

NORTH YORKSHIRE COUNCIL
17 May 2023

Changes to the Constitution made under the Assistant Chief Executive Legal and Democratic Services delegated powers

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

1.0 PURPOSE OF REPORT

- 1.1 To report back to Members, for information, changes made to the Constitution by the Assistant Chief Executive (Legal and Democratic Services) under his specific delegated powers from full Council on 22 February 2023.

2.0 BACKGROUND

- 2.1 On 22 February 2023, a new Constitution was approved for the North Yorkshire Council to apply from Vesting Day on 1 April 2023. At the time of approving the new Constitution, full Council made the following specific delegation to the Assistant Chief Executive (Legal and Democratic Services):

That a delegation be made to the Assistant Chief Executive (Legal and Democratic Services) 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;

- 2.2 The Assistant Chief Executive (Legal and Democratic Services) has made certain such amendments to the Constitution under his specific delegation from full Council on 22 February 2023 and, for ultimate transparency, wishes to report those amendments to full Council for information.
- 2.3 The Constitution is maintained by the Assistant Chief Executive Legal and Democratic Services and kept under review on an ongoing basis.
- 2.4 The Constitution will be fully reviewed after one year's operation.

3.0 AMENDMENTS TO CONSTITUTION UNDER DELEGATED POWERS

- 3.1 The Assistant Chief Executive (Legal and Democratic Services) has made the amendments to the Constitution set out in **Appendix 1** under his specific delegation from full Council on 22 February 2023.

4.0 FINANCIAL IMPLICATIONS

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

5.0 LEGAL IMPLICATIONS

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

6.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS

6.1 There are no significant environmental or climate change implications arising from this report.

7.0 CONSULTATION

7.1 Relevant Officers and Members have been consulted on the matters raised in this report.

8.0 REASONS FOR RECOMMENDATIONS

8.1 For reasons of transparency, the consequential changes to the Constitution set out in **Appendix 1**, by the Assistant Chief Executive (Legal and Democratic Services) under delegated powers, are now reported back to full Council for information.

9.0 RECOMMENDATIONS

9.1 That Members note the consequential amendments to the Constitution set out in **Appendix 1**, made by the Assistant Chief Executive (Legal and Democratic Services) under his specific delegated powers.

BARRY KHAN
Assistant Chief Executive Legal and Democratic Services

County Hall
NORTHALLERTON

26 April 2023

Background Documents:

- The Council's Constitution

**Further amendments to NYC Constitution
since Council adoption on 22 February 2023**

Further amendments have been made to the new authority's Constitution as follows, following the approval of it by full Council on 22 February 2023, by the Assistant Chief Executive (Legal and Democratic Services), under his specific delegated powers from full Council on 22 February 2023.

Miscellaneous

- Typographical and formatting amendments throughout the Constitution.
- Consistency of formatting.
- Pagination of the Constitution.

Front cover

- To remove the interim branding post Vesting Day (ie removing "1 April 2023") from the Constitution front page and to replace with the post Vesting Day branding.
- To include the word "The" before "North Yorkshire Council", in accordance with the Council resolution on 22 February 2023.

Contents page

- To include the word "The" before "North Yorkshire Council".
- To include, in Part 3 Schedule 1 (Council Committees, their membership and their powers), reference to the York and North Yorkshire Joint Devolution Committee.
- Including page numbers.

Part 1 – Summary and Explanation

- At the beginning of the document, in "The Council Constitution" section, to include the word "The" before "North Yorkshire Council", in accordance with the Council resolution on 22 February 2023.

Part 2 – Articles

Article 1 – the Constitution

- Article 1.02: to include the word "The" before "North Yorkshire Council", in accordance with the Council resolution on 22 February 2023.

Article 2 – Members of the Council

- Article 2.01 (a) (Composition) - there has not been an EC Boundary review so reference to this has been deleted.

Article 5 – Chairing the Council

- Updating the italicised note at the end of the Article regarding the Chair and Vice-Chair of the Council as appointed at full Council on 22 February 2023 until the May AGM:
Note: For the year 2022/23, the Chair of the Council is Councillor David Ireton and the Vice-Chair is Councillor Roberta Swiers.

Article 10 – Area Constituency Committees

- Article 10.01(b) and the table in Article 10.02: the number of Members in each ACC has been amended as agreed at full Council on 22 February 2023.
- Article 10.04: amended to clarify that non-executive functions are marked with an asterisk.

Part 3 – Responsibility for Functions

- Table of Local Choice Functions, number 5, the addition of the word “Act” in “Whitby Improvement 1841”.

