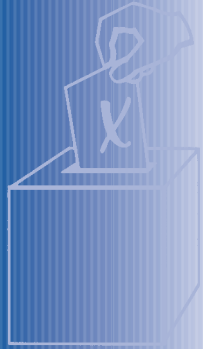




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OFFICE OF THE
DEPUTY PRIME MINISTER

LOCAL AND REGIONAL GOVERNMENT
RESEARCH PROGRAMME

Research Summary

Making the Most of New Council Constitutions: Examples of Good Practice

Putting new constitutions into practice

Part II of the Local Government Act 2000 provides a set of principles for good decision-making and requirements as to how these principles should be put into operation. There is considerable scope for local authorities to interpret the legislative and regulatory framework in a way that is appropriate to their local circumstances. As a result, there is diversity in how these new constitutions work in practice.

In October 2002, the Department commissioned INLOGOV, University of Birmingham, to examine how councils with executive and alternative arrangement constitutions are using a diversity of approaches to shape their constitutions and strengthen local democracy. This research builds on an earlier report by the INLOGOV/De Montfort team that drew lessons from overview and scrutiny¹.

The present report illustrates how councils can:

- improve the individual elements of the constitution;
- enhance the role and capacity of members;
- provide linkages with other aspects of the modernisation agenda; and

- use the new constitutions as a vehicle for local democratic renewal.

Practical examples and checklists are used throughout the full report to aid councils in reviewing and planning the development of their constitution.

Developing the parts – good practice in the elements of the constitution

Modernising full council

The modernisation of the full council has received scant attention compared to that given to the executive, overview and scrutiny, and area committees. Ideas generated early on in the modernisation process illustrated how the full council could develop as a more effective forum for debate on issues affecting the community, deliberation about the policy framework and for holding the executive to account. Current developments include:

- public question time;

¹ S. Snape, S. Leach *et al* 'The Development of Overview and Scrutiny in Local Government', ODPM, London, September 2002.

- a ‘state of the borough, district or county’ debate;
- single issue council meetings and the ‘council in committee’ to enable deliberative debates of a policy problem or proposal; and
- regular sessions for members to question portfolio holders.

Other ways to develop the potential of the full council include individual members having the power to initiate a council debate on a particular subject, parliamentary procedure involving first, second and third readings for reports or proposals, opposition days (where debates take place on a subject chosen by the opposition(s)) and time set aside for ward or divisional issues.

There is potential for further innovation and good practice to emerge, however, to ensure that full council becomes a key arena for local democracy. Greater attention should be given to how meetings can be less controlled by standing orders and more inclusive and deliberative. Likewise consideration should be given to exploring how full council can play a part in supporting the community leadership role of the authority. The full council meeting deserves greater attention from councils wishing to strengthen local democracy.

Developing the executive

The executive is at the heart of the council and its engagement with the community. It is easy for councils to devote their attention to other parts of the constitution, assuming that the executive is working effectively. However there is plenty of scope for councils to develop approaches more in tune with local democratic renewal.

Increased speed of decision-making is most apparent in authorities with delegation to individual portfolio holders. However speed should be balanced by the proper consideration of each decision. This can be done by:

- opening up membership of the executive, including bi-partisan cabinet membership;
- greater planning in the use of call-in; and
- all-party policy advisory groups working closely with executive members.

The ‘good practice’ challenge for executives within the new system is to achieve an acceptable balance between the different objectives underlying the introduction of the new political management structures, namely:

1. Accountability – are there clearly identified decision-makers and are they held to account?
2. Speed – does decision-making take place within the minimum time appropriate?
3. Efficiency – is there a well-organised evaluation of alternative courses of action?
4. Transparency – are there clear responsibilities for decision-making?
5. Openness and inclusiveness – does decision-making involve real public debate?

Overview and scrutiny

Overview and scrutiny has to balance a number of competing pressures (figure 1). That balance will vary depending on the political circumstances of the council and the exact roles being undertaken by overview and scrutiny.

Figure 1 The balancing acts required by the overview and scrutiny function

Holding the executive to account	↔	Supporting the executive in its work
Operating independently of the executive	↔	Being responsive to the needs of the executive
Carrying out projects on internal (service) issues	↔	Carrying out projects on external (community leadership) issues
Generating shared political ownership of the overview and scrutiny process	↔	Recognising the distinctiveness of party political priorities
Operating in a collective mode	↔	Operating in a differentiated mode
Operating in a proactive mode	↔	Operating in a reactive mode

Greater use could be made of the call-in mechanism, but it works to best effect when it is undertaken in a planned way. For example, some councils co-ordinate the identification of items for call-in with the publication of the forward plan. This supports effective pre-decision scrutiny. Whatever the political circumstances, there are three important conditions for the effective operation of call-in:

- A request to call-in needs to be justified;
- Call-in should not be capable of veto by a majority party or coalition; and
- There should be adequate time for evidence to be collected that will enable an effective challenge to be made.

