



Council
Thursday 24 April 2003, 7.30 pm

AGENDA

	Page No
1. Apologies for Absence	
2. To approve as a correct record the minutes of the meeting of the Council held on 26 March 2003	3 - 10
3. Declarations of Interest To receive any declarations of interest in any matters on the agenda for the meeting.	
4. Mayor's Announcements	
5. Scheme for Public Participation Notice has been received of two submissions from members of the public under the scheme for public participation:	11 - 12
(i) a statement on genetically modified crops which has been submitted by Ms D Gier is set out in Appendix 1.	
(ii) the following question for the Leader of the Council has been submitted by Mr T Packham: "Is it true that like the recently much publicised move by Swindon Borough Council with regards to assisting the Government's asylum policy by accepting 1,000 asylum seekers, that Bracknell Forest Borough Council may be told by the Government to accept asylum seekers in Bracknell as part of the Government's dispersal policy?"	
6. Executive Report To receive the Leader's report on the work of the Executive since the Council meeting on 26 March 2003.	13 - 18
7. Review of Overview and Scrutiny Arrangements To receive the report of the Chief Executive.	19 - 40

8. **Amendments to the Council Constitution**
To receive the report of the Acting Director of Corporate Services. 41 - 52
9. **A Protocol for Members in Dealing with Planning Matters**
To receive the report of the Acting Director of Corporate Services-Legal and the Director of Environment. 53 - 64
10. **Questions Submitted Under Council Procedure Rule 10**
Notice has been received of the following question
- By Councillor Glasson to the Executive Member for Social and Health Care Services and Housing
- Recently announced grants to Bracknell's voluntary organisations reveal that the Council proposes to give them just 46% of what they have requested for the year ahead. We are forever, and quite rightly, lauding Bracknell's many voluntary groups for the vital contribution they make to the life of our community. Does it not reveal a grotesque lack of priorities to invest 4 times as much over the past year on the "Dumb Card" than it would have cost to fully fund our voluntary groups and give them the support and encouragement they deserve?
11. **Motion (or Motions) Submitted Under Council Procedure Rule 11**
Motion 4/2003 submitted by Councillors Mills and Turrell
- This Council calls on the Government and Ministry of Defence, as landowners of the Meteorological Site, to allocate sufficient land for a future hospital, to honour the long-term promise and increasing need for a more comprehensive, modern, and localised provision of health services and leading edge health facilities in Bracknell Forest.
- In making this request, the Council is mindful of the opportunity for the Government to learn from its previous mistake in refusing to provide land, once again in its ownership, for a hospital at the Ramslade Site in Broad Lane, Harmans Water.
- The Chief Executive is, therefore, instructed to write to the Prime Minister and the respective Secretaries of State for Defence and Health, to formally and accurately communicate to them the sincerely held views of this Council.

COUNCIL
26 MARCH 2003
(7.30pm – 10.00pm)

Present: Councillors Adams, Baily, Mrs Ballin, Barnard, Beadsley, Bettison, Birch, Mrs Birch, Blatchford, Browne, Edger, Fawcett, Finnie, Flood, Glasson, Harrison, Miss Haydon, Mrs Hayes, Henfrey, Jones, Kendall, McCormack, McCracken, Mrs Mattick, Mills, North, Piasecki, Mrs Pile, Mrs Ryder, Mrs Shillcock, Simonds, Thompson, Turrell, Wade and Ward

Apologies for absence were received from:
Councillors Ms Brown, Egan, Grayson, Sargeant and Worrall

88. **Minutes**

RESOLVED that the minutes of the meeting of the Council held on [27 February 2003](#) be approved as a correct record and signed by the Mayor.

89. **Declarations of Interest**

There were no declarations of interest at the commencement of the meeting.

90. **Appointment of Chief Executive**

(The Director of Corporate Services and the Borough Solicitor withdrew from the Council Chamber whilst this matter was under consideration.)

The Committee received the report of the Chief Executive Appointment Committee which had met on 22 January, 6 March and 18/19 March 2003 to deal with all aspects of the recruitment process for the Chief Executive including the interview of candidates.

The Leader of the Council moved acceptance of the Committee's recommendations and the motion was seconded by the Leader of the Minority Group. On being put to the Council, the Committee's recommendations were accepted.

RESOLVED that

- (i) Timothy Wheadon, currently Director of Corporate Services and Deputy Chief Executive of Bracknell Forest Borough Council be appointed Chief Executive with effect from 1 April 2003;
- (ii) Alexander Jack, Borough Solicitor, be appointed Monitoring Officer with effect from 1 April 2003

91. **Appointment of Director of Corporate Services**

(Notice had previously been given that the Mayor had agreed that this item should be dealt with as an urgent item of business.)

Consideration was given to a report recommending the appointment of a Committee authorised to deal with the recruitment and selection process and appointment to the vacant post of Director of Corporate Services.

RESOLVED that

- (i) a Committee of the Council be appointed with the following terms of reference: to act on behalf of the Council in relation to
 - (a) The interview arrangements for the recruitment of the Director of Corporate Services, including approval of the statement of particulars relating to the post, the assessment and agreement on the salary in accordance with the agreed Council formula, arrangements for advertising the post appropriately and making the statement of particulars available to interested persons.
 - (b) The interview and selection of candidates the Committee comprise 8 members (6:2) including at least one member of the Executive and appointed on the nomination of group leaders.
- (ii) the Committee comprise 8 Members (6:2) including at least one Member of the Executive and appointed on the nomination of Group Leaders.

92. **Mayors Announcements**

1. Charity Pancake Race

The Mayor advised the Council that the annual charity pancake race in Bracknell Town Centre had raised a total of £427.69 for the Paul Bevan Hospice. The Mayor was especially grateful to the Social Services Team who subsequently took up a collection in the Council's offices and Time Square.

2. Charity Golf Day

Members were reminded that the Mayor's charity golf day would take place on Monday 22 April.

3. Lily Hill Park

At the request of the Mayor, Councillor McCracken reported to the Council on the award of £964,000 by the Heritage Lottery Fund in respect of the continuing restoration work at Lily Hill Park.

93. **Executive Report (Item 6)**

The Leader of the Council reported on the main activities undertaken by the Executive since the meeting held on 27 February.

The Executive had met on 11 March 2003 and had given further consideration to matters relating to the proposed post-16 centre to be established at Wick Hill under a partnership arrangement with Garth Hill College and Bracknell and Wokingham College. The Executive had now approved Heads of Terms relating to the development and future operation of the centre and the preparation of a masterplan for the site. Work on the masterplan was nearing conclusion and would be subject to a full consultation process.

The Business Plan 2003/04 taking forward the Youth Justice Plan for the coming year was in preparation and would be brought to the Council in the early summer following consultation with other stakeholders.

The Executive had approved proposals for developing a Race Equality Scheme to meet new statutory responsibilities under the Race Relations (Amendment) Act 2000 and these proposals had been drawn up in consultation with the Reading Office of the Council for Racial Equality.

Following previous reports on the Comprehensive Performance Assessment undertaken by the Audit Commission and other inspectorates the Executive had approved a Draft Improvement Plan covering the period 2002/04 which had been circulated with the Council agenda and was recommended for adoption. The Leader then drew specific attention to the strengths which had been identified in the final report. The Improvement Plan submitted to the Council showed the actions which were either already underway or proposed to address the areas where scope for improvements had been identified.

Arising from the recommendations of the Best Value Review of Finance, the Executive had now adopted a policy statement covering risk management. The policy statement would be the cornerstone leading to the adoption of best practices and the development of a corporate approach to risk management across all activities.

Alongside the introduction of the Council's new financial information management system, work had been going on to develop a corporate procurement strategy and implementation plan and the Executive recommended adoption of the strategy and plan. This would result in a reduced supplier base, the exploitation of e-procurement and simplification of business processes whilst working from significantly improved market intelligence. Contract regulations had also been the subject of a review and proposed revisions were the subject of a separate report to the Council.

The Executive had also endorsed proposals for the transfer of the management of residential homes from the Berkshire Healthcare Trust to specialist independent providers.

The Executive would next meet on 10 April and would be reviewing draft Departmental Service Plans for the coming year, the action plan arising from the Inspection of Services to Older People and further development of the SmartCard project following the Select Committee Meeting to review progress.

The Council meeting on 24 April would be the final Council meeting prior to the elections and would deal specifically with the review of Overview and Scrutiny Arrangements and the proposed Planning Protocol.

At the request of the Leader, Councillor Mills then reported to the Council on the current position with regard to the Health Survey currently in progress. The 2003 Survey followed a similar survey undertaken at this time in 2000 and sought local people's views on health and well-being. The outcome would be used to inform the activities of the new Health Forum. Nearly 44,000 surveys had been issued to households and, to date, nearly 13,000 had been returned. The headline themes which had emerged so far included

- A significant number of households had used local health services including hospital facilities in the last 12 months
- Most hospital visits had been for an outpatient service
- The top 3 services identified as being most important were GP surgeries, outpatient clinics and treatment for minor injuries
- Transport to hospitals was an issue with most people using their own car
- The main barrier to people who wished to stop smoking was lack of willpower
- Significant numbers of people followed healthy eating habits
- The main barrier to taking more exercise was lack of time
- The desire for a local hospital figured in many responses

The likely cut-off date for return of the surveys was the weekend of 6 April and Councillor Mills urged those present to encourage maximum participation.

The Leader and other Executive Members then responded to questions on the reports made.

The recommendations contained within the Executive report were then put to the meeting.

RESOLVED that

- (i) The CPA Improvement Plan 2002/2004 circulated with the Council agenda be approved and adopted
- (ii) The Draft Procurement Strategy and Implementation Plan set out in the annexes to the report be adopted

94. Review of Contract Regulations (Item 7)

The Council received a report dealing with proposed amendments to existing contract regulations together with interim revisions proposed.

RESOLVED that the interim revisions to the Contract Regulations submitted to the meeting be adopted.

95. **Questions Submitted Under Council Procedure [Rule 10](#)**

By Councillor Adams to the Executive Member for Education

Could the Executive Member for Education please explain the Borough policy for recycling waste at each of the school sites in Bracknell?

Reply by Councillor Ward – Executive Member for Education

In replying Councillor Ward spoke about the commitment shown by schools to environmental issues generally. Councillor Ward went on to describe the Yanomamo production at Bracknell Sport and Leisure Centre involving nearly 900 children from Bracknell schools accompanied by the Youth Orchestra from the Berkshire Young Musicians Trust.

Councillor Ward then responded to a supplementary question by Councillor Adams.
By Councillor Glasson to the Executive Member for Social and Health Care Services and Housing

Regarding the Council's policy on the level of disregard of Disability Living Allowance and Attendance Allowance applied to calculating charges for service users, can the Social Care Portfolio Holder confirm that he has abandoned his proposal to cut the disregard to 50% by 2005/06, and assure us that the level of disregard will be maintained at 80% over the whole of the next three years?

Reply by Councillor Barnard – Executive Member for Social and Health Care Services and Housing

Councillor Barnard confirmed that it was the intention of the current administration to maintain the disregard at 80% over the whole of the next 3 years. He commented that there had been an open and wide ranging debate at the Select Committee prior to the decision of the Executive.

Councillor Barnard then responded to a supplementary question by Councillor Glasson.

By Councillor Piasecki to the Leader of the Council

- a) *Could the Leader advise this Council of the income, currently confirmed, from the onward sales to other authorities, of our Smartcard technology, which we have developed at great public expense, with our partners British Telecom, and which front line services will benefit from this income?*
- b) *When will the Smartcard be the subject of a Best Value Review?*
- c) *From our consultations with the Public, regarding the Budget for 2003/4 can the Leader tell us how many residents have even the vaguest idea what the Smartcard is, what it has cost them so far, what it will cost them in the future, and which front line services reductions they are happy to accept in lieu of the Smartcard?*

Reply by Councillor Bettison – Leader of the Council

In his reply, Councillor Bettison reported that there was no additional income currently confirmed in respect of onward sales and this had been made quite clear at a recent Members SmartCard Seminar. However, there had been very recently confidential discussions at the highest level by the former Chief Executive with our partners BT Ignite Solutions regarding this potential and officers were anticipating a draft proposal from BT within the next 4 – 6 weeks, which would highlight the various mechanisms by which income should be achievable.

