

# North Yorkshire County Council

## EXECUTIVE

17 January 2023

### New Constitution for North Yorkshire Council

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

#### **1.0**     PURPOSE OF REPORT

- 1.1     This report presents to Members, for their consideration and recommendation to full Council for approval, the governance arrangements, and a draft Constitution, for the new unitary authority.
- 1.2     This report also sets out recommended executive arrangements for executive functions for approval by the Leader.
- 1.3     This report further sets out recommended delegations by the Executive for approval.

#### **2.0**     EXECUTIVE SUMMARY

- 2.1     The draft Constitution sets out how the new authority will operate; how it will make decisions and the steps that are to be followed to make sure the new authority's decisions are efficient, transparent and accountable to local people. The Council must ensure that copies of the Constitution are available for inspection by the public at all reasonable hours and supply a copy of the same upon request (upon payment of such reasonable fee as the Council may determine).
- 2.2     This report explains the fundamental principles of the governance arrangements for the new unitary authority (as a continuing authority model of local government reorganisation) which are set out in detail in the new draft Constitution to apply from Vesting Day (1 April 2023), a copy of which is available to view electronically at **Appendix 1** to this report with the agenda papers published on the Council's website.
- 2.3     A diagram summarising the overall proposed governance structure and illustrating the relationship between the full Council, Council committees, Executive, Executive Committee, Area Constituency Committees and Overview and Scrutiny Committees is set out at **Appendix 2**. The most substantive changes are summarised in the bulleted list below, relating to the Council committees dealing with planning and regulatory matters, standards, Area Constituency Committees and Overview and Scrutiny Committees.
- **Full Council**
  - **Council Committees** (dealing with non-executive functions)
    - No change or minor modifications to most existing Council committees
    - New committees/substantive changes for the following:

- ❖ a **Strategic Planning Committee**
- ❖ six **Area Constituency Planning Committees** (following the MP constituency boundaries, as with the Area Constituency Committees)
  
- ❖ a **Statutory Licensing Committee**
  - and sub-committees
- ❖ a **General Licensing and Registration Committee**
  - and sub-committees
  
- ❖ a **Standards and Governance Committee**

- **Executive**
  
- **Executive Committees** (dealing with executive functions)
  - **Shareholder Committee**
  
- six **Area Constituency Committees** following the MP constituency boundaries (dealing with both executive and non-executive functions)
  
- six **Overview and Scrutiny Committees**

2.4 The draft governance arrangements and draft Constitution have been reviewed through the Officers' Governance Workstream and Members' Working Group on the Constitution and are considered fit for purpose for the new authority. Any significant principles are highlighted in the later parts of this report.

2.5 A chart setting out proposed committees, their size and suggested meeting frequency is attached at **Appendix 3** for Members' consideration and recommendation to full Council for approval.

### **3.0 BACKGROUND**

3.1 The North Yorkshire (Structural Changes) Order 2022 came into force (mainly) on 18 March 2022 and provides for the establishment, on 1 April 2023 (Vesting Day), of a single tier of local government in North Yorkshire and the creation of a new unitary authority. The Order also sets out transitional provisions for the two transitional periods leading up to Vesting Day.

3.2 The new authority is legally required to prepare and keep up to date a Constitution which contains the authority's standing orders (i.e. rules of procedure for its meetings); the code of conduct for Members; such information as the Secretary of State may direct; and such information as the authority considers appropriate. The Structural Changes Order provides that the creation of the new unitary authority will be legally based on the district council functions transferring to the legal entity of the County Council and the County Council will then be reorganised to create the unitary authority. This is known as the continuity authority model, as opposed to creating a whole new legal entity. The current County Council Constitution (originally based on the then Department for Transport, Local Government and the Regions' model Constitution) has therefore been taken as the starting point for the new unitary authority Constitution. The amendments are therefore drafted on the basis of the continuing authority model of governance, namely the Leader and Executive model. The Council could consciously resolve to change this model through the relevant statutory process and resolutions at future full Council meetings. However it is noted that the Locality & Committee Governance Member Group concluded that the current governance model should continue and the future

governance model of the new authority be reviewed after Vesting Day. Ultimately this is a matter for Members to decide.

3.3 Various cross authority officer workstreams (with Project Sponsors) and sub-workstreams have been established to progress the work involved in supporting the local government reorganisation process:

- Corporate Governance
- Communications, Engagement & Branding
- Customer
- Finance
- Human Resources and People
- ICT and Digital
- Locality
- Organisational Development
- Property
- Culture, Leisure & Sport
- Economic Development
- Housing
- Planning
- Regulatory Services and Emergency Planning (service continuity)
- Waste, Highways, Parking and Street-scene

3.4 The Corporate Governance Workstream has responsibility for the preparation of the new Constitution for the new unitary authority (“North Yorkshire Council”) and its supporting principles for Members to approve. The Workstream has established various Sub-Workstreams to consider individual governance matters and it established a constitutional officer group to oversee the development of a proposed Constitution for NYC, in liaison with other Workstreams and Sub-Workstreams as appropriate. The proposals which have been developed, to ensure that the new authority has a lawful Constitution, are a collaborative effort across all eight councils.

### **Member Engagement**

3.5 On 21 June 2022, the Executive approved proposals for engaging with Members on the necessary decision-making processes required prior to Vesting Day and agreed the establishment of the following cross-party Member Working Groups to look at various areas in more depth:

- (1) Locality and Committee Governance
- (2) Planning
- (3) Customer
- (4) Waste
- (5) Member Support and role of a Councillor
- (6) Licensing
- (7) Council Tax Harmonisation

These task and finish groups have considered, reviewed and made recommendations on the areas within their remit to enable the necessary pre-Vesting Day decisions to be taken and the Constitution drafted accordingly. These Member Working Groups have been consulted in relation to those parts of the Constitution that relate to the functions they are considering.

- 3.6 Importantly the key principles supporting, and the detailed drafting of, the content of the new NYC Constitution has therefore been the subject of full consultation with relevant Officers across all eight authorities. Options papers on all key issues have been prepared by the relevant cross authority Officer Workstream and discussed with the associated relevant Member Working Group (where one is allocated), as has the subsequent detailed drafting of the Constitution based on those and subsequent consultations between them. The drafts of the Constitution considered by the Members' Working Group on the Constitution has therefore had the benefit of the input from the respective relevant Group(s).

### **Sectional Approach**

- 3.7 Given the size of the Constitution document and the requirements for consulting various officer and Member Groups the management and drafting of the Constitution has taken place in sections. There have therefore been a series of reports to the Members' Working Group on the Constitution, with each covering a defined section of the Constitution, at the Group's meetings on 22 August 2022, 6 October 2022, 14 October 2022, 9 November 2022, 15 November 2022, 13 December 2022 and 5 January 2023. However, the full draft Constitution, attached electronically at **Appendix 1** to this report, is now brought to the Executive, and will proceed to full Council for approval, as one document.

### **4.0 DRAFT CONSTITUTION FOR NORTH YORKSHIRE COUNCIL**

- 4.1 Following the extensive officer and Member consultation and engagement process outlined above, an electronic draft of the proposed Constitution for North Yorkshire Council is attached at **Appendix 1**. Given the size of the Constitution, over 400 pages, it is not proposed to print hard copies of the draft Constitution but an electronic copy is available to view with the agenda papers published on the Council's website.

