

# NORTH YORKSHIRE COUNTY COUNCIL

## EXECUTIVE

21 June 2022

### Proposed changes to overview and scrutiny arrangements during the period July 2022 to March 2023 and other (minor) changes to the Constitution

#### Report of the Assistant Chief Executive (Legal and Democratic Services)

#### **1.0 PURPOSE OF REPORT**

- 1.1 To present to the Executive, for their consideration for recommendation to full Council for approval, proposed changes to overview and scrutiny arrangements during the period July 2022 to March 2023 and other (minor) changes to the Constitution.

#### **2.0 BACKGROUND**

- 2.1 It is a working assumption that there will be a large number of significant decisions made by the Executive as part of the creation and implementation of the new unitary authority. As such, it is desirable, as part of good governance, to have these decisions scrutinised in a structured manner. Ideally, this would be done at the pre-decision stage, so that the findings and recommendations of scrutiny can be taken into account by the Executive and or Council when making its decision.
- 2.2 This report outlines options for consideration as to how overview and scrutiny could be undertaken during the period July 2022 to March 2023, which would enable significant decisions relating to the development and implementation of the new unitary authority to be undertaken effectively and in an open and transparent manner.
- 2.3 The Council Constitution is maintained by the Assistant Chief Executive (Legal and Democratic Services) and kept under review on an ongoing basis. There is a need to ensure that the Constitution is kept up to date, reflecting national and local changes to policy and strategy and other necessary updates to ensure that it supports effective decision making. The two sets of amendments proposed in this report are considered to be minor and administrative in nature.

#### **3.0 OPTIONS FOR OVERVIEW AND SCRUTINY DURING THE TRANSITION AND IMPLEMENTATION PERIOD**

- 3.1 There are currently 5 thematic overview and scrutiny committees: Young People; Care and Independence; Transport, Economy and Environment; Corporate and Partnerships; and Scrutiny of Health. (There is also the Police Fire and Crime Panel, the Shareholder Committee and the Looked After Children Members' Group.)
- 3.2 Each committee maintains its own work programme and meets formally 4 times a year and informally (Mid Cycle Briefing) with only the Chair, Vice Chair and Group Spokespersons 4 times a year.

- 3.3 The work of the committees is co-ordinated by Scrutiny Board (a private meeting of the scrutiny chairs). Scrutiny Board is purely informal. Links are also made with the ACC Chairs and Vice Chairs (private meeting), so that elements of scrutiny work can be led upon by an ACC, where there is a particular local interest.
- 3.4 The existing overview and scrutiny committees, undertaking their business as usual work, would still have the opportunity to look at Local Government Review issues in general, such as “How will adult social care services be affected by the bringing together of a range of different community services”. It is also envisaged that there will be a series of member working groups established that, whilst not serving a scrutiny function, would still help shape the development of the new unitary authority. At present, it is currently proposed that these will be: Locality; Planning; Customer; Waste; Licensing; Council Tax Harmonisation and Member support and the role of the Member.
- 3.5 Anticipating significant levels of business, it is suggested that the new committee or sub-committee could meet every 6 to 8 weeks from the end of July (following the County Council meeting on 20 July 2022) through to the end of March 2023.
- 3.6 It is recognised that the 90 councillors elected in May 2022 have the democratic mandate to run the County Council and subsequently the new unitary council from April 2023. It is also recognised that there are a number of councillors who are dual hatted and currently sit as district/borough and county councillors and who will become unitary councillors. Therefore, it is proposed that the scrutiny committee will purely consist of the newly elected members and it will be up to the committee to request officers and members from the district/borough councils as appropriate.
- 3.7 Option 1 – time limited sub-committee  
The Constitution (Overview and Scrutiny Procedure Rules) allows for a time limited sub-committee of the existing five thematic overview and scrutiny committees to be created. This could be made up of three representatives from each of the thematic committees, subject to political balance and proportionality.
- 3.8 Option 2 – Corporate and Partnerships overview and scrutiny committee takes the lead role  
An alternative would be for the existing Corporate and Partnerships overview and scrutiny committee to take on the role of scrutinising the significant decisions being made by the Executive. This could be done either by the main committee, with some or all of the business as usual work on its work programme being deferred or through the creation of a sub-committee dedicated to the work.
- 3.9 Option 3 – create a new overview and scrutiny committee  
Another option would be to create a new overview and scrutiny committee. This would be subject to political balance and proportionality and based upon 16 members (as is currently the case for overview and scrutiny committees).
- 3.10 It is suggested that the preferred option for the scrutiny of some of the significant decisions taken by the Executive during the transition period may be for a new overview and scrutiny committee to be constituted.
- 3.11 This option (Option 3) enables a dedicated overview and scrutiny committee to be established, whose sole focus will be upon the larger and more significant decisions being considered and/or made by the Executive. The other options explored are also deliverable but may require additional work to setup and lack the focus of a dedicated committee.