The Council was currently using money from the ACTVAR Project and the National SmartCard Project to support its own SmartCard. For example, between £120,000 and £200,000 ACTVAR money will supplement the SmartCard enabled Leisure Management Scheme and that would have either had to be funded more out of Bracknell Forest's own funds or focussed on only one facility if we were not able to use this external funding.

Councillor Bettison advised that the SmartCard did not form part of the Council's Best Value Review programme but the impact and value of SmartCards to the residents of this Borough would be included in the more strategic review of such e-government and service provision generally. However, following a request from the Corporate Services Select Committee a paper would be prepared for the Executive initially but would be available to the Select Committee. Councillor Bettison reminded Members that the Modernising Government White Paper of 1999 stated that one of the 10 drivers of information age government was to achieve wide scale take-up of multi-purpose SmartCards so that citizens can identify themselves, use services, safeguard their privacy and increasingly make and receive payments. Furthermore guidance issued to local authorities in the year 2000 stated the government regards employment of SmartCards including multifunction cards as a key enabler to the development of electronic commerce and recognised that government applications can act as a key driver towards critical mass.

Councillor Bettison considered that the budget consultation was transparent and the costs of the SmartCard programme were identified clearly in the Council's plans. As is normal within the Council's processes, services that had previously been approved by the Council were not identified specifically since it would be impractical to do so. The budget consultation highlighted developments being undertaken within services which were identified as pressures. All budgets were scrutinised by Select Committees. Moreover, the entire community had access to the budgets and could comment on them.

96. **Motions Submitted Under Council Procedure [Rule 11](#)**

Motion 2/2003

Motion 2/2003 was moved by Councillor McCormack and seconded by Councillor Glasson. An amendment in the terms of the resolution set out below was then moved by Councillor Barnard and duly seconded. The amendment was accepted by the mover and the seconder of the original motion and, on being put to the meeting, it was

RESOLVED that this Council notes the introduction of child tax credits as a contribution towards the Government's drive to end child poverty, and asks the Executive to consider measures:

- i.* to support in conjunction with local voluntary agencies and statutory services a benefits take up campaign drawing on the LGA's good practice guide and supporting material;
- ii.* to encourage Council employees to claim their entitlements;
- iii.* to apply the same principles to promote the launch of pension credits in Autumn 2003.

once the LGA has published its good practice guide and toolkit on 7 April and launched the initiative at its conference on 12 May 2003.

Motion 3/2003

Motion 3/2003 was moved by Councillor Beadsley and seconded by Councillor Piasecki. An amendment in the terms of the resolution set out below was then moved by Councillor McCracken and duly seconded. Following debate the amendment was put to the meeting and declared carried.

On being put to the meeting as a substantive motion, following debate the motion was declared carried and it was

RESOLVED that the Council requests that the Executive, within the next administrative term, seeks to provide, within the constraints of the Council's annual budget process, a staffed youth centre facility in South Bracknell for young people aged 13 to 19.

(For the purpose of this motion, South Bracknell is Great Hollands, Hanworth, Easthampstead, Wildridings, Crown Wood and Forest Park).

MAYOR

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Agenda Item 5 (I)

GM Free Britain

This letter is for the attention of all Borough Council Members.

Further to my letter of the 13 February to the Leader of the Council concerning GM free Britain, I would like to put this letter of the 2 April forward to be included on the agenda of the next Council meeting on the 24 April as I think there should be a full debate on the GM issue.

There has been GM crop trials for the past 3 years, and later in the year the government will decide whether to grow GM crops commercially. With this deadline in mind I would like this Council to declare this area of Berkshire to be GM free, and to lobby the government for legal protection in this area.

By using the Local Government Act 2000 S2, it gives all local authorities very broad powers to do anything which it considers is likely to promote or improve the environmental well-being of its area.

For this Council to recognise that:

- Genetic modification of crop plants is a relatively new branch of science and technology;
- That there is still scientific debate about the safety of GM crops;
- That the commercial growing of GM crops presents legal, economic, social and ethical problems that have not yet been properly addressed;

And declares that:

- This area of Berkshire will be kept free of GM crops and GM food and feed. "Further, this council recognises that the following issues are of particular concern to the people of Berkshire area and are of particular importance to the protection of the environment of Berkshire."
- The amount of land under organic management.
- The number and size of designated wildlife habitats.
- The number of bee keepers.
- The presence of wild relatives of GM crops.
- The number of food business engaged in local and added value food production.
- The terms of any local sustainability or community plants and the objectives of any local biodiversity action plan.
- The number of farmers who produce their own farm-saved seeds.
- Any sites of special scientific interest or other specially protected areas.
- The value of the area's natural environment and organic agriculture to the local tourist industry.
- Presence of rare species in any habitat.
- Number and length of which water courses.
- Extent use of ground water.
- Provision of school and social service meals.
- Food outlets and restaurants – tourism.
- Supermarket food.

These are only a few examples of what might be affected, not all the facts are known as we have not done any medical trials on plants.

The Council therefore commits:

- To ensure that no GM crops are grown on land which it has control, e.g. farm and park land, gardens, allotments, etc.
- To adopting a GM-free policy for all goods and services for which the Council is responsible.

And

- To write to the European Commission (within the 30 day period set out in Art. 24 of Directive 2001/18), in respect of each prospective Part C Marketing Consent, commenting on the summary dossier and requesting that the Commission impose a condition under Article 19(3)(c) of that Directive, exempting the geographical area of Bracknell Forest Borough Council from the ambit of any such consent in order to protect the environment of Berkshire and to protect the integrity of Bracknell Forest Borough Council as a GM free area.
- To requesting the Secretary of State for Environment, Food and Rural Affairs to propose, or to seek from the Commission, in respect of each prospective Part C Marketing Consent (under Directive 2001/18/EC), a condition under Article 19(3)(c) of that Directive, exempting the geographical area of Bracknell Forest Borough Council from the ambit of any such consent in order to protect the environment of Berkshire and to protect the integrity of Bracknell Forest Borough Council as a GM free area.

The biotechnology companies have no legal obligation to clean up the local environment or compensate people affected in your area if a GM crop or food is found to be unsafe, so ultimately it will be the taxpayer who will pay. It may prove that the whole process is irreversible and therefore with permanent damage to the environment.

We paid dearly for the impact of foot and mouth disease and BSE, we do not want to pay for the GM mistake.

If GM goes ahead it will take over and we will not be able to have a choice of organic or non GM it will be impossible, as it will all get contaminated, as GM crops are an alien crop to nature in the environment which will infect other living organisms by cross pollination, transferring the genes into insects and animals, who eat the crops and then into the human food chain. Since there is no public demand for GM and thus no market for GM food, (major supermarkets and food retailers have removed GM ingredients from their products due to consumer demand) there would be no economic benefit for our farmers. Consumers have a right to choose wherever we live, and the English government must listen, just as the Welsh Assembly has, declaring Wales a GM free area. Some English areas are also following suit.

I understand that the GM issue is highly complex and technical in nature, most lay people will initially consider that they do not have the competence or expertise to make decisions on this issue. This is not the case. The GM issue is a matter of public environmental safety, for which we are requesting a decision to protect the general public against any potential hazard, whether realised now or in the unforeseen future.

I urge you to consider this matter very carefully, as it will affect all of us and generations to come.

Yours sincerely

Debra Gier.

**COUNCIL
24 APRIL 2003**

EXECUTIVE REPORT

1. INTRODUCTION

- 1.1 Since the Executive report to the previous Council meeting on 26 March 2003, the Executive has met on 10 April 2003. The Executive Decisions taken at that meeting are brought to the attention of the Council in this report.

2. SUMMARY OF DECISIONS

**(a) Social Services Inspectorate – Inspection of Services to Older People:
Action Plan**

An inspection of social care services for older people in Bracknell Forest was carried out in September 2002 by the Social Services Inspectorate. The Inspectorate produced a report of this inspection in January 2003. The report is very positive about many aspects of the social care services for older people in the Borough. It commends the Borough for the “real improvement” which has been achieved since the Joint Review by the Social Services Inspectorate and Audit Commission which took place in the summer of 2000, saying that there has been real progress in how it has carried out its leading role for social care services for older people. It states that this has been brought about through effective leadership of senior management in the Department, and through inclusion of social services within the overall council vision for modernisation, and that this has been underpinned by good leadership from councillors. The report also sees as of key importance in bringing about this improvement: effective partnerships with NHS organisations and two neighbouring Boroughs, the use of Best Value Reviews, an increasingly stable workforce and a strong commitment to promoting the independence of older people.

However, while the report is generally very positive, the Inspectorate makes a number of recommendations as to further improvements that are needed. In response to these recommendations the Social Services and Housing Department had put together an Action Plan which was duly considered and approved by the Executive as a means of maintaining and building upon the progress already made.

(b) Approval Of Capital Programme Schemes 2003/04

Under the Council's constitutional arrangements, the Executive is required to approve those schemes which are to be financed from rolling programmes that exceed £100,000. As the Council had agreed the capital programme for 2003/04, the Executive was invited to approve the allocation to specific schemes.

Appendix 1 details the approved allocations.

(c) Approval Of Tender Lists

The Executive has agreed that the compilation of the final tender list for:

- (a) the contract for cleaning office and public buildings; and

(b) building construction partnerships

should be delegated to the Assistant Director of Environment – Resources.

Given the value of the contracts, these 2 tender lists would normally be subject to approval by the Executive itself but no meetings are scheduled in May due to the forthcoming elections. However the programme for retendering the building cleaning contract, to enable a new contract to be in place when the current contract terminates at the end of September, would require the tender list to be agreed in the second week of May so that tenders can be dispatched on the 12 May 2003 with return on 4 July 2003.

The programme for selecting building construction partner(s), being one of the recommendations of the Best Value Review of Construction and Maintenance, involves an initial formal tender followed by an interview and selection process. In order to have set up and signed the partnership(s) by the end of September, being the key date to ensure involvement in 2004/05 programmes, tenders are programmed to be dispatched on the 27 May 2003, with the shortlist being compiled two weeks before that.

The Executive was satisfied that it would not be advantageous to the Council to delay either tendering process.

(d) Annual Service Plans 2003/04

Under Best Value legislation and Statutory Instrument No. 2002/305, all Councils are required to produce and publish a Best Value Performance Plan by 30 June each year. A key function of this Plan is to summarise the Council's performance against targets over the past year and set out objectives for the year ahead. The annual Service Plans set out on a departmental basis the information that will be brought together in the Performance Plan.

The Executive has approved the annual departmental Service Plans summarising performance against targets for the past year and establishing clear objectives and actions for the year ahead. Select Committees had been consulted on the detailed content of the Plans. Full copies can be obtained from the relevant Director.

(e) Smartcard Project – Scrutiny Arrangements

The Executive considered a request from the Select Committee on Corporate & Resource Issues to provide scrutiny Members with an opportunity to assess and make any appropriate recommendations on the Smartcard project prior to any decision being made to proceed with or terminate the existing contract. The break point on the interim period under the current contract is 17 June 2003.

The precise scrutiny arrangements for the project will depend upon the decision taken in relation to the future overview and scrutiny arrangements for the Council, but the intention is that either the proposed Public Scrutiny Commission or the Co-ordination Select Committee should decide whether to undertake the review itself or appoint a specific panel to advise the Executive Member who is scheduled to determine the matter by 17 June 2003.

