

**Executive**

**27 August 2015**

## **Report of the Monitoring Officer**

### **Proposed Decision Making Arrangements**

#### **1. Summary**

1.1 At the last meeting of the Executive a report was considered in relation to proposals for new decision making arrangements allowing for greater pre decision scrutiny. That report is attached at Annex A for ease of reference. This report informs the Executive of the outcome of that consultation and makes proposals for implementation.

#### **2. Recommendations**

2.1 Members are recommended to:

- a) Confirm the introduction of pre decision scrutiny arrangements and their commitment more generally to involving scrutiny in improving the quality of decisions made by the Council
- b) To endorse the proposed arrangements for pre decision scrutiny as set out in this report and described in the guide at Annex A.
- c) To invite the Corporate and Scrutiny Management Policy and Scrutiny Committee to:
  - i) Consider how best to involve Members of other Scrutiny Committees in its pre decision call in work
  - ii) Establish a Sub Committee to deal with urgent call ins
  - iii) To consider the remits of Scrutiny Committees and the membership of CSMPSC itself with a view to presenting proposals to Council
- d) To agree to review the new arrangements at the end of the Municipal Year

**Reason:** To enable revised decision making arrangements to be put in place

### **3. Background**

- 3.1 The report to the last Executive meeting has been considered by both the Corporate and Scrutiny Management Policy and Scrutiny Committee (CSMPSC) and the Audit and Governance Committee (A&G). In addition political groups and independent members have been consulted.
- 3.2 There is very widespread support for the key principle of seeking to involve more Members in the process leading to decisions being made. It is also recognised that ultimately it is the Executive which has the legal responsibility for decision making on those matters which are statutorily within its remit.
- 3.3 There is support for the specific proposal to allow Scrutiny Committees to comment on reports before a decision is made. There is also support for moving more generally to a system of earlier engagement with scrutiny before an issue reaches the decision making stage. Good dialogue between Executive Members and Scrutiny Committees on major decisions coming forward and key priorities will assist in this.
- 3.4 There is a consensus that CSMPSC would be the appropriate Committee to deal with pre decision call in of items coming to the full Executive. It was recognised that this would lead to an increase in workload and CSMPSC would be prepared to meet monthly to accommodate this change.
- 3.5 There is support for the suggestion that there should be arrangements made to enable members of the relevant “service area” scrutiny committees to participate when CSMPSC considers an issue relevant to the particular Committee. In this regard two options had support:
  - Establishing CSMPSC as a Committee of Chairs of the Scrutiny Committees (recognising that some extra Members may be required to achieve political balance)
  - For CSMPSC to invite Members of the relevant Committees to participate in the debate when CSMPSC considers a call in relevant to that Committees work.

- 3.6 Ultimately Full Council would need to consider any change to the membership of CSMPSC. There are other proposals for a review of Scrutiny Committees and this matter might best be considered further as part of that review. In the interim the Executive is recommended to ask CSMPSC to consider whether it wishes to implement the second option and to determine exactly how that would work. One simple solution could be to invite the relevant Chair and Vice Chair or their nominees.
- 3.7 There was recognition that there should be a filtering system so that not every executive decision will go through scrutiny before coming to an Executive Member or the full Executive. There was general support for the suggestion of replicating the post decision call in process requiring three Members to call the decision to Committee.
- 3.8 The possibility of the new system delaying decision making was acknowledged as a genuine concern. To assist with this there was support for allowing only one week for a call in to be submitted rather than two as proposed in the original paper.
- 3.9 Although CSMPSC would be prepared to meet more frequently there was a view from the Committee that there should be a separation between call ins and ordinary meetings. It is therefore proposed to schedule a call in meeting each month in addition to the scheduled meetings for routine business.
- 3.10 The arrangements for dealing with any call ins for Executive Member decisions are particularly challenging and this was widely recognised. There was support for the relevant Scrutiny Committee to handle these call ins. However, it was felt by some that these meetings should be separated from routine scrutiny meetings.
- 3.11 Rather than attempt to impose a rigid set of rules it is proposed that these call ins should be managed on an ad hoc basis with the following options being available:
- The matter being considered at a scheduled Scrutiny Meeting if the Chair and Vice Chair so agree
  - The matter being considered at a specially convened meeting of a Scrutiny Committee - again with the agreement of the Chair and Vice Chair
  - The matter being referred to the next scheduled CSMPSC (Calling In) meeting in any other case