- 4.2 The structure of the draft Constitution is as follows:

- **Part 1 - Summary and Explanation**
- **Part 2 – Articles**
- **Part 3 - Responsibility for Functions**
  - Schedule 1 – Council Committees, their membership and their powers
  - Schedule 2 – The Executive
  - Schedule 3 - Membership of Overview and Scrutiny Committees
  - Schedule 4 - Officers' Delegation Scheme
  - Schedule 5 - Appointments to Outside Bodies
- **Part 4 – Rules of Procedure**
- **Part 5 – Codes and Protocols**
- **[Part 6 – Members' Allowances Scheme]**
- **Part 7 – Management Structure**

Approval of the Members' Allowance Scheme (and any supporting documentation) is being sought through a separate process and it is recommended that the Monitoring Officer be given delegated authority to include the Scheme ultimately agreed by full Council.

- 4.3 Key parts of the Constitution are detailed in separate sections of this report below for Members' consideration, taking account of comments made through the lengthy and detailed engagement process outlined in this report.

- 4.4 Since the Working Group agreed the various sections of the draft Constitution for onward progression to Executive and full Council, however, the draft Constitution has continued, and will continue, to develop. Any significant proposed amendments since consideration by the Working Group are also highlighted below (excluding any minor amendments such as typographical, formatting or administrative amendments).
- 4.5 As mentioned above, the County Council's current Constitution has been used as a basis for the proposed Constitution for the new authority. Proposed amendments are shown by way of tracked changes. Highlighted text indicates parts of the Constitution which cannot be finalised at this point. The opportunity has also been taken to seek to make gender references more neutral across the whole Constitution.
- 4.6 Subject to any comments Members may have on the draft Constitution, it will go forward to full Council for approval of arrangements re non-executive functions and for approval of the Constitution itself. It is also recommended that delegations be made to the Monitoring Officer by full Council to enable the Monitoring Officer to:
- a) make any further necessary consequential or other amendments to the Constitution for North Yorkshire Council to reflect and implement any further developments in the local government re-organisation process prior to Vesting Day including but not limited to the inclusion of the Members' Allowances Scheme (and supporting guidance documents) once agreed under the separate process; and
  - b) make any necessary textual revisions to ensure that the separate sections of the Constitution are consistent and work together as a whole.
- 4.7 The Local Government (Structural Changes) (Transfer of Functions, Property, Rights and Liabilities) Regulations 2008 make provision for the transfer of functions from a predecessor council to the new unitary authority and the Explanatory Note to the Regulations sets out that in this context, "functions" means the powers and duties exercisable by a predecessor council. For absolute clarity, however, it is proposed that a resolution should be sought from both the Executive (in relation to executive functions) and full Council (in relation to non-executive functions) that current specific delegations to officers continue following Vesting Day unless and until they are superseded by a further delegation or authorisation.

## 5.0 **PART 1 – SUMMARY AND EXPLANATION**

- 5.1 The Members' Constitution Working Group agreed on 15 November 2022, that the Monitoring Officer should complete this Part of the Constitution, at the end of the drafting process, to reflect the other Constitutional principles and provisions agreed by the Working Group. Following the last meeting of the Working Group on 5 January 2023, a Part 1 Summary and Explanation has been completed and is included in the draft Constitution at **Appendix 1**.
- 5.2 The Working Group also agreed that the administrative parts of the Constitution such as the cover page, contents page and index be finalised by the Monitoring Officer under the proposed delegated powers to him (see paragraph 3.6 above), once the detailed drafting of the Constitution is complete and the content has been approved.

## 6.0 **PART 2 – ARTICLES OF THE CONSTITUTION**

6.1 The following draft Articles are set out in the proposed Constitution at **Appendix 1**:

- Article 1 - The Constitution
- Article 2 - Members of the Council
- Article 3 - Citizens and the Council
- Article 4 - The Full Council
- Article 5 - Chairing the Council
- Article 6 - Overview and Scrutiny Committees
- Article 7 - The Executive
- Article 8 - Regulatory and Other Committees
- Article 9 - The Standards and Governance Committee
- Article 10 - Area Constituency Committees
- Article 11 - Joint Arrangements
- Article 12 - Staff
- Article 13 - Decision Making
- Article 14 - Finance, Contracts and Legal Matters
- Article 15 - Review and Revision of the Constitution
- Article 16 - Suspension, Interpretation and Publication of the Constitution

6.2 Article 10 sets out the names and composition of the proposed Area Constituency Committees. Since the Members' Constitution Working Group consideration of the Article, a further suggested amendment has been included, to reference in Article 12.02 the six divisions which are covered by more than one Area Constituency Committee.

6.3 Article 12 deals with Staff and explains the roles of officers generally and also Chief Officers, Statutory Officers and Proper Officers. Certain legislation requires the full Council to designate a particular officer as "Proper Officer" for the performance of certain functions. These designations are set out in Article 12.06 of the draft Constitution. The opportunity has been taken to re-order the list of Proper Officer Functions by including a new 'Registration' section in the table.

6.4 For absolute clarity it is recommended that:

- a) full Council specifically appoint those officers listed in Article 12.06 to the posts identified, (full Council has already, at its meeting on 17 August 2022, designated the Chief Executive Officer as the Electoral Registration Officer and Returning Officer), including:
  - i. the Assistant Chief Executive Legal and Democratic Services as the Deputy Electoral Registration Officer and Deputy Returning Officer; and
  - ii. specifically designate the Assistant Chief Executive Legal and Democratic Services to be Proper Officer for any other proper officer function not currently specified in Article 12.06.

## 7.0 **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

7.1 A proposed set of delegation arrangements for the new unitary authority is set out in Part 3 of the Constitution.

7.2 Part 3 of the Constitution deals with responsibility for the Council's functions, namely what persons/bodies in the organisation have what powers of decision

making. Part 3 sets out terms of reference/delegated powers for all bodies and persons except full Council (whose powers are contained in Article 4 of the Constitution) and Overview and Scrutiny Committees (whose powers are set out in Article 6). Part 3 is a large part of the Constitution and is the subject of separate sections in this report below for ease of reference.

7.3 Sections 2 and 5 of Part 3 sets out the responsibilities of, and delegations by, full Council.

7.4 Legislation sets out those functions of the authority which must not be the responsibility of the Executive and those functions which authorities may decide either to give to the Executive or not – these are referred to as “local choice functions”. All other functions are, by default, the responsibility of the Executive.

7.5 A draft Table setting out proposed responsibility for NYC Local Choice Functions is included in section 4 of Part 3 of the Constitution. The Table has been re-written to remove out of date entries where the relevant legislation has been repealed and to include local choice functions relevant to district/borough councils.

7.6 The proposals have been reviewed through the Constitution Officers’ Sub-Workstream and the relevant Member Task and Finish Groups and reflect the new proposed governance arrangements for the new unitary authority.

#### 7.7 **Schedule 1 – Council Committees, their membership and their powers**

7.7.1 Schedule 1 to Part 3 of the Constitution sets out the committees proposed for the new authority to carry out delegated non-executive functions, along with proposed terms of reference. The key proposals for Schedule 1 are highlighted below.

7.7.2 In respect of certain committees it is not proposed that substantive changes are required:

- Audit Committee
- Appeals Committee (Home to School Transport)
- Employment Appeals Committee
- Chief Officers Appointments and Disciplinary Committee
- Chief Officers Appointments Sub-Committee
- Chief Officers Disciplinary Panel
- Pension Fund Committee
- Pension Board
- Health and Wellbeing Board
- North Yorkshire Police, Fire and Crime Panel

7.7.3 The more substantive amendments and proposals are in respect of planning, licensing, Area Constituency Committees and the Standards Committee and more detail on these proposals is set out below. There have been some further revisions to Schedule 1 since the Members’ Constitution Working Group’s consideration of it: some are administrative arrangements, such as the re-ordering of committees in the Schedule; any more substantive changes are highlighted later in the report.

