

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Extraordinary Meeting of Council 2 February 2007  
**AUTHOR/S:** Chief Executive / Democratic Services Manager

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### FURTHER CHANGES TO THE CONSTITUTION

#### Purpose

1. This report set outs further proposals to revise the Constitution to achieve the following:
  - a) The delegation of authority to make appointments to Cabinet and to allocate executive responsibilities to the Leader of the Council
  - b) To allow the Leader to appoint a minimum of two and a maximum of 9 Members.
  - c) To allow the Leader to appoint the Deputy Leader
  - d) To remove the requirement for Cabinet to be politically balanced.
  - e) To allow for the removal of the Leader, a member of the Cabinet or the entire Cabinet if two-thirds of the Council agree, following a vote of no confidence.
  - f) To allow for the removal of a councillor from a Council Committee or Sub-Committee
2. In order to achieve these primary objectives it will be necessary to alter other sections of the Constitution for consistency, eg Section C-8 on Responsibility for Executive Functions, and the rules on quorum of the Executive. There may be further minor amendments to the Constitution which flow from those proposed in this report. It is recommended that the Council give delegated authority to the Chief Executive to make such amendments which will be notified to the Constitutional Review Working Party at its next meeting.

#### **Considerations – Delegation of authority to Leader of Council for appointments to Cabinet, termination of appointments to Cabinet, allocation of executive responsibilities and for appointing the Deputy Leader**

3. At present the Council is responsible for agreeing the number of members to be appointed to the Cabinet and appointing those Members. It is also responsible for assigning the functions and responsibilities of the executive. The Deputy Leader is currently elected by a majority of the Cabinet.
4. There are broadly two alternatives in a Leader and Cabinet Executive. Either the Executive Leader determines the scheme of delegation of executive functions or (as is current practice at the Council) they are determined by the Council in its executive arrangements. These are characterised as the strong and weak leadership models respectively. The Local Government White Paper, published in autumn 2006, proposes the strong leadership model as one of three future options for the political management of the Council. The weak leadership model will no longer be an option. It is considered that the strong leadership model approach provides clearer and more stable political leadership; therefore it is recommended to Members at this time.
5. If the Leader is given the right to appoint his/her Cabinet he/she should have unfettered right to make changes to his/her Cabinet as and when he/she thinks fit. Equally he/she should have the right to appoint his/her Deputy. Council should

reserve the right to remove Members of the Cabinet, individually or collectively, only in exceptional circumstances such as the change in political control of the Council. It is therefore recommended that the following provisions be incorporated into the Constitution at Article 7.03:

(i) A new section 7.03 (ii) be added to the Constitution as follows:

**“The Leader shall be responsible for aggregating and allocating service responsibilities as he/she thinks fit, grouping those responsibilities into portfolios and allocating them to an appropriate portfolio holder. Any such allocations can be adjusted by the Leader as and when he/she thinks it necessary.”**

(ii) The current Article 7.03 (ii) is amended to a new Article 7.03 (iii) as follows:

**“The Leader shall appoint one member of the Cabinet to be the Deputy Leader”.**

(iii) The current Article 7.03 (iii) is amended to become a new Article 7.03 (iv) as follows:

**“The Leader shall hold office until:**

- a) he/she resigns from office; or
- b) he/she is suspended from being a councillor under Part 111 of the Local Government Act 2000 (although he/she may resume office at the end of that period of suspension); or
- c) he/she is no longer a councillor; or
- d) *he/she is removed from office by resolution of the Council in accordance with the procedure set out in Section 12.1 (b) of Council Standing Orders. (as amended – see below)*
- e) the annual meeting of the Council following his/her appointment unless previously removed by resolution of the Council in accordance with the Rules. He/she shall be eligible for re-election annually, unless removed from office under (d) above. In these circumstances a period of at least 12 months from the date of the council resolution must have passed before he/she can be nominated for re-election.

(iv) The current article 7.04 is amended as follows:

**“Other Cabinet Members shall hold office until:**

- (a) they resign from office; or
- (b) they are suspended from being councillors; or
- (c) they are no longer councillors; or
- (d) *they are removed from office by the leader who must give written notice of any removal to the proper officer (the removal will take effect two working days after receipt of the notice by the proper officer); or.*
- (e) *they are removed from office following a vote of no confidence by Full Council following the procedure set out in Section 12.1 (b) of Council Standing Orders (as amended – see below); or*

**(f) they are removed from office en bloc by resolution of the Council in accordance with the Rules.**

**Cabinet members who are removed from office under (d) to (f) above will not be eligible for re-appointment to the Cabinet until the next Annual Meeting of Council.”**

