
Audit and Governance Committee

13th February 2012

Report of the Assistant Director, Governance and ICT

Constitutional Changes

Summary

- 1 This report seeks Members' support to a number of changes to the Constitution.

Cabinet Member Decision Sessions

2. It is recommended that the current practice of holding formal meetings at which individual Cabinet members make decisions is ceased. It is most unusual and possibly unique to York to hold such meetings. They are time consuming to administer. Abolishing them would save roughly 20% of a Democracy Officer's time and up to £5000 in printing costs. The alternative is for Member decisions to be taken in routine meetings with Chief Officers thus also saving Chief Officer and Member time.
3. Clearly there could be concern that it might be suggested that this could lead to "behind closed doors decision making". However, most of these meetings have little public interest and are concluded within a matter of minutes. There would still be a requirement to publish the decisions and to allow call in. York already exceeds legal requirements by including decisions proposed to be taken at these meetings in the forward plan and by publishing the decisions on the internet.
4. It is recognised that there are some decisions which do attract public interest. Cabinet members or the Leader may well decide that issues which have attracted substantial interest should be determined by the full Cabinet rather than through an individual decision session. Alternatively, Cabinet

members will retain discretion to ask for a public decision making meeting to be organised.

Member Champions

5. The Constitution recognises seven specific Champions' roles and suggests that the Council may add to them. The role of Champions, as defined in the Constitution, is to promote the strategic issues affecting their area, to engage with officers and partners, to co-ordinate consultation on policy development and to challenge the Council.
6. It is widely accepted that the Champions' role has not been fully effective. There are differing views as to why that is. There is though plainly considerable cross over between the functions of the relevant Cabinet members and that of the Champions. Arguably having Champions is a source of confusion as to where responsibility rests.
7. So far as young people are concerned there have been other developments such as the establishment of the Youth Council and it is clear that young people are willing to express their own views without needing a champion to advocate for them. In respect of older people, while there is no legal requirement to have a Champion, Department of Health Guidance recognises the role of various older people's champions including: "An **elected council member** who leads for older people across their council". This seems to describe the Cabinet Member for Health, Housing & Adult Social Services.
8. No Champions were appointed at the last Annual Meeting and it is now recommended that the constitutional recognition of the role be removed. Of course this will not prevent Members deciding to champion particular issues either in their individual roles or through the scrutiny process.

Merger of Scrutiny Committee

9. Towards the end of the previous Municipal year, consideration was given to merging the Scrutiny Management Committee with the Effective Organisation Overview and Scrutiny Committee, as there was seen to be some overlap between their functions. Over the preceding two years there had also been a pattern of meetings being cancelled due to lack of

business. Although merger was not proceeded with at the time, it was agreed that the issue should be reconsidered in the current year. The case for merger seems as strong as ever with SMC having cancelled one of its three meetings this year and having had a very manageable agenda for the two which were held. It is recommended that merger proceed from the next Municipal year. The merged Committee would also take on the call in responsibilities.

Abolition of Cabinet Working Groups

10. The use of working groups to advise the Cabinet is a matter for them and does not require a decision from this Committee. However, to ensure the Committee has a full picture of other changes which are being proposed it would be wrong not to highlight the fact that there is currently a proposal that the Mansion House Advisory Group and Young People's Working Group no longer meet. The former completed its main task of supporting the development of a business plan for the Mansion House during last year and has not met again. The abolition of the group does not mean that former Lord Mayors' input will not be appreciated in decision making around the Civic function, it simply does away with a formal meeting to give that input.
11. There has been strong advice from Officers in ACE that there are now other forums which provide young people with a better mechanism for engaging with the Council than the Young People's Working Group.

Establishment of a Corporate Parenting Board

12. A Corporate Parenting Board has recently been established on an informal basis. The role of the Board is to raise awareness of the Council's corporate parenting responsibilities amongst the Cabinet, individual Councillors and Officers and, in particular to monitor delivery of the "Pledge for Children in Care" which was launched in February 2011. It is suggested that this group should be recognised as having direct access to both Council and the Cabinet. Appointments would be formally made at each annual meeting and would include the Cabinet member, members of the Adoption and Fostering Panel, members who visit children's

homes and members who sit on Show Me That I Matter Panel.