#### 7.7.4 **Planning**

7.7.4.1 Following consideration by the relevant officer sub-workstream, Member task and finish group and the Members’ Working Group on the Constitution, it is proposed the planning function be delivered through a Strategic Planning Committee of, for example 12 to 15 Members – one of which is the Chair from each of the Area

Constituency Planning Committees, and six Area Constituency Planning Committees of, for example between 7 to 9 Members, matching the MP constituency boundaries of the Area Constituency Committees. By default, these Area Constituency Planning Committee will be subject to political proportionality based on the Council as a whole. However it is proposed that these Area Constituency Planning Committees be based upon the existing political balance in each Constituency area with the Chairs of each Committee being determined by full Council.

7.7.4.2 It is recommended that the Strategic Planning Committee determine larger applications for strategic infrastructure, housing and minerals and waste developments and to determine significant cross boundary applications. As it is a central committee it would be a proportionate committee with its own terms of reference. Detailed proposed Terms of Reference for the Strategic Planning Committee and Area Constituency Planning Committees are set out in Part 3 Schedule 1 of the draft Constitution at **Appendix 1**.

7.7.4.3 It is specifically proposed that:

Except where delegated to Officers it is proposed that the Strategic Planning Committee will deal with applications relating to:

- Significant planning applications relating to minerals or waste.
- Significant planning applications relating to energy or physical infrastructure accompanied by an Environmental Impact Statement and where it is intended to recommend approval.
- Planning applications for more than 500 houses and where it is intended to recommend approval.
- Planning applications which are defined as a departure from the adopted Development Plan for which the Secretary of State must be consulted and where it is intended to recommend approval.
- Planning applications where the CD/HOP considers the application to raise significant strategic planning issues that affect more than one area committee geography.

and

- To support and be consulted in respect of any Development Plan documents
- Respond as a statutory consultee to National Significant Infrastructure Projects for which a development consent order is being sought under the Planning Act 2008.

There would be no referral down of applications from Strategic Planning Committee to Area Constituency Planning Committees

It is proposed the Area Constituency Planning Committees will deal with:

- All applications not within the remit of the Strategic Planning Committee or delegated to an Officer
- the Council's functions as the Commons Registration Authority for common land and town/village greens.
- powers relating to the protection of important hedgerows.

- to support and be consulted in respect of any Development Plan documents.
- making representations to the Secretary of State regarding Public Path Orders to which a valid objection has been received following public advertisement of the Order, subject to consultation with the relevant Executive Member(s) and local Member(s) – this item has been added to the draft Terms of Reference since consideration by the Members’ Working Group on the Constitution.
- There would be no referral up of applications from the Area Constituency Planning Committee.

## 7.7.5 Licensing

7.7.5.1 The Licensing Member Working Group considered the issue of licensing functions and the committees required to enable the new authority to undertake the necessary regulatory decision-making required by law in relation to licensing and concluded that a recommendation should be made for the establishment of two central committees to deal with licensing: a Statutory Licensing Committee of 15 Members and a General Licensing and Registration Committee of 25 Members. Each central committee would then have sub-committees to be convened to determine applications/hearings.

7.7.5.2 The Licensing Act 2003 requires NYC to establish one licensing committee to deliver licensing functions relating to alcohol and premises, comprising of between 10-15 members and the membership of any sub committees drawn from it. The Gambling Act 2005 requires gambling functions to be delegated to this same licensing committee. These elements cannot therefore lawfully be delegated to the Area Constituency Committees.

7.7.5.3 Licensing decisions required under different legislation concerning other licensing activities (e.g. taxis, sexual entertainment venues etc.) are taken by, or delegated to, officers by a regulatory committee established under the Local Government Act 1972. It is therefore possible for these type of functions to be delegated to Area Constituency Committees and included in their Terms of Reference, however the view of the Licensing Member Working Group, Locality Member Working Group and Members’ Constitution Working Group was that licensing functions should be retained within the Statutory and General Licensing Committees’ structure. Looking at other authorities’ arrangements, all have separated out licensing regulatory decision making into central licensing committees. Some have for their Area Constituency Committees to deliver a mix of regulatory decisions, community leadership and place making but they do not include licensing functions.

## 7.7.6 Area Constituency Committees

7.7.6.1 It is proposed that six Area Constituency Committees (ACCs), based upon MP constituency boundaries, be created. The outcome of the boundary review will not come into effect until the next general election. As such, it is recommended to proceed with the existing boundaries and representation.

7.7.6.2 The proposed remit of ACCs is broadly:

- Local democracy and holding the Executive to account.
- Place shaping role for economic development and enterprise.
- Local community leadership including liaising with Community Networks.
- Delegated decision making in relation to certain local highways issues.
- To promote and encourage tourism and heritage, arts, leisure and culture.

- With the agreement of the Chair of the Area Constituency Committee, to make recommendations to the appropriate officer and/or body regarding the following matters as they affect the Area Constituency Committee's area:
  - Housing
  - Transport
  - Estate needs for North Yorkshire Council
  - Climate change and environmental issues
- working to compliment the work of Scrutiny in acting as a critical friend in respect of specific local issues referred to the ACC by any of the Scrutiny Committees.
- A consultative role in respect of all Traffic Regulation Orders with Wide Area Impacts.
- To advise the Council on Boundary Consultations.

7.7.6.3 The full proposed Terms of Reference and delegated powers is set out in Part 3 of Schedule 1 of the draft Constitution attached at **Appendix 1**. The remit is linked to member decisions around allocating regulatory decision making (i.e. planning and licensing), scrutiny functions and influencing policy development. It is proposed that ACCs do not take decisions in relation to licensing for the reasons set out above in this report, and that licensing functions are delivered by way of a Statutory Licensing Committee and General Licensing and Registration Committee; and planning decisions are undertaken by the Strategic Planning Committee and the six Area Constituency Planning Committees.

7.7.6.4 It is proposed that use is made of the current District and Borough Offices as the default venue and note the potential use of other venues in discussion with Democratic Services and the potential use of virtual meetings for non-decision making purposes.

#### 7.7.7 **Standards and Governance Committee**

7.7.7.1 The provisions in relation to standards have been amended to reference the unitary authority's responsibility for dealing with standards complaints against parish council Members and the maintenance and publication of parish council registers of Members' interests.

7.7.7.2 It is also proposed that there should be a Standards and Governance Committee with the delegated the power to make certain decisions in relation to elections and to have responsibility for community governance on behalf of the Council together with making recommendations regarding Honorary Aldermen/women and to have residual powers in relation to consultation on personal Bills. The proposed terms of reference for the Standards and Governance Committee have therefore been amended in this respect and, for consistency with other committees, the terms of reference have been moved to Schedule 1 to Part 3, rather than being contained in Article 9 of the Constitution.

7.7.7.3 Article 9 of the Constitution ("The Standards and Governance Committee") contains draft consequential amendments accordingly.

7.7.7.4 It is proposed that the size of the Standards Committee be increased, in recognition of the new jurisdiction over parish council standards hearings, and, further, that regarding the required parish council representation at a standards complaint hearing panel when it is considering a complaint about a breach of a parish council code of conduct, one non-voting parish representative should be selected from a pool of parish council representatives who have received appropriate training to attend the hearing panel.

7.7.7.5 At the meeting of the Standards Committee on 17 October 2022, the Monitoring Officer sought the Committee's views regarding increasing the number of independent persons for standards for the new authority, given the extra responsibility for parish/town council standards complaints and the likelihood of increased complaint activity and hearings panels. The Standards Committee was in agreement that the pool of independent persons should be increased. A recruitment process will be commenced, with individual appointments being recommended to full Council for approval.