3 LOOKING AHEAD

The next Forward Plan will be published on 1 May 2003 and will be available for public inspection at Easthampstead House in the usual way and is also regularly updated online at www.bracknell-forest.gov.uk.

Table 1: Rolling Programmes 2003/04

<u>SCHEME</u>	£000
CORPORATE SERVICES – IT DEVELOPMENTS <ul style="list-style-type: none"> - Help Desk System Enhancements 20 - BF Online (Web Site) & BFNET (Intranet) Developments 10 - Content Management System 90 - Internet security check & Enhancement 13 - Firewall & Backup System 32 - Intrusion detection & auditing system 20 - Feasibility/technical consultancy works 15 <p style="text-align: right;">TOTAL</p>	200
EDUCATION – ICT PROGRAMME Funds used to purchase hardware and software in all schools, in line with strategy adopted within the Bracknell Forest ICT development plan for the school curriculum. Funding used to match fund Standards Fund Allocations. Additionally within this allocation is a sum for Education Department servers <p style="text-align: right;">TOTAL</p>	150
EDUCATION – DISABLED ACCESS A programme of disabled access improvements required in schools to meet the Special Educational Needs and Disability Act (SENDA) 2001 and Disability Discrimination Act (DDA) legislation recently introduced. Access audits of all schools have been completed and a prioritised list of works identified. Funding is required to cover all Priority 1 work identified and is detailed in the Education Access Strategy. <p style="text-align: right;">TOTAL</p>	160
EDUCATION – SUITABILITY/SCHOOL IMPROVEMENT PROJECTS A rolling programme of major suitability improvement projects approved by the Education Budget-sub Committee (June 2000), following the completion of AMP Suitability Surveys in March 2000. The top project for 2003/04 is the remodelling of lower juniors accommodation to support teaching and learning at Birch Hill Primary School. The assessment of suitability issues in schools is being refreshed for future years in April 2003. <p style="text-align: right;">TOTAL</p>	250

ENVIRONMENT – LOCAL TRANSPORT PLAN	
Demand Management & Travel Choice	50
Travel choice promotion works including Walk-to-School weeks, other travel awareness events, Travel Plan guide for schools and promotion of the BFBC Travel Plan.	
Highway Capacity and Roadspace Allocation	120
Package Development and implementation	
Parking	15
Management of on-street parking and residential street parking problems	
Traffic Management	228
Road traffic schemes to maintain safety, encourage appropriate speeds, reduce congestion and the use of unsuitable roads	
Walking and Cycling/Travel to school	424
Schemes to improve conditions for pedestrians and increase cycle use. Linked to Safe Routes to School initiative which includes the provision of safety zones outside schools from existing priority list.	
Bus and Rail Travel	45
Improvements to the accessibility of buses, available bus services and the integration of buses with other modes.	
Access for People with Disabilities	46
Provision of more facilities to help mobility in public areas in order to reduce barriers to movement.	
Freight	20
First phase of signing works to implement freight routing strategy	
Safety	192
Local safety schemes to reduce personal injury accidents at high risk sites.	
TOTAL Integrated Transport Measures	1,140
Highway Maintenance – Structures	313
Structural assessment, maintenance and strengthening of bridges & Subways	
Highway Maintenance – Roads	397
Programme of resurfacing and anti-skid surfacing works to principal & non Principal Roads	
TOTAL Maintenance	710
TOTAL	1,850
LEISURE	
Part of the BFBC contribution towards a £308,000 project to install a new Woodland and Water zone at the Look Out. A grant application for £231,000 has been made to ReDiscover, Science Centre and Museum Renewal Fund. Thus, the total BFBC contribution, if the bid is successful, is planned to be £77,000. The Council should be notified of the outcome in April. If the bid is not successful, it is intended to utilise this £50,000 for improvements project(s) at either, Downshire Golf Complex or Bracknell Sports & Leisure Centre or both.	50
Other improvement projects to be determined by relevant Executive Member.	100
TOTAL	150

SOCIAL SERVICES – ICT REPLACEMENT PROGRAMME	
Rolling programme of IT hardware replacement for the department and including PC's, printers and servers.	
TOTAL	213
HOUSING	
UPVC Window Replacement	400
Central Heating Replacements	300
Capitalised Repairs	270
The works relate to the Council's housing stock and are apart of an ongoing programme. The window replacement programme will be a partnership style contract with options to extend for up to three years thus reducing lead in times and staff resources for works in future years. The priority areas and streets have been discussed and agreed in consultation with the Tenant and Leaseholder Panel.	

**COUNCIL
24 APRIL 2003**

**REVIEW OF OVERVIEW AND SCRUTINY ARRANGEMENTS
(Chief Executive)**

1.1 A detailed review of Bracknell Forest's overview and scrutiny arrangements commenced in October 2002. The initial report on the outcomes of the review was circulated to all Members in January 2003. The review report has been discussed within party groups and further work has been carried out to refine the proposals in the light of those discussions. The Constitution Review Group subsequently met with the Members of the Co-ordination Select Committee on 20 March 2003 to develop the recommendations set out in this report, which seeks formal adoption of new committee structures for overview and scrutiny and consequential changes to the Council's Constitution, to be effective from the annual meeting of the Council on 21 May 2003.

2 RECOMMENDATIONS

2.1 That the overview and scrutiny function be overseen, from May 2003, by a Public Scrutiny Commission, with terms of reference as set out in Annexe B.

2.2 That the Commission shall establish and have oversight of three service-themed overview and scrutiny panels

- the Environment Scrutiny Panel
- the Social Care and Housing Scrutiny Panel
- the Lifelong Learning Scrutiny Panel

and such other panels as the Commission shall determine, with terms of reference as set out in Annexe B.

2.3 That the initial work programme for the overview and scrutiny panels be developed by a conference led by the Public Scrutiny Commission and involving the Executive and Corporate Management Team and that the work programme be kept under review by the same group at regular intervals through the year.

2.4 That a programme of on-going training be developed for Members and officers and reported to the Public Scrutiny Commission.

2.5 That the revised Article 6 to the Constitution be adopted, as set out in Annexe B

2.6 That the revised Overview and Scrutiny Procedure Rules be adopted, as set out in Annexe C.

2.7 That the Chairman of the Public Scrutiny Commission shall submit reports to the Council from time to time on the progress and activities of the overview

and scrutiny function, including a comprehensive annual report from the Commission.

- 2.8 That the Constitution Review Group be requested to prepare for consideration by the Council, a revised protocol for overview and scrutiny matters, replacing the 'Select Committee Protocol' as an Annexe to the Constitution.
- 2.9 That the Monitoring Officer be authorised to make other minor consequential changes to the Council's Constitution arising directly from the adoption of these arrangements for overview and scrutiny.

3 SUPPORTING INFORMATION

- 3.1 The review and subsequent consultation with Members has led to recommendations for the future arrangements for overview and scrutiny. It is proposed that from the annual meeting in May 2003, the current system of Select Committees be replaced by one Public Scrutiny Commission and a number of overview and scrutiny panels, some of which would be themed by service area. The Commission would have responsibility for the Council's overview and scrutiny function and would develop and manage the work-programme and the work of the overview and scrutiny panels – each conducting a number of in-depth policy reviews each year. The overview and scrutiny panels would also take an enhanced performance monitoring role, reviewing Quarterly Operations Reports outlining service performance within the relevant Departments.
- 3.2 The proposals are summarised in the diagram at Annexe A and described in more detail below.

Public Scrutiny Commission

- 3.3 The Public Scrutiny Commission would:-
- (i) Develop a work-programme of overview and scrutiny reviews and policy development projects, in consultation with the Executive and the Corporate Management Team.
 - (ii) Appoint a number of overview and scrutiny panels, managing and updating their work-programme as necessary, ensuring a consistently high standard of rigour in their investigations and considering any request from an overview and scrutiny panel, or any member thereof, to add an item to the work programme.
 - (iii) Review decisions made but not yet implemented by the Executive and any other Committee, where these have been called-in
 - (iv) Itself, or through an overview and scrutiny panel:
 - review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - consider any matter affecting the Borough or its inhabitants.
 - (v) make reports and/or recommendations to the full Council and/or the Executive and/or any other committee in connection with the discharge of any functions;

- (vi) Receive summary performance management information and question Members of the Executive and officers thereon.
 - (vii) Ensure the efficient discharge of a robust and effective overview and scrutiny function
 - (viii) Prepare and submit an annual report to the Council on overview and scrutiny activities and their outcomes.
- 3.4 The timetable of meetings for the Commission would be linked to that of the Executive to enable effective scrutiny without creating cumbersome delays in decision making.

Commission Membership

- 3.5 The Membership of the Commission would be determined by Group nomination. There are a number of options for its composition. The four statutory added members for Education matters will be entitled to a seat on the Commission, although they shall only be entitled to vote on education matters. They shall also each have a seat on the overview and scrutiny panel involved with considering Education matters. Precise numbers of seats on the Commission should be determined following the forthcoming elections.
- 3.6 Seats on the Commission and overview and scrutiny panels could be allocated to party groups in line with normal proportionality rules. However, the Constitution Review Group favours the principle of allocating seats to reflect the proportion of the non-executive members belonging to each group on the Council, having removed the Executive members from the equation. This approach would be subject to the caveat that a group with an overall majority of seats on the Council as a whole should also have a majority of seats on the overview and scrutiny bodies.
- 3.7 Under the proportionality regulations this approach to allocation of seats could only be adopted if agreed by the Council unopposed, i.e. with no Member voting against.
- 3.8 It would be appropriate for party groups to consider the size of the Commission and options for allocating chairmanships and vice chairmanships between the groups following the elections and before the Annual Meeting.

Work Programme Conference

- 3.9 The initial work-programme for the Overview and Scrutiny Panels will be developed by the Public Scrutiny Commission through a joint conference involving:
- the members of the Public Scrutiny Commission
 - The Executive
 - Corporate Management Team
- 3.10 The main objective of the conference will be to identify those topics where overview and scrutiny panels could make a positive contribution towards policy development and review in support of the priorities and objectives of the Council. By being developed in this way, the work programme should secure the commitment of officer time and resources to support such work, making the work of the panels more relevant and rewarding for Members.

- 3.11 It is proposed that the initial work programme conference is held as soon as possible after the Annual Meeting but that in future years this would be held in April. The Corporate Management Team would prepare the Agenda for the conference. All Members of the Council would have an opportunity to suggest topics for in-depth review through their party group mechanisms.
- 3.12 The annual work programme will be important in setting the broad thrust of the overview and scrutiny panels' work. However, it will be essential that the programme remains sufficiently flexible to respond to issues that arise during the year. To provide this flexibility, delivery and up-dating of the work programme would be managed by the Scrutiny Commission. The Members of the work programme conference would also meet together regularly to review progress and to add emerging issues to the work programme as necessary, treating it as a rolling-programme. This group should also become a useful forum for maintaining effective communications between the Executive and non-executive arms of the Council.

Overview and Scrutiny Panels

- 3.13 Conducting in-depth policy reviews identified through the work-programme process would be the responsibility of Overview and Scrutiny Panels appointed by the Public Scrutiny Commission.
- 3.14 Some Members have expressed quite understandable reservations that losing select committees with service specialisms could result in the dissipation of hard-won member-expertise in some of the Authority's functions. It is proposed therefore that at least three panels should be established with a specific service theme:

Environment Scrutiny Panel

Social Care and Housing Scrutiny Panel

Lifelong Learning Scrutiny Panel

These standing panels would be allocated the on-going task of monitoring the performance of one or two allocated directorate(s). This would be facilitated by the Panel receiving the Quarterly Operations Report for that service regularly during the year and questioning the service Director and Executive Member thereon. Any areas of concern would be investigated and, if appropriate, reported to the Public Scrutiny Commission.

