

PLYMOUTH CITY COUNCIL

Subject: Review of the Council's Constitution
Committee: City Council
Date: 22 April 2013
Cabinet Member: n/a
CMT Member: Tim Howes (Monitoring Officer)
Author: Tim Howes, Monitoring Officer
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Ref:
Key Decision: No
Part: I

Purpose of the report:

To request that the Council to consider undertaking a review of the constitution delivering members' aspirations for improved governance.

Corporate Plan 2012 – 2015:

The governance structures of the Council will be key to delivering the corporate priorities.

Implications for Medium Term Financial Plan and Resource Implications: Including finance, human, IT and land:

Investment in external support and will be offset by improved working practices and will be met from existing resources in the first instance.

Other Implications: e.g. Child Poverty, Community Safety, Health and Safety and Risk Management:

These will be developed as part of any review work

Equality and Diversity:

Has an Equality Impact Assessment been undertaken? No an assessment will be carried out in relation to the constitution as amended, prior to submission for adoption.

Recommendations and Reasons for recommended action:

The Council is recommended to -

1. Undertake a 'root and branch' review of the constitution to be managed through the Constitution Review Group;
2. Structure the review around:
 - a. Agreeing and setting the principles of how the constitution should be formed;
 - b. Creating a written constitution to reflect those principles and put them into practice.
3. Utilise external assistance in undertaking the review as described in the report.

Update the present ways of working by adapting the existing constitution.

None

[illegible]

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Originating SMT Member: Tim Howes													
Has the Cabinet Member(s) agreed the content of the report? n/a													

1.0 Introduction

Members have said that they want a council which is member led and which therefore needs a constitution to enshrine the philosophy of a member led council.

The present political structure of the Council consisting of the 'leader and cabinet executive' has been in place with slight modifications since the Local Government Act 2000 changes. Those modifications have included the removal of area committees in 2010 and the adoption of the 'strong leader model' in 2011. At the time of the adoption of the 'strong leader model', Council considered the 'directly elected Mayor' model but felt that the 'leader and cabinet executive' was more appropriate. Whilst there was a referendum for an elected Mayor in 2002 this did not support a change.

In terms of documentation, the Constitution Review Group led a thorough review of the constitution documents which was completed in 2011. That review brought the constitution up to date, included new legislative changes, tidied up and clarified delegations and attempted to make the constitution more accessible to all. However, that process did not fundamentally review the type of constitution we wanted and how this would enable us to be member led.

Latterly, this year, the Constitution Review Group has reviewed the Planning Code of Practice and agreed a webcasting protocol as well as amending the gift and hospitality system.

On the 9th April 2013 the Constitution Review Group considered whether it was now appropriate to review the council's constitution and what sort of review that might be.

2.0 Drivers for change

The Constitution Review Group considered the following drivers for change:

- A mandate to demonstrate an improvement in openness and transparency.
- The Localism Act 2011, which made new models of political governance available to the Council including a modified 'committee system' and the ability to delegate certain functions to ward members.
- The updated corporate plan including the 100 commitments which at number 91 includes '*make attending council meetings a more enjoyable welcoming and informative experience for citizens*'
- New legislative changes and new functions, such as Health and Wellbeing Boards, Police Commissioners, Public Health changes etc. These have their own challenges with many not fitting our traditional local government structures and ways of operating. Another concern is how we engage with partners and other bodies in this world of joint strategies?
- Considering even if the 'system' is appropriate and 'fit for purpose' is the written constitution (our 'instruction manual') up to scratch? Concern has been expressed by councillors about the size of the document, the rules of debate and delegation levels. Concern has also been raised about out-dated language and definitions especially given changes in legislation and business practice.
- Changes to scrutiny arrangements
- New ways of working and the opportunities to utilise investment in new technology. This will include learning from the 'paperless meeting' pilot.
- Looking at more accessible and automated ways to report to members and present information in committees.
- We also have the specific challenge of 'City Deal' aimed at unlocking the growth potential of urban areas in England. The objectives are to: boost local economic growth, re-balance the

economy, decentralise the powers and levers cities need to drive local growth and most relevant to this paper *strengthen governance and leadership*. The constitution needs to reflect the strengthened governance and leadership.