### **Considerations – Size of the Cabinet**

6. Council resolved in May 2006 that the Cabinet should comprise seven Members. This is inconsistent with Article 7.02, which states that:  
*“The executive will consist of the executive Leader together with a Cabinet of at least 2, but not more than 7, councillors appointed to the executive by the Council having regard to the principles of proportionality set out in Part 5 (Codes and Protocols)”*.
7. In order to give the Leader maximum flexibility within the law, it is recommended that the Article be amended to allow the Leader to appoint at least two, and up to **nine**, Councillors. Equally, for the sake of clarity it is recommended that this Article states that the Chairman and Vice-Chairman of Council are legally excluded from holding a Cabinet position.
8. Article 7.02 will then read as follows:

**“The executive will consist of the executive Leader together with a Cabinet of at least 2, but not more than 9, councillors. The Chairman and Vice-Chairman of Council may not be appointed to the Executive.”**

### **Considerations – Political Proportionality**

9. The principles of proportionality set out in Part V of the Constitution require appointments to all constituent bodies of the Council (except the Standards Committee) to be in the same proportion as the numbers in each recognised political group are to the overall membership of the Council. Therefore the Cabinet is currently required, by the Constitution, to be politically balanced. It is not a requirement of the Local Government Act 2000, which specifically excluded the Cabinet from the political balance requirements. Retaining the principles of proportionality restricts the Leader’s ability to appoint the Members he/she considers most suitable for each position. For these reasons **it is recommended that Principles of Proportionality be amended to remove the requirement in Article 7.02 for Cabinet to be politically balanced.**

### **Considerations - Other changes to the Constitution**

10. It is considered necessary for Council to have the ability, should circumstances dictate, to remove a member from a Council Committee or Sub-Committee at any stage in the year and not only at the Annual Meeting of Council via nominations from the political groups, as currently set out in Section 1.2 of Council Standing Orders.
11. It is recommended that the follow Standing Order is added to the Constitution under the section Ordinary Meetings of Council:

**“The Council reserves the right to remove any councillor from a Council Committee or Sub-Committee if it considers that it is no longer in the best interests of the Council for that member to remain. Written notice of motion signed by five councilors must to be delivered to the proper officer not later than 7 days from the date of the council meeting. Any such motion shall be**

**carried only if at least two thirds of the members present at the meeting are in favour.”**

12. It is also considered necessary for the Chief Executive to have the ability to cancel, postpone or alter the date or time of any council meeting if necessary. The following recommendation is made as an addition to Article 12.

**'The Chief Executive is authorised to cancel, postpone or alter the date or time of a committee meeting but, before doing so, shall consult all members of the committee about the need for the change and about convenient alternative dates and times. If reasonably practicable, the Chief Officer will consult all members of a committee before setting a date and time for a special meeting of that committee.'**

13. The following changes to Council Standing Orders will be required for consistency should the above proposals be supported:

**(i) Delete** Standing Orders 1.1vii and 2v, provision for Council to appoint Cabinet members and determine the number of members to be appointed. Standing Order 2v was agreed at Council on 25 January 2007. In order to delete this provision Council will be required to rescind a decision made within six months in accordance with Standing Order 15.1. Alternatively it may use Standing Order 22.1 to suspend this Standing Order for the duration of the meeting.

**(ii) Amend** Standing Orders 12.1(b)

14. (i) It is recommended that to reflect the above changes that Section 12.1 (b) of Council Standing Orders be amended as follows (amendments in italics)

“In the case of any motion for the removal of the Leader from office as Leader, *the removal of any individual member of the executive or the removal of the members of the executive from office collectively*, written notice signed by at least one quarter of the councillors must be delivered to the proper officer not later than 10 days before the date of the meeting. Any such motion shall be carried only if at least two-thirds of the members present at the meeting are in favour.”

(ii) Article 4.02 (d) & (e) (The Full Council meeting)

**Delete** provision for Council to determine matters relating to the size of Cabinet, the allocation of portfolio responsibilities and appointment of Members.

### Implications

15. Financial	None
Legal	The recommendations are considered compliant with the provisions of the Local Government Act 2000 regarding executive arrangements. In particular, the Act specifically allows Cabinet to be appointed and dismissed by the Leader.
Staffing	None
Risk Management	None
Equal Opportunities	None

### **Effect on Annual Priorities and Corporate Objectives**

16. Approval of these changes will enable strong and accountable decision-making, which will in turn assist the Council in meeting all its annual priorities and corporate objectives.

### **Recommendations**

17. Council is recommended to accept the above changes to the Constitution as detailed in Paragraphs 5 (i) (ii) (iii) & (iv), Paragraph 8, Paragraph 9, Paragraph 11, Paragraph 12, Paragraph 13 (i) and (ii) and Paragraph 14 (i) & (ii) of this report.

**Background Papers:** the following background papers were used in the preparation of this report:

The Council's Constitution  
The Local Government Act 2000

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