However, it is unrealistic to expect members who are not on the executive (whether of opposition or controlling parties) to forget their party principles and priorities when they enter a scrutiny meeting. The important issue is how they express those principles and priorities. The legitimate language of overview and scrutiny is the language of reasoned debate. Thus the challenge for a member is to channel their 'opposition' by providing an evidence-based critique of executive policy or decision-making or an evidence-based argument for the adoption or modification of a policy.

The area dimension to council constitutions

The introduction of new constitutions has led councils to give renewed emphasis to area forums and committees. More than half of the local authorities in the country have some type of area-based arrangements. Sometimes these are consultative area forums, while in other cases they are decision-making area committees which can:

1. Approve the area business plan dealing with the performance of council services;
2. Consult on, or produce, the local community plan;
3. Consult on a wide range of other policies and plans which have local dimensions;
4. Undertake local performance monitoring;
5. Encourage liaison with partner agencies and the community; and
6. Nominate members to area-based LSP forums.

Councils have developed a number of ways of managing area meetings. For example, one council organises an initial 'drop-in' session to allow residents to discuss issues directly with officers working in the area, including those from partner organisations. This ensures the business of the second part of the meeting is undertaken more efficiently. A number of councils are using area arrangements to involve young people in the democratic process.

Some councils are also establishing strong working relationships between area arrangements and overview and scrutiny committees, with area forums providing their locality's views to inform the overview and scrutiny committee's recommendations. Area arrangements are also linking councils with other partners working in that patch.

Developing democratic activity and decision-making at the area level requires effective support. This can include:

- officer support to administer meetings, build links with partners and the community, deal with issues raised and keep local members informed;
- having a budget to enable the area committee to respond quickly to local issues and needs;
- publicity, including posters, local radio and community networks; and
- enabling partners and the community to shape the agenda.

Transparent and accountable decision-making

The new council constitutions are specifically intended to increase the transparency and accountability of decision-making. Councils have a legislative responsibility to provide information on key decisions within their forward plan and to publish it in a particular way. However, there is considerable variety in how this is done in order to support local democratic activity including:

- statements of principles for decision-making;
- developing the 'community impact' criterion for key decisions;
- using e-mail circulations to update forward plans on a monthly basis; and
- making forward plans available on the web site with a 'comments' e-mail link.

The role of the forward plan and its interconnections to the overview and scrutiny process needs careful thought. This effort can produce benefits for the more orderly operation of council business and greater opportunities for accountability of the executive to non-executive councillors. In some councils the forward plan is clearly linked to the scrutiny process through a meeting between the executive and scrutiny chairs which plans call-in during the next roll-forward of the plan.

A number of councils are experimenting with ICT, and particularly webcast facilities, as a means of enhancing the accessibility of meetings and the transparency of the council's business. Video-conferencing has also been used as part of an overview and scrutiny investigation.

A number of alternative arrangements councils have enhanced their transparency and accountability in ways other than through overview and scrutiny, including:

- formal reporting by the leader on the council's performance at council meeting;
- production of 'agenda plans', the equivalent of the forward plan, and publishing decisions within two days of them having been taken;
- making the full council meeting the main focus of decision-making; and
- enabling public question time at full council meetings.

Good practice lessons

- New council constitutions are an important tool to help deliver democratic renewal, and are not an end in themselves.
- There are important opportunities for councils to develop the role and process of full council.
- Developments in ICT provide new ways of enhancing transparency and accountability.
- Area committees and forums offer important ways of reaching local communities and involving them in decision-making.
- Councils should develop clarity about the way in which they are seeking to balance the different demands on overview and scrutiny.

Developing and supporting members

Democratic renewal is about more than structural change. It is also intended to introduce new working practices, relationships and styles – in short, to change not just the shape of the council, but also the behaviour, attitudes and outlook of councillors.

Executive and non-executive councillors: making the connection

A number of councils have developed arrangements that help increase the connections between executive and non-executive councillors. Many

of these developments have taken place in the context of enhancing the scrutiny function vis-à-vis policy and decision-making. They include:

- backbench members being appointed as 'executive assistants' to work with portfolio holders;
- annual appointment of a 'cabinet secretary' – a non-executive councillor to co-ordinate executive business and link the executive and the overview and scrutiny committees;
- executive members establishing policy panels to advise them; and
- 'champion' councillors who are responsible for advancing the interests of specific sectors of the community in the council.

Another approach adopted by councils is to give non-executive councillors the ability to develop an expertise on a service area.

Support for new roles: the impact of member allowances

There are a number of ways in which the allowances system can be utilised to support local democratic activity. One example found in some authorities is the weighting of allowances towards non-executive councillors in recognition and support of their role. This allows non-executive councillors to invest time in developing their roles more fully.

The emergence of role profiles

One unintended but beneficial outcome of the members' allowances process in some councils has been the definition of role profiles or job descriptions for councillors. These have given councillors a greater understanding of the authority's expectation of their role in the new constitutions. They have enabled councils to prioritise certain roles and activities in line with their approach to local democratic renewal and to define the training needs of councillors in this context.

