

Report of:	Monitoring Officer
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Portfolio Leader:	Leader of the Council
Report Track:	Council: 21/04/21

Council
21 April 2021
Constitution Amendments

1 Purpose of Report

- 1.1 To present to Council for consideration proposed amendments to the Constitution.

2 Recommendation(s)

That:

- 2.1 The proposed amendments to the Constitution, as detailed in Appendix 1, be approved.
- 2.2 The revised terms of reference for the Scrutiny Committees, as detailed in Appendix 2, be approved (this is subject to Council agreeing the recommendation from Cabinet held on 1 April 2021, as included under agenda item 8 of this meeting's agenda, that the structure of the Scrutiny Committees be revised).

Should this recommendation be approved then a minor revision would also be needed to the Budget and Policy Framework Procedure Rules (as detailed in report paragraph 5.3) as 'budget consultation' matters currently sit within the remit of the Corporate Scrutiny Committee.

3 Key Issues and Reasons for Recommendations

Key Issues

- 3.1 The current version of the Constitution was approved by Council on 12 August 2015 and came into effect on 1 September 2015.
- 3.2 Under section 12 of the Constitution (Review and Revision of the Constitution), the Monitoring Officer, in conjunction with the Constitution Working Group, is required to monitor and review the Constitution on an annual basis.

- 3.3 The Constitution Working Group met on 1 February and 22 March 2021 to undertake its latest review. The amendments considered and agreed by the Working Group are outlined in paragraph 5.2, below.
- 3.4 Separately to the above, a review of the structure of the Scrutiny Committees was undertaken to align them with the new Corporate Plan 2021-24 (Cabinet report of 1 April 2021 sets out the detail of this review), and Cabinet have recommended to Council a new structure for approval. Accordingly, revised terms of reference for the Scrutiny Committees have been produced to reflect the proposed changes.

Reasons for Recommendations

- 3.5 To ensure the Constitution remains up to date, Council is required to approve the proposed amendments detailed in Appendices 1 and 2 of this report.

4 Relationship to Corporate Priorities

- 4.1 The Constitution provides for the proper governance of the Council and cuts across all priorities.

5 Report Detail

- 5.1 The process for reviewing the Constitution on an annual basis was adopted as part of the review undertaken in 2015 to ensure that it remained up to date and allowed for amendments to be made in a timely manner if the need was identified during the year.
- 5.2 The latest review undertaken by the Monitoring Officer, in conjunction with the Constitution Working Group, considered the following proposed amendments to the Constitution, along with the reasons for why the amendments had been put forward. The amendments are shown as tracked changes in Appendix 1.

Part / Section Amended	Amendment	Reasons for Amendments
Part 2, Section 11 – Finance, Contracts and Legal Matters: Paragraph 11.2	Delete all references to 'Financial Regulations'.	All such matters are now covered exclusively in the Procurement Regulations
Part 2, Section 11 – Finance, Contracts and Legal Matters: Paragraph 11.4(b)	Amend '£40,000' to read '£50,000' and Amend '£75,000' to read '£100,000'	To ensure the figures stated are consistent with those published in the Procurement Regulations.

Part / Section Amended	Amendment	Reasons for Amendments
Part 3, Section 16 – Scrutiny Committees’ Terms of Reference: Paragraph 16.11	Insert new sub-paragraph (ix): “In respect of the Committee with responsibility for health-related matters, the Chair of that Committee shall attend all Healthy Staffordshire Select Committee (HSSC) County Council meetings. In the event of not being able to attend a substitute will be nominated.”	To reflect in the Constitution the requirements as set out in the County Council and Boroughs / District Councils’ ‘Code of Joint Working Arrangements’ for Health Scrutiny activity in Staffordshire.
Part 3, Section 22 – Appeals and Complaints Panel: Paragraph 22.1	Delete sub-paragraphs (c) and (d) (and renumber other sub-paragraphs accordingly).	Concerns have been raised by both Members and Officers about the Panel dealing with stage 3 complaints, and a separate cross-party Member working group recommended that this provision be removed from the terms of reference.
Part 3, Section 22 – Appeals and Complaints Panel: Paragraph 22.9	Renumber Annexes to reflect above change.	To reflect the above amendment.
Part 3, Section 22 – Appeals and Complaints Panel: Annex 1, Paragraph 1	Delete ‘tenancy succession’ from the list of functions.	The means by which the Council can determine tenancy successions is set down in law (sections 86A and 87 of the Housing Act 1985). Therefore, it is not appropriate for this matter to be within the remit of the Panel to determine.

