

# CONSTITUTION COMMITTEE AGENDA



**27 March 2009**

**at 2.00pm**

**in Committee Room \*B\*  
Civic Centre, Hartlepool**

MEMBERS: CONSTITUTION COMMITTEE:

The Mayor, Stuart Drummond

Councillors R Cook, Fenwick, Flintoff, James, Laffey, A Marshall, Morris, Preece, Richardson, Simmons

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

- 3.1 To confirm the minutes of the Constitution Committee of 23 January 2009.
- 3.2 To consider the minutes of the Constitution Working Group of 13 March 2009  
(to follow)

**4. ITEMS REQUIRING DECISION**

- 4.1 Business Report – *Democratic Services Team Manager*
- 4.2 Constitutional Amendments Required to Implement the Councillor Call for Action Mechanism Derived from the Local Government and Public Involvement in Health Act 2007 – *Chair of Scrutiny Co-ordinating Committee*
- 4.3 The Local Democracy, Economic Development and Construction Bill – *Chief Solicitor*

**5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT**

# **CONSTITUTION COMMITTEE**

## **MINUTES AND DECISION RECORD**

23 January 2009

The meeting commenced at 1.00 pm in the Civic Centre, Hartlepool

### **Present:**

Councillor: Carl Richardson (In the Chair)

The Mayor, Stuart Drummond  
Councillors Rob Cook, Bob Flintoff, Marjorie James, Ann  
Marshall, George Morris, Arthur Preece and Chris Simmons

Officers: Alyson Caman, Legal Services Manager  
Amanda Whitaker, Democratic Services Team Leader  
Angela Hunter, Principal Democratic Services Officer

### **37. Apologies for Absence**

Apologies for absence were received from Councillors Sandra Fenwick and Pauline Laffey.

### **38. Declarations of interest by Members**

None.

### **39. Confirmation of the minutes of the following meetings**

Constitution Committee – 21 November 2008 – confirmed subject to the addition of Councillor Rob Cook's apologies.

Constitution Working Group – 15 January 2009 – received.

### **40. Matters arising from the minutes**

In relation to minute 36 of the Constitution Working Group, the Legal Services Manager confirmed that the briefing note relating to the clarification of the access to information rules and distribution of confidential papers had been circulated to Corporate Management Team for distribution among their departments. A guidance note for Members was also being produced.

In relation to minute 39 (B) of the Constitution Working Group the

Democratic Services Team Leader informed Members that a resident representative had been nominated onto the Civic Honours Committee and that the representative from the Community Empowerment Network would be forwarded before the end of February.

Members sought clarification on the composition of the Civic Honours Committee, the inclusion of recognised political groups and the political balance across the Committee. It was suggested that the Committee should be appointed on an annual basis in line with other Council committees with an increased membership of 7 (politically balanced) plus The Mayor, the Chairman, 1 resident representative and 1 community empowerment network representative, the latter two being non-voting members of the Committee. In line with the current proportionality the membership for the Civic Honours Committee would be as follows:

The Mayor

The Chairman

7 Members (3 Labour, 1 Conservative, 1 Liberal Democrat, 1 Administrative Group and 1 independent)

1 Resident Representative (non-voting)

1 Community Empowerment Network Representative (non-voting)

It was suggested that the voting majority be 6 Members with a quorum of 6.

It was noted that the current process for submitting nominations seemed unwieldy and it was suggested that there should be provision to be able to act quickly and outside of this process, for example should a resident of Hartlepool win an Olympic gold medal. A discussion ensued on the merits of having a rolling programme of advertising for nominations to ensure that the residents of the town were reminded that this facility for public recognition was available. However, there were some concerns among Members that should this be undertaken too regularly, the honours would be devalued. It was acknowledged that there were a variety honours and awards that could be bestowed on the residents of the town for different reasons or levels of recognition, for example the Community Awards. Members considered that the Civic Honours Committee could look at nominations for the whole range of Civic Awards available.

It was suggested that subject to approval of the composition and membership of the Civic Honours Committee at Council, the Committee could look at what Civic Awards were available and how best to deal with them.

#### **41. Questions on Notice at Full Council** (*Chief Solicitor*)

The Legal Services Manager referred to the report which had been considered in detail at the Constitution Working Group on 15 January 2009. It outlined the Council Procedure Rule with regard to questions to the Cleveland Fire Authority (CFA).

The Legal Services Manager confirmed that as requested by the Constitution Working Group, the Chief Solicitor was progressing this issue with the Cleveland Fire Authority and would report back to a future meeting of the Working Group.

### **Decision**

That the Chief Solicitor submit a report to a future meeting of the Constitution Working Group outlining the view of the CFA on varying the restriction on the submission of questions to the Council's representatives on the CFA as part of the Council agenda.

**At the request of the Chairman, the Vice-Chair chaired the remainder of the meeting.**

## **42. Any Other Business – State of the Borough Debate**

It was brought to the attention of Members that the State of the Borough Debate had been arranged for 2 February 2009. This had been arranged without consultation with the Chair or Vice Chair of the Council at the time the debate was scheduled. It was noted that the Constitution stated that: "The Mayor will call a state of the Borough debate in the autumn of each year on a date and at a place to be agreed with the Chair." The Mayor indicated that every effort had been made to check the diary of the Chairman which appeared to be free and the arrangements had been put in place in good faith.

Members felt very strongly that a State of the Borough Debate should be scheduled for an evening, either in addition to or instead of a day time Debate, to enable the attendance of residents who were unable to attend during the day. The Mayor indicated that he would arrange for the Debate called for the 2 February 2009 to be postponed and another date arranged in conjunction with the Chair of the Council.

### **Decision**

It was noted that the State of the Borough Debate called for 2 February 2009 would be rescheduled to a date and place agreed by The Mayor and Chairman of the Council.

