

Report Reference Number: A/18/20

To: Audit and Governance Committee
Date: 30 January 2019
Status: Non Key Decision
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Title: Annual Review of the Constitution

Summary:

As part of the preparations for Annual Council a review of the Constitution is undertaken to ensure it is up to date and fit for purpose.

This report highlights the proposed changes to the Constitution and asks the Audit and Governance Committee to consider them and provide any comments before they are presented to Council for approval.

Recommendations:

To consider the changes proposed and provide any comments before they are considered at Full Council.

Reasons for recommendation

To ensure the constitution is up to date and fit for purpose.

1. Introduction and background

1.1 The constitution is a key document in the Corporate Governance Framework of the Council. The two overarching principles of good governance as set out in the Chartered Institute of Public Finance and Accountancy (CIPFA) code are:

- Behaving with integrity, demonstrating strong commitment to ethical values and respecting the rule of law
- Ensuring openness and comprehensive stakeholder engagement.

1.2 A review is undertaken of the Constitution on an annual basis to consider whether there are any changes required as a result of legislative change, any recommendations from internal or external auditors or in the light of experience and best practice.

- 1.3 Under Article 15 of the Constitution responsibility for the review lies with the Monitoring officer. Changes will only be approved by the Council after consideration of proposals by the Executive taking into account the advice of the Chief Executive or the Monitoring Officer. This report constitutes that advice.
- 1.4 It is also within the Terms of Reference of Audit and Governance Committee to monitor and report on the effectiveness of the Constitution.

2. The Proposals

- 2.1 The review has been undertaken by relevant officers across the Council and considered by the corporate leadership team. The review has considered any changes to legislation, recommendations of audit and best practice. Any changes proposed seek to strike a balance between ensuring that powers are available to use to deliver the Corporate Plan in a timely way whilst ensuring that decision making is open and transparent and subject to appropriate levels of oversight and scrutiny.
- 2.2 The table at Appendix A sets out the proposed changes in the different sections of the Constitution.
- 2.3 Following consideration by the Audit and Governance Committee, the report will be considered by Full Council on 26 March 2019.
- 2.4 Unless any other operative date is specified, any changes that are proposed are effective from the date of the next Council meeting following the date of the decision to effect the change.

3. Alternative Options Considered

Not to make any changes. However this would not ensure that the Constitution is fit for purpose.

4. Implications

4.1 Legal Implications

A local authority is under a duty to prepare and keep up to date its constitution under the Local Government Act 2000 as amended.

4.2 Financial Implications

None

4.3 Policy and Risk Implications

If the Constitution is not up to date there is a risk that decisions will not be made on a lawful basis.

4.4 Corporate Plan Implications

The proposed changes enable delivery of the Corporate Plan and other Council policies in a timely manner striking a suitable balance between delivery and transparency.

4.5 Resource Implications

None

4.6 Other Implications

None

4.7 Equalities Impact Assessment

None

5. Conclusion

The amendments proposed will ensure delivery of priorities in an open and transparent manner and will enable delivery of Corporate objectives.

6. Background Documents

None

7. Appendices

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Section	Changes Proposed
Part 1 - Summary and Explanation	<ul style="list-style-type: none"> • Minor changes to update wording and move wording under the correct section.
Part 2 - Articles	<ul style="list-style-type: none"> • Minor changes to update wording across all Articles. • Article 2 (Councillors) - Inclusion of wording to state that role descriptions have been developed for the following posts: <ul style="list-style-type: none"> ○ The Leader of the Council ○ Executive Member ○ Chair of the Overview and Scrutiny Committee ○ Chair of the Policy Review Committee ○ Chair of the Audit and Governance Committee. • Article 4 (The Council) - Remove Sustainable Community Strategy and Community Safety Partnership Plan from the Policy Framework List as these are the responsibility of North Yorkshire County Council. • Article 5 (Chairing the Council) - Move the wording for the Chairman's role under one section and add some wording about the Vice Chairman's role. • Article 7 (Executive) – Minor changes to wording of article for clarification. Confirmation that Executive members are appointed on an annual basis and that neither the Chairman nor Vice Chairman can be appointed to the Executive. • Article 10 – (Community Engagement Forums) – As per the change to Article 4 listed above, remove paragraph (g) under section 10.3 (Role and Function) which refers to the Sustainable Community Strategy and Community Safety Partnership Plan which are now the responsibility of North Yorkshire County Council.