#### **4.0 PROPOSED MINOR CHANGES TO THE CONSTITUTION**

##### **4.1 Looked After Children's Members' Group**

There is a proposal to make minor (typographic) changes to the Constitution to highlight a change of name for the Members' group currently identified in the Constitution as the 'Looked After Children's Members' Group'.

4.2 As Members will be aware, this group is a non-decision making member working group responsible for supporting the Executive, and the Council as a whole, in its role as corporate parent. In order to better reflect recent changes in terminology, corporately and nationally, around identifying 'looked after children' as 'children in care' or 'children who are care experienced', and to best capture the role of this group, the group determined in July 2021 that it would be more appropriate to change its name to the 'Corporate Parenting Members' Group'.

4.3 As such, it is proposed that any references made within the Constitution to the 'Looked After Children's Members' Group' are simply transposed with the 'Corporate Parenting Members' Group'. The only substantive change needed to complete this process is regarding the Policy Framework. This will need amending to include the title of the latest corporate parenting strategy – 'We Care Because You Matter: Children in Care and Care Leavers' Strategy 2021-2023'.

##### **4.4 Contract Procedure Rules**

It is proposed to make a minor amendment to the Contract Procedure Rules to allow the Assistance Chief Executive (Legal and Democratic Services) to delegate gateway approvals to other officers to ensure speedy responses to requests.

4.5 The proposed amendments are as attached in Appendix 1.

#### **5.0 CONSULTATION - MEMBER WORKING GROUP ON THE CONSTITUTION**

5.1 The Member Working Group on the Constitution met remotely using MS Teams on 8 June 2022. At that meeting the proposals regarding transitional arrangements for overview and scrutiny through to 1 April 2023 were considered along with proposed (minor) changes to the Constitution. The comments of the working group are as summarised below:

##### **5.2 Proposed changes to overview and scrutiny arrangements during the period July 2022 to March 2023**

- In addition to the three options outlined in the report, there is a fourth option which is to undertake scrutiny of significant decisions relating to the creation and implementation of the new unitary authority through the existing scrutiny function. Working groups of councillors could also play a role in the policy development of the scrutiny function, creating additional capacity.
- It was noted that there are a number of different routes being considered for the engagement of all councillors in the development and implementation of the new unitary authority. The question was then whether adding another overview and scrutiny committee in to the mix would lead to both duplication and dilution of effort, at a time when both members and officers are extremely busy.
- Concerns were raised about the need for the Council to be open and transparent about the decisions made with regard to the development and implementation of the new unitary authority. Many of the member working groups and briefings being considered and developed would be private, internal meetings of the Council. A dedicated overview and scrutiny committee, however, would be held in public with all papers published and available on the Council website. Such a committee would also have a formal, legal standing with the accompanying powers to hold to account, as necessary.

- Concerns were raised about how a dedicated scrutiny committee would work alongside and with all of the other groups that are underway and whether this would cause confusion and delays at a time when the Council was working to an absolute deadline of 1 April 2023.
- In response, it was viewed that a dedicated scrutiny committee would provide greater coherence, a focus and purpose and enable the most significant decisions to be worked through in the public domain.
- Were a new, dedicated overview and scrutiny committee to be created, then the question was raised whether its work would end as of 1 April 2023 or whether there was merit in it continuing through to the new unitary authority to scrutinise ongoing implementation and development post day 1.

5.3 At the end of the discussions it was proposed and seconded that option 3, a new overview and scrutiny committee is constituted for the period July 2022 to March 2023, be recommended to the Executive. The vote was unanimous in favour.

#### 5.4 Looked After Children's Members' Group

- The proposed changes to the name of the group were seen as minor and administrative.
- It was explained that the new name for the group, 'Corporate Parenting Members' Group', brought it in line with the national approach and also made more sense to both the public and councillors.

5.5 At the end of the discussions it was proposed and seconded that the proposed change in name of the group in the Constitution and the Policy Framework be recommended to the Executive. The vote was unanimous in favour.

#### 5.6 Contract Procedure Rules

- The proposed change to the Contract Procedure Rules were seen as minor and administrative.
- That it was sensible to allow the Assistance Chief Executive (Legal and Democratic Services) to delegate gateway approvals to other officers to ensure speedy responses to requests.

5.7 At the end of the discussions it was proposed and seconded that the proposed changes to the Contract Procedure Rules be recommended to the Executive. The vote was unanimous in favour.

### 6.0 **FINANCIAL IMPLICATIONS**

6.1 There are no significant financial implications arising from this report. The creation of an additional overview and scrutiny committee will increase the workload upon officers and members but this can be done within existing resources.

