

AUDIT & GOVERNANCE COMMITTEE

1 December 2021

Report of the Director of Governance & Monitoring Officer

Review of the Council's Constitution

Summary

The Audit & Governance Committee has continued its work to review the Council's Constitution. The Committee has invited the Scrutiny Committee Chairs to provide their feedback in respect of the draft Article 8 – Policy, Overview and Scrutiny and Appendix 5 – Scrutiny Procedure Rules as part of this process.

Recommendations

The Audit & Governance Committee is invited to consider the views from the Scrutiny Chairs in respect of Article 8 and Appendix 5.

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

The Committee is invited to consider views from the Scrutiny Chairs in respect of the following sections of the revised constitution:

Article 8 – Overview and Scrutiny (Annex One of this Report)

This Article brings together the terms of reference of the Council's scrutiny committees. At the request of the Committee, the Climate Change Committee has been re-named Climate Emergency Committee. The terms of reference for each of the committees remain unchanged.

Appendix 5 – Scrutiny Procedure Rules (Annex Two of this Report)

The content of this appendix has been taken from the current procedure rules for scrutiny committees, with the addition of the updated details presented to and agreed by Customer and Corporate Services Scrutiny Management Committee (CCSMC) in October 2020, to accommodate the delivery of scrutiny during the national lockdown. Additional guidance has been included in respect of the delivery of pre-decision scrutiny and the call-in process and this followed consultation with the Chair of CCSMC and members of the Administration.

At the time of preparing this report, their feedback is awaited.

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 17th
November
2021

Specialist Implications Officer(s):

Janie Berry, Director of Governance

Debbie Mitchell, Chief Finance Officer

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

All

For further information please contact the author of the report:
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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 – *NOTE: This Agenda includes the relevant links to the revised constitution*
<https://democracy.york.gov.uk/ieListDocuments.aspx?CId=437&MIId=13015&Ver=4>
- 21st October 2021 – Audit & Governance Committee – Agenda, Reports and Minutes

- 16th November 2021 – Audit & Governance Committee – Agenda, Reports and minutes

Annexes

- Annex One - Article 8 – Overview and Scrutiny
- Annex Two - Appendix 5 – Scrutiny Procedure Rules