- 3.15 Under this model, it will be imperative that the panels' work is managed firmly in accordance with the agreed work programme and that they do not assume the open-ended role of 'service committee' for the department(s) under review. Although panels will be free to pursue issues arising from their specific performance monitoring role, any proposal to engage in a major investigation will need to be submitted to the Public Scrutiny Commission for approval. The Commission would require the panel to provide supporting evidence that an issue required investigation, with an outline project plan and desired outcomes. It would then consider any such proposal to amend the work programme, having regard to overall capacity and priorities.

- 3.16 In addition to the three standing panels, the Public Scrutiny Commission would be able to set up such other overview and scrutiny panels as it might determine. These could be either additional standing panels or time-limited panels to investigate and report on a particular topic within the work programme.
- 3.17 Cross-cutting issues would be allocated by the Commission either to one of the standing panels or to a time-limited panel established for the purpose. Such reviews could be supported by the use of co-option from other panels, where appropriate. Panels will have the power to co-opt or otherwise involve other members and non-members for any particular review if they have individual knowledge and experience which would be relevant to the panel's task.
- 3.18 In law, these Panels would be overview and scrutiny sub-committees and therefore subject to all the usual requirements for public access to meetings and information.

Panel size

- 3.19 The size of the overview panels is a matter to be settled following the elections but the Constitution Review Group considered that there should be sufficient seats on the panels and the Commission combined to ensure that every non-executive member had an opportunity to serve on at least one overview and scrutiny body. It further considered that each panel should have no more than ten members. Panels of greater size could become too large for effective policy review work, as experience has shown that smaller groups are better suited to work of this nature.

'Audit Trail'

- 3.20 The Public Scrutiny Commission and overview panels need to have an effective and accountable 'audit trail' whereby their recommendations and advice to the Executive are recorded and feedback is provided on what happens to them. This would ensure that the Executive gave due regard to such recommendations and advice. It should also assist with developing a culture where the overview and scrutiny bodies are clear about their recommendations on any matter and that these are based on evidence and sound investigation.
- 3.21 The corollary of this is the expectation that from 2003/04, the Public Scrutiny Commission would be responsible for preparing an annual report to Council covering the main overview and scrutiny activities undertaken during the year, including a record of all reports and recommendations submitted to the Executive and the outcomes of these.

Training

- 3.22 A programme of training for Members and officers will be developed for May 2003 onwards to support and strengthen the overview and scrutiny function and raise awareness and understanding of its contribution to the work of the Council. Training should also emphasise Members' representative role and how this can be exercised within the framework of the Council. A draft programme of on-going training will be prepared, including externally sourced training for members on topics such as:-

- conduct of policy reviews
- local representative role
- questioning skills
- chairing skills

- facilitation skills
- witness management
- relationship to the party group
- member/officer roles

Other Related Matters

3.23 The consultation highlighted a number of other matters which, while not specifically constitutional in nature are included below for the record.

(i) Performance management working groups

3.24 Under these new arrangements there will continue to be a wide range of mechanisms, formal and informal, that enable business to be conducted in Bracknell Forest. For instance the Executive will still be able to establish such advisory panels and working groups as it deems necessary. The facility would also exist for joint Executive/non-executive groups to be established to progress performance management issues such as the CPA improvement plan, or specific Best Value reviews.

(ii) Officer support

3.25 The review report makes the case for dedicated officer support for overview and scrutiny. Budget provision has now been made by the Council to facilitate the creation of a small dedicated officer unit. This report does not deal in detail with those proposals, which will be progressed under officer delegations in parallel with the development of the member structures over the coming months.

(iii) Briefing Seminars

3.26 Corporate Management Team will develop a rolling-programme of regular inter-active member workshops (i.e. not passive seminars) on key service developments to fill the 'information deficit' experienced by members under the previous arrangements.

Consequential Changes to the Constitution

3.27 The main changes to the Constitution arising from these recommendations, if adopted, will be to Article 6 and the Overview and Scrutiny Procedure Rules. Revised versions of these parts of the Constitution are annexed to this report for approval. There will also be very many places throughout the Constitution where select committees are referred to and these will need to be revised to reflect the new arrangements. It is proposed that the Acting Director of Corporate Services be authorised to make such minor consequential changes.

4 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

The comments of the Borough Solicitor have been incorporate in the report.

Borough Finance Officer

There are no additional financial obligations arising from this report.

Access Implications

There are no access implications.

Background Papers

The Development of Overview and Scrutiny in Local Government – Office of the Deputy Prime Minister, September 2002

Review of Overview and Scrutiny Arrangements in Bracknell Forest, January 2003

Report Constitution Review Group 20 March 2003

Contact for further information

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Doc. Ref

Overview and Scrutiny Arrangements from May 2003 – Council 24//4/03

ARTICLE 6 – OVERVIEW AND SCRUTINY

6.01 Public Scrutiny Commission

The Council will appoint a Public Scrutiny Commission as set out in Article 6 to discharge the functions conferred by Section 21 of the Local Government Act 2000 and regulations made thereunder.

6.02 Terms of reference

The Public Scrutiny Commission shall

- (i) Develop a work-programme of overview and scrutiny reviews and policy development projects, in consultation with the Executive and the Corporate Management Team.
- (ii) Appoint a number of overview and scrutiny panels, managing and updating their work-programme as necessary, including considering any request from an overview and scrutiny panel, or any member thereof, to add an item to the work programme.
- (iii) Review decisions made but not yet implemented by the Executive and any other Committee, where these have been called-in
- (iv) Itself, or through an overview and scrutiny panel:
 - review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - consider any matter affecting the Borough or its inhabitants.
- (v) make reports and/or recommendations to the full Council and/or the Executive and/or any other committee in connection with the discharge of any functions;
- (vi) Receive summary performance management information and question Members of the Executive and officers thereon.
- (vii) Ensure the efficient discharge of a robust and effective overview and scrutiny function
- (viii) Prepare and submit an annual report to the Council on overview and scrutiny activities and their outcomes.

6.03 Specific Functions

- (a) **Policy Development and Review** The Public Scrutiny Commission, through its overview and scrutiny panels, may:

- (i) Assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of particular issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (iv) question members of the Executive, other committees and officers about their views on issues and proposals affecting the area; and
 - (v) liaise with other external organisations operating in the area whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny** The Public Scrutiny Commission may itself, or through an overview and scrutiny panel:
- (i) review and scrutinise the decisions made by and performance of the Executive, Committees and Council Officers both in relation to individual decisions and over time;
 - (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) question members of the Executive, Committees and officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time or in relation to particular decisions, initiatives or projects;
 - (iv) review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address the Commission or Panel and local people about their activities and performance; and
 - (v) question and gather evidence from any person (with their consent).
- and make recommendations to the Executive and/or appropriate Committee and/or Council arising from the outcome of the scrutiny process.
- (c) **Finance** The Public Scrutiny Commission may exercise overall responsibility for the finances made available to them.
- (e) **Officers.** The Public Scrutiny Commission may exercise overall responsibility for the work programme of any officers employed to support their work.

6.04 Overview and Scrutiny Panels

- (a) The Public Scrutiny Commission shall establish such overview and scrutiny panels as it shall determine, including at least the following three panels:

Environment Scrutiny Panel

Social Care and Housing Scrutiny Panel

Lifelong Learning Scrutiny Panel

with terms of reference as set out in 6.04 below. The Commission may discontinue any overview and scrutiny panel and/or appoint alternative or additional panels, subject to there being a minimum of the three standing panels. The Commission may also amend the terms of reference of the panels as appropriate.

- (b) Where the Public Scrutiny Commission seeks to discontinue or appoint overview and scrutiny panels other than as set out in the Constitution, it may do so provided that it has consulted with interested parties, if appropriate. Any change will be reported to the proper officer and then to the next meeting of the Council by the Chairman of the Commission, so that the Constitution may be amended accordingly

6.05 Terms of Reference

Overview and scrutiny panels shall

- (i) conduct scrutiny reviews or policy development projects allocated by the Public Scrutiny Commission from the corporately agreed work-programme, preparing evidence-based reports and recommendations for consideration by the Commission.
- (ii) at the request of the Public Scrutiny Commission:
- review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
 - consider any matter affecting the Borough or its inhabitants.

In addition, the following panels shall have responsibility for performance monitoring activities as set out in the table below.

Environment Scrutiny Panel	(i) To receive Quarterly Operations Reports on the work of the Environment Department and to question the relevant Executive portfolio holders and senior officers thereon, reporting to the Public Scrutiny Commission where necessary.
Social Care and Housing Scrutiny Panel	(i) To receive Quarterly Operations Reports on the work of the Social Services and Housing Department and to question the relevant Executive portfolio holder(s) and senior officers thereon, reporting to the Public Scrutiny Commission where necessary.
Lifelong Learning Scrutiny Panel	(i) To receive Quarterly Operations Reports on

	the work of the Education Department and the Leisure Services Department and to question the relevant Executive portfolio holders and senior officers thereon, reporting to the Public Scrutiny Commission where necessary.
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6.06 **Conduct of Proceedings**

The Public Scrutiny Commission and overview and scrutiny panels will conduct their proceedings in accordance with the Overview and Scrutiny Procedure rules set out in part 4 of this Constitution.

Part 4.5 Overview and Scrutiny Procedure Rules

1. General Arrangements

Overview and Scrutiny is the responsibility of the Public Scrutiny Commission as described in Article 6 and the Council will appoint to it as it considers appropriate from time to time. The Commission shall appoint such overview and scrutiny panels as it determines, including those specified in Article 6.

2. Who may sit on the overview and scrutiny bodies?

All councillors except members of the Executive may be members of the Public Scrutiny Commission and/or one or more overview and scrutiny panels. However, no member may be involved in scrutinising a decision in which he/she has been directly involved.

3. Co-optees

The Commission and panels shall be entitled to appoint non-voting co-optees for the purpose of assisting with specific time limited reviews.

4. Education Representatives

The Public Scrutiny Commission and the Lifelong Learning Scrutiny Panel shall include in their membership the following voting representatives:

- a) 1 Church of England diocese representative
- b) 1 Roman Catholic diocese representative
- c) 2 parent governor representatives

These representatives shall not vote on other matters which do not relate wholly or in part to any education function which is the responsibility of the executive, though they may stay in the meeting and speak.

5. Meetings

- (a) There shall be at least 9 ordinary meetings of the Public Scrutiny Commission in each year, linked to the meeting programme for the Executive. In addition, extraordinary meetings may be called from time to time as and when appropriate. Meetings may be called by the chairman, or by the proper officer if he/she considers it necessary or appropriate.
- (b) Overview and scrutiny panels shall determine the frequency and time of their own meetings, according to the work programme set by the Public Scrutiny

Commission. Meetings may be called by the chairman, or by the proper officer if he/she considers it necessary or appropriate.

6. Quorum

The quorum for the Commission or for an overview and scrutiny panel shall be one quarter of the whole number its members, provided that for a panel the quorum shall be at least three.

7. Who chairs Meetings?

The chairmen of the Commission and panels will be drawn from among the councillors sitting on those bodies, and subject to this requirement the Commission/panel may appoint such a person as it considers appropriate.

8. Work Programme

- (a) The work programme for overview and scrutiny panels shall be set annually by the Public Scrutiny Commission following a consultation conference with the Executive and Senior Officers. In setting the work programme the Commission shall take into account the wishes of members who are not members of the largest political group on the Council.
- (b) The work programme shall identify topics for detailed consideration by overview and scrutiny panels, including in each case the outline project plan and desired outcomes from the review project. Overview and scrutiny panels may recommend to the Public Scrutiny Commission at any time a proposed addition to the work programme. The Commission shall only consider proposed additions to the work programme that clearly identify the issue to be investigated and include an outline project plan and desired outcomes.
- (c) The Commission shall allocate investigation projects from the work programme to the three service themed overview and scrutiny panels having regard to their service theme and shall allocate projects of a cross-cutting nature to any one of these scrutiny panels, or to another panel, at its discretion.
- (d) The Commission shall keep the work programme under review throughout the year, making additions and adjustments as necessary and shall be responsible for ensuring effective consultation with the Executive on developments.