The meeting concluded at 2.05 pm.

CHAIRMAN

# CONSTITUTION WORKING GROUP

13 March 2009

The meeting commenced at 2.00 pm Civic Centre, Hartlepool

**Present:**

Councillor: Carl Richardson (In the Chair)

Councillors: Rob Cook, Sandra Fenwick, Bob Flintoff, Pauline Laffey, Ann Marshall, George Morris, Arthur Preece and Chris Simmons.

In accordance with Council Procedure Rule 4.2 (ii), Councillor Jane Shaw attended as a substitute for Councillor Marjorie James.

Officers: Alyson Caman, Legal Services Manager  
Amanda Whitaker, Democratic Services Team Manager  
Charlotte Burnham, Scrutiny Manager  
Angela Hunter, Principal Democratic Services Officer

## 43. APOLOGIES FOR ABSENCE

Apologies for absence were received from The Mayor, Stuart Drummond and Councillor Marjorie James.

## 44. DECLARATIONS OF INTERESTS

None.

## 45. MINUTES OF THE MEETING HELD ON 15 JANUARY 2009

Confirmed.

## 46. CIVIC HONOURS COMMITTEE

Members were informed that the following nominations had been received for the Civic Honours Committee:

Christine Blakey, Resident Representative  
Ron Foreman, Community Empowerment Representative

The Democratic Services Manager confirmed that in accordance with instructions of Members and the process agreed, arrangements had been made for an article to be included in two editions of Hartbeat. A number of nominations had already been received and the Working Group's views were sought on convening the first meeting of the Civic Honours Committee.

A discussion ensued on the merits of holding a meeting of the Civic Honours Committee prior to the completion of the current advertising process seeking nominations to be submitted. Members felt that the process as agreed should be followed and completed before the consideration of any nominations received.

It was noted that the second advertisement would be included in the June edition of the Council's Hartbeat magazine and it was suggested that a Civic Honours Committee be scheduled after this date and following the completion of the advertising process.

Councillors Pauline Laffey and George Morris wished that their views to schedule a Civic Honours Committee at the end of the advertising process be noted.

### **Recommendation**

That a Civic Honours Committee be scheduled after the completion of the advertising process.

## **47. MEMBER QUESTIONS AT COUNCIL**

At the Chairman's request Members were asked to give consideration to the length of Member questions which can be submitted to Council. Members were concerned that the length of questions could be unduly long and a discussion ensued on the merits of limiting the length of questions by either time or the number of words included in the main question and supplementary questions.

The problems associated with enforcing the length of supplementary questions should the number of words be restricted were discussed.

It was suggested that consultation be undertaken with a number of other local authorities to ascertain what practices and procedures were used for the submission of questions and supplementary questions to Council. The Democratic Services Team Manager would report the findings to the next meeting of the Constitution Committee.

### **Recommendation**

That the Democratic Services Team Manager undertake consultation with a number of other local authorities to ascertain what practices and

procedures were used for the submission of Member questions and supplementary questions to Council.

#### **48. HARTLEPOOL'S WAR MEMORIAL AND CROSBY HOMES**

At the meeting of the Constitution Working Group on 15 January 2009, Members were requested to give consideration to the inclusion of the Hartlepool's War Memorial and Crosby Homes on the list of outside organisations that the Council appoint to on an annual basis.

The organisation's constitution provides for the Chairman of Hartlepool Borough Council to be included on the Board and Members sought clarification on the voting rights of this position. The Democratic Services Manager reported that the organisation had indicated that the Council's representative had the same voting rights as all trustees on the Board.

Members were supportive of the inclusion of the organisation on the Council's annual list of appointments.

##### **Recommendation**

That the Hartlepool's War Memorial and Crosby Homes be recommended to Council for inclusion on the annual list of outside organisations.

#### **49. TEESSIDE VALUATION TRIBUNAL (TVT)**

Members were requested to give consideration to the appointment of five 'non-councillor' appointments to ensure the proportionality of the TVT was achieved. The TVT had suggested five existing TVT service members to be utilised to cover any temporary shortages in the Teesside area after 31 March 2009.

A discussion ensued in relation to the age restrictions which applied to appointed representatives on the TVT. It was suggested that the issue of Council appointments to the TVT be discussed in more detail at the next meeting of the Working Group.

##### **Recommendation**

That an additional Constitution Working Group be arranged to discuss this issue further.

**50. CONSTITUTIONAL AMENDMENTS REQUIRED TO IMPLEMENT THE COUNCILLOR CALL FOR ACTION MECHANISM DERIVED FROM THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007.**

The Vice Chair of Scrutiny Co-ordinating Committee presented a report which sought the endorsement for the necessary constitutional changes to enable the Authority to implement the Councillor Call for Action mechanism derived from the Local Government and Public Involvement In Health Act 2007 which comes into force on 1 April 2009.

The Scrutiny Manager confirmed that the referral mechanism was already in place in the Constitution and the requested amendments would reflect elements of the Councillor Call for Action and strengthen the current referral mechanism.

**Recommendation**

- (i) That the revised non-mandatory referral criteria to accommodate the introduction of the Councillor Call for Action measure be endorsed.
- (ii) That the necessary constitutional changes be submitted to the Constitution Committee and Council thereafter.

**51. THE LOCAL DEMOCRACY, ECONOMIC DEVELOPMENT AND CONSTRUCTION BILL**

The Legal Services Manager presented a report which provided detailed information on the areas covered within the Bill. Members were asked to note that the provisions within the Bill were subject to change and were requested to note the report and that future reports would be submitted to the Constitution Working Group and Committee as and when required or as otherwise considered desirable in the work programme of the Working Group and Committee.

