

NORTH LINCOLNSHIRE COUNCIL

CABINET

CONSTITUTIONAL ISSUES

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To consider a number of constitutional issues.

2. BACKGROUND INFORMATION

Executive Arrangements

2.1 The Local Government and Public Involvement in Health Act 2007 (LGPIH 2007) introduces a timetable for authorities to move to one of two new executive arrangements.

2.2 The Local Government Act 2000 had set out three possible executive forms:-

elected mayor and cabinet
leader and cabinet
elected mayor and council manager

Only one authority (Stoke on Trent) chose the latter (which has now been abolished) and only twelve the elected mayor and cabinet structure.

2.3 Authorities currently with an elected mayor and cabinet structure will be unaffected by the proposals. Indeed as indicated at last Cabinet the Government is consulting on steps to make the adoption of the elected mayor system easier. Authorities such as North Lincolnshire will have to choose between that model and the new form of leader and cabinet executive.

2.4 The new structure of leader and cabinet executive differs from the current one in that all executive powers will be invested in the leader who by definition therefore becomes a "strong leader" who

- determines the size of cabinet (within the statutory framework)
- appoints members of cabinet
- allocates executive functions
- has a four year term of office

- 2.5 The timetable by which this process has to take place omits reference to unitary authorities such as North Lincolnshire. However best opinion is that they will be regarded as being included in the same category as non metropolitan districts and so an appropriate resolution will need to be in place by 31 December 2010 with the system becoming effective in May 2011. This interpretation would fit in with the full council elections which will take place at that time.
- 2.6 Accordingly some time remains before this change to the Constitution needs to be made but allowance will have to be given for a period of consultation prior to the passing of the appropriate resolution.

Ward Councillors

- 2.7 Prior to the introduction of executive government it was not possible for a council to delegate any matter to a single member as the 1972 Local Government Act required delegation to be to a committee, sub committee or officer of the council and one person is incapable of forming a committee or sub committee. Since the Local Government Act 2000 came into force delegation has been permitted but only within the executive.
- 2.8 The LPIH now gives power to councils to delegate or devolve council functions to individual members. The purpose of this is to enhance the role of ward members and the ability to progress issues without going through the executive decision making process. A council exercising such powers would need to put in place strong governance arrangements as regards the recording of decisions and the role of ward members in multi member wards and wards with members of different political parties.

Councillor Call for Action

- 2.9 Section 119 of the LPIH has provided councillors with the opportunity to ask for debate and discussion at scrutiny panels (committees) on issues where local problems have arisen, and other methods of resolution have been exhausted. This has been called the 'Councillor Call for Action' (CCfA).
- 2.10 Any councillor will be able to call for debate and discussion at a scrutiny panel on any topic of neighbourhood concern. It is limited to issues affecting single council wards. More general policy issues should be dealt with by scrutiny panels under their existing powers (policy review and development/call-in).
- 2.11 It should be a means of 'last resort' only coming into play after all other methods of resolving a problem have been exhausted by a councillor requesting such action (for example, formal letters on behalf of constituents, neighbourhood team and partnership working, cabinet member/service director consultation, site visits, petitions and deputations etc).

2.12 CCfA goes beyond the current agenda item 'Added Items' which provides individual councillors with the opportunity to put items on scrutiny panel agendas.

2.13 However, there are certain exceptions -

- Where requests for CCfA are deemed to be vexatious, persistent, unreasonable and discriminatory
- Where matters are being dealt with through formal complaints and appeals (for example, planning, licensing and school admissions and staffing matters)

2.14 The Centre for Public Scrutiny is publishing initial guidance on the CCfA.

This will incorporate several broad principles

- Transparency in decision-making and the involvement of scrutiny in decision making at some level
- A willingness to identify mistakes and shortcomings and the need to resolve problems through discussion
- An understanding (among senior officers and executive members in particular) of the role scrutiny can play to help a council with partners improve their services
- An understanding and wish to bolster and support the role that ward councillors play as champions and leaders of their community
- Partners and the executive will be required to 'sign-up' to CCfA while a local council is putting together their CCfA procedures.
- Senior level officer and member commitment is necessary for maximum effect

2.15 Further work is being carried out in conjunction with the Scrutiny Coordinating Panel as regards developing appropriate procedures and processes and identifying changes to the Constitution which will need to be put in place.

Petitions

2.16 The Government wishes to ensure that every principal authority has arrangements which ensure that petitions are considered and a response sent to petitioners and that petitions over a certain scale engender a debate at full council.

2.17 These proposals are set out in the Local Democracy, Economic Development and Construction Bill which is currently passing through

Parliament. It will be a requirement that a Petition Scheme is approved and published. It is envisaged that there will be three kinds of petitions - "ordinary petitions", "petitions requiring debate" and "petition to hold to account". In summary a petition requiring debate is a petition with a higher number of signatures which would normally trigger a debate at full council, and a "petition to hold to account" is a petition which requests that a "relevant officer" be called to account at a public meeting of the authority.