9. Agenda items

Any member of the Commission or of an overview and scrutiny panel shall be entitled to give notice to the Proper Officer that he/she wishes an item relevant to its functions to be included on the agenda for the next available meeting of the Commission, provided that if the item proposes an addition to the work programme it shall fulfil the conditions set out in 8 (b), above. On receipt of such a request the proper officer will ensure that it is included on the next available agenda.

The Public Scrutiny Commission shall also respond, as soon as its work programme permits, to requests from the Council and, if it considers it appropriate, the Executive to review particular areas of Council activity. Where it does so, the Commission shall report its findings and any recommendations back to the executive and/or Council. The Council and/or the executive shall consider the report of the Commission by no later than the end of the following cycle of meetings.

10. Policy Review and Development

- a) The role of the Commission in relation to the development of the Council's budget and policy framework is set out in detail in the Budget and Policy Framework Procedure Rules.
- b) In relation to the development of the Council's approach to other matters not forming part of its policy and budget framework, the Commission may make proposals to the Executive for developments, including considering and passing on to the Executive reports and recommendations from overview and scrutiny panels.
- c) Within the work programme determined by the Public Scrutiny Commission, overview and scrutiny panels may hold enquiries and investigate the available options for future direction in policy development and may appoint advisers and assessors to assist them in this process. They may go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations. They may ask witnesses to attend to address them on any matter under consideration and may pay to any advisers, assessors and witnesses a reasonable fee and expenses for doing so.

11. Reports from Overview and Scrutiny Panels

- a) Once it has formed recommendations on proposals for development, an overview and scrutiny panel will submit a report to the Public Scrutiny Commission which, if it is satisfied with the report, will adopt it for submission to the proper officer for consideration by the Executive (if the proposals are consistent with the existing budgetary and policy framework), or to the Council as appropriate (e.g. if the recommendation would require a departure from or a change to the agreed budget and policy framework).
- b) If an overview and scrutiny panel, or the Commission, cannot agree on one single final report, then up to one minority report may be prepared and submitted for consideration by the Council or Executive with the majority report.
- c) The Council or Executive shall consider the report by no later than the end of the following cycle of meetings.

12. Consideration of Overview and Scrutiny Reports by the Executive

- a) Once an overview and scrutiny report on any matter which is the responsibility of the Executive has been completed, it shall be included on the agenda of the next available meeting of the Executive, unless the matter which is the subject of the report is scheduled to be considered by the Executive within a period of 6

weeks from the date the report was adopted by the Public Scrutiny Commission. In such cases, the report shall be considered by the Executive when it considers that matter. If for any reason the Executive does not consider the report within 6 weeks then the matter will be referred to Council for review, and the proper officer will call a Council meeting to consider the report and make a recommendation to the Executive.

- b) Where the Public Scrutiny Commission adopts a report for consideration by the Executive in relation to a matter where the leader or Council has delegated decision making power to another individual member of the executive, then the Commission will submit a copy of the report to that individual for consideration. At the time of doing so, the Commission shall serve a copy on the proper officer and the leader. If the member with delegated decision making power does not accept the recommendations of the report then he/she must then refer the matter to the next available meeting of the Executive for debate before exercising his/her decision making power and responding to the report in writing to the Public Scrutiny Commission. The executive member to whom the decision making power has been delegated will respond to the Public Scrutiny Commission within 3 weeks of receiving the report. A copy of his/her written response to it shall be sent to the proper officer and he/she will attend a future meeting to respond.
- c) The Public Scrutiny Commission will in any event have access to the Executive's forward plan and timetable for decisions and intentions for consultation. Even where an item is not the subject of detailed proposals from an overview and scrutiny panel following a consideration of possible policy/service developments, the Commission will, at its discretion, be able to respond in the course of the Executive's consultation process in relation to any key decision.

13. Rights of Overview and Scrutiny Members to Documents

- a) In addition to their rights as councillors, members of the Public Scrutiny Commission and overview and scrutiny panels have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Part 4 of this Constitution.
- b) Nothing in this paragraph prevents more detailed liaison between the Executive and the Public Scrutiny Commission as appropriate depending on the particular matter under consideration.

14. Members and Officers Giving Account

- a) The Public Scrutiny Commission and overview and scrutiny panels may scrutinise and review decisions made or actions taken in connection with the discharge of any Council function, where in the case of a panel this falls within its remit. As well as reviewing documentation, in fulfilling the scrutiny role, it may require any member of the Executive, the head of paid service and/or any senior officer to attend before it to explain in relation to matters within their remit:
 - I. any particular decision or series of decisions;

- II. the extent to which the actions taken implement Council policy; and/or
- III. their performance.

and it is the duty of those persons to attend if so required.

- b) Where any member or officer is required to attend a meeting under this provision, the chairman of that body will inform the proper officer. The proper officer shall inform the member or officer in writing giving at least 5 working days notice of the meeting at which he/she is required to attend. The notice will state the nature of the item on which he/she is required to attend to give account and whether any papers are required to be produced for the meeting. Where the account to be given to the Commission or panel will require the production of a report, then the member or officer concerned will be given sufficient notice to allow for preparation of that documentation.
- c) Where, in exceptional circumstances, the member or officer is unable to attend on the required date, then the Commission or panel shall in consultation with the member or officer arrange an alternative date for attendance (to take place within a maximum of 10 days from the date of the original request).

15. Attendance by Others

The Commission or panel may invite people other than those people referred to in paragraph 14 above to address it, discuss issues of local concern and/or answer questions. It may for example wish to hear from residents, stakeholders and members and officers in other parts of the public sector and shall invite such people to attend.

16. Call-in

- a) When a decision is made by the executive, an individual member of the executive or a committee of the executive, or a key decision is made by an officer with delegated authority from the executive, or under joint arrangements, the decision shall be published, including where possible by electronic means, and shall be available at the main offices of the Council normally within 2 working days of being made. The Chairmen of the Public Scrutiny Commission and overview and scrutiny panels will be sent copies of the records of all such decisions within the same timescale, by the person responsible for publishing the decision.
- b) The notice will bear the date on which it is published and will specify that the decision will come into force, and may then be implemented, on the expiry of 5 working days after the date the decision is published, unless the decision is called in as described below.
- c) During the period, the proper officer may call-in a decision for scrutiny by the Public Scrutiny Commission if so requested by the Chairman and any 2 members of the Public Scrutiny Commission, or any 5 members of the Council and shall then notify the decision-maker and all other executive members of the call-in. He/she shall call a meeting of the Commission on such date as he/she may determine, where possible after consultation with

the Commission chairman, and in any case within 7 working days of the decision to call-in.

- d) For the purposes of this section, where the decision relates to the exercise of an education function, the duly appointed diocesan representatives and parent governor representatives shall have the same rights to seek or support the calling-in of a decision as any other member of the Public Scrutiny Commission.
- e) If, having considered the decision, the Commission is still concerned about it, then it may refer it back to the decision making person or body for reconsideration, setting out in writing the nature of its concerns or refer the matter to full Council. If referred back the decision maker shall then reconsider within a further 7 working days, amending the decision or not, before adopting a final decision.
- f) If following an objection to the decision, the Public Scrutiny Commission does not meet in the period set out above, or does meet but does not refer the matter back to the decision making person or body or to the Council, the decision shall take effect on the date of the meeting, or the expiry of the period in which the meeting should have been held, whichever is the earlier.
- g) If the matter was referred to full Council and the Council does not object to a decision which has been made, then no further action is necessary and the decision will be effective in accordance with the provision below. However, if the Council does object, it has no locus to make decisions in respect of an executive decision unless it is contrary to the policy framework, or contrary to or not wholly consistent with the budget. Unless that is the case, the Council will refer any decision to which it objects back to the decision making person or body, together with the Council's views on the decision. That decision making body or person shall choose whether to amend the decision or not before reaching a final decision and implementing it. Where the decision was made by the executive, as a whole or a committee of it, a meeting will be convened to reconsider within 7 working days of the Council request. Where the decision was made by an individual, the individual will reconsider within 5 working days of the Council request.
- h) If the Council does not meet, or if it does but does not refer the decision back to the decision making body or person, the decision will become effective on the date of the Council meeting or expiry of the period in which the Council meeting should have been held, whichever is the earlier.
- i) The call-in procedure set out above shall not apply where the decision being made by the executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public, shall state whether in the opinion of the decision making person or body the decision is an urgent one, and therefore not subject to call-in. The Mayor must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Mayor, the Deputy Major's consent shall be required. In the absence of both, the head of paid service or his/her nominee's consent shall be required. Decisions made as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

- j) The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Council with proposals for review if necessary.

17. The Party Whip

When considering any matter in respect of which a member of the Public Scrutiny Commission or an overview and scrutiny panel is subject to a party whip the member must declare the existence of the whip, and the nature of it, before the commencement of the Commission's/panel's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

18. Procedure at overview and scrutiny meetings

- (a) The Public Scrutiny Commission and overview and scrutiny panels shall consider the following business:
 - i) minutes of the last meeting;
 - ii) declarations of interest (including whipping declarations);
 - iii) (Commission only) consideration of any matter referred to the Commission for a decision in relation to call in of a decision;
 - iv) responses of the Executive to reports of the Public Scrutiny Commission; and
 - v) the business otherwise set out on the agenda for the meeting.
- (b) Where an overview and scrutiny panel conducts investigations (e.g. with a view to policy development), it may also ask people to attend to give evidence at its meetings which are to be conducted in accordance with the following principles:
 - i) that the investigation be conducted fairly and all members of the panel be given the opportunity to ask questions of attendees, and to contribute and speak;
 - ii) that those assisting the panel by giving evidence be treated with respect and courtesy; and
 - iii) that the investigation be conducted so as to maximise the efficiency of the investigation or analysis.
- (c) Following any investigation or review, the panel shall prepare a report, for submission to the Public Scrutiny Commission, and shall make its report and findings public.