Schedule 1 - Council Committees: their membership and their powers

- Contents page:
 - Amending the numbering.
- Membership lists have been included/amended in accordance with the resolutions of full Council on 24 February 2023
- Strategic Planning Committee page:
 - Removed the reference to “[12] Members”, following the resolutions of full Council on 22 and 24 February 2023.
 - Included the Membership list agreed by full Council.
 - For clarification purposes, amending the fifth bullet point of Delegated Powers paragraph *(a), to add in the words “to raise significant planning issues or” before “to raise significant strategic planning issues that affect more than one area committee geography”, as follows:
 - Planning applications where the Corporate Director of Community Development considers the application to raise significant planning issues or to raise significant strategic planning issues that affect more than one area committee geography.
- Area Constituency Planning Committee page:
 - The quorum number of 3 Members has been included.
- Harrogate and Knaresborough Area Constituency Committee
 - Updating of membership list and amendment of number of members of the committee from 14 to 13.
- Selby and Ainsty Area Constituency Committee
 - Updating of membership list and amendment of number of members of the committee from 15 to 16.
- Skipton and Ripon Area Constituency Committee
 - Updating of membership list.
- Area Constituency Committees’ Terms of Reference:
 - Amending Term of Reference 5 as follows to reference town and parish councils, in accordance with the resolution of full Council on 22 February 2023:
 5. The Area Constituency Committees shall empower and enable delivery of Community Area Action Plans and other local priorities brought to its attention by Division Members, Town and

Parish Councils, Community Networks and members of the public.

- North Yorkshire Health and Wellbeing Board membership page
 - Amending reference to “Interim Director of Public Health” to “Director of Public Health”.

Schedule 2 – The Executive

- Contents page:
 - Listing the Shareholder Committee and the York and North Yorkshire Joint Devolution Committee under “Register of Executive Committees”.
- Updating the table of Executive Members and their Responsibilities (and amending table column widths) to reflect the amended Executive portfolios.
- Amending the Register of Executive Committees introductory page to reference the York and North Yorkshire Joint Committee.
- Amending the Shareholder Committee membership page by deleting the word “County” before “Councillors” in the table heading.
- Including the York and North Yorkshire Joint Devolution Committee Terms of Reference, following their consideration at Executive on 14 February 2023 and approval at full Council on 22 February 2023, in the Register of Executive Committees. The Monitoring Officer has also included a membership table and made a couple of minor formatting amendments to the Terms of Reference.
- Moving the Executive Members’ Delegation Scheme to its correct place in Schedule 2 (after the Register of Executive Committees).

Schedule 4 – Officers’ Delegation Scheme

Chief Executive Officer

- Including the following further specific delegation in paragraph 5 (Specific Delegations to the Chief Executive Officer), for consistency with the Covert Activity Policy:
 - 5.18 To authorise covert activities by, and provide internal authorisations and renewal authorisations to, all appropriate officers for juvenile Covert Human Intelligence Sources (CHIS) covert investigations under the Regulation for Investigatory Powers Act 2000 (as amended) as required and to represent the Council in respect of such activities and/or authorisations when seeking judicial approval of them before the Magistrates’ Court.
- Including the following further specific delegation in paragraph 5 (Specific Delegations to the Chief Executive Officer), to reflect the legal position
 - 5.19 To exercise the Council’s functions in relation to the issue of closure notices under the Anti-Social Behaviour Crime and Policing Act 2014

Corporate Director of Environment

- Deleting the reference to “street naming and numbering” from paragraph 8.3(a) (specific delegations to the Corporate Director of Environment re Highways and

Transportation including Integrated Passenger Transport and Parking Services), as this is delegated to the Corporate Director of Community Development.

- Amending the sub-numbering in paragraph 8.3(g) (specific delegations to the Corporate Director of Environment re harbours).
- Including “Making test purchases of goods and services” in the bulleted list of actions in paragraph 8.3 (i) (i) (re Enforcement) for consistency with the Covert Activity Policy;
- Including a new para 8.3 (i) (iii) (re Enforcement) for consistency with the Covert Activity Policy and renumbering subsequent sub-paragraphs, as follows:
 - (iii) To authorise covert activities by, and provide internal authorisations and renewal authorisations to, trading standards officers for covert investigations both under the Regulation for Investigatory Powers Act 2000 as amended and outwith that Act, and to represent the Council in respect of such activities and/or authorisations when seeking judicial approval of them before the Magistrates’ Court.

Corporate Director of Community Development

- For clarification purposes, amending paragraph 9.3(a), matters excluded from the specific delegations to the Corporate Director of Community Development re planning, sixth bullet point:

Matters excluded from the delegation:

The following matters are excluded from this delegation:-

...

- Where the Corporate Director of Community Development considers a planning application to raise significant planning issues or significant planning issues that may affect more than one area committee geography such that it is to be considered by Committee;

Assistant Chief Executive Legal and Democratic Services

- Amending specific delegation 11.3(p) for consistency with the Covert Activity Policy as follows:
 - (p) To authorise covert activities by, and provide internal authorisations and renewal authorisations for, covert investigations by Veritau Limited and all directorate departments (with the exception of Trading Standards) both under the Regulation for Investigatory Powers Act 2000 as amended and outwith that Act, and to represent the Council in respect of such activities and/or authorisations when seeking judicial approval of them before the Magistrates’ Court.

