Executive **26 September 2019**

Report of the Interim Assistant Director Legal & Governance
Portfolio of the Executive Leader (incorporating Policy, Strategy & Partnerships.

Review of the Constitution and Governance Procedures

Summary

1. This report sets out the proposals for undertaking a review of the Constitution and the Governance arrangements for City of York Council.

Recommendations

2. The Executive is asked to:

1) Approve the proposed reviewed of the Council's Constitution and Governance arrangements as set out in Option 2.

   Reason: To facilitate an expedited review of the Constitution document to ensure it is accurate and effective and to enable a thorough and robust review of the governance arrangements taking into account the impact of any potential changes on all interested parties.

Background

3. City of York Council, like all local councils, has to make decisions that have far reaching implications for the way that services are delivered which impact on the lives of local people. Local people need to be confident that such decisions are evidence based and considered openly and accountably.

4. The Constitution sets out the framework within which Council decisions are taken and it is therefore imperative that it is accurate to ensure that

all decisions taken are within the Council's powers and are compliant with legislative requirements.

5. The Localism Act 2011 introduced changes to the possible governance arrangements available to councils to include the adoption of a committee system.

6. Good governance is essential to ensure decision- making is effective and therefore the Council must regularly review its governance arrangements including the decision making structures as set out in the Constitution.

7. This report recommends a staged approach to ensuring that the existing Constitution document is accurate and effective in the short tern and to facilitate a more wide-ranging review of how decisions are taken in the longer term.

Consultation

8. None in relation to this report although consultation with the Executive, members of Council, the public and officers will be required if the recommendations are approved. Stage 1 will require consultation with members and officers to ensure areas of concern are addressed in relation to the Constitution document itself. Stage 2 will require more extensive consultation to include external bodies both in terms of developing the proposals for presentation to Full Council and then following the Council decision in principle, prior to implementation.

Options

9. Option 1 – Do Nothing. The existing Constitution document remains unchanged subject to any legally required amendments that can be undertaken by the Interim Assistant Director of Legal & Governance under delegated powers. The decision- making framework would also remain unchanged.

Option 2 – Undertake a Stage Approach to the Review

Stage 1 – Undertake a review of the Constitution document to ensure it is accurate, up to date and effective. This should be completed within 2 months. The proposed tracked changes to the document would be presented to the Audit & Governance Committee meeting for recommendation to Council. Ideally this should be completed as soon as possible but the timescales will need to take account of

the dates of all the committee meetings for those committees who would wish to participate in the review.

Stage 2 – Undertake a full review of the Council's formal governance arrangements to include consideration of decision-making systems available to the Council under the Localism Act 2011 which for example:
Leader and cabinet
Committee system.
In addition the review should also consider the possible variations for each of the models that can lead to a hybrid approach, for example a leader/cabinet and committee system.

This review will require a programme of consultation with the Executive, members of Council, officers, the public and partners to understand how the different structures impact on their engagement with the decision making process to inform the recommendations to the Executive, Audit and Governance Committee and to Full Council.

The review will consider what works well under the present system and what might improve under a different system. It will include consideration of the improvements delivered in Councils where a Committee system has be adopted such as Worcester City Council and Newark & Sherwood District Council and where a hybrid system has been adopted such as Brighton and Hove City Council. In addition consideration will be given to the reasons Councils such as Cambridge have decided against reverting to the Committee system and why South Gloucestershire moved to the Committee system and has now moved back to the Executive system.

A proposed change in formal governance arrangements must be implemented at the Council's Annual Meeting. Prior to this the Council must resolve formally to make a governance change. There is no minimum period of time between the resolution to change and the implementation but there must be sufficient time for the Council to publish the final proposals and consult upon them which is a legal requirement. This has implications for the timescale for Stage 2 as effectively a decision to change the governance arrangements would need to be made no later than the Full Council at its meeting in March to facilitate a consultation, consideration of the responses to a consultation and any

amendments to the proposal for presentation and implementation at the Annual Meeting in May.