Part / Section Amended	Amendment	Reasons for Amendments
Part 3, Section 22 – Appeals and Complaints Panel: Annex 2	Delete whole Annex, and renumber Annex 3 to Annex 2.	Concerns have been raised by both Members and Officers about the Panel dealing with stage 3 complaints, and a separate cross-party Member working group recommended that this provision be removed from the terms of reference.
Part 4, Section 26 – Scheme of Delegations: Paragraph 26.3	Insert new sub-paragraph 26.3.20: “To determine any review of decisions made by the Monitoring Officer in respect of assets of community value, detailed in paragraph 26.10.2(d) of this Scheme.”	To ensure the Scheme of Delegations is up to date.
Part 4, Section 26 – Scheme of Delegations: Paragraph 26.6	Insert new paragraph 26.6.6: “In accordance with the Housing Services Compensation Policy, compensation can be paid at the discretion of the appropriate section or Service Manager up to the amounts detailed below: Team Leader: up to £30 Service Manager: up to £200 Head of Service: up to £500	To include in the Scheme of Delegations the level of discretionary compensation payments that can be paid to Council housing tenants where service delivery failings cause exceptional inconvenience, stress, disturbance or annoyance.
Part 4, Section 26 – Scheme of Delegations: Paragraph 26.10.2	Insert new sub-paragraph (d): “Determine any application to list any building and / or other land as an asset of community value, and / or claim for compensation arising from an asset being listed, in consultation with the Leader of the Council and Members of the ward in which the asset is located, where practicable.	To ensure the Scheme of Delegations is up to date.

Part / Section Amended	Amendment	Reasons for Amendments
Part 4, Section 27 – Council Procedure Rules: Scheme for Receiving Questions from the Public at Ordinary Meetings of the Council	Insert new sub-paragraph (b) (and renumber other sub-paragraphs accordingly): “If any public questions relate to information that is already in the public domain, officers are able to respond to the question directly without the question needing to be put at full Council.”	To provide a means by which responses to questions from the public, for which information is already available, can be provided in a timely manner without the need for referral to full Council.
Part 5, Section 39 – Local Protocol for Planning Decision Making: Annex A, Protocols for Public Speaking at Planning Control Committee	In paragraph 1.4(iii), after the words ‘ ten minutes ’, insert the following: “Speakers may not circulate or present any new or additional written documents, drawings or photographs.”	To reflect what is included in the letter sent to people who request to speak at Planning Control Committee by the Planning department and what happens at Committee meetings.
Part 5, Section 41 – Protocol for Conferring Honorary Titles: Paragraph 1.4	Delete the words ‘at 3 p.m.’	To provide more flexibility for when an Extraordinary Council meeting can be held on the same day as Annual Council for the purposes of considering nominations for awarding Honorary Aldermen / Alderwomen titles.

- 5.3 Following adoption of the new Corporate Plan 2021-24, a review was undertaken of the existing Scrutiny Committees’ structure to align them with the Corporate Plan. A report was considered by Cabinet on 1 April 2021 setting out further details of this review, and Cabinet recommended to this Council meeting that the new structure be approved (see agenda item 8). Revised terms of reference are included at Appendix 2 for approval, subject to Council agreeing the related Cabinet recommendation.

Furthermore, a minor revision to the Budget and Policy Framework will also be necessary should this recommendation be approved, as ‘budget consultation’ currently sits within the remit of the Corporate Scrutiny Committee. The proposed revision is:

“Pre-Adoption Policy

- 2.1 The Cabinet shall publicise in the Council’s Annual Schedule of Meetings a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The ~~Corporate~~ Scrutiny Committee that has ‘budget consultation’ within its terms of reference, and the Shadow Cabinet, shall be consulted as part of this process.”

Amending the wording in this way will avoid the need to make similar revisions in future years.

- 5.4 Any updates to the Scheme of Delegations approved by Cabinet or Council since August 2020 will also be inserted into the Constitution as part of this update.

