

Audit and Governance Committee – 21 September 2009

Report of The Head of Civic, Democratic & Legal Services

Proposal for Constitutional Amendment

Removal of the Shadow Executive from the Formal Decision Making Framework

1. Summary

- 1.1 This report has been prepared at the request of Cllr Gillies under the provisions of Article 16 of the Constitution which set out the procedure to be adopted for proposing changes to the Council's Constitution.
- 1.2 In summary, Cllr Gillies' proposal is that the Shadow Executive should no longer form part of the formal decision making apparatus and all reference to it be removed from the constitution.
- 1.3 The following paragraphs provide some background information for Members' information.

2. Background

- 2.1 Article 16 of the Constitution sets out the procedure to be adopted where a Councillor wishes to propose an amendment to the Constitution. In such cases the councillor is required to consult the Monitoring Officer who will prepare a report for the Audit and Governance Committee who are then required to consider the report and make a recommendation to Full Council¹.
- 2.2 In this case Cllr Gillies wishes to propose that the Shadow Executive, referred to in Part 3C of the Constitution, be formally removed from the constitution and no longer formally recognised as a part of the decision making apparatus of the Council.
- 2.3 As mentioned above the terms of reference for the Shadow Executive is referred to in Part 3 of the Constitution in the following terms,

The Shadow Executive will consist of 7 members of the largest minority political group.

¹ Part 2 Art 16, para 2.3

Its function is to provide a forum for the consideration of Executive and other business. It will offer advice to the Executive on matters of Executive business.

2.4 The existing Shadow Executive is not a committee of the Council and, as such, it has no formal decision making powers. It is described in the Constitution as an advisory panel. In practice the Shadow Executive is provided with copies of Executive papers and provide comments to the Executive.

2.5 A number of resources are deployed by the council to support the operation of the Shadow Executive these include:-

- Democracy Officer time in preparing and circulating agendas and attending meetings and in collating and referring comments to the Executive;
- Officer time in preparing reports requested by the Shadow Executive and their attendance to present the reports;
- The cost of allowances paid to members for their membership of the Shadow Executive, (£21k 2008-09).

2.6 A recent assessment undertaken by DSG staff estimated the DSG officer time involved as 7hrs 10 mins per month consisting of the following:-

*Meeting attendance - 40 mins (10 per year)
Agenda/publish - 30min
Minutes - 1/2hrs
Circulate comments - 30min
Request briefing reports/terms of ref/circulate - 30min (can request up to 52 per year and estimate based on using full quota)
Check FP - as and when necessary. 15min
Circulate attendance email (inc cancellations) - 15 min*

The majority of this work is done twice a month so for 1 month this would equate to 7hrs 10 mins, that is if all briefing reports were requested.

2.7 In addition to the resources input from the Democratic Services Team other officers from around the council also input time in supporting the Shadow Executive by preparing reports and attending meetings. It has been impossible, in practical terms, to identify the full extent of this resource.

2.8 As for the legal position in relation to Shadow Executives there is no legal requirement to have them and similarly no legal prohibition to a council wishing to establish one.

3 Practice in Other Councils

3.1 In order to establish some data on this question a member of the team conducted a telephone survey of a number of 10 local authorities the results of

which are set out in tabular form below. The authorities were chosen either because they were similar type of authority to City of York or because of their geographical proximity. Although the sample size is relatively small, given the random selection method, we are reasonably confident that the results can be taken as a fair reflection of the larger picture.

SURVEY ON SHADOW EXECUTIVES IN OTHER AUTHORITIES

Authority	Do you have a 'Formal' Shadow Executive? i.e. part of Constitution/ Structure	Do you have any 'informal' arrangements in place?	Do you pay any allowances for membership?	Do they receive any support from Democracy e.g. minutes taking	General Notes
Peterborough City	X	✓	X		Group leaders meet on an informal basis
Wakefield City	X	✓	X		Leader has agreed that officers assist 'Shadow' when required.
Bradford Met Dis	X	X	X		
Doncaster City	X	X	X		
Leeds City	X	X	X		
NYCC	X	X	X		
Hull City	X	✓	X		Some support given at annual budget setting time
East Riding	X	X	X		
Scarborough Borough	X	X	X		
Harrogate Borough	X	X	X		

Summary

- No formal shadow executive arrangements in place across the 10 authorities covered
- 3 out of the 10 have informal arrangements in place – all fairly low key

3.2 The results indicate that none of the councils within the sample group had a formally constituted Shadow Executive. Three out of the ten had informal arrangements and in these cases the level of resources allocated in support was relatively insignificant.

4 Cllr Gillies' Comments

4.1 New and updated Scrutiny procedures were adopted by the Authority at the start of the Municipal year in May this year. Scrutiny and Overview Committees have now been introduced to cover most statutory and other services delivered by the Council, together with holding the Executive to account. The Scrutiny Management Committee also have the power to establish ad hoc and urgency committees to address additional subjects that may occur.

4.2 All Scrutiny Committees are politically proportionate in line with the overall composition of the council and therefore offer a robust alternative to a Shadow Executive which has no practical purpose under the new arrangement and is therefore redundant. Removing the Shadow Executive releases officer time and cost in addition to the cost of allowances paid to members of the Shadow Executive.

5 Recommendations

5.1 The Audit & Governance Committee is required to advise Full Council as to the proposal being put forward by Cllr Gillies.

5.2 It is recommended that Audit & Governance Committee make one of the following recommendations to full Council:-

Either:-

- a) that Full Council endorse the proposal to remove the Shadow Executive from the Council's Constitution and implement such change with effect from 1 month after the date of the relevant council meeting, or
- b) that Full Council reject Cllr Gillies' proposal to amend the Constitution.

Contact Details

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Report Approved

Date *12/8/09*

Specialist Implications Officer(s) *None*

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

All

For further information please contact the author of the report