To enable any new arrangements to be implemented in the next municipal year proposals would have to be finalised and ready to be considered at first instance by Audit and Governance Committee at their meeting on 5th February 2020, to be presented at the Executive on 19th March 2020 to go to Council on 26th March 2020. Members may consider that this is insufficient time to undertake a comprehensive review of all the options. It should also be noted that as well as the oversight of Audit and Governance Committee the Customer and Corporate Services Scrutiny Management Committee may wish to engage in the process. If it is the case that the timescales cannot not be made to facilitate a change at the end of this municipal year then a decision to amend the decision-making structure can be made at any point in the next municipal year for implementation at the following Annual Council meeting.

Member s should note that to successfully deliver a change to the governance arrangements it will need broad agreement across the main political groups to ensure it is a system that delivers a transparent and inclusive approach to decision-making that all parties can support.

Stage 3 – Amend the Constitution to reflect any new governance arrangements as agreed by Council.

Option 3 – Undertake the reviews detailed in Option 2 together. Effectively this would mean that any significant changes to the Constitution would be made after the outcome of the review of the wider governance arrangements.

Analysis

10. Option 1 – Do Nothing. Although the Council is not legally required to review its formal governance structure, as stated in paragraph 4 above, it is essential that as a minimum the Council's Constitution is accurate and meets the legal requirements. This Option would not provide the assurance to the Council and the public that the existing framework document meets the legal requirements and is therefore not recommended.

Option 2 – Undertake a Staged Approach to the Review. This option would facilitate an expedited approach to reviewing the Constitution document to ensure the legal requirements are met whilst allowing sufficient time for a robust consideration of the governance arrangements options taking on board the views of a wide range of interested parties. The stages can be undertaken concurrently but would be done independently. This is the recommended option.

Option 3 – Undertake both stages of the review together. This would effectively put the amendment of the Constitution document on hold pending the outcome of the review of the governance arrangements. This would mean that the Council would continue to operate on the basis of the existing document for at least the remainder of this municipal year and possibly longer if the timescales detailed above cannot be met in a manner that ensures the review is thorough and robust. Given the concerns expressed regarding the accuracy of the Constitution this would not provide the assurance to Council and the public that is required in terms of meeting our obligations to have good governance in place. Therefore this option is not recommended.

Council Plan

11. The governance framework is key to facilitating how residents engage with the decision-making process. A review would provide an opportunity for the Council to engage with the public to understand how the framework can ensure that residents can participate in these processes to increase their confidence that decisions are robust and transparent.

Implications

- **Financial**
  The review of the Constitution as set out in Stage 1 of Option 2 can be done from within existing resources. Stage 2 of Option 2 will require additional resources to deliver the review of the governance arrangements and then potentially redraft the Constitution in a limited timescale. It is anticipated that the initial cost to carry out the review would be an estimated £35,000, as agreed in the recent budge proposals agreed by the Executive and Council.

- **Human Resources (HR)**
  None

- **One Planet Council / Equalities**
  The review of the governance arrangements will need to take into account a number of equalities issues to ensure the final proposals are compliant with equalities legislation.

- **Legal**
  The legal implications are set out in the report.

- **Crime and Disorder**
  None

- **Information Technology (IT)**
  None

- **Property**
  None

- **Other**
  None

Risk Management

12. The main risk associated with the recommended option is determining a timescale for Stage 2 and possibly Stage 3 which ensures that any proposed changes can be implemented at the Annual Council meeting but at the same time facilitates a thorough and comprehensive review of all the possible governance arrangements after a programme of engagement with all interested parties.

Contact Details

Author:
Suzan Harrington
Interim Assistant Director
Legal and Governance

Customer and Corporate
Services
Tel No. 554587

Chief Officer Responsible for the report:
Suzan Harrington
Interim Assistant Director Legal and
Governance

Report Approved ✓ **Date** 12/09/19

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

For further information please contact the author of the report

Background Papers

Local Government and Centre for Public Scrutiny “Rethinking Governance” https://www.cfps.org.uk/wp-content/uploads/Rethinking-Governance.pdf