

AUDIT & GOVERNANCE COMMITTEE

20 October 2021

Report of the Director of Governance & Monitoring Officer

Review of the Council's Constitution

Summary

As previously reported to the Committee, a cross party working group has now been established and had its first meeting on 6th October 2021. The cross party working group proposes to meet on a weekly basis (subject to Member availability) in order to assist the Committee on the review of the Constitution. Once satisfied with the amendments to the Constitution, the Audit & Governance Committee will make a recommendation that the draft Constitution be referred to a future meeting of Full Council for approval and immediate implementation. As the Committee is aware, the amendments undertaken by Audit & Governance Committee on 11th March 2020, and subsequently approved by Full Council in October 2020, have been incorporated into this revision.

Recommendations

The Audit & Governance Committee is invited to consider its continued review of the Constitution with the support of the cross party working group.

It is noted that the review of the Constitution also contributes significantly towards the progress against the Action Plan prepared in response to the Report in the Public Interest accepted by Full Council on 4th May 2021.

Reasons for the recommendations

To ensure that the Council Constitution is accurate and is fit for purpose to effectively support the service delivery and decision making

responsibilities of the Council in a lawful and financially compliant manner.

The Council is required to work towards the delivery of the Action Plan in response to the Public Interest Report.

Options

The Audit & Governance Committee can choose to disregard the recommendations contained within this report, in which case the Council's existing constitution will remain in force. However should this occur, the existing constitution will need to be reviewed in any event to ensure it is a fit for purpose document.

Background

Purpose of the Constitution

Since 2000, the Council has been required to make publicly available a constitution which sets out key requirements relating to service delivery, decision-making principles and protocols, i.e. this is a document that assists the public in describing the functions of the council and how it proposes to carry out those functions. To support Council's at that time, the Secretary of State produced a modular (or template) constitution which offered a degree of consistency as to what was required to be included. However, the decision as to format of the presentation of the constitution remains at the discretion of the Council so as to ensure the document is easy to read and can be updated.

The Council operates an executive or "strong leader" model [as opposed to a committee system] as its governance framework and therefore the constitution acts to advise the reader as to the division of decision making responsibilities, i.e. which decisions are made by the Executive as opposed to those which remain the responsibility of Council.

Revisions to the Constitution previously approved by Audit & Governance Committee on 11th March 2020

The recommendations considered and approved by Audit & Governance Committee have been fully incorporated into the revised Constitution. Details of these amendments can be found in the report and accompanying documents considered by the Committee as part of its agenda on 11th March 2020.

The revised Constitution

Format

The revised constitution is broken down into two separate sections:

1. Articles:

Each Article describes a particular function or role and responsibility. The Articles are grouped by theme, for example a regulatory theme, a governance theme etc. In a transparent manner, these detail the decision making framework for the Council i.e. the various committees, the varied roles and responsibilities of Members and key Officers and the commitments the Council makes to ensure it maintains a robust oversight of its governance framework. Where possible, each committee has its own Article, for example, Article 9 relates solely to the role and responsibility of the Audit & Governance Committee.

2. Appendices:

These are detailed and set out how the Council proposes to deliver the functions as described in the Articles. This section of the revised constitution also includes the numerous protocols referenced to the Committee as part of the review undertaken in early March 2020. The appendices section also includes more recently developed protocols such as those required during the Coronavirus Pandemic and the Internal Travel protocol developed by the Joint Standards Committee.

Approach taken to review the constitution

The aim of the review has been to increase awareness and understanding and ultimately the transparency of the constitution. Officers from Legal Services and Democratic Services have consulted with Members and members of the Corporate Management Team and reviewed the operation of the constitution both prior to and during the national lockdown. The observations detailed in the Public Interest Report received by Council on 4th May 2021, have also been fully taken into account.

Members Code of Conduct

Full Council is invited to adopt and support the immediate implementation of the LGA Model Code of Conduct at its meeting on 21st October 2021. Should Full Council make such a decision, the Model Code will automatically be included within the current constitution and will transpose directly into the revised constitution.

Depending on the decision of Full Council, Appendices 16, 17 and 18 will be reviewed so that they accurately reflect the requirements of the Model Code of Conduct.

The Joint Standards Committee has now commissioned Hoey Ainscough Associates to review the associated procedures to support implementation of the Model Code of Conduct and these will require the approval of Full Council before they can be incorporated into the constitution. The current procedures are captured within Appendix 29 of the revised constitution.

Standing Advisory Council on Religious Education (SACRE)

SACRE is meeting on 5th October 2021 to discuss the proposed revisions to its Constitution (the draft appears at Article 19). Once approved, this will be inserted into the revised constitution for approval by Full Council.

Implications

Financial

There are no financial costs associated with the Council's Constitution however it should be noted that both the Contract Procedure Rules and the Financial Procedure Rules are both key core documents incorporated into the Constitution. Both of these Rules are reviewed by the Council's s151 Officer and updates are provided to the Audit & governance Committee.

Human Resources (HR)

There are none directly associated with this report. However the Officer Code of Conduct is a key core document of the Council's Constitution. The Member Code of Conduct and Member Allowances Scheme are also key core documents contained in the Constitution. Training will be provided to both Members and Officers in respect of the constitution.

Equalities

The Council's Constitution is a public document and steps must be taken to ensure that it is easily accessible on the Council's website. Wherever possible the revised constitution has been written in plain English to ensure that it is capable of being easily understood.

Legal

The Local Government Act 2000 requires the Council to have in place a constitution which set out key principles such as various codes of conduct, standing orders, contract standing orders and scheme of delegations. The Local Government Act 2000 (Constitutions) (England) Direction 2000 offered additional clarity as to the core requirements for the basis of a constitution and also provided a modular constitution which councils could adopt. The Council's current constitution followed the format of the modular constitution. The Council does have discretion in respect of the format of its constitution.

It is good practice to ensure that, once adopted, the constitution is reviewed by the Audit & Governance Committee on an annual basis so as to ensure that it remains fit for purpose to support effective delivery of council services and promote robust decision-making principles.

The Council's Constitution is a public document and steps must be taken to ensure it is accessible on the Council's website.

Crime and Disorder, Information Technology and Property

There are no crime and disorder or property implications associated with this report. The Constitution will be provided to Members and Officer electronically and will be available on the Council's website to ensure it is publicly accessible, however printed copies can be provided on request.

Author & Chief Officer Janie Berry, Director of Governance &
responsible for the report: Monitoring Officer

**Report
Approved**

Date 5th October
2021

Specialist Implications Officer(s):

Wards Affected: *List wards or tick box to indicate all*

All

For further information please contact the author of the report:

Janie Berry

Background Papers:

- The Council's existing Constitution (as amended by Full Council in October 2020)
- 11th March 2020 – Audit & Governance Committee – Agenda, Report and Minutes in respect of the review of the Council's Constitution
- 29th October 2020 – Full Council - Agenda, Report and Minutes approving the revisions to the Council's Constitution
- Report in the Public Interest dated 19th April 2021, received by Full Council on 4th May 2021
- Agenda, reports and supporting minutes and documents prepared for the meeting of the Audit & Governance Committee on 8th September 2021

<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=437&MIId=13015&Ver=4>