	<ul style="list-style-type: none"> Article 12 (Joint Arrangements) – Removal of the North Yorkshire District Council Joint Procurement Partnership as this is no longer operational. Rename the North Yorkshire Police and Crime Panel to the North Yorkshire Police, Fire and Crime Panel to include the responsibility of the fire service under the North Yorkshire Police, Fire and Crime Commissioner.
Part 3 - Responsibility for Functions	<ul style="list-style-type: none"> (3.2) – Remove Sustainable Community Strategy and Community Safety Partnership / Crime and Disorder Reduction Strategy from the table of shared functions. (3.3) – Ensure the Executive portfolios are up to date with leisure coming under the portfolio of the Leader of the Council. (3.6) – Delete paragraph (g) as this is no longer relevant. (3.5.1) - Amend the Terms of Reference for Policy Review Committee to clarify that they can consider proposed new Council policy documents as well as scrutinising existing policies. (3.9.9) – Correct the Head of Service title under the Planning and Development Management delegation. (3.9.9) - It is proposed that the Specific Officer Delegations for Non Executive (council) functions with respect to Planning and Development Management be amended to require that applications submitted for determination by or on behalf of the authority for its own developments or on its owned land are presented to Planning Committee unless they are 'minor applications' and no objections have been received Clarify insurance arrangements as responsibility for different aspects sit between Directors, the Chief Finance Officer and the Solicitor. (Leaders Annual Report) - Amend date for Individual Executive Councillor Decision making so that it reflects the current municipal year. (3.7.3) – Amend the wording of the North Yorkshire Police and Crime Panel to include wording about responsibility for the fire service in the title and description.

<p>Part 4 – Rules of Procedure (4.1 - Council Procedure Rules)</p>	<ul style="list-style-type: none"> • (1.1) - To update the wording on the timing and business of Annual Council. • (1.2) - To update the wording to clarify how Councillors are appointed to Committees and Outside Bodies. • (2.1) - To confirm the regular business for ordinary meetings. • (3.2) - Clarification of wording for extraordinary meetings to confirm that Council can only consider the business outlined on the agenda for such meetings • (6) – Clarification that in the absence of the Chairman, the Vice Chairman can exercise any power or duty of the Chairman in relation to the conduct of the meeting. Similarly to anyone chairing the meeting in the absence of the Chairman and Vice Chairman. • (10.3) – To change the deadline for the receipt of questions by the public for Council meetings from 5 working days to 6 working days to allow them to be listed when the agenda is published. • (10.5) – Clarification of the details needed to be provided by the person asking a question at Council. Additionally clarification that questions can be asked on a similar subject as previously asked within the last 6 months if there has been a material change of circumstances. • Confirm that rules 15.1 and 15.6 (a) do not apply to the Planning Committee (these rules are currently suspended by the Committee at each meeting). • Add in reference to the Council procedure on Audio/Visual Recording and Photography at meetings.
<p>Part 4 – Rules of Procedure (4.2 - Access to Info Procedure Rules)</p>	<ul style="list-style-type: none"> • (1.1) – To insert that the access to information procedure rules apply to the decisions of individual members and officers. • (6) – Clarification of wording about public access to agenda and reports before the meeting. • (7) – Minor changes to wording about the supply of copies of agendas and reports.

