

NORTH YORKSHIRE COUNCIL

NOTICE OF URGENT ITEM AND CALL IN EXEMPTION

**Access to Information Procedure Rules 16 and 19
Overview and Scrutiny Procedure Rule 16**

Scarborough Harbour Boat Lift

To the Chair of the Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee and the Chair of North Yorkshire Council

Under Access to Information Procedure Rule 19.1:

Where:

- *an individual member of the Executive receives a report which they intend to take into account in making any executive decision; or*
- *an Officer (either alone or in consultation with an Executive Member) receives a report which they intend to take into account in making any key decision,*

then (subject to Rule 16) they will not make the decision until at least five clear days after receipt of that report.

If those timescales cannot be met, then the special urgency procedure in Access to Information Procedure Rule 16 should be followed.

Under Access to Information Procedure Rule 16:

16.1 Where the date by which a decision must be made makes compliance with Rule 15

(general exception) impracticable, then the decision can only be made if the decision maker (if an individual) or the Chair of the body making the decision, obtains the written

agreement of the Chair of a relevant Overview and Scrutiny Committee that the making

of the decision is urgent and cannot reasonably be deferred. If there is no Chair of a relevant Overview and Scrutiny Committee, or if the Chair of the relevant Overview and Scrutiny Committee is unable to act, then the agreement of the Chair of the Council, or in their absence the Vice-Chair will suffice.

16.2 As soon as reasonably practicable after the decision maker has obtained agreement

under Rule 16.1 above, they must make available at the Council's offices a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish the notice on the Council's website.

The Council's Constitution further provides that where the call-in procedure would otherwise apply to an executive decision, it shall not apply where the decision being taken is urgent, if an urgency procedure is followed.

Under Overview and Scrutiny Procedure Rule 16:

(h) The call-in procedure set out above shall not apply where the decision being taken by the Executive is urgent. A decision will be urgent if any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interest. The Chair of the Council must agree both that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency. In the absence of the Chair, the Vice-Chair's consent shall be required. In the absence of both, the Head of Paid Service or their nominee's consent shall be required. Decisions taken as a matter of urgency must be reported to the next available meeting of the Council, together with the reasons for urgency.

It is anticipated that on 6 September a report regarding the following matters will be considered by the Executive Member for Open to Business, in consultation with the Executive Member for Finance, Corporate Director of Environment, the Corporate Director of Resources and the Assistant Chief Executive Legal and Democratic Services:

- a) the acceptance of a grant of £500k from the UK Seafood Fund toward the provision of a boat lift at Scarborough Harbour and note the risks involved in accepting the grant and placing an order for the Boat Lift;
- b) the delegation of authority to the Corporate Director of Resources, in consultation with the Executive Member for Finance and the Executive Member for Open to Business to accept a grant from the Mayoral Combined Authority of £700k towards the infrastructure associated with the boat lift, if offered;
- c) the approval of capital match funding of £550k from North Yorkshire Council for the boat lift project and note the annual income forecast to be generated by the Boat Lift;
- d) the delegation of authority to the Corporate Director of Environment to enter into such contracts as are necessary with a hoist supplier and marine engineering consultants and contractors to facilitate the full delivery of the project.

The Executive Member for Open to Business will take these decisions under their urgency power in paragraph 13 of the Executive Members' Delegation Scheme to determine, after consultation with the relevant Chief Officer, any Executive matter which is of such urgency that it is not practicable to refer it to the Executive for determination.

Not all of the decisions referenced in the report will have been published on the Forward Plan or published for the requisite 28 day period. In addition, it has not been possible to publish the report on which the decisions will be based at least five clear working days in advance of the decisions being taken. It is therefore necessary to follow the Special Urgency procedure in Access to Information Procedure Rule 16 and to seek to exempt call in so the decision can be implemented immediately after it is taken.

This matter requires an urgent decision on 6 September 2024, and cannot reasonably be deferred, to enable the timely consideration and progress of this matter and to comply with project deadlines for the grant funding.

The Council therefore needs to progress this matter within a short timeframe. As a consequence of the urgency of the timescales, the matter would not be able to comply with the call in period requirements. Overview and Scrutiny Procedure Rule 16 enables matters to be determined on an urgency basis and be exempt from call-in, where any delay likely to

be caused by the call-in process would seriously prejudice the Council's or the public interest. It is suggested that that would be the case in this matter.

To the Chairman of the Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee: in accordance with the provisions in the Access to Information Procedure Rules, I am, therefore, informing you as the Chair of the relevant Overview and Scrutiny Committee, that it is intended that this matter be considered by the Executive Member for Open to Business on 6 September and I am seeking your agreement that the meeting and the making of the decision is urgent and cannot reasonably be deferred beyond this timeframe. If you so agree, will you please confirm by email as soon as possible.

To the Chair of North Yorkshire Council: in accordance with the provisions in Overview and Scrutiny Procedure Rule 16(h), I am seeking your agreement that the decision proposed is reasonable in all the circumstances and to it being treated as a matter of urgency (where any delay likely to be caused by the call in process would seriously prejudice the Council's or the public interest) and that the call-in procedure should therefore not apply to the decision. If you so agree, will you please confirm by email as soon as possible.

BARRY KHAN
Assistant Chief Executive Legal and Democratic Services

Dated: 3 September 2024

I agree, for the reasons stated in this notice, that the meeting and the making of this decision is urgent and cannot reasonably be deferred and that this item should be considered on 6 September 2024.

Signed Cllr David Staveley **Date 4 September 2024**
Chair of the Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee

I agree, for the reasons stated in this notice, that the decision proposed is reasonable in all the circumstances, to it being treated as a matter of urgency and exempt from call-in and that this item should be considered on 6 September 2024.

Signed Cllr Roberta Swiers **Date 4 September 2024**
Chair of North Yorkshire Council