style-type: none"> • the policy development and review process for those areas of the Executive’s work not covered by Review Panels; • managing the call-in process • commissioning reviews and keeping an overview of the programme of reviews undertaken by standing and ad hoc panels • co-ordination of the programme of best value reviews to be undertaken by 	<p>(f) Manages the call-in process in accordance with the Overview and Scrutiny Rules in appendix 6(i) of the Constitution and, may for this purpose, appoint a sub-committee with delegated powers.</p> <p><u>2. Appendix 6 F (Roles and Responsibilities)</u> <u>Section 25 Chair of the Overview and Scrutiny Committee</u></p> <p>“(i) Chairing meetings of the Overview and Scrutiny Committee which is responsible for :-</p> <ul style="list-style-type: none"> • the policy development and review process for those areas of the Executive’s work not covered by Review Panels; • managing the call-in process • commissioning reviews and keeping an overview of the programme of reviews undertaken by standing and ad hoc panels

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	<p>the Overview and scrutiny committee, standing or ad hoc panels set up for the purpose”</p>	<ul style="list-style-type: none"> • co-ordination of the programme of best value reviews to be undertaken by the Overview and scrutiny committee, standing or ad hoc panels set up for the purpose • To have specific responsibility for the overview and scrutiny of major corporate policies and for areas of service provision not provided for elsewhere including strategic housing and community safety;
<p>Para 4.1(iii) Overview and Scrutiny Committee Membership</p>	<p><u>Appendix 6(c)</u></p> <p><u>Terms of reference of the Overview and Scrutiny Committee –Eligibility for Membership</u></p> <p>“ 13 members, politically balanced who must not include members of the Executive Board. Membership of the committee will normally include the Chairs of the Standing Panels.”</p>	<p><u>Appendix 6(c)</u></p> <p><u>Terms of reference of the Overview and Scrutiny Committee- eligibility for membership</u></p> <p>Replace existing text with:-</p> <p>“In addition to the Chair of the Committee him/herself (who will normally be appointed at Annual Council) membership of the committee shall include the Chairs of the Standing Panels and, within the overall</p>

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		<p>membership, at least two representatives from the main minority groups with the appointment of such other members to the Committee as is required to maintain political balance. Membership must not include members of the Executive Board.”</p>
<p>Para 4.1 (iv) Standing Panels- Increase in the number from 4 to 5 and renaming of some Panels</p>	<p><u>1. Appendix 6 (c)</u> <u>Committee Terms of Reference- Summary</u> <u>Para 1.8</u> “Priorities, Performance, Personnel and Finance Standing Panel Children and Young People Standing Panel Regeneration and Renewal Standing Panel Health Scrutiny Standing Panel Task and Finish Panels Joint City and County Health Scrutiny Committee”</p>	<p><u>1. Appendix 6 (c)</u> <u>Committee Terms of Reference- Summary</u> <u>Para 1.8</u> “ Performance and Resources Standing Panel Children and Young People Standing Panel Regeneration , Infrastructure and Sustainability Standing Panel Serving the Adult Community Standing Panel Health Scrutiny Standing Panel Task and Finish Panels Joint City and County Health Scrutiny Committee”</p>

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	<p>2. <u>Appendix 6(c) – Overview and Scrutiny Committee Terms of Reference (Established Sub Committees)</u></p> <p>“Priorities, Performance, Personnel and Finance Standing Panel Children and Young People Standing Panel Regeneration and Renewal Standing Panel Health Scrutiny Standing Panel Joint City and County Health Scrutiny Committee”</p> <p>3. <u>Appendix 6 (c) – Terms of Reference</u></p> <p>Individual sections describing the terms of reference of the following:- Priorities, Performance, Personnel and Finance Standing Panel Regeneration and Renewal Standing Panel</p>	<p><u>Appendix 6(c) – Overview and Scrutiny Committee Terms of Reference (Established Sub Committees)</u></p> <p>“Performance and Resources Standing Panel Children and Young People Standing Panel Regeneration , Infrastructure and Sustainability Standing Panel Serving the Adult Community Standing Panel Health Scrutiny Standing Panel Joint City and County Health Scrutiny Committee.”</p> <p>3. <u>Appendix 6 (c) – Terms of Reference</u></p> <p>Individual sections describing the terms of reference (to be determined by the Overview and Scrutiny Committee) of the following renamed bodies:- Performance and Resources Standing Panel Regeneration, Infrastructure and Sustainability Standing Panel and the addition of terms of</p>