Members were concerned that the bill, if enacted, would result in regional decision making and less local decision making for local people and the local authority. However, Members did acknowledge the benefit of working alongside and in partnership with other local authorities.

Clarification was requested on paragraph 1.1 of the report and whether this was simply a 'rubber stamping' exercise. In addition, in response to a Member's question, the Legal Services Manager agreed to provide clarification on the suggested appointment of a relevant scrutiny officer and whether this would be an additional post.

The Legal Services Manager confirmed that further reports would be submitted to the Constitution Working Group as the Bill progressed.



**Recommendation**

- (i) That the Local Democracy, Economic Development and Construction Bill be noted with further reports to be submitted to the Working Group as the Bill progressed.
- (ii) That the clarification requested above be provided to Members.

**52. PLANNING CODE OF PRACTICE**

The Legal Services Manager presented a report which sought the views of the Working Group on the adoption by Council of a Planning Code of Practice, which was attached by way of appendix. A discussion ensued and Members requested that the report be submitted to the next Working Group to enable Members to have sufficient time to read and comment on the proposed Planning Code of Practice.

**Recommendation**

That the proposed Planning Code of Practice be submitted to the next Constitution Working Group for further consideration.

The meeting concluded at 3.10 pm.

CHAIRMAN

**Report of:** Democratic Services Team Manager

**Subject:** BUSINESS REPORT

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**1. MEMBERS QUESTIONS AT COUNCIL**

- 1.1 The Council's Constitution, Part 4 – Council Procedure Rules, Section 11 provides for the submission of questions by Members to a Council meeting. At the Chairman's request, the Constitution Working Group discussed the length of the questions submitted.
- 1.2 A number of options were considered by Members including the limiting of the length of questions by time or by the number of words included in the question.
- 1.3 In light of a number of concerns raised by Members, it was suggested that further research be undertaken across other local authorities to ascertain what procedures were in place for the submission of questions to Council.

**RECOMMENDATION**

- 1.4 That the Democratic Services Team Manager provide an update on the procedures in place across other local authorities in relation to the submission of questions to Council.

**2. HARTLEPOOL'S WAR MEMORIAL AND CROSBY HOMES**

- 2.1 During a review of Council appointments to outside bodies in 2001, the above organisation was removed from the approved list. It was noted that the organisation had continued to invite the Chairman of the Council as an ex-officio trustee. Members were asked to consider re-instating this organisation onto the list of outside bodies to which Council representatives are appointed. Members were supportive of the inclusion of this organisation into the list but sought clarification on the voting rights of ex-officio trustees.
- 2.2 Confirmation has been received from the Hartlepool's War Memorial and Crosby Homes that the Chairman as an Ex-officio trustee has the same voting rights as all trustees.
- 2.3 The Constitution Working Group considered that the Hartlepool's War Memorial and Crosby Homes be reinstated on the annual list of Council appointments to outside organisations.

**RECOMMENDATION**

- 2.3 That the inclusion of the Hartlepool's War Memorial and Crosby Homes Organisation on the annual list of outside bodies to which the Council appoint be submitted to Council for approval.

# CONSTITUTION COMMITTEE

27 March 2009



**Report of:** Chief Solicitor

**Subject:** CONSTITUTIONAL AMENDMENTS REQUIRED TO IMPLEMENT THE COUNCILLOR CALL FOR ACTION MECHANISM DERIVED FROM THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

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## 1. PURPOSE OF REPORT

- 1.1 To invite the Committee to consider changes to the Constitution arising from arrangements recently approved by the Scrutiny Co-ordinating committee, as outlined in the attached report of the Chair of Scrutiny Co-ordinating Committee.

## 2. BACKGROUND INFORMATION

- 2.1 The attached report (**Appendix 1 refers**) describes changes approved, to introduce the Councillor Call for Action mechanism within existing policies and procedures, namely the Selection Criteria for Dealing with Non-Mandatory Scrutiny Topic Referrals outlined within the Constitution with effect from 1 April 2009:
- 2.2 The approved proposals impact on the provisions of the Constitution in a number of places:

Part 2 – Articles. Article 6 deals with the Overview and Scrutiny function and sets out the functions and remits of the Overview and Scrutiny Committees. These provisions require to be revised to make reference to the new Councillor Call for Action mechanism.

Part 3 – Responsibility for Functions. The table for the existing scrutiny committee requires revision to include reference to the new Councillor Call for Action mechanism.

Part 4 – Rules of Procedure. The Overview and Scrutiny Procedure Rules make provision for the processing of referrals to Overview and Scrutiny, along

with the selection criteria for dealing with Non-Mandatory Scrutiny Topic Referrals, both of which require revision to include reference to the new Councillor Call for Action mechanism.

- 2.3 I attach two appendices – **Appendix 2** showing the current provisions extracted from the Constitution as described above, and **Appendix 3** showing the equivalent provisions arising from the approved changes.

### 3. **RECOMMENDATION**

That the Committee consider and approve for submission to the Council for adoption the suggested amendments to the Constitution.

### 4. **CONTACT OFFICER**

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## APPENDIX 1

**Report of:** Chair of Scrutiny Co-ordinating Committee

**Subject:** CONSTITUTIONAL AMENDMENTS REQUIRED TO IMPLEMENT THE COUNCILLOR CALL FOR ACTION MECHANISM DERIVED FROM THE LOCAL GOVERNMENT AND PUBLIC INVOLVEMENT IN HEALTH ACT 2007

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### 1. PURPOSE OF REPORT

- 1.1 To seek endorsement for the necessary constitutional changes from the Constitution Working Group to enable the Authority to implement the Councillor Call for Action mechanism derived from the Local Government and Public Involvement in Health Act 2007 which comes into force on 1 April 2009.