Resources for councillors

Operating in the context of new council constitutions requires effective support for members. There is more to this than the traditional provision of administrative support and a members' room. A number of authorities are now providing their councillors with IT provision (including a laptop), an e-mail address, posting documents on public folders for easy access, member development and training programmes, and support for their

constituency and ward related work. In the leading-edge councils this amounts to a comprehensive range of information and advice services. Sometimes, budgets are provided for members to bid for in order to support their professional development.

Councillor development

Local authorities around the country are building member capacity to operate effectively in the new constitutional arrangements through enhanced member training and development. These vary from short information giving seminars, to training on skills to more formal programmes. Some councils are taking particular advantage of the Leadership programme sponsored by IDeA to build a core of members who can take a lead in the new constitutions. Others are using courses accredited by universities. Councils are also training members in research skills and working with them to gather community-based data for local community strategies.

Good practice lessons

- Councils should promote a whole-council understanding of issues, priorities and choices.
- Succession planning becomes a significant issue for councils with executive constitutions.
- Councils can develop roles for non-executive councillors in supporting their executive colleagues.
- Councils can use shadowing and Best Value reviews to enhance members' understanding of specific areas of service.
- Member role profiles enable authorities to clarify expectations of councillors.
- ICT provides a powerful resource for councillors in undertaking their various roles.

Making the linkages – integrating constitutions with the wider modernisation agenda

The full report includes six case studies that demonstrate how councils are using executive and alternative arrangement constitutions to address major issues at the heart of democratic renewal and service improvement. The case studies illustrate how

constitutions fit into the broader modernisation agenda. The key lessons for developing good practice are:

- The importance of partnership working – councils need to address the ways in which their political and managerial structures and processes link to the LSP and community strategy;
- Alignment of cabinet roles or policy committees (in alternative arrangements councils) and overview and scrutiny committee remits with community plan priorities provides a visible demonstration of this integration;
- The value of local democracy places a premium on community engagement in decision-making;
- Councils should think creatively about ways in which community consultation can be related to the decision-making and review process;
- Community engagement and partnership working can also be supported through the effective design of area arrangements; and
- Shared ownership of the broader goals of democratic engagement and renewal can provide an important context for effective cross-party working.

Sustaining constitutional effectiveness

Reviewing the constitution

Constitutions provide the framework for the democratic process in councils. But like any framework it is important to review its effectiveness and adapt it to meet the council's objectives. A number of councils have recently undertaken reviews of their constitutions, using a variety of methods. Some have employed member working groups linked to wide consultation with councillors and external stakeholders. Others have given the standards committee a key role, utilising the independent expertise of the appointed representatives on that committee. Whatever the mechanisms, however, councils gain from having a route through which the constitution can be reviewed and issues resolved in the context of the wider democratic renewal agenda.

Strategic choices for council constitutions

There are three levels of choice for councils in designing constitutions to fit their requirements:

- strategic choices about the priority given to the different principles of good decision-making (figure 2);
- operational choices which reflect the above priorities, applied to the specific opportunities available in the development of constitutions; and
- strategic choices which explicitly link the above elements within a coherent philosophy of 'democratic renewal'.

Figure 2 Defining principles of decision-making

Speed – the time between identifying and taking a decision

Efficiency – the thoroughness with which the alternatives are evaluated

Openness – the level of accessibility of the decision-making process

Transparency – the ability to identify who is responsible for a decision

Accountability – the extent to which decision-makers have to justify their choice

Member Inclusiveness – the extent to which members have satisfying roles

Public Inclusiveness – the extent to which there is public involvement

Partner Inclusiveness – the extent to which there is partner involvement

The full report sets out different constitutional choices depending on whether the council's main commitment is to:

- community leadership;
- service quality;
- strong accountability of executive;
- public involvement; or
- member inclusiveness.

The basis of sustainable constitutional design, however, must be a coherent philosophy of democratic renewal specific to the nature of the authority concerned and the community in which it is located. This is at the heart of effective local government. In order to achieve this, a number of good practice lessons emerge:

- Recognise that the goal is local democratic renewal – constitutions are a means to an end.

- There is significant flexibility in the way many aspects of the new constitutions can be applied – these provide opportunities for councils to exploit.
- Councils now have the experience to refine their processes, culture and structure in line with local conditions and priorities.
- Constitutional review can be undertaken in various ways – but its key purpose is to facilitate the way the council operates in order to strengthen local democracy.
- The focus on local democratic gains means that the public and partners need to be an integral part of any review process.
- Constitutions are closely linked to other aspects of the modernisation agenda – and so changes and developments should have a positive effect overall.

Further information

Copies of the full report, priced at **£16** are available from:

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This summary and full report are also available on the ODPM website:

<http://www.local.odpm.gov.uk/research/democ/democ.htm>

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