## 7.8 **Schedule 2 – The Executive**

7.8.1 The functions which are the responsibility of the Executive are covered in "Executive Arrangements", which the Leader can either exercise personally or allocate to the Executive itself, committees of the Executive, individual Executive members, or officers.

7.8.2 Sections 3 and 6 of, and Schedule 2 to, Part 3 set out the responsibilities of, and delegations by, the Executive. A proposed set of executive arrangements and delegations in the new unitary authority are attached at **Appendix 1** to this report.

7.8.3 The proposed amendments are mainly updating amendments, such as updating the portfolios of Executive Members in, and the removal of Executive Members' addresses from, Schedule 2.

### 7.8.4 **Executive Members' Delegation Scheme**

7.8.4.1 The main changes to the Executive Members' Delegation Scheme are to update cross-references and amend financial thresholds regarding grants and external funding in accordance with the new draft Financial Procedure Rules. The proposed addition of a new paragraph 16 in the Executive Members' Delegation Scheme is to record a specific delegation which was previously granted by the Executive. Further consequential amendments to the Delegation Scheme may be required as the proposed new Constitution progresses through the approval process.

### 7.8.5 **Shareholder Committee**

7.8.5.1 The opportunity has been taken to add the following further clarification into the Shareholder Committee delegations:

- that the Shareholder Representative powers are required to be exercised in accordance with the Committee's scheme of delegation as opposed to the Council's general scheme;
- amending all references to expenditure to align with the Financial Procedure Rules' threshold of £500k;
- minor administrative changes, e.g. re-numbering paragraphs.

### 7.8.6 **Member Champions**

7.8.6.1 At present, there are two Member Champions (for Older People and Young People) which have a Special Responsibility Allowance (SRA) attached (currently at £1,771).

7.8.6.2 The Independent Remuneration Panel for Member Allowances has been requested by the Monitoring Officer to look at paying a Special Responsibility Allowance for any further Member Champion roles. It is recommended by the Leader to appoint a Member Champion for Climate Change, and if this was implemented, it would attract

the same SRA as the other two Champions (as considered by the Council's Independent Remuneration Panel on Members' Allowances). Member Champions with an SRA are members of Scrutiny Board and provide an annual report to the relevant Overview and Scrutiny Committee.

7.8.6.3 Whilst Member Champions are referenced in the Constitution, their precise role and remit is not currently defined. It is proposed that such wording should be included, for increased clarity, in the new Constitution for NYC. Draft wording in this respect is included in a proposed new section 5 of Part 3, Schedule 2 of the Constitution, attached at **Appendix 1**.

7.8.6.4 Subject to any comments Members may have:

- a) the Leader is recommended to approve the draft executive arrangements set out in the draft Constitution attached at **Appendix 1** and to recommend them to full Council for inclusion in the new Constitution; and
- b) the Executive is recommended to approve its delegations and references to Member Champions set out in the draft Constitution attached at **Appendix 1** and to recommend them to full Council for inclusion in the new Constitution.

## 7.9 **Schedule 3 – Membership of Overview and Scrutiny Committees**

7.9.1 The creation of the new unitary authority will see a broader range of services being commissioned and provided (housing, benefits, planning, environmental health, leisure, street scene, waste, elections). The scrutiny function, therefore, will need to be able to flex to fit this broader role and remit. Potential options for overview and scrutiny arrangements in the new authority have been discussed at several meetings of the Members' Constitution Working Group.

7.9.2 The work of the committees is co-ordinated by Scrutiny Board (a private meeting of the scrutiny chairs and older people's and young people's champions). Scrutiny Board is informal. Links are also made with the Area Constituency Committee (ACC) Chairs and Vice Chairs (also a private meeting), so that elements of scrutiny work can be led upon by an ACC, where there is a particular local interest.

7.9.3 Each committee maintains its own work programme and currently meets formally 4 times a year and informally (Mid Cycle Briefing) with only the Chair, Vice Chair and Group Spokespersons 4 times a year. Each committee has 16 county councillors on it, with seats allocated according to political proportionality. The exception to this is the Scrutiny of Health Committee which has 16 county councillors and 7 district and borough councillors. After 1 April 2023, the membership will reduce down to 16 councillors, in line with the other committees. The options considered by Members work on the assumption that the size of the committees and the frequency of meetings remains unchanged.

7.9.5 At its meeting on 13 December 2022, the Members' Working Group on the Constitution agreed that the following recommendations should be made to the Executive and full Council regarding proposed overview and scrutiny arrangements in the new unitary authority:

- a) That there should be the following Overview and Scrutiny Committees:
  - i. Care and Independence and Housing
  - ii. Transport, Economy, Environment and Enterprise
  - iii. Scrutiny of Health

- iv. Children and Families
- v. Corporate and Partnerships
- vi. Transition (LGR) Overview and Scrutiny Committee – this committee should be retained for a further three years (until 31 March 2026) with a review after two years (ie after 31 March 2025); to scrutinise Leisure, Culture, Tourism, Arts, Waste Collection, Bereavement Services and Licensing.

- b) That the Scrutiny Board should continue in its current role as an informal co-ordinating and peer challenge meeting and that it does not take on a broader or more formal remit.
- c) That the number of meetings should remain unchanged and be determined by the Chair of the committee in consultation with Members.
- d) That overview and scrutiny work be undertaken by Area Constituency Committees at the request of the lead Overview and Scrutiny Committee(s) and not independently of them.
- e) That co-optees continue to be appointed to Overview and Scrutiny Committees as appropriate where it can be demonstrated that they add value by bringing expert and technical information and insight.
- f) That a review of the overview and scrutiny arrangements is undertaken after 12 months of operation
- g) That any necessary amendments to the Terms of Reference of the overview and scrutiny committees are made, along with any other necessary consequential amendments.

7.9.6 The name, number, scope and Terms of Reference of the proposed Overview and Scrutiny Committees are detailed in Article 6 of the Constitution attached at **Appendix 1**. Further, consequential, amendments to the draft Article 6 have been made since the Working Group meeting on 13 December 2022, to reflect the Group’s agreed recommendations.

7.9.7 Proposed Overview and Scrutiny Procedure Rules for the new authority were reviewed through the Constitution Officers’ Sub-Workstream and by the Members’ Constitution Working Group on 6 October 2022, when the Group agreed that the Rules set out in Part 4 of the Constitution (and included in **Appendix 1**) should be proposed to the Executive for onwards recommendation to full Council for approval. Further detail on these Rules is included later in this report.

7.9.8 Subject to any comments Members may have, it is proposed that the arrangements for overview and scrutiny set out in **Appendix 1** be agreed for recommendation to full Council for approval.