### 2. BACKGROUND INFORMATION

- 2.1 For some time the Government has been pursuing the aim of giving more power to local people and local ward Councillors. This aim has run through both the 2006's 'Strong and Prosperous Communities' and the 2008's 'Communities in Control' White Papers.
- 2.2 Ward Councillors play a central role in the life of the local authority, as a conduit for discussion between the Council and its residents and as a champion for local concerns. To strengthen Councillors' ability to carryout this second role, the Government has enacted, in the Local Government and Public Involvement in Health Act 2007, at section 119, provisions for a 'Councillor Call for Action (CCfA)', providing Members with the opportunity to ask for discussions on issues where local problems have arisen and where other methods of resolution have been exhausted. This section amended the Local Government Act 2000, with the result that CCfA provisions form section 21A of that Act.
- 2.3 During the last two years, Members have been kept informed of the of the impending Councillor Call for Action mechanism through Members Seminars and progress reports to the Scrutiny Co-ordinating Committee.
- 2.4 At a meeting of the Scrutiny Co-ordinating Committee held on 31 October 2008, Members were further updated on the progress of the CCfA mechanism and pending the receipt of the long-awaited guidance, agreed that the existing selection criteria for determining the appropriateness of

undertaking a scrutiny investigation for non-mandatory referrals be amended to reflect the impending CCfA mechanism.

- 2.5 The Authority is now in receipt of the long awaited guidance and as expected it is not prescriptive and offers local authorities the opportunity to create processes and procedures on how they feel best fit based on good practice. It does, however, come into force on 1 April 2009, hence the need to actively pursue the necessary constitutional changes through this Working Group, Constitution Committee and Council thereafter.

### **3. PROPOSAL FOR IMPLEMENTING THE COUNCILLOR CALL FOR ACTION MECHANISM IN HARTLEPOOL**

- 3.1 Councillors in Hartlepool continue to be successful in raising issues on behalf of the community through a variety of mechanisms, including through our existing Overview and Scrutiny arrangements.
- 3.2 On a practical level, the Scrutiny Co-ordinating Committee has given consideration as to how best to implement the measure to fit in with our existing policies and procedures. At present the Council's Constitution enables a variety of bodies namely the Council, Cabinet, individual Cabinet Members, Neighbourhood Forums, regulatory panels and other committees to make either mandatory and / or non-mandatory referrals to Overview and Scrutiny. Such practice also provides the opportunity for individual Members and the general public to make referrals to Overview and Scrutiny through the non-mandatory selection criteria route, although to date this has not been extensively used.
- 3.3 In response to Members observations raised during the Local Government Bill - Extended Scrutiny Powers Members Seminars held back in April 2007 together with the experiences gained from local authorities who are currently piloting such arrangements, it is proposed that the current procedure used by the above-mentioned bodies remains unchanged and that the process for making referrals of a non-mandatory nature be strengthened to reflect the Councillor Call for Action measure.
- 3.4 As such the existing selection criteria for determining the appropriateness of undertaking a scrutiny investigation triggered either by the non-mandatory / soon to be Councillor Call for Action route has be amended with the insertion of point (a) and the strengthening of point (e) as outlined below:
- (i) *Clear evidence that reasonable attempts have been made to resolve the issue with relevant partners / council departments?*
  - (ii) Affects a group of people living within the Hartlepool area;
  - (iii) Relates to a service, event or issue in which the Council has direct responsibility for, significant influence over or has the capacity to act as public champion;

- (iv) Not be an issue which overview and scrutiny has considered during the last 12 months;
  - (v) Not relate to an *on-going* service complaint or petition (including the ability to exclude any matter which is vexatious, discriminatory or not reasonable);
  - (vi) Not relate to matters dealt with by another Council committee, unless the issue deals with procedure and policy related issues.
- 3.5 For ease, outlined at **Appendix A** is a diagram for the proposed procedure for determining the appropriateness of undertaking a scrutiny investigation triggered either by the non-mandatory / impending Councillor Call for Action referral route.
- 3.6 Furthermore, it should be noted that the introduction of the Councillor Call for Action measure requires **the Councillor to use every available tool to resolve the issue in the first instance without involving the Scrutiny Co-ordinating Committee, therefore any additional burden should be minimal as the mechanism is designed as a last resort after all other avenues have been exhausted.** Whilst the introduction of the Councillor Call for Action measure in many local authorities will be significant, within Hartlepool its impact is more likely to be minimal as a result of existing practices.

#### 4. RECOMMENDATIONS

- 4.1 It is recommended that the Constitution Working Group:-
- (a) endorses the revised non-mandatory referral criteria to accommodate the introduction of the Councillor Call for Action measure;
  - (b) seeks the necessary constitutional changes through the Constitution Committee and Council thereafter.