- Increasing efficiency and delivering savings

In addition, the Constitution Review Group felt that any review should be wider than simply considering a public sector based approach but should draw on experience from the private and voluntary sectors too.

In addition any review should take into account existing public consultation results on the operation of meetings.

3.0 How could we address these challenges?

In considering how these challenges could be addressed the Constitution Review Group considered the following options.

Option 1 Reflect upon and change the way we operate

Members considered how, if we were starting afresh, we would design the political and administrative decision making structures of a 'brilliant cooperative' council in the modern world. This would mean considering concepts about what the City Council should be and what it should do and how it would feel. It would also mean accepting the legal limitations of our situation, so that would include testing the fit of the options that might be available, such as:

- Form of political models – Are we still content with the current Cabinet/Committee System?
- Delegations - Function based Committees/Executive/Scrutiny/Area based Committees/Portfolio holders/Individual Councillors/Officers
- Involvement of partners - co-opted members on committees and in scrutiny, area working etc.
- Involvement of the public – on-line interactivity/use of social media/use of informal referenda/etc.
- Raising the profile of meetings – publicity/interactive webcasting/meetings outside the Council House etc.
- Reviewing how we run meetings – use of technology, review of what/how we provide information, can we present more and write less?

The Constitution Review Group agreed that it would be a challenge to be radical and exciting and innovative to achieve the commitment to '*make attending council meetings a more enjoyable welcoming and informative experience for citizens*'. It was agreed that it is important not to underestimate the difficulty of change and the need to go beyond what we currently do and into 'uncharted territory'.

This review would be in two main parts:

1. Agreeing and setting the principles of how the constitution should be formed
2. Creating a written constitution to reflect those principles and put them into practice.

To deliver this scale of review would benefit from additional support from an external facilitator to provide a 'fresh pair of eyes' with a wider perspective and the time to engage with all members and stakeholders and make proposals. Members will need to consider who those stakeholders are, the members and officers are obvious, but do we need to include partners and how will we engage the wider community, to understand how the people of Plymouth would prefer to be governed?

Any external facilitator would need to both understand the legislative framework of local authorities and have the skill to work with members to turn their aspirations into reality. Whilst there would be some internal resource available to support the process, this work will have to fit in around the 'day

job'. Best practice from other local authorities will also need to be considered alongside good practice in the private and voluntary sectors.

It needs emphasising that this review is 'member led' and it will be vital to have members on the Constitution Review Group who are able to commit to this relatively short but intensive piece of work and who can both work on the project and report back to their own political groups to both brief them and obtain their views.

The Chief Executive, Director for Corporate Services and Monitoring Officer specifically need to be involved in both supporting the development of the constitution and its subsequent delivery to ensure that the statutory roles are properly reflected. In addition, specialist support will be required from other officers including those in: Democratic Support, Legal Services, Scrutiny Officer, Planning, Licensing and ICT. Crucially, senior officers from service departments will bring all important 'delivery' orientated perspective to the review.

Option 2. Rewrite the instruction manual

As an alternative, members could take an evolutionary approach and simply rewrite our current constitution to ensure a better fit with the philosophy of member led council.

We can look at our processes, is the language inclusive, are decisions taken at the right level, is the document too large? Consideration can be given to creating 'quick guides' to particular sections; we could make it into a more modular format (so the relevant audience only has the parts of the constitution that they regularly need).

In creating changes we can look again for best practice examples from elsewhere. Perhaps we can learn from organisations outside of local government or even outside the public sector completely?

It would be important to see how we can use new and emerging technologies to make the Constitution more accessible, an 'i' or 'e' constitution with 'apps'? Universities for example have 'apps' for their students which include timetables, opening times, maps, guidance etc. It is easy to imagine that a councillor app could include timetables for meetings, decision making limits, rules of debate, contact numbers etc.