7.10 **Schedule 4 – Officers’ Delegation Scheme**

7.10.1 A proposed Officers’ Delegation Scheme for the new unitary authority is attached at **Appendix 1** to this report, in Part 3 Schedule 4 of the draft new Constitution. This reflects the draft structure for the new authority circulated by the Chief Executive Officer on 30 September 2022:

OFFICER	AREAS OF RESPONSIBILITY
Corporate Director Children and Young People’s Service	<b>Children and Families Inclusion Schools, Adult Education and</b>

	<b>Outdoor Education Services</b>
Corporate Director of Health and Adult Services	<b>Adult Social Care</b> <b>Public Health</b> <b>Prevention and Service Development</b>
Corporate Director of Resources	<b>Finance Incl. Pension Fund</b> <b>Property</b> <b>Procurement</b> <b>Commercial</b> <b>Technology</b> <b>Transformation</b> <b>Customer and Revenue and Benefits</b> <b>Data governance and data security</b>
Corporate Director of Community Development	<b>Planning</b> Town and country planning (including minerals and waste planning) and development control And related enforcement action  Building Control  <b>Local Land Charges</b>  <b>Economic Development, Regeneration, Tourism and Skills</b>  <b>Culture, Arts, Libraries, Museums, Archives, Key Venues and Leisure</b>  <b>Housing</b>
Corporate Director of Environment	<b>Highways and Transportation</b> Integrated Passenger Transport Traffic and vehicle regulation Road safety Parking Services Street Scene incl street cleansing and litter Street works Street café and pavement licences And related enforcement action  <b>Physical Environment</b> Public Rights of Way Definitive Map Parks, Playgrounds, Public Open Spaces and Grounds  <b>Commons Registration</b> Common land and town and village green  <b>Environmental Services including</b>

	<p><b>Low Carbon, Natural Capital and Waste Services</b>  Environmental Health and protection and pest control  Waste collection, disposal and management  Control of pollution and management of air quality (regulatory and licensing functions only)</p> <p><b>Flood management</b></p> <p><b>Licensing and registration functions</b></p> <p><b>Harbours</b>  Harbour Authority and harbour management</p> <p><b>Regulatory Services</b>  Weights and measures and food  Trading Standards and consumer protection  Coronavirus  Animal health  Sports grounds  Explosives licences  Health, safety and welfare in connection with work  And any related enforcement action</p> <p>Registration, Bereavement, Coroners' Service</p> <p><b>Registration of Births, Deaths and Marriages</b>  Bereavement services Statutory public health funerals  Public and private burials and cremations and maintenance of closed churchyards  Coroners' Service</p>
Assistant Chief Executive HR and Business Support	<b>Human Resources Business Support</b>
Assistant Chief Executive Local Engagement	<b>Communications Locality structure Emergency Planning Policy, Performance Refugee / Asylum Issues Community Safety (including CCTV)</b>
Assistant Chief Executive Legal and Democratic Services	<b>Legal Democratic Services Member support Elections</b>

7.10.2 The earlier text in the draft Scheme regarding statutory officers and general rules of delegation for all Chief Officers are more minor in nature, with very little amendment to the County Council's current Constitution. The more significant changes are proposed to the specific delegations later in the Scheme, to reflect the new proposed structure for the new authority and the transfer of district/borough council functions to North Yorkshire Council, including housing, bereavement services, leisure, licensing and planning. Given the volume and complexity of these amendments, the draft new Scheme has been re-written rather than proposing amendments by way of tracked changes on the current Scheme.

7.10.3 Under the specific delegations to each Chief Officer, delegations have been categorised under broad headings with more detail following on in the relevant section. The proposed amendments to the Officers' Delegation Scheme do not list every specific function under every statute for each Chief Officer as this would lend to an unwieldy and lengthy Scheme.

7.10.4 Subject to any comments Members may have, Members are recommended to:

- a) approve the delegation of executive functions as set out in the Officers' Delegation Scheme attached in the draft Constitution at **Appendix 1**;
- b) recommend to full Council for approval, the delegation of the non-executive functions as set out in the Officers' Delegation Scheme attached in the draft Constitution at **Appendix 1** and the inclusion of the Scheme in the Constitution.

## 7.11 **Schedule 5 – Appointments to Outside Bodies**

7.11.1 The Schedule of Appointments to Outside Bodies has been reviewed through the Constitution Officers' Sub-Workstream and Members' Working Group on the Constitution and options considered regarding how the appointments to outside bodies for all eight existing councils could be managed. The following options were considered:

- Option 1 – all the Outside Bodies from the eight existing local authorities be included in the new Constitution
- Option 2 – review all Outside Bodies against an agreed criteria prior to inclusion in the new Constitution
- Option 3 – stop all appointments to Local Bodies (nominations by local councillors)
- Option 4 – do nothing.

7.11.2 The preferred approach to the Schedule of Appointments to Outside Bodies was Option 1, to include all the Outside Bodies from all eight authorities, with a detailed review of over 200 Outside Bodies taking place at a later date. This is in line with the ethos of 'safe and legal at day 1', and would enable a more rigorous approach to determining which Outside Bodies are supported by the new Council, after Vesting Day. All duplicate appointments and appointments to defunct bodies have been removed from the Schedule in the draft Constitution attached at **Appendix 1**.

7.11.3 Subject to any comments Members may have, Members are recommended to:

- a) approve the Executive appointments to Outside Bodies as set out in the Schedule of Appointment to Outside Bodies in Part 3 Schedule 5 of the draft Constitution at **Appendix 1**;

- b) recommend to full Council for approval, the Council appointments to Outside Bodies as set out in the Schedule of Appointment to Outside Bodies in Part 3 Schedule 5 of the draft Constitution at **Appendix 1** and the inclusion of the updated Schedule of Appointments to Outside Bodies in the Constitution.

## 8.0 **PART 4 – RULES OF PROCEDURE**

8.1 Part 4 of the Constitution sets out the detailed procedural rules governing how the Council operates, how decisions are made and the procedures which are followed to ensure good governance. Draft amendments to the numerous Procedure Rules are set out by way of tracked changes in Part of the new draft Constitution at **Appendix 1** to this report. Further details of the proposed amendments are set out below.

### 8.2 **Council Procedure Rules**

8.2.1 A proposed set of Council Procedure Rules for the new unitary authority is contained in Part 4 of the proposed Constitution at **Appendix 1** to this report. The Rules constitute the Council's statutory standing orders in relation to the regulation of Council proceedings and business.

8.2.2 The Members' Constitution Working Group has previously considered, at several of its meetings, issues relating to the Council Procedure Rules for the new unitary authority, particularly in relation to the time and place of full Council meetings, motions, Members' questions, substitute Members for overview and scrutiny and voting at Area Constituency Committees.

8.2.3 The main proposed amendments are to:

- Council Procedure Rule 4 (simplification of substitute arrangements), now removing reference to a substitute being from same political group;
- Council Procedure Rule 9 regarding public questions and the chair having the discretion to time limit when similar questions are grouped together and to clarify that questions need to be directed to the relevant portfolio holder or committee Chair;
- Council Procedure Rule 10 (Member questions and statements)
- Council Procedure Rule 14 (Previous Decisions and Motions) to increase the number of other Members required to sign a summons (in addition to the proposer) from 10 to 15, given the increase in the number of Council Members (from 72 to 90).

8.2.4 Since the Members' Constitution Working Group last considered the Rules, some further, consequential amendments have been proposed to reflect title and structure changes under the proposed new structures.

### 8.3 **Access to Information Procedure Rules, Budget and Policy Framework Procedure Rules, Executive Procedure Rules, Overview and Scrutiny Procedure Rules and Staff Employment Procedure Rules**

8.3.1 The following Procedure Rules have been reviewed and only minor changes are proposed as these Rules reflect legal requirements:

- **Access to Information Procedure Rules** - set out procedures in relation to public access to information about the business of the authority and the decisions it is making.

- **Budget and Policy Framework Procedure Rules** - set out the Council's framework for the adoption by the Council of its main budget and policy framework and then detail the responsibilities of the Executive and relevant processes involved in the Executive implementing the agreed budget and policy framework.
- **Executive Procedure Rules** - govern how the Executive operates insofar as who may make decisions and how meetings are conducted.
- **Overview and Scrutiny Procedure Rules** – govern the operation of overview and scrutiny committees and the overview and scrutiny process.
- **Staff Employment Procedure Rules** - include the Council's Standing Orders with respect to staff in accordance with Section 8 of the Local Government and Housing Act 1989, including the recruitment and appointment of staff, Head of Paid Service, Chief Officers and other appointments, and the right of the Leader on behalf of the Executive to object to proposed senior appointments. The Rules also contain provisions for disciplinary action against and dismissal of staff.