**Contact Officer:-** Charlotte Burnham – Scrutiny Manager  
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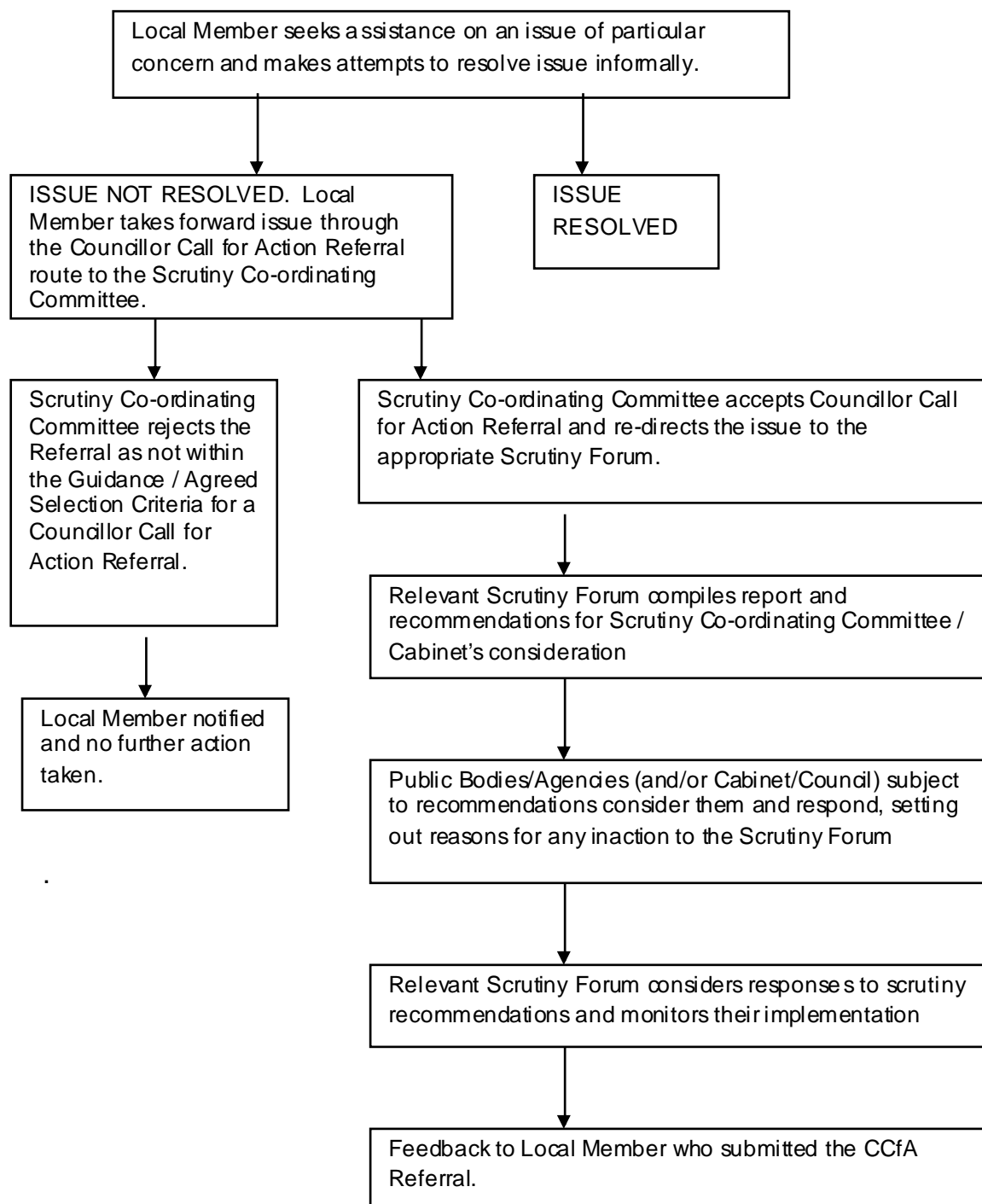
## **BACKGROUND PAPERS**

The following background papers were used in the preparation of this report:-

- (a) Report of the Scrutiny Manager entitled 'Impending Councillor Call for Action Mechanism Update' presented to the Scrutiny Co-ordinating Committee on 31 October 2008.
- (b) Minutes of the Scrutiny Co-ordinating Committee held on 31 October 2008.
- (c) Councillor Call for Action: Best Practice Guidance

## APPENDIX A

**PROPOSED PROCEDURE FOR THE CONSIDERATION OF  
NON-MANDATORY/ COUNCILLOR CALL FOR ACTION REFERRALS TO  
OVERVIEW AND SCRUTINY**



## APPENDIX 2

## CURRENT PROVISIONS EXTRACTED FROM THE CONSTITUTION

## PART 2 ARTICLE 6 – OVERVIEW AND SCRUTINY

## 6.03 Scrutiny Co-ordinating Committee

## (b) Terms of Reference

- (iv) To receive requests from Members, the Executive and/or the full council for items to be considered by overview and scrutiny forums and to allocate them, if appropriate to one or more overview and scrutiny forum.

## PART 3 RESPONSIBILITY FOR FUNCTIONS

## B Council Functions and Delegation Scheme

Scrutiny Co-ordinating Committee	
<b>Membership:</b>	<b>16</b>  <b>Councillors:-</b> James (Chair), Shaw, (Vice-Chair), Akers-Belcher, Atkinson, Brash, R W Cook, S Cook, Kaiser, London, McKenna, A Marshall, Preece, Richardson, Simmons, Wright and Young.  <b>3 Resident Representatives:</b>  <b>C Akers-Belcher, I Ryder and L Shields</b>
<b>Quorum:</b>	<b>6 (drawn from at least two political groups)</b>
FUNCTIONS	DELEGATIONS
<b>4</b> To receive requests from Members, the executive and/or the full council for items to be considered by overview and scrutiny forums and to allocate them, if appropriate to one or more overview and scrutiny forum.	

## **PART 4      RULES OF PROCEDURE**

### **APPENDIX A - Processing Referrals to Overview and Scrutiny**

#### **Selection Criteria – Dealing with Non-Mandatory Scrutiny Topic Referrals**

Scrutiny Co-ordinating Committee would assess the appropriateness of undertaking a scrutiny investigation of non-mandatory scrutiny topic referrals against the following selection criteria:-

- (i) Affects a group of people living within the Hartlepool area;
- (ii) Relates to a service, event or issue in which the Council has direct responsibility for, significant influence over or has the capacity to act as public champion;
- (iii) Not be an issue which overview and scrutiny has considered during the last 12 months;
- (iv) Not relate to a service complaint; and
- (v) Not relate to matters dealt with by another Council committee, unless the issue deals with procedure and policy related issues.