	<ul style="list-style-type: none"> • (8) - Minor changes to wording about records of decisions taken at meetings. • (8.2) – Inclusion of section about keeping records of decisions taken by Individual Executive Members in line with legislation. • (8.3) - Inclusion of section about keeping records of decisions taken by officers in line with legislation. • (9) – Minor changes to wording concerning background papers. • (11) – Minor changes to wording concerning confidential information. • (15.1) – Minor changes to wording concerning rights of copies.
Part 4 – Rules of Procedure (4.3 -Budget and Policy Framework Rules)	<ul style="list-style-type: none"> • (3) – Minor change to include the Leader of the Council in paragraph (a) regarding decisions outside the budget and policy framework • (4) - Minor change to include the Leader of the Council in paragraph (a) regarding urgent decisions outside the budget and policy framework
Part 4 – Rules of Procedure (4.4 - Executive Procedure Rules)	<ul style="list-style-type: none"> • (1) Minor change to move information about decisions by the Executive to the beginning of these rules. • (5.2) Additional wording inserted into section about the Forward Plan so that it is consistent with legislation. • (6.4) Inclusion of apologies for absence on the list of items for an Executive agenda. • (7) – Inclusion of section concerning record of executive decisions taken at Executive meetings in line with legislation. • (8) – Inclusion of section concerning record of executive decisions taken by individual members in line with legislation.

	<ul style="list-style-type: none"> • (9) – Inclusion of section concerning record of executive decisions taken by officers in line with legislation. • (10.4) – Removal of wording regarding the call in process as already repeated in the Overview and Scrutiny Procedure Rules and instead a reference to this section.
Part 4 – Rules of Procedure (4.5 - Overview and Scrutiny Rules)	<ul style="list-style-type: none"> • (2) – Additional information includes regarding the composition and the terms of reference of the Overview and Scrutiny Committee. • (5) – Reference to the adopted role profiles for the Chairs of Overview and Scrutiny Committees. • (6) - Inclusion of wording relating to the quarterly meeting between the Chairs of Overview and Scrutiny Committees and the Executive. Additional minor wording changes to this section. • (7) - Minor wording changes to this section relating to Call-In. • (8) – Minor wording changes to the order of business for Overview and Scrutiny Committees.
Part 4 – Rules of Procedure (4.6 – CEF Procedure Rules)	<ul style="list-style-type: none"> • (1.1) – Minor amendments to the wording of the structures of Forums and Partnership Boards to reflect current working and practice. • (1.5) – Clarification regarding how the Vice Chair of a Partnership Board is appointed. • (1.6) – Minor amendment to the section regarding the attendance of non-members of CEFs.
Part 4 – Rules of Procedure (4.7 Petition Procedure Rules)	Proposal removal of these procedure rules and replace with a procedure which sits outside of the Constitution due to it being no longer being a statutory requirement to have a petitions scheme.
Part 4 – Rules of	Changes proposed in consultation with the Chief Finance Officer which include:

Procedure (4.8 Financial Procedure Rules)	<ul style="list-style-type: none"> • Minor changes and clarification to wording. • Changes to rules around the disposal of land and capital assets to remove acquisitions and clarify the financial value of a major disposal. • Clarification on the wording for grant applications and claims with delegations to Directors.
Part 4 – Rules of Procedure (4.9 Contract Procedure Rules)	Changes proposed in consultation with the Head of Commissioning, Contracts and Procurement to reflect clarity and updates to reflect current practice.
Part 4 – Rules of Procedure (4.10 Officer Employment Procedure Rules)	No changes proposed.
Part 5.1 - Councillor Code of Conduct	No changes proposed although there is a potential for changes to be required in future if national legislation changes.
Part 5.2 - Standards Arrangements	No changes proposed although there is a potential for changes to be required in future if national legislation changes.
Part 5.3 - Protocol on Councillor/Officer Relations	No changes proposed.
Part 5.4 - Councillor Consultative Charter	No changes proposed.
Part 5.5 - Officer Code of Conduct	Minor wording changes for clarity and updates to reflect current practice.

Part 5.6 - Planning Code of Conduct	<p>Item 4 of the Planning Committee Agenda- Suspension of Council Procedure Rules be incorporated into the Code to save having to agree at each meeting to suspend Council Procedure Rules 15.1 and 15.6 (a) for the duration of the meeting.</p> <p>Minor wording changes for clarity and updates to reflect current practice.</p>
Part 5.7 - Licensing Code of Conduct	No changes proposed.
Part 5.8 - Protocol on filming/recording meetings	No changes proposed.
Part 5.9 - CEF Code of Conduct	Minor wording changes for clarity and updates to reflect current practice.
Part 6 - Members Allowances Scheme	Updates to reflect any changes.
Part 7 - Management Structure	Updates to reflect any changes.