6 Implications

6.1 Financial

None.

6.2 Legal

Keeping the Constitution under regular review ensures that it complies with any relevant legal requirements currently in force.

6.3 Human Resources

None.

6.4 Risk Management

None.

6.5 Equality & Diversity

None.

6.6 Climate Change

None.

7 Appendices to the Report

Appendix 1: Tracked changes amendments to the Constitution.

Appendix 2: Proposed revised terms of reference for the Scrutiny Committees (tracked changes version).

Section 11 Finance, Contracts and Legal Matters

11.2 CONTRACTS

Every contract made by the Council will comply with ~~either the Financial Regulations or~~ the Procurement Regulations set out in Part 4 of this Constitution ~~depending on the value of the contract. Thresholds determining whether contracts are required to comply with Financial Regulations or Procurement Regulations are set out in Annex 2 to the Financial Regulations.~~

11.4 AUTHENTICATION OF DOCUMENTS

- (a) Any contract entered into on behalf of the Council in the discharge of an executive function shall be made in writing. Unless otherwise authorised under the Procurement Regulations, any such contract with a value exceeding ~~£40,000~~ £50,000 must either be signed by a duly authorised officer or where the value exceeds ~~£75,000,~~ £100,000, made under the Common Seal of the Council attested by at least one authorised officer.

Section 16 Scrutiny Committees

16.11 GENERAL ROLE

Scrutiny Committees will:

- (ix) ~~In respect of the Committee with responsibility for Health-related matters, the Chair of that Committee shall attend all Healthy Staffordshire Select Committee (HSSC) County Council meetings. In the event of not being able to attend a substitute will be nominated.~~

Section 22 Appeals and Complaints Panel

22.1 STATUS

The Appeals and Complaints Panel is a committee of the Council with the purpose of:

- (a) hearing employee appeals in respect of Chief Officers of the Council, with the exception of the Managing Director, the Section 151 Officer and the Monitoring Officer for whom other national and local procedures take precedence.

- (b) hearing requests for review of decisions delegated to officers in respect of various Housing issues.
- ~~(c) dealing with official complaints under Stage 3 of the Council's Complaints Procedure.~~
- ~~(d) dealing with Ombudsman complaints where these cannot be settled by Officers in accordance with delegated powers.~~
- (c) dealing with requests for review of decisions made by Officers in the Urban Forestry Section in response to requests to carry out work to Council owned trees.

22.9 FUNCTIONS AND PROCEDURE

To undertake the following functions in accordance with the scheme of delegation and codes of conduct:

- to be responsible for and to hear matters in accordance with Annexes 1 and 2 ~~and 3~~ as appropriate to the appeal or complaint being considered it (the Panel).

Annex 1 – Housing Related Appeals and Complaints

1. FUNCTIONS

The Appeals and Complaints Panel is responsible for dealing with appeals and complaints relating to any decision delegated to an officer in respect of various Housing issues, for example:

- breach of tenancy conditions
- neighbour complaints
- access to the Housing Register
- ~~• tenancy succession~~
- refusal of mutual exchange

Annex 2 Complaints

~~1. FUNCTIONS~~

~~The Appeals and Complaints Panel is responsible for dealing with:~~

- ~~(i) any complaint which has reached Stage 3 of the Council's Official Complaints Procedure where no resolution has been achieved at Stage 1 or 2.~~
- ~~(ii) any complaint made to the Local Government Ombudsman that cannot be dealt with by Officers under delegated powers.~~

~~(iii) any other matter relating to complaints referred to it by the Council.~~

~~2. PROCEDURE~~

~~The Appeals and Complaints Panel will hear the matter in accordance with the following procedure:~~

~~Members of the Panel can call for information, documents and the attendance of Chairmen, Members and responsible Officers to give evidence.~~

~~The procedure for determining and adjudicating on Stage 3 complaints is set out below:~~

~~(a) The complainant will be;~~

- ~~• informed of the time, date and place of the meeting to consider his/her complaint.~~
- ~~• invited to attend the meeting and will be given the opportunity to present his/her case.~~
- ~~• informed that an Officer from the relevant Department will be given the opportunity to respond to the complaint.~~
- ~~• invited to submit a written statement detailing the substance of the complaint so that Members of the Panel can be fully acquainted with the details.~~
- ~~• sent at the same time as Members of the Panel a copy of the Agenda for the meeting which will include the report papers, the complainant's statement and statement prepared by the Managing Director or relevant Head of Service.~~