## APPENDIX 3

## SUGGESTED CHANGES TO PROVISIONS OF THE CONSTITUTION

## PART 2 ARTICLE 6 – OVERVIEW AND SCRUTINY

## 6.03 Scrutiny Co-ordinating Committee

## (b) Terms of Reference

- (iv) To receive requests from Members, the Executive and/or the full council for items (including those referred via the Councillor Call for Action mechanism) to be considered by overview and scrutiny forums and to allocate them, if appropriate to one or more overview and scrutiny forum.

## PART 3 RESPONSIBILITY FOR FUNCTIONS

## B Council Functions and Delegation Scheme

Scrutiny Co-ordinating Committee	
Membership:	<p>16</p> <p>Councillors:- James (Chair), Shaw, (Vice-Chair), Akers-Belcher, Atkinson, Brash, R W Cook, S Cook, Kaiser, London, McKenna, A Marshall, Preece, Richardson, Simmons, Wright and Young.</p> <p>3 Resident Representatives:</p> <p>C Akers-Belcher, I Ryder and L Shields</p>
Quorum:	6 (drawn from at least two political groups)
<b>FUNCTIONS</b>	<b>DELEGATIONS</b>
4 To receive requests from Members, the executive and/or the full council for items (including those referred via the Councillor Call for Action mechanism) to be considered by overview and scrutiny forums and to allocate them, if appropriate to one or more overview and scrutiny forum.	

## **PART 4 RULES OF PROCEDURE**

### **APPENDIX A - Processing Referrals to Overview and Scrutiny**

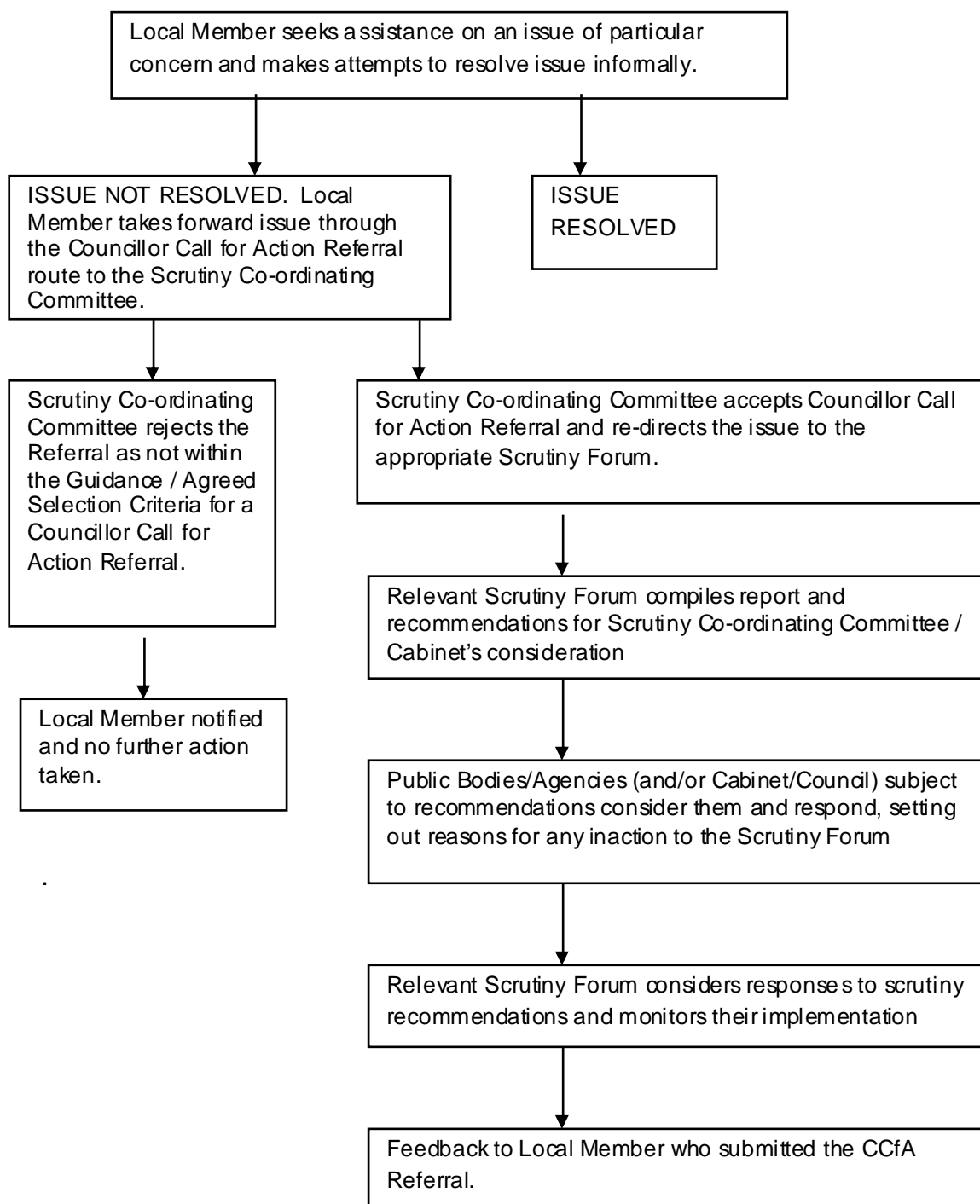
#### **Selection Criteria – Dealing with Non-Mandatory Scrutiny Topic Referrals**

Scrutiny Co-ordinating Committee would assess the appropriateness of undertaking a scrutiny investigation of non-mandatory scrutiny topic referrals against the following selection criteria:-

- (i) Clear evidence that reasonable attempts have been made to resolve the issue with relevant partners / council departments?
- (ii) Affects a group of people living within the Hartlepool area;
- (iii) Relates to a service, event or issue in which the Council has direct responsibility for, significant influence over or has the capacity to act as public champion;
- (iv) Not be an issue which overview and scrutiny has considered during the last 12 months;
- (v) Not relate to an on-going service complaint or petition (including the ability to exclude any matter which is vexatious, discriminatory or not reasonable) ;
- (vi) Not relate to matters dealt with by another Council committee, unless the issue deals with procedure and policy related issues.

