

Overview and Scrutiny Committee

5 April 2007

Revision of the Constitution



Report of Lesley Davies, Acting Director of Corporate Services

Purpose of the Report

- 1 To seek the Committee's views on proposed revisions to the County Council's Constitution.

Background

- 2 The Constitution was last revised and reprinted in May 2005. Since then a number of developments have occurred and decisions made which necessitate an updating of the document, in particular the major organisational restructure which took place in 2006. In addition, recommendations are made for further changes to improve the Council's decision-making process and to amend and rationalise the Council's policy framework to reflect changes in central government requirements.

Main Areas of Change

- 3 Many of the proposed changes are of a minor or drafting nature or to reflect legislative changes or changes consequential on council decisions. Substantive changes are proposed in the following areas:
 - (i) The organisational restructuring which took place in 2006 is now reflected in the Constitution, particularly in Article 12 and consequential changes have been made to the scheme of officer delegations.
 - (ii) The Council's policy framework in Article 4 has been updated to reflect current policies and revised central government requirements.
 - (iii) Following a review of the Council's key decision-making arrangements by the Internal Audit Division, it was recommended that in the interests of clarity and transparency the Council should review the definition of a key decision in the Constitution (key decisions have to appear in the Council's Forward Plan). Changes have therefore been made to ensure that the definition aligns more closely to the impact that the decision might have on communities.

- (iv) Provision has been made for dealing with petitions, including presentation to full Council.
- (v) The County Council's growing involvement in partnership working has necessitated a review of the governance arrangements for such partnerships and for CPA purposes it is important to demonstrate that where the County Council is the accountable body there are robust governance and risk management arrangements in place and these need to be cross-referenced within the Constitution. Appropriate provision has therefore been incorporated into Article 11 (Joint Working) and in the Contract Procedure Rules and Financial Regulations.
- (vi) An updated Planning Code of Practice is expected shortly to be approved by the Planning Committee.
- (vii) The section on Joint Arrangements (Part 3 Section D) has been updated and now includes the Joint Committee for the County Durham E-Government Partnership and the North East Regional Management Board.
- (viii) The Contract Procedure Rules have been rationalised and clarified, taking full account of European and National Procurement Rules but enabling broader use of electronic tendering.
- (ix) The Scheme of Officer Delegations has been updated and incorporates a number of suggestions aimed at streamlining the work of the Cabinet and enabling members to maintain a focus on strategic and policy issues.

The main changes here are:

- (a) an increase in the amount up to which a Chief Officer can accept a tender where no competitive process has taken place. The current limit is £6,000. An increase to £10,000 is suggested. (The rules about when a non-competitive procurement exercise can take place are set out in the Contract Procedure Rules).
- (b) an increase in the level of compensation payments associated with highway and other public works which the Director of Corporate Services is authorised to settle, from £10,000 to £50,000.
- (c) delegation to the Director of Corporate Services in consultation with the local member and relevant Cabinet portfolio holder to dispose of property where it is surplus to the requirements of the service for which it is held and no other service is interested in taking it over.

- (x) Two new Council bodies have been added to the tables in Section A of Part 3 of the Constitution.
- (a) A newly created Audit Committee. This development has come about as a result of discussions with our External Auditor and again links to the CPA process. The Audit Committee will be an advisory committee on audit and governance issues in order to provide independent assurance over the adequacy of the Council's Risk Management Framework and associated control environment. The recommended composition is five elected members (excluding Cabinet members) and two co-opted non-voting members. The report of the County Treasurer at Appendix 2 sets out in greater detail the rationale for the establishment of the proposed Audit Committee.
 - (b) A Corporate Parenting Panel. It has been felt for some time that the work of this group of members and officers should be given a higher profile and its role be recognised in the Constitution. The main functions of the Panel will be to monitor and ensure the quality of services to children and young people for whom the Council has a corporate parenting responsibility and to make and consider reports on visits to registered children's homes in accordance with statutory requirements.
 - (c) Provision will need to be made for special responsibility allowances for the chairs and vice-chairs of these bodies and also the Pension Fund Committee in order to regularise the position. This will be incorporated into the revised Members' Allowances Scheme.