### 7.0 **LEGAL IMPLICATIONS**

7.1 The legal implications are set out in the body of this report.

### 8.0 **EQUALITIES IMPLICATIONS**

8.1 There are no significant equalities implications arising from this report.

### 9.0 **CLIMATE CHANGE IMPLICATIONS**

9.1 There are no significant climate change implications arising from this report.

## **10.0 CONCLUSION**

- 10.1 Subject to any comments Members may have, the Executive is requested to consider the proposed creation of a dedicated overview and scrutiny committee for the period July 2022 to March 2023, whose role and remit would be scrutiny of significant decisions made by the Executive regarding the creation of the new unitary authority.
- 10.2 Subject to any comments Members may have, the Executive is requested to consider the proposed minor amendments to the Constitution.

## **11.0 REASONS FOR RECOMMENDATIONS**

- 11.1 The proposal regarding overview and scrutiny will help ensure that there is member engagement in decisions being made regarding the creation and implementation of the new unitary, that the rationale for such decisions is tested and that there is openness and transparency throughout the process. The proposed additional scrutiny committee would sit alongside the proposed working groups to provide greater member engagement in considering matters required prior to vesting day.
- 11.2 The proposed amendments to the Constitution are minor and required to ensure that it is kept up to date and current.

## **12.0 RECOMMENDATIONS**

- 12.1 That, subject to any comments Members may have, the Executive recommends to County Council that :
- a) A new overview and scrutiny committee is constituted for the period July 2022 to March 2023, whose role and remit is to be scrutiny of significant decisions made by the Executive regarding the creation of the new unitary authority.
  - b) The proposed amendments to the Constitution regarding the Looked After Children's Members' Group and the Contract Procedure Rules be adopted.

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Assistant Chief Executive (Legal and Democratic Services) and Monitoring Officer  
County Hall  
NORTHALLERTON

10 June 2022

### Background Papers

The County Council Constitution - [New Council Constitutions \(northyorks.gov.uk\)](http://northyorks.gov.uk)

## Appendix 1 – proposed amendments to the Contract Procedure Rules

Rules 1.3 (e) is to be amended to enable the ACE(LDS) to delegate gateway approvals (Rule 18.1). This amendment will align the ACE(LDS) delegations with the CD(SR) and Director permitted delegations under the Procurement and Contract Procedure Rules. The Table contained at Rule 18.1 is also proposed to be amended to reflect this change.

### Rule 1.3 (e) (iii) Proposed removal of ‘and 18.1’ shown in red below:

1.3

(e) Directors, the CD-SR and the ACE(LDS) shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-

- (i) Director - Rules 9.6, 16.1(d), (g) and (h), 16.3(b)
- (ii) CD-SR - Rules 2.1, 2.4, 2.5, 9.6, 16.1 (d), (g) and (h), 16.3(b), 16.4, 16.5 and 17.2
- (iii) ACE(LDS) - Rules 2.1, 2.4, 9.6, 16.3 (b), 16.4 ~~and 18.1~~

where delegation is not permitted, except in exceptional circumstances. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the CD-SR and the ACE(LDS).

### Rule 18 – two proposed additions in red below:

<p>4            <b>Gateway Process gate</b></p> <p>6            <b>Gate 1</b> – Commissioning and Procurement Options Appraisal</p>	<p>5            <b>Approval process</b></p> <p>7            PAB</p> <p>8            <b>AND</b></p> <p>9            The relevant Director or delegated Assistant Director</p> <p>10           <b>AND</b></p> <p>11           Finance - CD-SR or delegated Assistant Director</p> <p>12           <i>Procurement Assurance Board to decide as appropriate</i></p> <p>13           <b>AND</b></p> <p>14           The ACE(LDS) <del>or delegated officer</del></p>
<p>15           <b>Gate 2</b> – Authorisation of Documents</p>	<p>16           An Officer from the Procurement and Contract Management Service</p> <p>17           <b>AND</b></p> <p>18           SCM</p>
<p>19           <b>Gate 3</b> – Contract/ Grant Award</p>	<p>20           PAB</p> <p>21           <b>AND</b></p> <p>22           The relevant Director or delegated Assistant Director</p> <p>23           <b>AND</b></p> <p>24           Finance - CD-SR or delegated Assistant Director</p> <p>25           <i>Procurement Assurance Board to decide as appropriate.</i></p>
<p>26           <b>Gate 4(a)</b> – Contract Extension/Variation</p>	<p>27           PAB</p> <p>28           <b>AND</b></p> <p>29           The relevant Director or</p>

	delegated Assistant Director 30 <b>AND</b> 31       Finance - CD-SR or delegated Assistant Director 32 <i>Procurement Assurance Board          to decide as appropriate</i> 33 <b>AND, where appropriate</b> 34       ACE(LDS) <b>or delegated officer</b> – <i>only in cases where the extension is not          part of the original Contract.</i>
35 <b>Stage 4(b)</b> – Contract Termination (during the contract period)	36       PAB 37 <b>AND</b> 38       The relevant Director or delegated Assistant Director 39 <b>AND</b> 40       Finance - CD-SR or delegated Assistant Director 41 <i>Procurement Assurance Board          to decide as appropriate.</i>