

Full Council – 10 April 2008

Report of The Head of Civic, Democratic & Legal Services

Proposed Changes to the Constitution

Summary

1. This report contains a number of proposed changes to the constitution which are being brought forward for a variety of reasons and which concern the following; the size of the Executive; Standing Orders; expanding the terms of reference for the Urgency Committee; clarification around working groups; Champions; expansion of the role of the Standards Committee.
2. The proposals contained in this report are a selection from the recommendations set out in the report of Colin Langley, the interim Monitoring Officer, which was presented to Group Leaders at their meeting held on 8 February 2008. Further recommendations will be brought forward by the Monitoring Officer over the coming months.

Background

3. The Monitoring Officer is charged with keeping the constitution under review in order that it is legally compliant, fit for purpose and up to date in light of legislative developments and changes in best practice. From time to time the Monitoring Officer will advise the Council on amendments and modifications to the constitution which are either necessary, or in the opinion of the Monitoring Officer, advisable.
4. During his interim appointment, Colin Langley prepared a report containing a number of recommendations for amendment of various aspects of the constitution. The reasons underlying the recommendations include, amongst others, the need to comply with new legislation and a desire to simplify decision-making processes in order to make them more transparent and streamlined. This report seeks to implement some of the proposals from that report and others will follow in the near future.
5. Below I have set out the separate proposals in sections identified from A to G. Each one deals with a specific amendment and in some cases the revised wording is attached to the report as an appendix.

A) Expanding the Role of the Standards Committee to Undertake the Local Assessment of Complaints Against Members of the Council.

6. The Local Government and public involvement in Health Act 2007,(LGPIH), introduces changes to the ethical framework whereby the initial assessment of complaints, which is currently undertaken by the Standards Board for England, (SBE), will be transferred to the local standards committee. In accordance with constitutional requirements, a report has been taken through the CYC standards committee, which approved these recommendations at a meeting on the 25 January 2007.
7. In short, the changes involve increasing the size of the standards committee by 5 members, those being 2 parish representatives, 2 independent co-opted members and 1 elected member. This will result in a committee of 11 members which is in-line with many other authorities. The committee delegations shall require amending accordingly. The full detail of the changes and their rationale, is set out in the full report to standards committee which I have listed as a background document. Council is invited to approve the increase in size of the Standards Committee accordingly.
8. Regarding the recruitment of new Independent Co-opted Members, we have experienced a disappointing response to our adverts for these vacancies. It is difficult to explain this result but I would note that York is in the minority of authorities who do not attach any allowance for the role of Independent Co-opted Member of Standards Committee. This is something which the Council may wish to review at the next opportunity. In light of the poor response it has been necessary to embark on a process of more targeted recruitment by highlighting the vacancy with bodies such as CVS and the Magistrates Courts Service. In this way it is hoped that more applications will be forthcoming. However, to facilitate the selection and appointment process I recommend that Full Council delegates to the Standards Committee the power to undertake the selection and appointment of the Independent Co-opted Members to fill the vacancies arising.
9. As for the additional Elected Member it is recommended that this should be filled by a member of the Green Party Group nominated by that group and Full Council is asked to approve such appointment.
10. Regarding the two additional Parish Member seats on the committee it is recommended that the existing Parish Council substitute, Cllr. Brian Mellors, together with a person nominated by the Yorkshire Local Councils Association. I recommend that Full Council approves these appointments to the Standards Committee.
11. Article 8 and Part 3 of the constitution to be amended accordingly. I have attached the amended terms of reference for the Standards Committee as Appendix A.

B) Various Changes to Standing Orders

12. Time limit on Leader's speech on their report reduced from 10 to 5 minutes:- Rule 8(1)(a) to be changed accordingly.
13. Written answers to be circulated where exec member not able to provide response within the time limit:- Rule 10(a) to be amended accordingly.
14. The list of outside bodies from whom reports to Council will be sought, shall be decided annually at the first ordinary council meeting following the annual meeting:- Standing order Rule 4 to be amended accordingly. (N.B. Appointments to outside bodies will continue to be made at the AGM).

C) Expansion of the Functions of the Urgency Committee to Include Staffing Matters.

15. The council doesn't currently have a standing committee with responsibility for staffing matters which fall within the auspices of Full Council, (with the exception of appeals against disciplinary action). The primary function in this respect is that under S.112 of the Local Government Act 1972 which covers the appointment of staff and their terms and conditions. Whilst the Chief Executive is authorised under the Scheme of delegation to exercise any function of Full Council, including those relating to staffing matters, this is subject to certain specified exclusions which include the recruitment and appointment of chief officers. In order to avoid the need to take all such matters to Full Council, I recommend that Council delegates these functions to one of its committees. Such arrangements are the norm amongst other similar councils and enable matters to be dealt with more quickly and at the appropriate level whilst retaining Member involvement.
16. The terms of reference and delegations to the Urgency Committee shall be amended to reflect this expanded role. I have attached the proposed terms of reference at Appendix B.