8.3.2 Minor amendments are suggested to these Rules, mainly to make the Rules more gender neutral and to reflect the proposed new structure of the new authority. Since the Members' Constitution Working Group considered the Rules, some further, administrative amendments have been made to amend proposed post title and structure changes under the proposed new structure and, in the case of the Overview and Scrutiny Procedure Rules, to reflect the recommendations being made to Executive and full Council regarding the name, number and remit of overview and scrutiny committees for the new authority (as highlighted earlier in this report).

#### 8.4 **Financial Procedure Rules**

8.4.1 A proposed set of Financial Procedure Rules for the new unitary authority is contained in Part 4 of the proposed Constitution at **Appendix 1** to this report.

8.4.2 The draft Rules have been prepared by the Finance workstream and agreed by the s151 Officers from the eight existing councils for recommendation for approval. The opportunity has been taken to fully update and strengthen the County Council's existing Financial Procedure Rules to ensure they are suitable for use by the new council and reflect best practice. The updated Rules will provide the framework for financial management within the new Council, ensuring appropriate control and accountability of resources, and the management of risk.

8.4.3 The main proposed differences from the current County Council Constitution are set out below:

- The purpose, scope and objectives of the Rules have been further clarified and the wording made more approachable and easy to understand.
- Job roles are used throughout instead of specific post titles to avoid the Rules needing to be updated for any subsequent changes
- The respective roles and responsibilities of the Chief Finance Officer (s151 Officer), Corporate Directors and budget holders are now more clearly defined. Corporate Directors now have the flexibility to manage the budgets under their control (with oversight from the CFO) but they will be held accountable
- The rules on virements have been simplified to reflect the larger organisation and the allocation of responsibilities between the CFO and Corporate Directors
- Other approval processes have been simplified and financial thresholds increased to reflect the larger organisation and to minimise delays
- New sections on reserves, emergency procedures, financial systems and records, the statutory accounts and external audit, the review of the system of internal control, commercial activities and interests, and the Court of Protection

have been included. This is to reflect best practice and to address some previous omissions.

- The section on grants and external funding has been clarified regarding the procedures which must be followed before applications are submitted and grants accepted. This is to reflect the risks attached to grant funding.
- The section on partnerships has been updated to reflect the actual governance arrangements of the new Council.
- New sections on harbour accounts, developer contributions and the Housing Revenue Account have been added because these are required to cover functions previously undertaken by the district / borough councils.

Example Financial Procedure Rules from other unitary councils were also considered, to ensure there were no significant gaps or omissions in the current draft.

8.4.4 The Financial Procedure Rules were amended to reflect the comments of the Members' Working Group on the Constitution. Since the Group considered the Rules, some further, administrative amendments have been made to amend proposed post title and structure changes under the proposed new structure.

## 8.5 **Procurement and Contract Procedure Rules**

8.5.1 A proposed set of Procurement and Contract Procedure Rules for the new unitary authority is contained in Part 4 of the proposed Constitution at **Appendix 1** to this report. The Rules govern how the Council procures goods, works and services and align to the Public Contracts Regulations 2015 (the 2015 Regulations).

8.5.2 The 2015 Regulations and the Council's Rules aim to:

- Simplify the procurement process
- Speed up the procurement process where possible
- Provide a more cost effective procurement process
- Promote sustainable procurement
- Drive supplier engagement and innovation.

Agreement of the Rules prior to Vesting Day will allow the iterative process of updating the operational procurement manual, training to required staff and clarity on roles and responsibilities for the Procurement and Contract Management Service (P&CMS) going forward.

8.5.3 As part of the preparations for local government reorganisation a cross-functional review of the existing standing orders and arrangements for procurement and contracting for each of the eight organisations has been undertaken. The Creditors, Procurement and Contracts work stream agreed that the County Council rules should form the basis for the revised rules for the new authority.

8.5.4 A comprehensive review of the Procurement and Contract Procedure Rules has taken place, in conjunction with the District and Borough Councils, to ensure appropriate governance arrangements in relation to procurement and contract management are in place by Vesting Day for the new North Yorkshire Council (NYC). The Section 151 Officers' Workstream has been consulted on the proposed amendments, which were 'signed off' by the Creditors, Procurement and Contract work stream, the Governance work stream and the Members' Working Group on the Constitution.

8.5.5 Key changes proposed to the Rules, along with other minor corrections and cross referencing changes, are set out by way of tracked changes on the version contained in the Constitution attached to this report at **Appendix 1** and the more significant

changes are explained below. As part of the review, the opportunity has been taken to seek to simplify the Rules where possible and therefore some Rules have been removed.

## **Key Changes**

- 8.5.5.1 **Updated glossary:** Throughout the Rules the glossary terms have been amended to be consistent and clear.
- 8.5.5.2 **Scheme of Delegation:** Rule 1.3(e) details Rules which Officers cannot delegate. This section has been amended to enable more decisions of a Corporate Director, Corporate Director of Resources and/or Assistant Chief Executive Legal and Democratic Services to be delegated, to enable operational decisions to be made quickly and efficiently. This will allow coverage to these Roles in times of absence or the need to expedite decisions at pace/emergency situations. This section has also been reviewed with corrections in place for cross-referencing.
- 8.5.5.3 **Increased monetary threshold for Best Value process:** Currently an Officer can undertake a Best Value Process i.e. seek quotes from a minimum of three suppliers or direct award up to £25,000 excluding VAT. It is proposed that this figure is increased to £50,000 exclusive of VAT. Officers will need to complete a Best Value Form for each process and submit to the P&CMS for internal audit purposes. This will allow greater flexibilities for NYC in procuring low risk low value contracts for goods/works and/or services, including maximising the potential to work with Local SME/VCSE Suppliers.
- 8.5.5.4 **Publishing on the Contracts Register:** Within the Rules' tables at 2.14 and 17.6, the threshold for publishing contracts has reduced from £25,000 to £5,000 to bring publication in line with the Local Authority Transparency Code 2015.
- 8.5.5.5 **Electronic Deeds:** The ability to execute deeds electronically has been included at Rule 6. This is subject to a cross-functional internal review which includes approval of a system which is capable of enabling the Council to execute deeds electronically.
- 8.5.5.6 **Grants:**
- 8.5.5.6.1 In previous versions of the County Council's Procurement and Contract Procedure Rules the inclusion of the administering of grants has proven helpful to Officers, however it is acknowledged that there remains a degree of ambiguity in relation to the circumstances in which allocating a grant is permissible. This Rule has been simplified to apply to all Grants, and referencing to Grants throughout the Rules has been included to clearly outline the circumstances in which a Grant would be a preferable means to achieving the Council's objectives. Grants will follow the same governance process as Contracts through the Gateway procedure.
- 8.5.5.6.2 Further to this, a new Rule has been included in relation to the requirement to monitor and review the performance of grant agreements, having regard to its value, nature, duration and subject matter. This will ensure NYC is getting value for money from the grant and that the objectives are being delivered.
- 8.5.5.7 **Pilot Schemes:** There is the inclusion of new Exceptions at Rule 16 to include Pilot Schemes in relation to a proof of concept, trialling a product or area of innovation. This is only in relation to below WTO GPA (World Trade Organisation's Agreement on Government Procurement) thresholds. This will enable the Council to work flexibly to understand market innovations prior to conducting a formal Bid or Tender exercise.