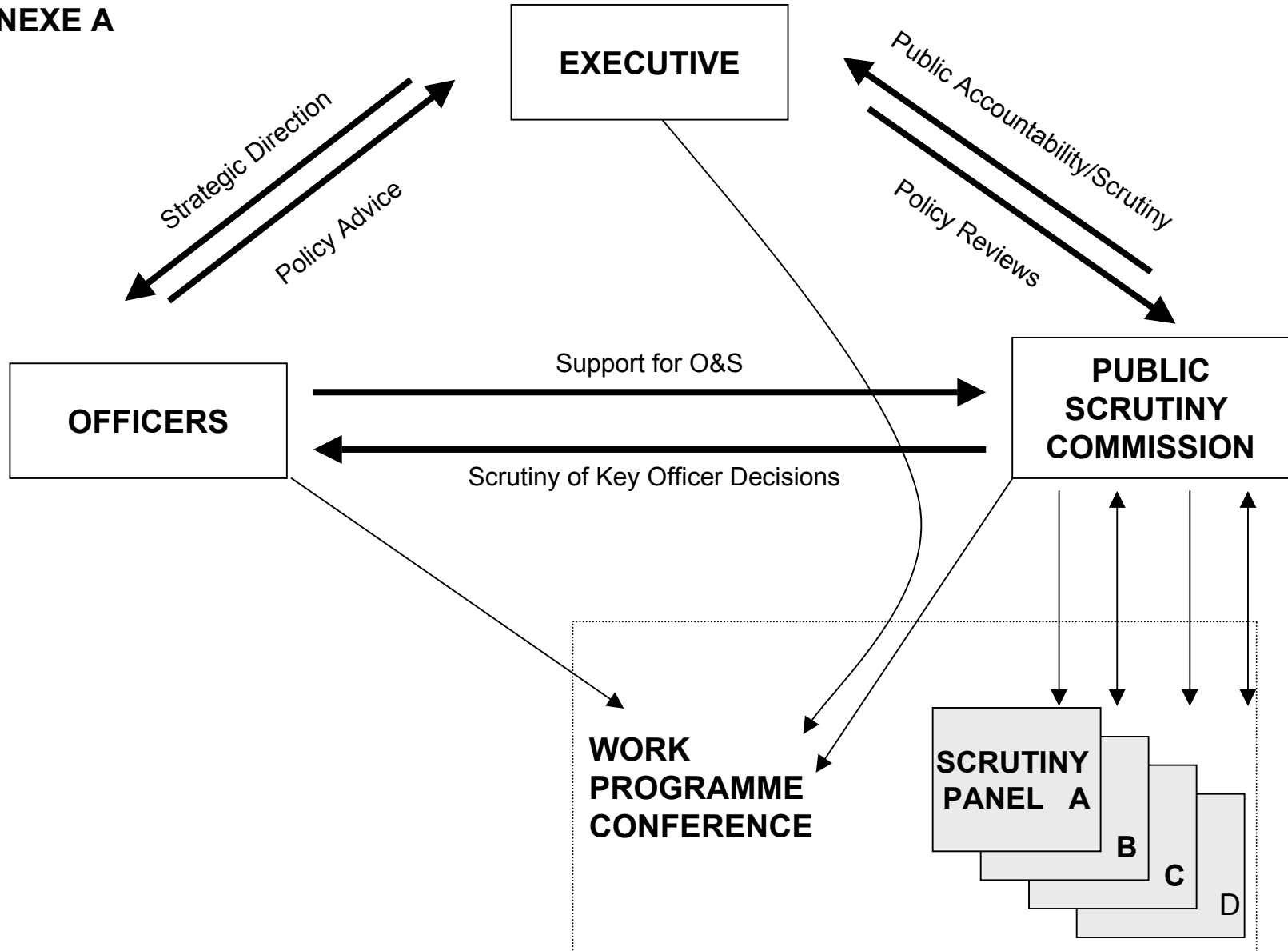
19. Matters within the Remit of More than One Panel

In the event of an issue for review by an overview and scrutiny panel falling within the remit of more than one panel, the Public Scrutiny Commission shall determine which overview and scrutiny panel shall consider the matter.

20. Terms of Reference

The terms of reference of the Public Scrutiny Commission and overview and scrutiny panels shall be as set out in Article 6 of the Constitution.

ANNEXE A



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**COUNCIL
24 APRIL 2003**

**AMENDMENTS TO THE COUNCIL CONSTITUTION
(Acting Director of Corporate Services)**

- 1.1 The Constitution Review Group has met twice in the current municipal year to review the operation of the Council's Constitution. A number of issues have arisen since the Constitution was adopted in November 2001 and the Constitution Review Group has considered how these should be addressed. The Group's recommendations are set out in Annexe A to this report. They have been considered by the Monitoring Officer, as required by Article 15 of the Constitution.
- 1.2 The report also puts forward a small number of technical amendments required to reflect the requirements of the Accounts and Audit Regulations 2003.

2 RECOMMENDATIONS

- 2.1 **That, arising from the recommendations of the Constitution Review Group, the following amendments to the Constitution be approved**

Article 4 – The Council Meeting

- (i) **The reference to the Community Care Plan should be deleted from the list of Policy Framework documents and replaced with Health Improvement and other relevant plans and strategies.**

Part 3 – Responsibility for Functions

- (ii) **The Executive Appeals and Grants Panel should be replaced by an Appeals Committee appointed by the Council. Voluntary grants should be dealt with by the appropriate Executive Member.**

Council Functions.

- (iii) **Air quality and contaminated land should be deleted from the list of executive functions and remain as a function of the Licensing & Safety Committee.**
- (iv) **The Community Safety Strategy should be listed as an executive function.**

Powers Exercisable by Officers

- (v) **Item 2 (b)(iv) of powers exercisable by officers (disposal of freehold interest in land) should be deleted, as it conflicts with Financial Regulations and the specific authorisation to the Assistant Director of Environment (Resources).**
- (vi) **That the authorisations to the Assistant Director of Environment (Resources) be amended as follows:**

J6. Acquire freehold interest in land, subject to the acquisition having been previously agreed in principle by or on behalf of the Executive and the consideration not exceeding £500,000.

J16. Dispose of the Council's interest in surplus land not exceeding 0.2 hectares or £500,000 subject to disposal having been previously agreed in principle by or on behalf of the Council or Executive

(vii) That the framework for onward delegation of Executive powers be amended as follows:

Disposal of Land and Buildings:

Less than 0.5 hectares or not exceeding £500,000 – Executive Committee

In excess of 0.5 hectares or above £500,000 – whole Executive

Table 1 – Chief Executive and Directors – General Powers

(viii) The Chief Executive and Directors to be authorised to respond to government consultation papers published by or on behalf of the government or a government agency.

(ix) The references to single tender action and related financial limits be amended to conform to the recently approved Contract Procedure Rules.

(x) The Chief Executive and Directors to be authorised to release section 106 funds where included in an approved capital budget, in consultation with the appropriate Executive Member.

Part 4.3 Budget and Policy Framework Procedure Rules

(xi) Subject to agreement by the Leader, individual Executive members be authorised to approve initial budgets/policy proposals for publication as consultation drafts.

(xii) That Rule 3 (a) be amended to provide for the Leader to seek a short adjournment of a Council meeting to consider amending Executive proposals submitted to the Council for its approval and for Council to consider any amendments on reconvening.

Protocol for Decision Making

(xiii) That the exception and urgency procedures be extended to non-key decisions in addition to key decisions.

(xiv) That the requirement to consult with the Chief Executive on exception and urgency procedures in the first instance be abolished.

(xv) That the protocol should refer to officers using “best endeavours” to include all non-key decisions in the work programme but accept that this is not always practical.

2.2 That Financial Regulation 31 “Rendering of Accounts and Bad Debt Write Offs” be amended as set out in Annexe B.

- 2.4 That the Monitoring Officer be authorised to make any other minor amendments to the Constitution arising as a direct consequence of the above changes.

3 SUPPORTING INFORMATION

Constitution Review Group

- 3.1 The issues considered by the Constitution Review Group during the year are set out in Annexe A, together with appropriate recommendations, which have been referred to the monitoring officer for consideration. Some of the recommendations have since been superseded by other decisions. Where the recommendations have not been put forward for the Council's approval, appropriate explanatory comments have been added to the Annexe.

Rendering of Accounts and Bad Debts Write off

- 3.2 From 1 April 2003 uncollectable or bad debts can only be written off by the Section 151 officer or a nominated member of his staff. Currently the Council's Financial Procedure Rules within the Constitution specify (in FR 31 "Rendering of Accounts and Bad Debt Write Off" that:

"Directors responsible for recovering debts arising in their departments shall have authority to write off debts up to £5,000 without consultation with any member of the Executive and up to £20,000 following consultation with Executive Members in respect of any one item, being satisfied that no major principle is involved and that proper steps have been taken to mitigate loss and prevent a recurrence of it."

- 3.3 It is necessary to amend the Financial Regulations to comply with the legal position. An amended form of words is set out in Annexe B to this report.

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

The Borough Solicitor's comments have been incorporated.

Section 151 Officer

There are no additional financial obligations arising from this report.

Access Implications

There are no access implications.

Background Papers

Agenda and Minutes Constitution Review Group 30 May 2002
Agenda and Minutes Constitution Review Group 20 March 2003

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Doc. Ref
Constitution Changes – Council 24//4/03

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CONSTITUTION REVIEW GROUP RECOMMENDATIONS

ISSUE	RECOMMENDATION
ARTICLE 4 – Policy Framework	
Community Care Plan no longer produced	Delete and replace with Health Improvement Plans and other relevant plans/strategies
ARTICLE 6 – Overview and Scrutiny	<i>Recommendations now superseded by the review of overview and scrutiny arrangements</i>
Request by Chairman of Select Committee to rename to Social and Health Care Services and Housing	Defer pending government advice on scrutiny arrangements for health services. Overview and Scrutiny of collaborative working with Health Agencies is already written into the terms of reference of the Select Committee. The terms of reference were designed as cross-cutting. This is reflected in the current title and should not be potentially restricted by a direct link with the responsibility of the Executive Member.
Economic and Sustainable Development to be renamed Environment Select Committee	
No specific reference to traffic management, highways management and transportation in scope	Add to scope and to terms of reference
PART 3 – Responsibility for Functions	
<p>1. <i>Local Choice Functions.</i> Appeals listed as Council functions but are dealt with by an Executive Panel. These comprise non-statutory appeals against officer decisions on</p> <ul style="list-style-type: none"> • Discretionary Education grants • Home to school transport • Sale of amenity land 	Abolish Executive Appeals and Grants Panel and appoint an Appeals Committee of the Council. Voluntary grants to be dealt with by the appropriate Executive Member.
<p>2. <i>Council Functions.</i> Licensing and Safety Committee could exercise responsibilities of Emergency Planning Panel. It has not been necessary for the Panel to meet since September 2001.</p>	Transfer to functions of Licensing and Safety Committee – abolish Emergency Planning Panel <i>Emergency Planning is an Executive Function and cannot be transferred to a regulatory committee. The Panel need not be re-appointed in May.</i>

ISSUE	RECOMMENDATION
Update responsibilities following Annual meeting	Public and Environmental Services: - delete air quality and contaminated land (also listed as Licensing and Safety function) - add Community Safety Strategy
APPENDIX – POWERS EXERCISABLE BY OFFICERS	
Delete item 2 (b)(iv)	This authorisation conflicts with Financial Regulations and the specific authorisation to the Assistant Director (Resources)
Limits on disposals out of date/inadequate as a result of increased land value and are not consistent with Executive delegations	<p>(1) The following amendments to the authorisations to the Assistant Director of Environment (Resources) are recommended:</p> <p>Dispose of the Court's interest in surplus land not exceeding 0.2 hectares or £500,000 subject to disposal having been previously agreed in principle by or on behalf of the Council or Executive.</p> <p>Acquire freehold interests in land, subject to the acquisition having been previously agreed in principle by or on behalf of the Council or Executive and the consideration not exceeding £500,000.</p> <p>(2) It is also necessary to adjust the framework for onward delegation of Executive powers accordingly by increasing the guidelines for disposals as follows –</p> <p>Less than 0.5 hectares or not exceeding £500,000 – Executive Committee</p> <p>In excess of 0.5 hectares or above £500,000 – whole Executive</p>
Table 1 – Chief Executive and Directors	
No authorisation to respond to government consultation papers	Add to General Powers in consultation with Executive Member when appropriate
Authorisation required for single tender actions	<i>This is now reflected in the new Contract Procedure Rules</i>

ISSUE	RECOMMENDATION
Authorisation required for release of S106 Funds	Add to General Powers where included in Capital Budget
PART 4.2 ACCESS TO INFORMATION PROCEDURE RULES	
Requirement for 3 clear days notice to be extended to 5 clear days from 1 October 2002	Constitution was updated to reflect the new 5 clear days requirement when it was reprinted in July.
PART 4.3 BUDGET AND POLICY FRAMEWORK PROCEDURE RULES	
The timescale for consulting on policy framework items is lengthy and to reduce this it is suggested that it should be specified in Rule 3 that Executive Members will normally approve consultation drafts	Amend Rule 3 to enable Executive Member to approve initial budget/policy proposals for consultation
No provision for Leader to accept amendments to proposals required by full Council	Amend Rule 3 (h) to allow Leader to request short adjournment of Council meeting to consider amendments required and for the Council to consider on re-convening
PART 4.5 OVERVIEW AND SCRUTINY PROCEDURE RULES	These recommendations are superseded by the review of overview and scrutiny arrangements – but where appropriate have been incorporated in the revised Article 6 and Procedure Rules.
Lifelong Learning – Children and Parent Governor representatives are excluded from initiating “call-in”	Clarify that Children and Parent Governor representatives may initiate call-in in respect of education functions exercised by Executive
Call-in procedures restricted to Chairman and 2 members of Co-ordination Select Committee or any 5 members	Clarify that call-in can also be initiated by Chairman and any 2 members of relevant Select Committee
Decisions implemented in 7 working days but delays have occurred in publication	Amend time-scale so that decisions are implemented 5 working days after publication of decision
Executive may not know of decision call-in	Add requirement for proper officer to notify all Executive members
Environment Select Committee – Terms of reference include “maintenance of countryside areas”	Delete – falls within terms of reference of Select Committee on Lifelong Learning.