4 The revised draft Constitution will be considered by Cabinet on 19 April followed by recommendations to full Council on 2 May. Views of the Overview and Scrutiny Committee are accordingly being sought to inform the Cabinet debate.

5 Following the Annual County Council meeting on 2 May the new Constitution will be completed by the addition of the names of the Cabinet Members appointed at that meeting. Portfolios will be added subsequently once the Leader has determined what these are to be. The Constitution will then be printed and distributed and available on the Council's Intranet and Website.

Recommendations and reasons

6 Overview and Scrutiny are invited to discuss and comment on the above proposals for submission to Cabinet. The proposed revisions will ensure that the County Council has up-to-date, robust and coherent corporate governance arrangements in place.

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Appendix 1: Implications

Finance

None

Staffing

None

Equality and diversity

Provision will be made for the Constitution to be made available in a variety of formats and languages. It is intended to undertake an Impact Assessment of the Constitution during 2007/08.

Accommodation

None

Crime and disorder

None

Sustainability

None

Human rights

None

Localities and Rurality

None

Young people

None

Consultation

Consultation with Overview and Scrutiny before Cabinet recommendation to full Council.

Health

None

Cabinet Briefing

Date 27/03/07



Audit Committee Proposal

Report of Stuart Crowe, County Treasurer

Purpose of Report

1. This paper briefly outlines the external pressures which are currently challenging the Council to establish an Audit Committee. It also provides an Audit Committee proposal for Member consideration and recommends its introduction.

Background

2. Public sector best practice suggests that good corporate governance include independent, effective assurance over the management of an organisation and that this is best delivered by an independent audit committee i.e. independent from any other executive function.
3. Audit committees are not yet a legal requirement for Local Authorities but the Audit Commission, CIPFA, and central government support this approach and this is reflected in their assessment criteria, for example, through CPA. We are being challenged to demonstrate we are a forward-thinking Council that welcomes independent assurance, and legitimate challenge, on our performance.
4. The CPA use of resources (2007) criteria for judgement on Audit Committee arrangements is:

Level 3. *“The council can demonstrate that it is effectively delivering the core functions of an audit committee, as identified in the CIPFA guidance; that it provides challenge to the Executive when required and provides for effective leadership on governance, financial reporting and audit issues.”*

Level 4. *“An audit committee has been established that is independent of the executive function, with terms of reference that are consistent with CIPFA’s guidance. It provides effective challenge across the council and independent assurance on the risk management framework and associated internal control environment to members and the public, and can demonstrate the impact of its work.”*

5. To continue with our current arrangements means that we will find it difficult to meet the challenges outlined by CIPFA and the Audit Commission.

Proposal

6. A detailed breakdown of the Committee's terms of reference is included in the revised Constitution (pages 47-48). In most cases, this has been drawn directly from CIPFA's, "Audit Committees: practical guidance for local authorities". Advice has also been received from Legal Services on the practicality of managing any changes to the Authority's governance arrangements.

Conclusion and Recommendations

7. Cabinet is recommended to approve the establishment of an Audit Committee as it is defined in the revised Constitution.

Contact: Stuart Crowe Tel: 0191 383 3550

Appendix 1: Implications

Finance

- Direct costs of the setup and running of the Committee including Chair and vice-chair allowances. These have not yet been quantified.
- Arrangements for the training of committee members. These have not yet been quantified.
- Additional costs of officer etc. attendance and provision of advice. These have not yet been quantified.
- Pressure on the timescales for financial reporting e.g. production of the statement of accounts, from the introduction of Audit Committee review. A revised timescale has yet not been devised.

Staffing

- Additional administrative burden on Democratic Services. This has not yet been quantified.

Equality and Diversity

None

Accommodation

- Additional burden on meeting space / available times. This has not yet been quantified.

Crime and disorder

None

Sustainability

None

Human rights

None

Localities and Rurality

None

Young people

None

Consultation

None

Health

None