*(chart overleaf also to be incorporate into the Constitution)*

## PROCEDURE FOR THE CONSIDERATION OF NON-MANDATORY/ COUNCILLOR CALL FOR ACTION REFERRALS TO OVERVIEW AND SCRUTINY



**Report of:** Chief Solicitor

**Subject:** THE LOCAL DEMOCRACY, ECONOMIC  
DEVELOPMENT AND CONSTRUCTION BILL

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## **1. INTRODUCTION**

- 1.1 The Government White Paper “Communities in Control: Real People, Real Power” (July, 2008) has as its central theme, the aim of passing power into the hands of local communities. The Local Democracy, Economic Development and Construction Bill (distinct from the Community Empowerment, Housing and Economic Regeneration Bill) which is presently before the House of Lords seeks to give some foundation to the overall aims and objectives of the White Paper. Further, a draft Community Empowerment Bill, will also encompass other areas within the White Paper proposals, including the removal of barriers to directly elected Mayors empowering Parish Councils as well as enabling remote voting at Council meetings and the introduction of voting incentives. However, this report covers the main provisions within the Local Democracy, Economic Development and Construction Bill to appraise Members of proposals which could have constitutional significance.
- 1.2 The Local Democracy, Economic Development and Construction Bill in the main covers the following;
- Duties relating to the promotion of democracy ie provisions concerning local authority petitions and a duty to involve those affected in relevant authority functions.
  - Provisions relating to governance and audit
  - Local Government boundary and electoral change
  - Local authority economic assessments
  - Regional strategies
  - Economic Prosperity Boards and combined authorities
  - Multi-Area agreements
  - Construction contracts

## **2. PROMOTION OF DEMOCRACY**

- 2.1 The Bill requires ‘principal local authorities’ to promote among local people an understanding of the authority’s functions, its democratic arrangements and how members of the public can take part in those arrangements. This will include a promotion as to how local people can through a better understanding of the functionality of a principal local authority become a member and thereby participate in and influence the making of decisions.



There are similar duties to promote understanding of authorities connected with a principal local authority. For the avoidance of doubt, a “principal local authority” will comprise English counties and districts, London Borough Councils and a County or County Borough Council in Wales. Accordingly, this can comprise, for example, an understanding as to how this Council would “connect” with a Government Agency, the Governing Body of a maintained school or a further education institution, a Fire and Rescue Authority, a Police Authority and senior officers within those bodies.

### 3. PETITIONS

- 3.1 This particular provision is intended “*to make local decision making in relation to petitions made to principal local authorities more transparent, by requiring them to respond to petitions which meet certain criteria and making the response to petitions publicly available*”. Such a petition to be “valid” must meet certain requirements including, being signed by the relevant number of persons specified in the authority’s scheme and designating one of the signatories as being the person with whom the authority may deal in relation to the petition. An “active” petition, is a petition which relates to a relevant matter ie one relating to a function of the authority and otherwise to an improvement in the economic, social or environmental wellbeing of the authority’s area to which any of its partner authorities could contribute. Additionally, such a petition must not be vexatious, abusive or otherwise inappropriate, and no identical or substantially similar active petition has been made within the preceding six months. There would be a requirement for authorities in making a scheme for handling valid petitions to publicise those arrangements, particularly on the authority’s website and through other appropriate mediums. A petition will be considered at a formal meeting of the authority and whether an Inquiry or Public Meeting should thereafter be convened.
- 3.2 A local authority scheme should specify the threshold number of signatures giving foundation for the specific matter of a petition to be debated in full Council. The Secretary of State will have reserve powers to issue guidance as to an appropriate threshold figure and also a power to direct an authority to amend its petition scheme including a specified threshold.
- 3.3 The Bill also introduces the concept that a petition could require “an Officer to be called to account”. Subject to certain pre-conditions as to a validly made petition, this could lead to a relevant Officer of the authority (identified by name or description) being called to account at a public meeting of the authority with the petition providing grounds for the request relating to the discharge of functions for which the Officer is responsible. A relevant Officer, would include both statutory and non-statutory Chief Officers as defined within Section 2 of the Local Government and Housing Act, 1989 and the authority’s Head of Paid Service. A non-statutory Chief Officer is one for whom the Head of Paid Service is directly responsible and one who concerning all or most of his/her duties is required to report directly or is directly accountable to the Head of Paid Service. The Overview and

Scrutiny Committee or other relevant body exercising such powers, can require the relevant Officer (or another Officer if more appropriate) to attend before it to answer questions and subsequently report or make recommendations on the matter to the authority and send a copy of the report or recommendations to the petition organiser. The Overview and Scrutiny Committee or other relevant body must also review the adequacy of the authority's response to the petition; inform the petition organiser of the result of the review and publish those results unless the authority considers that in all the circumstances it would be inappropriate to do so.

#### **4. DUTY OF PUBLIC AUTHORITIES TO SECURE INVOLVEMENT**

- 4.1 This provision essentially deals with the issue of stakeholder involvement in public authority functions. Where it is considered appropriate for the representatives of interested persons to be involved in the exercise of any of their functions, authorities must take such steps as they consider appropriate to provide such persons with the information about the exercise of the function, consult with them as to its exercise or involve them in another way. An "interested person" is one likely to be affected by or otherwise interested in the exercise of the functions.