ISSUE	RECOMMENDATION	
PROTOCOL FOR DECISION MAKING		
The non-statutory requirement that an Executive Work Programme is published containing both key and non-key decisions has proved to be difficult to operate in practice. There is no exception procedure for non-key decisions currently	1.	Extend Exception and Urgency Procedures to Non-Key decisions in addition to key decisions
	2.	Abolish requirement to consult with Chief Executive in first instance
	3.	Make reference in protocol to using “best endeavour” to include all non-key decisions in Work Programme but accept that this is not always practicable

FR31 RENDERING OF ACCOUNTS AND BAD DEBTS WRITE OFF

1. The arrangement for the rendering of accounts for work done, goods supplied or services received and the information to be supplied to the Borough Finance Officer shall be in accordance with the Financial Management Handbook.
2. Directors shall ensure there are adequate procedures within their departments for collecting all income due to the Council for which they are responsible. Where necessary, they shall ensure that accounts are raised and the debt recorded in the Council's financial ledger.
3. The Borough Finance Officer shall be responsible for determining the Council's policy on granting of credit. Credit may only be offered in accordance with this policy.

4.

In accordance with the Accounts and Audit Regulations 2003 only the Section 151 Officer or a nominated member of his/her staff shall have the authority to approve the write off of unrecoverable or bad debts (including bankruptcies and companies in liquidation, receivership and dissolution). The following limits will apply:

Write off of debts up to £5,000	Service Group Accountant
Write off of debts above £5,000	Section 151 Officer

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**COUNCIL
24 APRIL 2003**

**A PROTOCOL FOR MEMBERS IN DEALING WITH PLANNING MATTERS
(Acting Director of Corporate Services – Legal/Director of Environment)**

1 INTRODUCTION

- 1.1 The former Planning & Transportation Committee endorsed the principle of a Code of Conduct being formulated to assist Members in the handling of Planning matters. However, the formulation of such a Code was deferred pending the introduction of the “New Ethical Framework” introduced by the Local Government Act 2000.
- 1.2 Although the Code of Conduct for Members provides a general framework of propriety for Members to work within it is considered that a Protocol dealing specifically with Planning issues is warranted given the complexities of the Planning process.

2 RECOMMENDATION

- 2.1 That the Council adopt the “Protocol for Members Dealing With Planning Matters” shown as Annexe A to this report.**

3. SUPPORTING INFORMATION

- 3.1 The main purposes for putting in place a Protocol relating to Planning are:-
- to ensure public confidence in the Planning process conducted by the Council
 - to assist Members in ensuring that they observe the Code of Conduct for Members
 - to minimise the risk of legal challenge to a Planning decision
- 3.2 A draft of the Protocol was considered by the Environment Select Committee at its meeting on 6th March 2003 and by the Standards Committee at its meeting on 9th April 2003. The draft was prepared in the light of opinion commissioned by the Standards Board for England on a number of issues relating to Planning which the Code of Conduct for Members touches upon. A model Planning Protocol recently formulated by the Association of Council Secretaries and Solicitors also informed the drafting the Protocol.
- 3.3 As a result of the deliberations of the Environment Select Committee and the Standards Committee the following amendments have been made to the draft presented to the Environment Select Committee:-
- Paragraph 1.5 now makes clear that the Protocol applies to all Members, not just those serving on the Planning & Highways Committee.

- Paragraph 4.2 provides that Members sitting on a panel to determine whether a parcel of amenity land should be sold should not participate at the Planning & Highways Committee when an application for the change of use of the amenity land to private residential use is considered. However, Ward Members who have expressed a view on the proposed disposal should be able to participate unless they have a closed mind on the issue. It is considered that there is a material difference between a Member expressing an opinion in consultation from participating in a decision after having considered all the arguments.
- Paragraph 4.4 makes clear that if a Member is considered to have pre-determined an application then he/she should withdraw from the Council Chamber when the item is considered.
- An amendment to Paragraph 6.2 and a new Paragraph 6.6 makes clear that the section on “Pre-Application Discussions” does not preclude Members from discussing the merits of planning applications with fellow Members or officers. Paragraph 6.5 provides that mere receipt of representations or objections does not trigger the provisions of the Protocol relating to Pre-Application Discussions.
- An example has been given in Paragraph 6.2 of what might constitute an “exceptional circumstance” where it would be appropriate for the Chairman or Vice-Chairman or Executive Member to become involved in Pre-Application Discussions.
- Paragraph 6.7 provides that the officer attending Pre-Application Discussions should make a note of the meeting.
- The section on “Site Visits” omits two points from the draft which went before the Select Committee, namely that Committee Members should try and attend site visits if at all possible and that Members should not visit a site unless they have first spoken to the Head of Planning and Building Control or case officer. Paragraph 9.1 is also new.
- A new Section 10 on “Appeals” has been added.
- Paragraphs are numbered

3.4 The Standards Committee recommended to Council that subject to the amendments outlined above the Protocol be adopted by Council. Under the Council’s Constitution the Standards Committee has responsibility for considering and determining any allegation of a breach of any protocol adopted by the Council. However, this must be read subject to two caveats. Firstly, if an alleged breach of the Protocol would also constitute a breach of the Members’ Code of Conduct it would have to be determined under the procedures laid down by the Local Government Act 2000. At the date of this report no regulations have been made which allow such allegations to be determined by the local Standards Committee. Secondly, the Protocol gives guidance on the determination of Planning applications. It is not the function of the Standards Committee to act as an arbitrator on the merits of Planning applications and any complaints which in substance seek a review of the merits of a Planning matter will not be accepted.

Background Papers
File of Borough Solicitor

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PROTOCOL FOR MEMBERS IN DEALING WITH PLANNING MATTERS

1. Introduction

- 1.1 One of the key purposes of the planning system is to control development in the public interest. In performing this role, planning necessarily affects land and property interests, particularly the financial value of landholdings and the quality of their settings. It is important, therefore, that the Council should make planning decisions affecting these interests openly, impartially, with sound judgement and for justifiable reasons. The process should leave no grounds for suggesting that a decision has been partial, predetermined, biased or not well founded in any way.
- 1.2 **The key purpose of Planning:** to control development in the public interest.
- 1.3 **Your role as a Member of the Planning Authority** is to make planning decisions openly, impartially, with sound judgement and for justifiable planning reasons. When planning applications are reported to Committee the report will contain an officer recommendation as to whether planning permission should be granted or refused. Members are entitled to bring their own judgment to bear on planning applications and to make a decision contrary to officer recommendation but it is important that such decisions are taken on sound planning grounds which will withstand scrutiny at a possible appeal (if planning permission is refused) or if the decision is referred to the Local Government Ombudsman.
- 1.4 Planning decisions taken by local authorities in Committee are liable to be quashed if it can be justifiably alleged that a Member participating in the decision making process has predetermined the issue (i.e. approached the matter with a closed mind) before the Committee or if a fair minded observer, knowing the relevant background, would consider that there was a real danger of bias.
- 1.5 **When the code applies:** this code of good practice applies to **All** Members at all times when involving themselves in the planning process (including, where applicable, decision making meetings of the Council whenever it exercises the functions of the Local Planning Authority in determining applications and other issues). It applies as equally to planning enforcement matters and to planning functions which are the responsibility of the Executive as it does to planning applications.
- 1.6 **If you have any doubts about the application of this code to your own circumstances you should seek advice early from the Borough Solicitor or the Director of Corporate Services.**

2. Relationship to the Members' Code of Conduct: General

- 2.1 **Do** apply the rules in the Members' Code of Conduct first and then the rules in this Planning Code of Good Practice, which explain and supplement the Members' Code of Conduct for the purposes of planning.
- 2.2 *A breach of this Protocol may also, in some circumstances, constitute a breach of the Members' Code of Conduct. Having regard to the obligation upon Members to make a written allegation to the Standards Board for England if they reasonably believe*

that another Member has failed to comply with the Code of Conduct, such breaches must be determined in accordance with the legislative framework set out by the Local Government Act 2000 and regulations made thereunder.

- 2.3 *However, in various respects this Protocol goes beyond the requirements set out in the Code. Therefore, in some instances, a breach of the Protocol will not constitute a breach of the Code of Conduct; in those cases a complaint may be made to the Council's Monitoring Officer who will determine whether or not there are reasonable grounds for believing that there has been such a breach and if so to refer the matter to the Council's own Standards Committee. The Standards Committee will investigate and adjudicate upon such alleged breach in accordance with the Council's local procedures.*

3. Development Proposals and Members' Interests

- 3.1 **Do**, if you have a Personal Interest (as defined by paragraph 8 of the Members' Code of Conduct), disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with officers and other Members. Preferably, disclose your interest at the beginning and not just at the commencement of discussion on that particular matter.
- 3.2 **Do** consider whether a Personal Interest is one which a member of the public would regard as so significant that a member of the public would reasonably consider that it is likely to prejudice your judgement of the public interest. If so it is a Prejudicial Interest.
- 3.3 *There can be no hard and fast rules to determine when a Member's interest in a matter is so significant that it is a Prejudicial Interest. A judgment has to be made in the individual circumstances of the case. Applications for planning permission or an enforcement matter concerning immediately neighbouring properties are almost certainly likely to constitute a Prejudicial Interest. How far this may extend would depend upon the development proposed, and the location of the properties. Relevant factors could include:-*
- *visual impact on the Member's property*
 - *financial impact on the Member's property*
 - *generation of a significant amount of more or less traffic locally*
 - *whether a precedent for the area might be established which could affect the Member's property*
- 3.4 Paragraph 10(2) of the Code of Conduct sets out circumstances in which a Member with a Personal Interest in a matter may regard himself/herself as not having a Prejudicial Interest. In particular, a Member **may** regard himself/herself as not having a Prejudicial Interest if the matter relates to:-
- *another relevant authority (e.g. a Parish Council) of which he/she is a member*
 - *another public authority in which he/she holds a position of general control or management*

- *a body to which he/she has been appointed or nominated by the Council as its representative.*
- 3.5 *However, it will not always be appropriate for a Member with such an interest to participate. If a member of the public with knowledge of the relevant facts would reasonably regard the interest as so significant that it is likely to prejudice the Member's judgment of the public interest then the Member should not participate.*
- 3.6 **Do** if you are a Member of a lobbying group consider whether you should declare an interest in a matter if it is one which the group has expressed an opinion upon
- 3.7 *Although not in all cases Members are precluded from participating in decisions where a lobbying group of which they are a Member has publicly expressed a view, there will be circumstances when such participation would be inappropriate. If the circumstances are such that a fair minded member of the public would conclude that the Member was partial towards promoting the aims of the lobbying group and disinclined to vote inconsistently from the Members of the group then the Member should not participate. Relevant factors to be taken into consideration are:-*
- *the role of the Member in formulating the views of the lobbying group*
 - *the perceived importance of the lobbying group in the matter to be decided*
 - *the issues on which the group lobbies and the relationship of those issues to the matter for decision*
- 3.8 *Where a lobbying group has been vociferous on the merits of a planning application or matter, the risk increases of a decision being tainted by bias. Membership of a lobbying group formed specifically to achieve a given result is a clear example e.g. a residents association formed to oppose a particular development.*
- 3.9 Where your interest is prejudicial:-
- 3.9.1 **Don't** participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Council
- 3.9.2 **Don't** try to represent ward views, get another ward/member to do it instead.
- 3.9.3 **Don't** get involved in the processing of the application.
- 3.9.4 **Don't** seek or accept any preferential treatment or place yourself in a position that could lead the public to think you are receiving preferential treatment, because of your position as a Councillor.
- 3.9.5 **Don't** make representations in connection with any matter in which you have a Prejudicial Interest except in writing to the officer having conduct of the matter and/or to the relevant Ward Member appointed to the Planning & Highways Committee (or to the relevant Executive Member if the matter in issue is an Executive responsibility). If there is no Ward Member you may make your written representations to such other Member of the Planning & Highway Committee as you may nominate but the Monitoring Officer should be advised in writing of any such nomination. All such correspondence should expressly state that you have a Prejudicial Interest and indicate the nature of the interest.