~~(b) At the meeting the Chairman will make a brief introduction as to the purpose of the meeting and will then request the complainant to make any statement he/she may wish to make in support of his/her case. An appropriate Officer from the relevant Department will then be requested to do the same.~~

~~(c) There will be the opportunity for witnesses to be called and questioned as part of the investigation of the complaint.~~

~~(d) Each party will then withdraw to allow Members of the Panel to consider and adjudicate the complaint. Members may request advice on any point of law or procedure during their adjudication. Either party may be recalled to explain any points of fact relevant to the case. If it is necessary to recall one party, both parties should be recalled so that the matter is dealt with in the presence of both parties.~~

~~(e) Having adjudicated, the Panel will recall both parties and the results of their adjudication will be announced. Complainants shall also be informed in writing of the decision together with reasons for the decision as soon as possible following the meeting.~~

~~(f) The complainant will be advised that if still dissatisfied the next and final step is to complain to the Local Government Ombudsman.~~

~~The procedure for dealing with the outcome of any complaint made to the Local Government Ombudsman will be as follows:~~

~~(a) The Managing Director (or nominee) will present a report on the complaint, inviting other Officers to provide supplementary information/evidence.~~

~~(b) The Chairman will lead Members' questions, requesting any further information as required.~~

~~(c) Members may request advice on any point of law or procedure during their adjudication.~~

~~**Note:** If a complainant indicates that he/she does not wish to attend a meeting of the Panel, or fails on two occasions to attend without reasonable explanation, the Panel shall proceed to deal with the matter in the absence of the complainant.~~

Section 26 Scheme of Delegations

26.3 Managing Director

26.3.20 To determine any review of decisions made by the Monitoring Officer in respect of assets of community value, as detailed in paragraph 26.10.2(d) of this Scheme.

26.6 Head of Housing and Partnerships

26.6.6 In accordance with the Housing Services Compensation Policy, compensation can be paid at the discretion of the appropriate section or Service Manager up to the amounts detailed below:

- Team Leader: up to £30
- Service Manager: up to £200
- Head of Service: up to £500

26.10 Monitoring Officer

26.10.2 The person appointed by the Council as Monitoring Officer, in addition to undertaking the statutory functions of the post as listed in the Monitoring Officer Protocol shall:

- (d) Determine any application to list any building and / or other land as an asset of community value, and / or claim for compensation arising from an asset being listed, in consultation with the Leader of the Council and Members of the ward in which the asset is located, where practicable.
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Section 27 Council Procedure Rules

Scheme for Receiving Questions from the Public at Ordinary Meetings of the Council

- (b) If any public questions relate to information that is already in the public domain, Officers are able to respond to the question directly without the question needing to be put at full Council.
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Section 39 Local Protocol for Planning Decision Making

Annex A – Protocols for Public Speaking at Planning Control Committee

1.4 Procedure at the Meeting

Applications and other matters on which there are speakers will be dealt with at the start of the meeting. The procedure for dealing with these matters will be as follows:

- (iii) Speeches must last no longer than TEN MINUTES. Speakers may not circulate or present any new or additional written documents, drawings or photographs. The Chairman will invite the speaker to sum up before the ten-minute time limit is reached.
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Section 41 Protocol for Conferring Honorary Titles

1. HONORARY ALDERMEN / ALDERWOMEN

- 1.4 Consideration to confer the title of Honorary Alderman / Alderwoman on retired Councillors will only be determined once per year, at a special meeting of the Council to be convened ~~at 3 p.m.~~ on the day of the Council's AGM in May (where necessary).
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Section 16 Scrutiny Committees

16.2 Membership and Method of Appointment

Every Member of Cannock Chase District Council is eligible to be member of Scrutiny Committees except those who are members of the Executive.

Membership of Scrutiny Committees will be subject to the requirements as to political balance set out by Section 15 of the Local Government and Housing Act 1989 (as amended).