- 2.18 Where the petition organiser is unhappy with the steps taken he/she must be given the right by the petition scheme to request an Overview and Scrutiny Committee to review the adequacy of the steps taken or proposed to be taken.
- 2.19 Although the core provisions of the Bill are drafted in terms of local discretion as to the number of signatures, the response periods, the seniority of officers called to account etc there is provision for guidance or directions to be issued by the government as to the contents of the petition scheme and also allows for a model scheme to be adopted.
- 2.20 North Lincolnshire has had a written petitions procedure in place since its establishment in 1996. The procedure was revised in 2001 to make it less formal and ultimately less daunting for petitioners to put their case. The present procedure provides for petitions to be brought to the attention of the appropriate cabinet member. If the petitioners so request a deputation comprising not more than 3 local residents who have signed the petition may present it to a panel comprising of the cabinet member, lead member, a member of the opposition group and the relevant service director who will normally prepare a report on the issue raised by the petition. Local ward councillors are also invited to attend. One member of the deputation is permitted to address the panel for not more than 5 minutes, although in practice a general discussion usually takes place. After the panel meeting a response is sent to the petitioners. The cabinet member can also refer the petition to the full cabinet.
- 2.21 This process works very well. Indeed there has been a significant increase in the number of petitions in recent years. For example in 2007/2008 the council received and dealt with 37 petitions and in 2008/2009 to date 26 petitions have been received and dealt with in accordance with the above process. However these arrangements will need to be reviewed when the government's proposals are finalised.
- 2.22 The Bill also envisages every principal authority providing a facility for making petitions in an electronic form to the authority.

E Petitions

- 2.23 Bristol City Council launched an e-petitioning website in September 2004 which was piloted through the Local eDemocracy National Project with software and support from Napier University. The website was relaunched in January 2008 in partnership with the Public i Group

Limited using a new open source e-petitioning tool specifically designed for Local Government. The new site was released initially as a public test site to encourage feedback and ongoing improvements. The Public i petitioning service enables members of the public to sign and/or create petitions. The council is able to enter background information and communicate with the petitioners about the progress and impact of the petition. The software can be adapted for use on the North Lincolnshire Council website.

2.24 The development of e-petitioning using the above open source software will complement the council's existing processes which, subject to the impending legislation will need to be reviewed, and meet the government's requirements whilst enhancing local democracy and citizen involvement.

2.25 In addition to developing e-petitioning within the United Kingdom, public i is working with the European Union which is sponsoring a 24 month Europetition e-participation trial project to develop, scale-up and prove an open source e-petitions service based on the Bristol model. This project will utilise the Public i open source software. The aim is to produce a trans-European EuroPetition service that will allow Local Authorities across the EU to facilitate e Petitions and on-line discussion groups with their citizens. The project will pilot trial the co-ordination of 5 cross border EuroPetitions to the European Parliament's Petitions Committee. Specifically the project will enable citizens to raise petitions online in 3 ways -

- Locally - Through local council e petition sites
- Local Issues
- Nationally - Through a cluster group petition site
- Nationwide relevant issues
- Trans-nationally - Through a cluster group petition site
- Trans-continental relevant issues

2.26 The proposal is to set up 5 cluster groups in 5 EU nations including the UK. Each cluster group will consist of a number of councils. A lead partner (Cluster Co-ordinator) will host and manage the group's cluster site. In the UK the Cluster Co-ordinator will be Bristol City Council. Other cluster members at the present time include Birmingham City Council and the Royal Borough of Kingston upon Thames. North Lincolnshire Council has been asked to take part in the pilot and, given the council's previous successful experience of dealing with petitions, and the government's proposals with regard to e-petitioning, it will provide a good opportunity to complement the previous experience gained. It is likely that other Local Authorities will agree to take part.

2.27 Each cluster will be provided with funding managed by the Cluster Co-ordinators so there will be no costs to the council. Each member of the cluster group will have their own branded e-petitions site in order to

engage on a local basis using the public i open source software. Cluster members will be responsible for -

- Setting up and driving traffic to their local e-petitions site
- Monitoring and evaluating data
- Marketing and dissemination
- Attendance at regular cluster group meetings

2.28 The council will benefit from taking part in the project by being able to use the public's open source software to develop an e-petitioning system to complement the existing paper system, by sharing good practice and experience with other local authorities and ultimately by engaging directly with citizens within North Lincolnshire.

3. OPTIONS FOR CONSIDERATION

3.1 To note the contents of paragraph 2 and endorse involvement in e-petitioning and the euro-petitions pilot project.

3.2 To note the contents of paragraph 2 and determine not to progress e-petitioning at this time or take part in the euro-petitions project.

4. ANALYSIS OF OPTIONS

4.1 Adopting the proposals detailed in paragraph 3.1 will enable the council to begin to meet the requirements of impending legislation and continue to engage with the citizens of North Lincolnshire through the petitions process.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

5.1 There are no resource implications at this time in relation to this report. There is some funding available for participation in the euro-petitions pilot for attendance at meetings etc.

6. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY, SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

6.1 The proposals, now and in the future, will enable the council to engage with all parts of the community

7. OUTCOMES OF CONSULTATION

7.1 The government has consulted widely about executive arrangements, ward councillors and the councillor call for action. The Scrutiny Coordinating Panel has been asked for comments about the councillor call for action. Any comments will be reported to cabinet.

8. RECOMMENDATIONS

- 8.1 That the contents of the report be noted.
- 8.2 That the development of e-petitioning be approved;
- 8.3 That further reports be submitted to cabinet in due course detailing the proposals relating to e-petitioning;
- 8.4 That the council agree to participate in the euro-petitions pilot project, and
- 8.5 That at the appropriate time arrangements be made for a presentation to all members of the council about e-petitioning and the euro-petitions pilot project

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Background Papers used in the preparation of this report - Nil