Schedule 5 - Appointments to Outside Bodies

- Since the Council’s approval of the NYC Constitution, further updating amendments to the schedule of appointments to Outside Bodies have been made.

Part 4 – Rules of Procedure

Council Procedure Rules

- Amending Rule 10.3(a) to update the list of Executive portfolios.

Access to Information Procedure Rules

- Amending “s/he is” to “they are” for consistency with the rest of the Constitution.
- Amending footnote 2 in the Appendix to the Rules to remove a duplicated reference to Area Constituency Committees,

Budget and Policy Framework Procedure Rules

- Amending the title of Rule 4 from “Decisions outside the budget or policy framework” to “Decisions outside the Budget or Policy Framework” for consistency of style.

Procurement and Contract Procedure Rules

- Amendment of cross-reference paragraph numbers.
- Amending some paragraph numbering (eg PCPR 8).
- Definition of “Council” - including the word “The” before “North Yorkshire Council”.
- Definition of “Director” – including the word “Corporate” before “Director” in the definition for absolute clarity.
- Formatting amendments.

- PCPR 2, Table 1: Goods and Services (excluding Social & Other Specific Services)
 - amending Total Contract Value thresholds to “£0 - £30,000” and “£30,000 - £50,000”
 - clarifying that Total Contract Value thresholds are inclusive (not exclusive) of VAT
 - For clarity, including “Does not need to be advertised using the E-Sourcing system or Contracts Finder” in the Award Procedure column for contract values “£0 - £30,000” and “£30,000 - £50,000”

- PCPR 2, Table 2: Works and Concessions
 - amending Total Contract Value thresholds to “£0 - £30,000” and “£30,000 - £50,000”
 - clarifying that Total Contract Value thresholds are inclusive (not exclusive) of VAT
 - For clarity, including “Does not need to be advertised using the E-Sourcing system or Contracts Finder” in the Award Procedure column for contract values “£0 - £30,000” and “£30,000 - £50,000”
 - Re £1,000,000 Contract Value threshold, amending “WTO GPA Procurement Threshold” to “WTO GPA Threshold” and removing “exclusive of VAT” after “£1,000,000” in the Signature/Sealing Contract column.

- PCPR 2, Table 3: Social & Other Specific Services
 - amending Total Contract Value thresholds to “£0 - £30,000” and “£30,000 - £50,000”
 - clarifying that Total Contract Value thresholds are inclusive (not exclusive) of VAT
 - For clarity, including “Does not need to be advertised using the E-Sourcing system or Contracts Finder” in the Award Procedure column for contract values “£0 - £30,000” and “£30,000 - £50,000”

- PCPR 22, table 4: Grants awarded by the Council
 - “Any value”, Signature/Sealing column - including a closed bracket at end of the paragraph.

- PCPR 5.2 and 8.1 – amending the reference to be inclusive of VAT (rather than exclusive).

- PCPR 8.2, 17.9 – amending the £25,000 figure to £30,000 – and amending the threshold figures to be inclusive of VAT.
- PCPR 9.1 and 9.4 - amending the threshold figures to be inclusive of VAT.
- PCPR 9.6, 10.1, 11.1,12.1, 19.4, 19.5, 22.3 - amending “WTO GPA Procurement Threshold” to “WTO GPA Threshold”.
- PCPR 10.3 - deletion of the words “except that the word “clarification” shall be substituted for the word “negotiation” in these Rules” at the end of the paragraph after “shall apply”.
- PCPR 13.2, 13.5 – inclusion of the words “by them” after “or a person designated”.
- PCPR 15.1 – inclusion of the word “Officer” after “S151”.
- PCPR 17.6, 17.7 – deletion of the words “exclusive of VAT” after “£5,000”.
- PCPR 18.2 - amending the threshold figures to be inclusive of VAT.

Property Procedure Rules

- Rule 11.4 (a) amended to refer to “12 months” (not 6) to align with the definition in Rule 1.1:

All Directors are authorised to approve and sign Licences to or from third parties provided that:-

- (a) the Licence is for a period not exceeding 12 months; and
- (b) the Licence is for a fee not exceeding £15,000.

Part 5 – Codes and Protocols

Protocol for Member/Officer Relations

- Paragraph 3(c) – amending the reference to “Area Planning Committees” to “Area Constituency Planning Committees”.
- Paragraph 12(b) – amendment of typographical error.

Protocol for Official Press Releases

- Final paragraph – inserting the missing word “the” before “Assistant Chief Executive for Local Engagement”.

Guidance Note for Councillors and Officers on Outside Bodies

- Amendment of typographical error in paragraph 6.5

Part 6 – Members’ Allowances Scheme

- Including the Members’ Allowances Scheme as approved by full Council in February 2023 and supporting Guidance.
- Updating the date of the Scheme of Approved duties from 2022/23 to 2023/24.