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		reference of a new body, Serving the Adult Community Standing Panel
Para 4.1(iv) Standing Panels – reductions in membership	<p><u>Appendix 6 (c)</u></p> <p><u>Individual Terms of Reference (Eligibility for Membership sections)</u></p> <p>Priorities, Performance, Personnel and Finance Standing Panel – “13 members politically balanced who must not include members of the Executive Board.”</p> <p>Regeneration and Renewal Standing Panel – “13 members politically balanced who must not include members of the Executive Board.”</p> <p>Health Scrutiny Standing Panel- “11 members politically balanced who must not include members of the Executive Board.”</p>	<p><u>Appendix 6 (c)</u></p> <p><u>Individual Terms of Reference (Eligibility for Membership sections)</u></p> <p>Performance and Resources Standing Panel – “9 members politically balanced who must not include members of the Executive Board.”</p> <p>Regeneration and Renewal Standing Panel – “9 members politically balanced who must not include members of the Executive Board.”</p> <p>Health Scrutiny Standing Panel- “9 members politically balanced who must not include members of the Executive Board.”</p> <p>Serving the Adult Community Standing Panel- 9 members politically balanced who must not include members of the Executive Board.”</p>

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<p>Para 4.1(v) Chairs of Standing Panels</p>	<p><u>1. Appendix 6(i)-Para 6 of the Overview and Scrutiny Procedure Rules</u></p> <p>“The Chair of the Committee and Panels are normally appointed at Annual Council. Where an in year vacancy occurs, or Council does not make an appointment, the Chair is appointed by the Overview and Scrutiny Committee or by the Panel concerned. “</p> <p><u>2. Appendix 6 (c) Terms of Reference-Eligibility for Membership Section for all Scrutiny Panels</u></p> <p>“The Chair is normally appointed at Annual Council. Where an in year vacancy occurs, or council does not make an appointment, the Chair is appointed by the Panel itself.”</p>	<p><u>1. Appendix 6(i)-Para 6 of the Overview and Scrutiny Procedure Rules</u></p> <p>“The Chair of the Committee and Panels are normally appointed at Annual Council. Where an in year vacancy occurs, or Council does not make an appointment, the Chair is appointed by the Overview and Scrutiny Committee or by the Panel concerned. The allocation of chairs of standing panels to political groups will be determined on a year by year basis. “</p> <p><u>Appendix 6 (c) Terms of Reference- Eligibility for Membership Section for all Scrutiny Panels</u></p> <p>“The Chair is normally appointed at Annual Council. Where an in year vacancy occurs, or council does not make an appointment, the Chair is appointed by the Panel itself. The allocation of chairs of standing panels to political groups will be</p>

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		determined on a year by year basis. “
Para.4.1 (vi)- Appointment of task and finish Panels	<p><u>Appendix 6(i)- Overview and Scrutiny Procedure Rules Para 9.</u></p> <p>“The Committee may also establish Task and Finish Panels which will be assigned specific areas for review, usually matters which are not within the remit of a Standing Panel. Only two such Panels will be operating at any one time, except in exceptional circumstances.”</p>	<p><u>Appendix 6(i)- Overview and Scrutiny Procedure Rules Para 9.</u></p> <p>“The Committee may also establish Task and Finish Panels which will be assigned specific areas for review, usually matters which are not within the remit of a Standing Panel. No more than three such Panels will be operating at any one time”.</p>
Para 5 Amendment of Schedule 12A Local Govt. Act 1972	<p><u>.Appendix 6(i) Access to Information Procedure Rules- 1.Para 9.3</u></p> <p>This paragraph details 19 categories of exempt information and attached conditions.</p>	<p><u>.Appendix 6(i) Access to Information Procedure Rules- 1.Para 9.3</u></p> <p>Appendix 2 to this report sets out the revised 7 categories of exempt information and associated qualifications/definitions and replaces in total the previous entry.</p>