- 3.12 There was recognition from consultees that the new system will need to have an urgency process. The two categories of urgent decision identified in the previous report were accepted. So a general urgency process would be used where the normal time limits could not be complied with but an urgent scrutiny meeting could be convened after statutory notice of a meeting has been given.
- 3.13 It was felt that the urgency process should involve a Scrutiny Committee. It is proposed that CSMPSC be invited to establish a Sub Committee to deal with any call ins which cannot follow normal process for reason of urgency.
- 3.14 For any decision which is so urgent that a special meeting cannot be convened then there should be a special urgency process. The previous report proposed two options:
- Securing the approval of the Chair of the relevant scrutiny committee to the decision being taken
  - The Leader certifying that the decision needs to be taken urgently
- 3.15 It would be fair to say that the majority of Members of CSMPSC and A&G Committees supported the latter option. However, there were those who supported the former pointing out that it is a system which has worked satisfactorily for many years in the rare cases where an urgent key decision has had to be taken which was not on the Forward Plan.
- 3.16 In some cases in the future the decisions which cannot follow the new pre decision scrutiny route will also be decisions which have not appeared on the Forward Plan for a full 28 days and therefore statutorily require the approval of the Scrutiny Committee Chair to the decision being taken as urgent. Rather than operate two systems Officers' recommendation would be to have one and therefore follow the first option above.
- 3.17 Since the Executive announced its proposals one proposed Executive Member decision has been through a pre decision scrutiny route. That scrutiny committee was followed immediately by a separate decision making session. Comment has been made that this was confusing for the public. It also duplicated some processes. It is suggested that the new arrangements should not involve a separate decision making session and that instead the Executive Member should simply be asked to indicate whether he

or she is able to indicate their decisions. This can then be formally recorded and published separately.

- 3.18 The proposal that decisions which operate as recommendations to Council should not be subject to pre decision call in had general support.
- 3.19 There is support for reviewing the remits of the Scrutiny Committees. In year changes clearly have some practical difficulties but the Executive may wish to consider inviting CSMPSC to bring forward proposals for consideration at Council.
- 3.20 It was suggested that there should be a review of the new arrangements and it is proposed that an initial review at the end of the Municipal Year might be appropriate.
- 3.21 Finally there was a request for an easy to use guide to the new arrangements. A draft appears at Annex B.

#### **4. Options**

- 4.1 The Executive may accept or reject any of the proposals put forward and may put forward alternatives.

#### **5. Analysis**

- 5.1 The analysis is contained in the body of the report.

#### **6. Consultation**

- 6.1 This report has been developed following consultation with Audit and Governance Committee, Corporate and Scrutiny Management Policy and Scrutiny Committee, Political groups and the independent Members.

#### **7. Council Plan**

- 7.1 Effective and inclusive decision making will assist in achieving all Council plan priorities

#### **Implications**

- 8. The implications are:

- Financial – the proposals will lead to additional meetings. The key impact of this will be on the Democratic Services team but will be accommodated within the additional resources provided to the team as a result of the budget decisions made at the last Council
- Equalities - none
- Legal - as York operates a Leader and Cabinet model of decision making under the Local Government Act 2000, executive decisions must be taken in accordance with the provisions of that Act and Regulations issued under it. Decisions will be open to challenge if the Executive or an Executive Member were to slavishly follow the recommendations of a Scrutiny Committee without applying their own independent judgment. The proposals being recommended for implementation can all be adopted as working arrangements without formal constitutional change.

## 9. Risk Management

- 9.1 The report identifies risks in respect of the timeliness of decision making and the transparency of decision making.

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the report:  
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**Report  
Approved**



**Date** 19/8/2015

**Wards Affected:**

**All**

**For further information please contact the author of the report**

**Background Papers:**

None

## **Annexes**

Annex A – Report to Executive on 30<sup>th</sup> July 2015

Annex B - Draft Guide to the new executive decision making arrangements