D) Reduction in the size of the Executive and adjustment to portfolios – Effective from the commencement of the next Annual Meeting of Council

17. Under the current arrangements Full Council determines the number of Executive Members and their Portfolios, (N.B. the LGPIH includes a requirement that this be changed to enable the Leader to determine these matters, and I shall be bringing forward proposals regarding this in the near future). The Leader has indicated that he wishes to make the following changes to the Executive and, accordingly, seeks the approval of Full Council in order that they will take effect from the date of Annual Meeting.
18. It is proposed that the number of Executive Members be reduced by two this being achieved by the merging of the Housing and Adult Social Services portfolios and the deletion of the Social Inclusion & Youth portfolio with the functions be distributed to the Children's Services and Leisure portfolios.

19. Part 3, Executive Portfolios and scheme of delegation, to be amended accordingly. The relevant sections of Part 3 have been extracted and are attached as Appendix C.

E) Economic Development Partnership Board (EDPB) – Removal from the Constitution

20. The EDPB is a working group of Council. As such it does not exercise any functions on behalf of the Council but acts in an advisory capacity. It has been suggested that, in view of its connections with the Local Strategic Partnership, it would be more effectively situated under the wings of the LSP itself. Essentially this will involve disbanding the EDPB as a working group and transferring its work to a body formed by the LSP. As is currently the practice the newly formed body will make recommendations to the CYC Executive where it is inviting the council to act on a matter.
21. It is envisaged that the Council will be entitled to nominate at least three elected Members to sit on the newly formed LSP EDPB in order that each of the three main party groups may be represented. These nominations will be dealt with in due course once the new body is formulated.
22. Part 3 of the Constitution to be amended accordingly to remove reference to the EDPB.

F) Member Champions

23. It is proposed that the various Member Champions be consolidated into the following list:-
- Older Peoples Champion
 - Information Management & E-Gov Champion
 - Children and Young People's Champion
 - Efficiency, procurement and risk management Champion
 - Energy Efficiency Champion
 - Heritage Champion
 - Cycling Champion

Part 3 of the constitution (p81) to be amended accordingly. N.B. This change will take effect from the next Annual General Meeting.

G) Working Groups

24. Working Groups are currently listed in Part 3 of the constitution alongside the committees of council. These are as follows:-
- i. Social Inclusion Working Group

ii. Local Development Framework Working Group

25. Working Groups are fundamentally different entities to committees and it is recommended that they be listed elsewhere within the document so as to avoid the potential for confusion as to their status. It is suggested that, in circumstances where it is felt sensible to make reference in the constitution to a working group, for instance where it is expected to be a long term arrangement, then this can be listed as an appendix to Article 10 of the constitution.
26. Article 10 to be amended accordingly to include list of the standing working groups.

Consultation

27. Consultation was carried out with political groups after the election in 2007. This has been followed by consultation with Chief Officers and the proposals have been discussed on two occasions at Group Leader’s meetings.

Options

28. Members have the option of deciding whether or not to approve the various proposals put forward in relation to the constitution.

Implications

29.

Legal	<p>The Constitution is an amalgam of different parts drawn from a variety of sources. Some parts are prescribed by legislation or guidance whereas some parts are a matter for local decision.</p> <p>The responsibility for maintaining the constitution lies with Full Council and any changes, apart from those covered by the delegations to the Monitoring Officer, must be approved by Full Council.</p> <p>Quentin Baker quentin.baker@york.gov.uk</p>
Financial	<p>There are no financial implications arising from these recommendations.</p>
Human Resources	<p>There are no human resource implications arising from these recommendations.</p>

Recommendations

30. I therefore recommend that Full Council:-

- i. Agrees the proposed amendments to the constitution listed A – G.
- ii. Instructs the Monitoring Officer to make the necessary amendments to the written document.

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All

For further information please contact the author of the report

Background Papers:

Report of the Interim Head of Civic Legal and Democratic Services, presented to Group Leaders at their meeting on 8 February 2008.

Appendices:

Appendix A:- Terms of reference for the Standards Committee

Appendix B:- Terms of reference for the Human Resources and Urgency Committee

Appendix C:- Revised Executive portfolios