In short, what we would be aiming for is a relevant, accessible, clear, concise document (or e-resource) fit for a brilliant cooperative council. Again we would need to have a facilitator to engage stakeholders to draw out what is needed and to identify what is available.

Option 3. The hybrid approach

To some extent, option 1 and option 2 are at different ends of the spectrum. Members might want to consider of course an alternative approach anywhere along the spectrum.

4.0 Way Forward

Having considered the options, the Constitutional Review Group agreed that Council should be recommended to undertake a root and branch review of the constitution as described in option 1.

The Constitution Review Group also recommended that the Council appoint an external facilitator and this should be the subject of 'soft market testing' in the first instance. They recommended that the bodies set out in the appendix should be approached with the attached draft scope of work (see appendix).

Draft scope of external assistance

It is worthwhile beginning by stating the obvious; it is vital that this is 'member led' and members are in control of this process and are comfortable on every step of the way. It is envisaged that the project would be led by the Constitution Review Group with assistance from the facilitator and involvement of officers.

This would be intensive work over six months, probably meeting monthly on a formal basis, with research and discussion work in between. Whilst the CRG would be the 'guiding team' of the review, the external facilitator is likely to need to engage with all members as part of the process, probably by meeting the political groups.

Subject to advice on procurement, in order to support us in this work I suggest that the Council approach INLOGOV, LGA Improvement and Development (formerly the IDeA), University of Plymouth and University of Exeter with a broad brief to understand whether they can assist with this project (and to understand their knowledge, expertise, experience, costs, working proposals etc.) The advantage of this 'soft market testing' is the potential to get free consultancy work to populate the brief.

The budget for such assistance cannot be accurately determined until the initial discussions have taken place with the prospective facilitator but costs are expected to be funded from existing resources and recoverable over the next two years in releasing efficiency savings by streamlining internal processes.

Outline of work

This review would be in two main parts:

- (a) Agreeing and setting the principles of how the constitution should be formed
- (b) Creating a written constitution to reflect those principles and put them into practice.

In more detail the work would include:

1. Initially engage with the Constitution Review Group, other senior councillors and officers to understand their needs and expectations and draw up a work plan
2. Work with the Constitution Review Group/Officer groups in workshops for no more than ten days over a six month period, to both facilitate discussion and draft the conclusions of those discussions
3. Advise on people and organisations to visit/invite to understand their good practice
4. Provide challenge and advise on alternative structures and practices from both within and outside local government
5. Assist officers in drafting the work into a revised constitution document

Areas for consideration with the Constitution Review Group

- Form of political models – Are we still content with the current Cabinet/Committee System?
- Delegations - Function based Committees/Executive/Area based Committees/Portfolio holders/Individual Councillors/Officers
- Involvement of partners - co-opted members on committees and in scrutiny, area working etc.
- Involvement of the public – on-line interactivity/use of social media/use of informal referenda/etc.
- Raising the profile of meetings – publicity/interactive webcasting/meetings outside the Council House etc.
- Reviewing how we run meetings – use of technology, review of what/how we provide information, can we present more and write less, can we have 'timed' agenda?

Outcomes of the facilitation

The broad outcomes envisaged from the facilitated work are:

- Members agree the guiding principles underwriting the constitution
- Members agree that the new constitution reflects and supports those principles
- Members feel fully engaged in both the process and the outcome
- A revised constitutional reflecting the governance aspirations of the Council

Timeline

This work is likely to take around six months and is expected to require up to ten days of support. An estimated timeline would be:

- April 2013 Constitution Review Group agree recommendations to Council
- 22 April 2013 Council consider any recommendations from Constitution Review Group
- May 2013 Soft market testing to develop a brief
- May 2013 Constitution Review Group to consider result of soft market testing
- November 2013 – proposed new Constitution to Full Council