Policy Framework

13. Legally some Council plans have to be adopted by Council, and guidance which accompanied the 2000 Act recommended others. Cabinet decision making has to be made within this overarching policy framework. York went further than this and includes the HR strategy, the Procurement Strategy and the Risk Management Strategy within that framework. It is debatable whether a requirement for these to be adopted by Council adds value to the framework for decision making provided for by the Council Plan or whether it is just an additional level of bureaucracy. It is recommended that they be removed from the Constitution.

HR and ICT Procedure Rules

14. It is mandatory for Constitutions to include standing orders relating to staff appointments and dismissals and York's does so. In addition, the Constitution contains separate HR procedural rules. This is unusual. The rules are not a complete description of all the Council's HR Rules. All Councils have a range of HR policies adopted locally following consultation with the Trades Unions. York has these as well. There is an unnecessary risk that the two might not be consistent.
15. ICT procedure rules are not normally contained within Constitutions. Large parts of the current rules no longer reflect the organisation of the Council. Removing the existing rules will not affect controls within the Council.

Officer decision log

16. The Constitution currently requires decisions by Officers to be recorded in the officer decision log. This requirement is not met, has never been met and cannot possibly be met without creating a cottage industry in recording. The current log contains ten decisions between November and January (eight relating to highways issues). In the previous three month period it only contained four. In reality many thousands of

decisions will have been taken. It seems wrong to have a constitutional provision which cannot be complied with and it is therefore recommended that the provision be removed. However, it is recognised that the log may provide an information source for Members and it may be appropriate for the log itself to remain available as a means of making information available.

Pre decision call in

17. Unlike post decision call in this is not a legal requirement but a quirk of the York system. Such call ins are rare but when they have occurred it has been usual for the call in meeting to take place after the original due date for a decision. The decision session has gone ahead anyway and a “provisional” decision been reached. It is not really clear what practical benefit this process delivers. It is recommended that the practice be discontinued.

Consultation

18. The proposals have not been the subject of public consultation but are coming to this Committee for consultation with Members.

Options

19. The Committee may express support for the current proposals or suggest amendments or additions to the draft arrangements.

Corporate Priorities

20. Having an effective Constitution supports the Council to become a confident and collaborative organisation.

Implications

21. There are no other specific implications which need to be identified.

Risk Management Assessment

22. There are no specific risks which need to be identified.

Recommendation

Members are asked

- (a) To refer this report to Council
- (b) To recommend that Council:
 - (i) Agree to remove references to Cabinet Member decision sessions from the Constitution
 - (ii) Remove references to Member Champions from the Constitution
 - (iii) Merge the terms of reference for the Effective Organisation Overview and Scrutiny Committee and the Scrutiny Management Committee from the start of the next Municipal year.
 - (iv) Note the abolition of the Mansion House Advisory Group and the Young People's Working Group
 - (v) Welcome the establishment of a Corporate Parenting Board and to agree that membership should be formalised at each annual meeting.
 - (vi) Agree that the procurement strategy, the HR strategy and the risk management strategy no longer be treated as part of the Council's policy framework
 - (vi) Agree to the removal of the HR procedure Rules and the ICT procedure Rules from the Constitution
 - (vii) Remove the requirement for Officer decisions to be recorded within the Officer decision log
 - (viii) Remove the provisions for pre decision call in
- (c) Ask the Monitoring Officer to make the necessary changes to the written Constitution.

Reason

To ensure that the Council has effective and efficient Constitutional arrangements in place

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**Report
Approved**



Date 31/1/12

Specialist Implications Officers

Not applicable

Wards Affected: Not applicable

All



For further information please contact the author of the report

Background Papers

None

Annexes

None