8.5.5.7 Since the Constitution Working Group considered the Rules on 22 August 2022, some further, administrative amendments have been made to amend proposed post title and structure changes under the proposed new structure and are reflected in the draft Constitution at **Appendix 1**.

## 8.6 **Property Procedure Rules**

8.6.1 A proposed set of Property Procedure Rules for the new unitary authority is attached in the draft Constitution at **Appendix 1** to this report.

8.6.2 The Property and Housing Officer Workstreams have been consulted on the draft Rules and they have also been considered by the Constitution Officers' Sub-Workstream.

8.6.3 The existing Property Procedure Rules have been reviewed through the Constitution Officers' Sub-Workstream and minor amendments are suggested, mainly to make the Rules more gender neutral and to reflect the proposed new structure of the new authority. Since the Members' Working Group on the Constitution considered the Rules, some further, administrative amendments have been made to amend proposed post title and structure changes under the proposed new structure.

## 9.0 **PART 5 – CODES AND PROTOCOLS**

### 9.1 **Members' Code of Conduct**

9.1.1 A draft Code of Conduct for Members for the new unitary authority is attached in Part 5 of the draft Constitution at **Appendix 1** to this report. The draft Code is based on the County Council's current Code of Conduct, which was recently adopted by the Council, effective from the local elections on 5 May 2022, to take account of the new national model code of conduct issued by the Local Government Association.

9.1.2 The Members' Working Group on the Constitution queried whether the Code for the new authority should make explicit reference to whistleblowing and data protection responsibilities, and contain a positive statement as to Members' working collaboratively together for the good of the county and the Monitoring Officer sought the views of the Standards Committee at its meeting on 17 October 2022. The Standards Committee is responsible for monitoring the Code of Conduct and making any recommendations to full Council re changes to the Code. The Standards Committee felt that the wording of the Code as drafted was sufficient in this regard, but agreed that it would be helpful to add something to the supporting Guidance re the Code currently being drafted.

### 9.2 **Protocol re the role of the Leader and Chief Executive Officer in the Ethical Framework**

9.2.1 A proposed Protocol re the role of the Leader and Chief Executive Officer in the Ethical Framework for the new authority is attached in Part 5 of the draft Constitution at **Appendix 1** to this report. The draft Protocol sets out how the Leader and the Chief Executive Officer will support and promote the ethical framework within the new Council.

### 9.3 **Officers' Code of Conduct**

9.3.1 As in the County Council's current Constitution, reference to the Officers' Code of Conduct is contained in Part 5 of the draft NYC Constitution attached at **Appendix 1** by referring to the officers' code (the Standards of Conduct Policy for Employees) which is published on the Council's Intranet.

#### 9.4 **Protocol for Member/Officer Relations**

9.4.1 A proposed Protocol for Member/Officer Relations for the new authority is attached in Part 5 of the Constitution at **Appendix 1**. The draft Protocol aims to guide Members and officers in their relations with each other so as to ensure the smooth running of the Council.

#### 9.5 **Protocol for Official Press Releases**

9.5.1 A proposed Protocol for Official Press Releases for the new authority is attached in Part 5 of the Constitution at **Appendix 1**. This has been reviewed in consultation with the Head of Communications. The draft Protocol aims to ensure that Members and Officers are aware of the requirements in relation to local authority publicity.

#### 9.6 **Guidance Note for Councillor and Officers on Outside Bodies**

9.6.1 A proposed Guidance note for Councillors and Officers on Outside Bodies for the new authority is attached in Part 5 of the Constitution at **Appendix 1**. The draft Guidance aims to further understanding of the implications of serving on outside bodies and ensure that Members and officers who sit on company boards are aware of, and comply with, their statutory duties under the Companies Act 2006. In addition, Members and officers should give consideration to CIPFA guidance on Council owned companies which is demonstrative of good practice.

#### 9.7 **Protocol on Audio/Visual Recording and Photography at Meetings**

9.7.1 A proposed Protocol on Audio/Visual Recording and Photography at Meetings for the new authority is attached in Part 5 of the Constitution at **Appendix 1**. The draft Protocol confirms the Council's commitment to openness and transparency in its decision making and clarifies how meetings may be recorded.

#### 9.8 **Planning Code of Conduct**

9.8.1 A draft Planning Code of Conduct is included in Part 5 of the new authority's Constitution attached at **Appendix 1** to this report for recommendation to full Council. The draft Code has been considered by the relevant officer sub-workstream and Member Task and Finish Group.

#### 9.9 **Protocol re Honorary Aldermen and Alderwomen**

9.9.1 A draft Protocol re Honorary Aldermen and Alderwomen is included in Part 5 of the new authority's Constitution attached at **Appendix 1** to this report for recommendation to full Council. The draft Code has been considered by the relevant officer sub-workstream and Member Task and Finish Group.

#### 10.0 **PART 6 – MEMBERS' ALLOWANCES SCHEME**

10.1 As detailed earlier in this report, the Members' Allowances Scheme is undergoing a separate approval process and it is proposed that it be included in the Constitution by the Monitoring Officer under delegated powers once it has been agreed by full Council.

11.0 **PART 7 – MANAGEMENT STRUCTURE**

11.1 A draft management structure for the new authority was circulated by the Chief Executive Officer on 30 September 2022 and a copy is attached at **Appendix 1** for recommendation to full Council for inclusion in the Constitution.

12.0 **DELEGATION TO CEO OF TRANSITIONAL POWERS TO APPROVE INTERNAL OPERATIONAL POLICIES DURING TRANSITIONAL PERIOD OF LOCAL GOVERNMENT REORGANISATION**

12.1 Under the North Yorkshire (Structural Changes) Order 2022, the main transitional function (“preparing for and facilitating the economic, effective, efficient and timely transfer of the district councils’ functions, property, rights and liabilities”) and certain other transitional functions (“the article 7 functions”) are exercisable by the Executive during the current second transitional period (the period beginning on the fourth day after the 2022 election day and ending on 1st April 2023).

12.2 The other transitional functions (article 7 functions) are (a) such NYCC executive and non-executive functions existing on the date on which the Structural Changes Order comes into force and (b) such other functions as the Secretary of State may specify by order or regulations.

12.3 There are also other general transitional duties in the Order including “... generally, to exercise their functions so as to further the purposes of this Order” which would cover adopting/approving plans and policies in readiness for Vesting Day.

12.4 The Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 impose obligations about various statutory plans/strategies/policies, including by when they should be prepared, and also provides for continuity in relation to other policies prepared/published by the County Council and the district/borough councils so that they are treated as plans of the new unitary authority until replaced by the unitary. There are also continuity provisions re local development plans.

12.5 The relevant officer workstream has been working to prepare the policy framework for the new unitary authority from 1 April 2023, following the general principles set out below for the policy approval process:

- current County Council and district council policies and documents continue as normal for the new unitary authority (until replaced/amended by the new unitary authority). Such policies will not need a new approval *unless* they need to be amended or new policies are to be adopted before Vesting Day, in which case they would need to go through a specific approval process;
  - if they need to be approved pre Vesting Day, then the Executive has transitional powers under the Structural Changes Order to approve policies which would previously have had to go on to full Council. Where possible the relevant Overview and Scrutiny Committee will be consulted before approval by the Executive. Some highly significant policies may still go on to full Council for endorsement;
- operational policies regulating the internal operations and working practices of the County Council, including policies in relation to health and safety, information governance and IT, will be approved by the Chief Executive Officer under his delegated powers in the Officers Delegation Scheme;

- the Executive will, under its transitional powers, adopt any district/borough council function related policies if they require amendment/approval prior to or by Vesting Day.