- 3.9.6 **Don't** act as an agent for anyone else in pursuing an application for planning consent, enforcement issue or other planning matter.
- 3.9.7 **Do** inform the Monitoring Officer in writing of any application for a planning permission or consent which you intend to seek.
- 3.10 *For the avoidance of doubt, if a Member has a Prejudicial Interest in a matter they may, if they wish to do so, decline to attend the meeting and ask an eligible Member to attend as a substitute. The matter in which the Member has a Prejudicial Interest should not be discussed with the substitute Member.*

4. Avoidance of Pre-determination in the Planning Process.

- 4.1 **Don't** approach a planning decision with a closed mind. Members may offer a particular view in public before a matter is determined but they should not express a decided view which it is apparent they will follow regardless of due consideration of the circumstances when it falls for decision. If a Member actively campaigns for a particular decision it will be difficult for him/her to show that they have kept a sufficiently open mind. Accordingly, Members who campaign for a particular decision should not be present when the decision comes to be taken. If a Member wishes to remain part of the decision making process he/she should ensure that they do remain open to persuasion and that their view is subject to the full consideration of the relevant matter in Committee.
- 4.2 **Don't**, participate in a planning decision if you have effectively committed yourself to determining the decision one way or the other in another capacity. For example, if an Executive Member has taken a decision to pursue a particular project it would be inappropriate for that Member to participate in consideration of the planning application. Similarly, Members who have sat on a panel to determine whether a parcel of amenity land may be disposed of for residential use should withdraw from the Planning Committee when an application for the change of use of the land to residential purposes is considered. Those Ward Members who have been consulted upon and expressed their views as to whether or not the amenity land should be sold may participate in consideration of the planning application unless they have a closed mind on the issue when the matter comes to Committee.
- 4.3 **Do**, if you are a Member of a Parish Council which has considered a planning application, consider whether your participation at the Parish Council has effectively indicated that you cannot consider the matter with an open mind when it comes before the Council's Planning & Highways Committee. Merely by speaking or voting at the Parish will not usually disqualify a Member from subsequent participation at the Planning & Highways Committee, provided that he/she remains genuinely willing to listen to the debate in Committee and weigh the considerations material to the later decision. However, if the Parish Council decision was reached after lengthy debate and the Member was a leading proponent of the view which the Parish adopted the Member should not participate at the Planning & Highways Committee.
- 4.4 If a Member is, under the preceding provisions of this section, considered to have pre-determined a planning application before it reaches Committee then he/she should withdraw from the Council Chamber before the start of the item on the agenda.

5. Lobbying of and by Councillors

- 5.1 **Do**, if you wish to vote and/or speak on a matter, explain to those lobbying or attempting to lobby you that, whilst you can listen to what is said, it prejudices your position and that of the Council to express a final point of view or a fixed intention to vote one way or another. It will normally be appropriate to advise those who are lobbying that they should speak or write to the relevant officer, in order that their opinions can be included in the officer's report to the Committee or the Executive Member(s).
- 5.2 Unless you have a Personal and Prejudicial interest, this does not prevent you from:-
- being able to listen/receive viewpoints from residents or other interested parties;
 - making comments to residents, interested parties, other Members or appropriate officers, provided they do not consist of or amount to pre-judging the issue and you make clear you are not expressing a final view;
 - seeking information through appropriate channels
- 5.3 **Don't** accept gifts or hospitality wherever possible. If a degree of hospitality is unavoidable, ensure it is of a minimum, its acceptance is declared as soon as possible and remember to register the gift or hospitality where its value is over £25. The register of gifts and hospitality is open to inspection by the public.
- 5.4 **Do** remember that your overriding duty is to the whole community not just to the people in your ward and, taking account of the need to make decisions impartially, that you should not favour, or appear to favour, any person, company, group or locality irrespective of other considerations.
- 5.5 **Don't** impose the Party Whip in connection with a planning matter.
- 5.6 **Don't** accept an instruction from anyone to determine an application in a particular manner. While you may accord appropriate weight to the views of other Members you must determine planning matters on their own merits and should not take into account any factor which you are not prepared to state in Committee.
- 5.7 **Do** inform the Monitoring Officer where you feel you have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality), who will in turn advise the appropriate officers to follow the matter up.

6. Pre-Application Discussions

- 6.1 **Do** refer applicants/developers who approach you for planning or procedural advice to officers wherever practicable.
- 6.2 **Don't** engage in Pre-Application discussions with applicants or third parties except as provided for below. Members may engage in Pre-Application discussions in respect of minor development but an officer should be present when such discussions take place. In exceptional circumstances (for example major developments having Borough wide implications) recorded in writing and placed on the relevant case file, the Director of Environment or the Assistant Director of Environment (Sustainability) may request the Chairman or Vice Chairman of the

Planning & Highways Committee or the relevant Executive Member to engage in such discussions in connection with development which is not minor development.

- 6.3 **Do** ensure that you report to the Head of Planning Control and Building Control or the Assistant Director of Environment (Sustainability) any significant contact with the applicant and other parties and explain the nature and purpose of the contacts and your involvement in them. Ensure that this is recorded on the planning file.
- 6.4 **Do** make clear at the outset that any discussions will not bind the Council to make a particular decision and that any views expressed are provisional.
- 6.5 “Pre-application” means discussions taking place before a decision is made, not simply those prior to an application being submitted. “Pre-Application Discussions” means such discussions where a Member actively participates in exploring the merits of a proposed development and does not encompass the mere receipt of representations in favour or against a proposal. “Minor Development” means development falling within either of the following two categories:-
- the construction of, alteration to or material change of use of a single dwelling
 - the provision of, alteration to or material change of use of commercial or industrial premises having a “footprint” of 100 square metres or less
- 6.6 The term “third parties” does not include fellow Members or officers. It is, of course, perfectly legitimate for a Member to engage in discussions on a planning application with another Member or officer, whatever the nature or scale of the development (although if a Member wishes to participate in determination of the application he/she should be careful to avoid pre-determination of the application)
- 6.7 *The officer present when any Pre-Application Discussions take place should make a note of the following:-*
- *the major issues raised in the Pre-Application Discussions and any views expressed on such issues by any party to the discussions*
 - *any action points arising*
 - *points of agreement*
 - *points of disagreement*
 -
- 6.8 **In addition in respect of presentations:**
- 6.8.1 **Don’t** attend presentations unless the arrangements therefore have been agreed by a Planning Officer and a Planning Officer is present or has agreed that the presence of a Planning Officer is not required.
- 6.8.2 **Do** ask relevant questions for the purposes of clarifying your understanding of the proposals.
- 6.8.3 **Do** remember that the presentation is not part of the formal process of debate and determination of any subsequent application; this will be carried out by the appropriate Committee of the planning authority.
- 6.8.4 **Do** be aware that a presentation is a form of lobbying and you must not express a final view or state how you or other Members might vote.

6.8.5 *For the purposes of this paragraph “Planning Officer” means the case officer within the Environment Department dealing with the matter or an officer within that department senior to the case officer.*

7. Officers

7.1 **Don’t** put pressure on officers to put forward a particular recommendation. (This does not prevent you from asking questions or submitting views to the Head of Planning Control and Building Control or the Assistant Director of Environment (Sustainability), which may be incorporated into any committee report).

7.2 **Do** recognise and respect that officers involved in the processing and determination of planning matters must act in accordance with the Council’s Code of Conduct for officers and their professional codes of conduct, primarily the Royal Town Planning Institute’s Code of Professional Conduct. As a result, planning officers’ views and opinions will be presented on the basis of their overriding obligation of professional independence, which may on occasion be at odds with the views, opinions or decisions of the Committee or its Members.

8. Decision Making

8.1 **Do** ensure that, if you request a proposal to go before the Committee rather than be determined through officer delegation, that your reasons are recorded and repeated in the report to the Committee.

8.2 **Do** comply with section 54A of the Town and Country Planning Act 1990 and make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

8.3 **Do** come to your decision only after due consideration of all of the information reasonably required to base a decision upon.

8.4 **Do**, if you wish to move a motion contrary to the officer’s recommendation (whether for approval or refusal) contact the Case officer to discuss the application as soon as reasonably practicable to discuss your reasons for departing from the officer recommendation. If you remain of the view that you wish to move a motion contrary to the officer recommendation then formulate reasons for refusal or approval (as the case may be) and ensure that a copy is circulated to all Members of the Committee when the item is considered.

8.5 **Don’t** vote or take part in the meeting’s discussion on a proposal unless you have been present to hear the entire debate, including the officers’ introduction to the matter.

8.6 **Do** have recorded the reasons for Committee’s decision to defer any proposal.

8.7 **Do** make sure that if you are proposing, seconding or supporting a decision contrary to officer recommendations or the development plan that you clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. Be aware that you may have to justify the resulting decision by giving evidence in the event of any challenge.

9. Site Visits

- 9.1 *This section relates to SITE VISITS arranged by officers prior to a meeting of the Planning & Highway Committee or made pursuant to a resolution of the Committee; with the exception of 46 it does not relate to visits made by individual Members (usually Ward Members) to the location of a planning application to assist him/her in formulating his/her views on an application. Individual Members making such visits should not enter on to private land unless they are authorised to do so by the Owner and should bear in mind that no Pre-Application Discussions should be held save in accordance with Paragraph 6. .*
- 9.2 **Do** ensure that you treat the site inspection only as an opportunity to seek information and to observe the site.
- 9.3 **Do**, through the officers present at the site meeting, ask questions or seek clarification of matters which are relevant to the site inspection.
- 9.4 **Don't**, if at all possible, hear representations from the applicant or third parties.
- 9.5 **Don't** express opinions or views to the applicant/site owner.

10. Appeals

- 10.1 An applicant for planning permission whose application is refused by the Council has a statutory right of appeal. Rights of appeal are also afforded in respect of certain types of other refusals (e.g reserved matters consent, listed buildings consent). Such appeals may be determined by way of written representation, informal hearing or public inquiry. Once an appeal is made the Council ceases to have jurisdiction in the matter and Members are able to make representations on the matter to the Inspector appointed to determine or hear the appeal. However, a Member with a Prejudicial Interest in the matter should disclose that fact and the nature of the interest when making representations.
- 10.2 Although a Member when making representations in connection with an appeal may disclose to the Inspector that they are a Member of the Council care should be taken to avoid the impression that the Member is making representations on behalf of the Council or is authorised by the Council to make such representations.
- 10.3 On rare occasions, notably in some cases where Members have refused permission against officer advice, it may be appropriate for a Member to give evidence on behalf of the Council.