Each Scrutiny Committee will have 13 members except that:

- (i) The **Health & Wellbeing** Scrutiny Committee shall, when and only when the Committee is carrying out the Statutory Functions of the Council's Health Scrutiny Committee under the **National Health Service Act 2006 and Regulations made under that Act**, have an additional member nominated by Staffordshire County Council who shall have full participating and voting rights during that business only.

Appendix (tracked changes version)

Scrutiny Committee	Terms of Reference
<p>Promoting Prosperity Economic Recovery</p> <p>(13 Members)</p>	<p>PDP: Promoting Prosperity Delivery Plan Supporting Economic Recovery "Clean & Green" Recovery</p> <p>Services / Functions</p> <ul style="list-style-type: none"> • Economic Development • Planning Policy and Development Control • Building Control • Markets • Town Centre Regeneration • Car Parking Strategy • Building of Council Housing and Retrofitting <p>Economic Development and Planning Building Control Markets</p> <p>Land and Property Holdings (excluding HRA property) Town Centre Regeneration Housing Services</p>

Scrutiny Committee	Terms of Reference
<p data-bbox="279 226 422 293">Health & Wellbeing</p> <p data-bbox="193 331 507 477">(13 Members +1 SCC Member for Health Scrutiny Statutory Functions)</p>	<p data-bbox="555 226 1390 293">PDP: Community Wellbeing (Culture & Sport and Health & Wellbeing matters)</p> <p data-bbox="555 331 1286 443">Delivery Plan Supporting Health and Wellbeing “Greener, sustainable community and environment”</p> <p data-bbox="555 481 868 515">Services / Functions</p> <p data-bbox="555 553 935 586">Healthy & Active Lifestyles</p> <ul data-bbox="603 593 1155 705" style="list-style-type: none"> • Culture and Sport • Commonwealth Games • Health Scrutiny Statutory Functions <p data-bbox="555 743 860 777">Vulnerable Residents</p> <ul data-bbox="603 784 1270 1008" style="list-style-type: none"> • Housing and Homelessness • Community Safety, CCTV and Partnerships • Disabled Facilities Grants • Housing Benefits • Voluntary Organisations and Funding • Poverty Emergency <p data-bbox="555 1046 735 1079">Environment</p> <ul data-bbox="603 1086 1278 1429" style="list-style-type: none"> • Parks and Open Spaces • Grounds Maintenance • Countryside Services, Trees and Allotments • Environmental Health and Licensing • Environmental Protection • Private Sector Housing • Street Cleansing • Waste & Engineering Services • Bereavement Services <p data-bbox="619 1435 1390 1469">Culture and Sport (including Parks and Open Spaces)</p> <p data-bbox="619 1476 948 1509">Bereavement Services</p> <p data-bbox="619 1516 940 1550">Grounds Maintenance</p> <p data-bbox="619 1556 1080 1590">Countryside Services and Trees</p> <p data-bbox="619 1597 772 1630">Allotments</p> <p data-bbox="619 1668 1137 1765">Health and Wellbeing Environmental Health and Licensing Local Taxation and Benefits</p> <p data-bbox="619 1803 1126 1836">Health Scrutiny Statutory Functions</p>

Scrutiny Committee	Terms of Reference
<p style="text-align: center;">Community</p> <p style="text-align: center;">(13 Members)</p>	<p style="text-align: center;">PDP: Community Wellbeing (Crime & Partnerships and Environment matters)</p> <ul style="list-style-type: none"> • Community Safety • CCTV • Partnerships • Street Cleansing • Waste & Engineering Services • Environmental Protection and Private Sector Housing
<p style="text-align: center;">Corporate Financially Resilient Council</p> <p style="text-align: center;">(13 Members)</p>	<p>PDP: Corporate</p> <p>Delivery Plan Financially Resilient Council “Environmental impact of use of assets and resources”</p> <ul style="list-style-type: none"> • Budget Consultation • Corporate / Cross Cutting Issues • Finance • Council Tax and National Non-Domestic Rates Collection • Corporate, Support and Shared Services • Civic Support • Land and Property Holdings (excluding HRA Property) <p>Corporate Issues Budget Consultation Finance Civic Support Corporate, Support and Shared Services</p>

Appendix (non-tracked changes version)