12.6 Paragraph 4.1(m) of the Officers' Delegation Scheme in the Constitution sets out a delegation to the Chief Executive Officer to approve internal operational policies:

- (m) That the Chief Executive, in consultation with the Leader of the Council, the appropriate Executive Member(s), the Corporate Director - Strategic Resources, the Assistant Chief Executive (Legal and Democratic Services), shall have authority to agree operational policies regulating the internal operations and working practices of the Council, which shall include, but not exclusively, policies in relation to health and safety, information governance, and IT policies.

Whilst it is believed that this delegation would already include the approval of any such policies under local government reorganisation transitional arrangements, in order for absolute clarity, it is recommended that the Executive makes the following specific delegation to the Chief Executive Officer to approve such policies during the second transitional period of local government reorganisation:

**That the Executive delegates to the Chief Executive Officer the transitional power to approve, in consultation (as the Chief Executive Officer deems appropriate) with the Leader of the Council, the appropriate Executive Member(s), the Corporate Director Strategic Resources and the Assistant Chief Executive (Legal and Democratic Services), operational policies regulating the internal operations and working practices of the Council, which shall include, but not exclusively, policies in relation to health and safety, information governance, and IT policies, during the second transitional period of local government reorganisation.**

### **13.0 FINANCIAL IMPLICATIONS**

13.1 There are no significant financial implications arising from this report.

### **14.0 LEGAL IMPLICATIONS**

14.1 The process for the creation of a unitary authority is set out in Sections 1-7 of the Local Government and Public Involvement in Health Act 2007 and Section 15 Cities and Local Government Devolution Act 2016.

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

### **15.0 EQUALITY IMPLICATIONS**

15.1 There are no significant equality change implications arising from this report. There is no impact on equalities issues in this report. A copy of the initial screening form is attached at **Appendix 5**.

### **16.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

16.1 There are no significant climate change implications arising from this report. A copy of the initial screening form is attached at **Appendix 4**.

## 16.0 CONSULTATION

- 16.1 Relevant Officers and Members have been consulted on the proposed changes set out in this report and its appendices as set out earlier in this report both generally and through the relevant Constitution Sub-Workstream, Corporate Governance Workstream representative, other relevant officer Workstream(s) as appropriate and through relevant Member Task and Finish Working Groups.
- 16.2 This report also incorporates the views of the Members' Working Group on the Constitution as expressed at the Group's meetings on 22 August 2022, 6 October 2022, 14 October 2022, 9 November 2022, 15 November 2022, 13 December 2022 and 5 January 2023.

## 17.0 REASONS FOR RECOMMENDATIONS

- 17.1 For the reasons set out in the in the body of this report and in the appendices, the recommendations set out below are proposed to the Executive.

## 18.0 RECOMMENDATIONS

- 18.1 That, subject to any comments Members may have:-
- (i) the new unitary authority shall be known as "North Yorkshire Council" from Vesting Day on 1 April 2023, in accordance with the North Yorkshire (Structural Changes) Order 2022;
  - (ii) the Leader approves the draft executive arrangements and delegations set out in the draft Constitution attached at **Appendix 1**, to apply from Vesting Day on 1 April 2023;
  - (iii) it be recommended to full Council that it delegates the local choice functions and non-executive functions as set out in Part 3 of the Constitution at **Appendix 1**;
  - (iv) the proposed NYC Constitution at **Appendix 1** be agreed and be recommended to full Council for approval, to apply from Vesting Day on 1 April 2023;
  - (v) it be agreed and recommended to full Council that full Council specifically appoint those officers listed in Article 12.06 to the posts identified, including the Assistant Chief Executive Legal and Democratic Services as the Deputy Electoral Registration Officer and Deputy Returning Officer and specifically designate the Assistant Chief Executive Legal and Democratic Services to be Proper Officer for any other proper officer function not specified in Article 12.06.
  - (vi) the Executive approves the Executive appointments to Outside Bodies as set out in the Schedule of Appointment to Outside Bodies in Part 3 Schedule 5 of the draft Constitution at **Appendix 1**;
  - (vii) the Executive recommends to full Council for approval, the Council appointments to Outside Bodies as set out in the Schedule of Appointment to Outside Bodies in Part 3 Schedule 5 of the draft Constitution at **Appendix 1** and the inclusion of the updated Schedule of Appointments to Outside Bodies in the Constitution.
  - (viii) the Executive recommends to full Council for approval, the Rules of Procedure set out in Part 4 of the draft Constitution at **Appendix 1**;

- (ix) the Executive recommends to full Council for approval, and inclusion in the Constitution, the Members' Code of Conduct, the draft Planning Code of Conduct and the other Protocols and Guidance Note set out in Part 5 of the draft Constitution at **Appendix 1**;
- (x) the Executive agrees and recommends to full Council that the proposed council committees, their size and suggested meeting frequency be established as set out at **Appendix 3**.
- (xi) the operation of the new NYC Constitution should be reviewed after one year;
- (xii) it be agreed and be recommended to full Council that a delegation be made to the Assistant Chief Executive (Legal and Democratic Services) by full Council to enable the Assistant Chief Executive (Legal and Democratic Services) to make any further necessary consequential or other amendments to the Constitution for North Yorkshire Council to reflect and implement any further developments in the local government re-organisation process prior to Vesting Day on 1 April 2023, including but not limited to:
  - a) the inclusion of the Members' Allowances Scheme (and supporting guidance documents) once agreed under the separate process;
  - b) the inclusion of the administrative parts of the Constitution such as the cover page, contents page and index once the detailed drafting of the Constitution is complete and the content has been approved;
  - c) the making of any necessary textual revisions to ensure that the separate sections of the Constitution are consistent and work together as a whole;
- (xiii) the Executive (in relation to executive functions), resolves that, for the avoidance of doubt, any specific delegation made, and any authorisation, to officers in force immediately prior to Vesting Day shall continue in force on and after Vesting Day, and any action taken thereunder shall remain valid, unless and until it is superseded by a further delegation or authorisation;
- (xiv) it be recommended to full Council that full Council (in relation to non-executive functions) resolves that, for the avoidance of doubt, any specific delegation made, and any authorisation, to officers in force immediately prior to Vesting Day shall continue in force on and after Vesting Day, and any action taken thereunder shall remain valid, unless and until it is superseded by a further delegation or authorisation;
- (xv) the Executive delegates to the Chief Executive Officer the transitional power to approve, in consultation (as the Chief Executive Officer deems appropriate) with the Leader of the Council, the appropriate Executive Member(s), the Corporate Director Strategic Resources and the Assistant Chief Executive (Legal and Democratic Services), operational policies regulating the internal operations and working practices of the Council, which shall include, but not exclusively, policies in relation to health and safety, information governance, and IT policies, during the second transitional period of local government reorganisation.

BARRY KHAN  
Assistant Chief Executive (Legal and Democratic Services)

County Hall

## NORTHALLERTON

9 January 2023

Report Authors: Jennifer Norton, Head of Legal & Governance, Harrogate Borough Council ([jennifer.norton@harrogate.gov.uk](mailto:jennifer.norton@harrogate.gov.uk))

Moira Beighton, Senior Governance Solicitor, North Yorkshire County Council ([moira.beighton@northyorks.gov.uk](mailto:moira.beighton@northyorks.gov.uk))

### Background Documents:

- Local Government and Public Involvement in Health Act 2007
- Cities and Local Government Devolution Act 2016
- The North Yorkshire (Structural Changes) Order 2022
- North Yorkshire County Council Constitution

### Appendices

1. Draft NYC Constitution
2. Committee Diagram
3. List of Committee and proposed sizes
4. Climate Change Impact Assessment Screening Form
5. Equality Impact Assessment Screening Form