#### **5. SCRUTINY**

- 5.1 Following the Local Government Act 2000 and the Local Government Public Involvement in Health Act, 2007, there will be provisions requiring County and Unitary authorities to designate one of their Officers as a "Scrutiny Officer" to discharge various functions to be specified. Essentially, this will concern the promotion of the role and providing support to the authority's Overview and Scrutiny Committee and their membership.

#### **6. AUDIT OF ENTITIES CONNECTED WITH LOCAL AUTHORITIES**

- 6.1 The Bill also makes provisions for the Audit Commission to appoint a person to carry out audit functions in relation to what appears to the Commission to be a "qualifying" relevant entity ie, a company, a limited liability partnership or an industrial and provident society. An entity will be connected with the local authority if the financial information about the entity must be included in the local authority statement of accounts for the financial year in question. Authorities will be required to notify the Audit Commission if their "qualifying entity" meets or ceases to meet conditions specified in regulations or if such an entity has ceased to be connected with the local authority.

#### **7. LOCAL AUTHORITY ECONOMIC ASSISTANCE**

- 7.1 A principal local authority will be required to prepare an assessment of the economic conditions of its area. The authority may revise the assessment or

any part or aspect of it at any time and must do so if directed by the Secretary of State. In carrying out its economic assessment duty the authority must consult its partner authorities. This will include a variety of public bodies including by way of example, Fire and Rescue and Integrated Transport authorities and Regional Development Agencies. Authorities will also be required to have regard to any guidance given by the Secretary of State as to the contents, timing and revision of economic assessments.

## 8. REGIONAL STRATEGY

- 8.1 Each region outside London will be required to produce a regional strategy setting out policies relating to sustainable growth and development as well as the use of land in the region or any part of it. Such policies must contribute to the mitigation of an adaption to climate change. This concept of **“Leaders Boards”** is a means *“to enable local authorities to act collectively and decisively at regional levels”*. The notion is that the participating authorities for each region will be required to make a scheme for the establishment and operation of a Leaders Board. Such a scheme, following the requisite consultation must be submitted for approval to the Secretary of State. In turn, the Secretary of State will have power to make funds available to the Leaders Board or to a participating authority and may, if considered appropriate withdraw approval for a scheme if a Board is not operating effectively.
- 8.2 The relevant regional development agency and the Leaders Board would be designated as “responsible regional authorities”. Such bodies would have a variety of responsibilities including, for example, keeping the regional strategy under review and revising the same when they consider it necessary or expedient to do so or as directed or otherwise required by the Secretary of State. This will also encompass the preparation of and publication of a ‘Statement of Community Involvement’ with power to arrange an examination in public in connection with preparing a draft revision of the regional strategy.

## 9. ECONOMIC PROSPERITY BOARDS

- 9.1 The Secretary of State would have power to create a body corporate known as an **“Economic Prosperity Board”**. This would encompass an area covering the whole or two or more English Local Government areas having continuous boundaries. Such a body would have functions relating to the economic development and regeneration of its area with the Secretary of State having wide powers by order to make regulations in relation to its membership and overall governance. Of note, where two or more authorities have undertaken a review of the effectiveness and efficiency of arrangements to promote economic development and regeneration in their area they may prepare and publish a scheme for the establishment of an Economic Prosperity Board. This would be on the basis, that to do so would be likely to improve the exercise of relevant statutory functions and

economic conditions in the area. The Secretary of State would also have reserve powers, to make an Order establishing such a Board only if having regard to a relevant scheme the Secretary of State considers that to do so is likely to meet the scheme objectives. The Secretary of State would also be obliged to consult each appropriate authority and such other persons as are considered appropriate.

## 10. COMBINED AUTHORITIES

- 10.1 The Bill also introduces a new corporate combined authority consisting of the whole of two or more English Local Government areas having contiguous boundaries which the Government indicates is to have functions relating to economic development, regeneration and transport. Such combined authorities would have a duty to perform their functions with a view to promoting economic development and regeneration and the Secretary of State may make provision for funding similar to that relating to the Economic Prosperity Boards, with such funding relating to the exercise of economic development and regeneration activities. The Secretary of State may also make an Order dealing with transfer of property rights and liabilities in that regard.

## 11. MULTI-AREA AGREEMENTS

- 11.1 In the Explanatory Notes accompanying the Bill, multi-area agreements are defined as follows;

*“.....between two or more local authorities and certain partner authorities, approved by the Secretary of State..... gives the Secretary of State the power to direct a nominated local authority (the “responsible authority”) to prepare an MAA in consultation with partner authorities and others specified in guidance.”*

Through such a multi-area agreement, a local authority and its partner authorities will be placed under a duty to co-operate with each other in determining local improvement targets for the area and to have regard to those targets. Of note, unlike the Economic Prosperity Boards and the combined authority arrangements, a multi-area agreement need not necessarily be based on contiguous areas. The improvement target is that which is related to the improvements in the economic, social and environmental wellbeing of the whole or any part of the relevant area and which relates to one or more of the areas of the local authorities and/or partner authorities.

## **12. CONCLUSION**

- 12.1 Clearly, the provisions in the Bill are subject to change but there is emphasis upon the enhancement of local democratic participation and greater cohesive working between authorities to achieve economic regeneration. There are a number of obligations that appear to be placed upon local authorities, most notably in a collective setting and which are subject to the powers of the Secretary of State in issuing guidance and making or approving arrangements with linkage to the various wellbeing duties as enshrined within earlier legislation. There is an obvious local and regional presence within the Bill and as indicated, it remains to be seen what will be enacted, in due course. At present, Members are requested to note the report and future reports will be brought to the Working Group and the Constitution Committee as and when required or as otherwise considered desirable in the work programme of the Working Group and the Committee.

## **13. RECOMMENDATIONS**

- 13.1 That the report be noted.

## **14. CONTACT OFFICER**

Peter Devlin, Chief Solicitor