Scrutiny Committee	Terms of Reference
<p style="text-align: center;">Economic Recovery</p> <p style="text-align: center;">(13 Members)</p>	<p>Delivery Plan Supporting Economic Recovery “Clean & Green” Recovery</p> <p>Services / Functions</p> <ul style="list-style-type: none"> • Economic Development • Planning Policy and Development Control • Building Control • Markets • Town Centre Regeneration • Car Parking Strategy • Building of Council Housing and Retrofitting

Scrutiny Committee	Terms of Reference
<p data-bbox="279 226 421 293">Health & Wellbeing</p> <p data-bbox="193 333 507 477">(13 Members +1 SCC Member for Health Scrutiny Statutory Functions)</p>	<p data-bbox="555 226 756 255">Delivery Plan</p> <p data-bbox="555 262 1286 329">Supporting Health and Wellbeing “Greener, sustainable community and environment”</p> <p data-bbox="555 369 866 398">Services / Functions</p> <p data-bbox="555 445 932 474">Healthy & Active Lifestyles</p> <ul data-bbox="603 483 1155 593" style="list-style-type: none"> <li data-bbox="603 483 903 515">• Culture and Sport <li data-bbox="603 521 986 553">• Commonwealth Games <li data-bbox="603 560 1155 591">• Health Scrutiny Statutory Functions <p data-bbox="555 633 858 663">Vulnerable Residents</p> <ul data-bbox="603 672 1270 898" style="list-style-type: none"> <li data-bbox="603 672 1050 703">• Housing and Homelessness <li data-bbox="603 710 1270 741">• Community Safety, CCTV and Partnerships <li data-bbox="603 748 1015 779">• Disabled Facilities Grants <li data-bbox="603 786 895 817">• Housing Benefits <li data-bbox="603 824 1179 855">• Voluntary Organisations and Funding <li data-bbox="603 862 932 893">• Poverty Emergency <p data-bbox="555 943 735 972">Environment</p> <ul data-bbox="603 981 1275 1319" style="list-style-type: none"> <li data-bbox="603 981 999 1012">• Parks and Open Spaces <li data-bbox="603 1019 967 1050">• Grounds Maintenance <li data-bbox="603 1057 1275 1088">• Countryside Services, Trees and Allotments <li data-bbox="603 1095 1163 1126">• Environmental Health and Licensing <li data-bbox="603 1133 1007 1164">• Environmental Protection <li data-bbox="603 1171 979 1202">• Private Sector Housing <li data-bbox="603 1209 887 1240">• Street Cleansing <li data-bbox="603 1247 1083 1279">• Waste & Engineering Services <li data-bbox="603 1285 975 1317">• Bereavement Services
<p data-bbox="272 1368 427 1469">Financially Resilient Council</p> <p data-bbox="248 1509 448 1541">(13 Members)</p>	<p data-bbox="555 1368 756 1397">Delivery Plan</p> <p data-bbox="555 1404 1331 1471">Financially Resilient Council “Environmental impact of use of assets and resources”</p> <ul data-bbox="571 1514 1437 1776" style="list-style-type: none"> <li data-bbox="571 1514 911 1545">• Budget Consultation <li data-bbox="571 1552 1086 1583">• Corporate / Cross Cutting Issues <li data-bbox="571 1590 735 1621">• Finance <li data-bbox="571 1628 1437 1659">• Council Tax and National Non-Domestic Rates Collection <li data-bbox="571 1666 1203 1697">• Corporate, Support and Shared Services <li data-bbox="571 1704 815 1736">• Civic Support <li data-bbox="571 1742 1394 1774">• Land and Property Holdings (excluding HRA Property)

Section 29

Budget and Policy Framework Procedure Rules

Process for Developing the Framework

- 1.1 The Council will be responsible for the adoption of its budget and policy. Once a budget or a policy framework is in place, it will be the responsibility of the Executive to implement it.

Pre-Adoption Policy

- 2.1 The Cabinet shall publicise in the Council's Annual Schedule of Meetings a timetable for making proposals to the Council for the adoption of any plan, strategy or budget that forms part of the budget and policy framework, and its arrangements for consultation after publication of those initial proposals. The ~~Corporate~~ Scrutiny Committee that has 'budget consultation' within its terms of reference, and the Shadow Cabinet, shall be consulted as part of this process.