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	<p>2 .<u>Para 20.1</u></p> <p>“ All members will be entitled to inspect any document which is in the possession or under the control of the Executive Board or its committees and contains material relating to any business previously transacted at any private meeting unless either (a) or (b) below applies:-</p> <p>(a) it contains exempt information falling within paragraphs 1 to 6,9,11,12 and 14 of the categories of exempt information; or</p> <p>(b) contains the advice of a political adviser.”</p>	<p><u>2. Para 20.1</u></p> <p>“ All members will be entitled to inspect any document which is in the possession or under the control of the Executive Board or its committees and contains material relating to any business previously transacted at any private meeting unless either (a) or (b) below applies:-</p> <p>(a) it contains exempt information falling within paragraphs 1 ,2,4,5 and 7 of the categories of exempt information and paragraph 3 (to the extent that the information relates to any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract); or</p> <p>(b) contains the advice of a political adviser.”</p>

Access to Information Procedure Rules**“Paragraph 9.3” Meaning of Exempt information**

Exempt information means information falling within the following 7 categories (subject to the qualifications and definitions indicated). All categories are subject to a Public Interest Test in that exemption is possible if, and only so long as, the public interest in maintaining an exemption outweighs the public interest in disclosing the information.

CATEGORY	QUALIFICATIONS/DEFINITIONS
1 Information relating to any individual.	
2 Information which is likely to reveal the identity of an individual.	
3 Information relating to the financial or business affairs of any particular person (including the authority holding that information).	<p>Information is not exempt information if it is required to be registered under:–</p> <ul style="list-style-type: none"> (a) the Companies Act 1985; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Industrial and Provident Societies Acts 1965 to 1978; (e) the Building Societies Act 1986; or (f) the Charities Act 1993 <p>Information is not exempt if it relates to proposed development for which the Local Planning Authority may grant itself planning permission pursuant to Regulation 3 of the Town and Country Planning General Regulations 1992.</p>

	<p>‘financial or business affairs’ includes contemplated, as well as past or current, activities</p> <p>‘registered’ in relation to information required to be registered under the Building Societies Act 1986 means recorded in the public file of any building society (within the meaning of that Act)</p>
<p>4 Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.</p>	<p>‘employee’ means a person employed under a contract of service</p> <p>‘labour relations matter’ means –</p> <p>(a) any of the matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 (matters which may be the subject of a trade dispute, within the meaning of that Act); or</p> <p>(b) any dispute about a matter falling within paragraph (a) above;</p> <p>and for the purposes of this definition the enactments mentioned in paragraph (a) above, with the necessary modifications, shall apply in relation to office-holders under the authority as they apply in relation to employees of the authority;</p> <p>‘office-holder’, in relation to the authority, means the holder of any paid office, appointments to which are or may be made or confirmed by the authority or by any joint board on</p>

	which the authority is represented or by any person who holds any such office or is an employee of the authority;
5 Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	
6 Information which reveals that the authority proposes to give under any enactment:- (a) a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment	
7 Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	
7A Information which is subject to any obligation of confidentiality.	Applies to Standards Committee only
7B Information which relates in any way to matters	Applies to Standards Committee only

<p>concerning national security.</p>	
<p>7C The deliberations of a standards committee or of a sub-committee of a standards committee established under the provisions of Part 3 of the Local Government Act 2000 in reaching any finding on a matter referred under the provisions of section 60(2) or (3), 64(2), 70(4) or (5) or 71(2) of that Act.</p>	<p>Applies to Standards Committee only</p>