

**North Yorkshire Council**

**EXECUTIVE**

**19 July 2023**

**Proposed amendments to the Council's Constitution**

**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, proposed changes to the Constitution.

**2.0 BACKGROUND**

- 2.1 The Constitution is maintained by the Assistant Chief Executive Legal and Democratic Services and kept under review on an ongoing basis.

- 2.2 Under Article 15.02(c) of the Constitution, the Assistant Chief Executive Legal and Democratic Services has delegated power to amend the Constitution:

- (i) to correct administrative issues such as cross-references, title changes, typographical errors and formatting;
- (ii) to ensure that the Constitution and the Council's procedures meet all legal requirements;
- (iii) to reflect changes to arrangements for the distribution of responsibilities and the delegation of powers in accordance with decisions taken by the person(s) or body with authority to take such action; and
- (iv) consequentially, to give effect to changes explicitly approved by the full Council;

and any such amendments as set out in sub-paragraph (c)(ii) above shall be reported to the next meeting of the full Council.

**3.0 AMENDMENTS TO THE CONSTITUTION**

- 3.1 The more substantive items for consideration are the subject of separate sections of this report below.

- 3.2 Other miscellaneous changes proposed to the Constitution are set out in the table of proposed amendments set out at **Appendix 1**. These relate to required updates to the Officers' Delegation Scheme, in particular the specific delegations to the Assistant Chief Executive HR and Business Support.

- 3.3 In Part B of the table, amendments are set out for information which have or will be undertaken by the Assistant Chief Executive Legal and Democratic Services under his delegated powers in Article 15.02(c) of the Constitution. The Assistant Chief Executive Legal and Democratic Services has recently used his delegated powers to amend the Constitution to correct typographical/administrative errors and to update committee membership lists following full Council on 17 May 2023.

3.4 Subject to any comments Members may have, it is proposed that the Executive recommends the suggested miscellaneous amendments as set out in the amendments chart in **Appendix 1** to full Council for approval.

#### 4.0 **HEALTH AND WELLBEING BOARD TERMS OF REFERENCE**

4.1 The opportunity has been taken to review the Terms of Reference for the Health and Wellbeing Board. Proposed amendments are set out in **Appendix 2** to this report.

4.2 The Terms of Reference were in need of revision to reflect a number of changes which have occurred in recent years, principally to:-

- a. reflect changes in the health landscape: for example, reference is now included, at appropriate points, to Integrated Care Systems/Partnerships, which have replaced Clinical Commissioning Groups; and the Office for Health Improvement and Disparities and the UK Health Security Agency, which have replaced Public Health England;
- b. have regard to aspects of the Health and Wellbeing Boards Guidance by the Department of Health and Social Care in November 2022: for example, the Guidance states that Health and Wellbeing Boards should work with Integrated Care Partnerships and Integrated Care Boards to determine the integrated approach that will best deliver holistic care and prevention activities, including action on wider determinants in their communities. (This has been included at Section 2, paragraph q); and
- c. reflect the fact that some elements of the existing Terms of Reference have become out of date: for example, the Terms of Reference previously stated that the Board met four times of year, whereas it now meets six times every year

4.3 Other amendments are also proposed, for example to reflect the fact that, as well as formal meetings, the Board may hold informal Workshop/Development Sessions (See Section 4.1).

4.4 At its meeting on 18 January 2023, the North Yorkshire Health and Wellbeing Board agreed the revised Terms of Reference, in principle, for consideration by the Members' Working Group on the Constitution, with the addition that provision for substitutes in respect of elected Member representatives be included, to reflect current practice whereby partner organisations can nominate a substitute to attend on their behalf. Therefore, the opportunity has been taken to state that substitutes are permissible (Section 4.4).

4.5 Appendix B to **Appendix 2** also sets out proposed changes to the current membership of the Health and Wellbeing Board with reasons for the suggested changes.

4.6 Appendix C to **Appendix 2** sets out a 'Modus Operandi' as to how the Board will operate.

4.7 Subject to any comments Members may have, it is proposed that the Executive recommends the suggested amendments to the membership of the Health and Wellbeing Board and its Terms of Reference as set out in **Appendix 2** to full Council for approval.

## 5.0 **CHANGING THE DATE AND TIME OF COMMITTEE MEETINGS**

- 5.1 The Members' Working Group on the Constitution has reviewed the current provisions in the Council Procedure Rules, regarding changing the date and time of Committee meetings, to consider whether amendments should be made to clarify who has power to change the date, time and place of meetings, in their discretion after consultation with others.
- 5.2 Currently a full calendar of meetings is agreed by the Assistant Chief Executive Legal and Democratic Services in consultation with the Group Leaders in the Autumn of each year. Subsequently, meeting dates, venues and times of those existing meetings can only be changed by the relevant Committee Chair "in exceptional circumstances". The current provisions are contained in Council Procedure Rules 5 and 22 as set out below, with Council Procedure Rule 5.1 being applied to committees (as suitably modified) by Council Procedure Rule 22.
- 5.3 The Working Group considered that the following proposed amendments should be made to the Council Procedure Rules to enable the Assistant Chief Executive Legal and Democratic Services to be able change the date, time and place of meetings, in their discretion, after consultation with the Chair and Members of that committee:

### **5. TIME AND PLACE OF MEETINGS**

#### **5.1 Council Meetings**

Meetings of the Council shall be held at County Hall, Northallerton, commencing at 10.30 am, or such other hour as the Council may from time to time determine; provided that in exceptional circumstances the Chair or, if the Chair position be vacant, the Vice-Chair may direct that a meeting shall be held at such other place, or such hour and on such date as they may deem expedient.

#### **5.2 Other Meetings**

5.2.1 The **date**, time and place of Executive and committee meetings will be determined by the Assistant Chief Executive Legal and Democratic Services and included on the summons for the meeting.

5.2.2 The Assistant Chief Executive Legal and Democratic Services may change the date, time and place of a meeting of a committee, in their discretion, after consulting with the Chair of the committee and Members of the Committee.

#### **5.3 Special Meetings of Committees**

The Chair of a Committee, or the Chair of the Council, may summon a special meeting of a committee at any time, and either of them shall summon a special meeting on the requisition in writing of not less than one quarter of the members of the committee. The summons shall specify the business to be considered at the special meeting, and no business other than that specified shall be considered at the meeting.

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## **22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES**

These Council Procedure Rules, in so far as they are applicable, shall with any necessary modification apply to committee and sub-committee meetings, except Council Procedure Rules 11.1 and 17 and those parts of Council Procedure Rule 13 which relate to standing, to speaking more than once and to reducing amendments to writing, and those parts of Council Procedure Rule 15 which relate to a division by name.

5.4 Subject to any comments Members may have, it is proposed that the Executive recommends the suggested amendments to Council Procedure Rule 5.2 as set out in paragraph 5.3 of this report to full Council for approval.

## 6.0 **QUESTIONS AND STATEMENTS BY THE PUBLIC**

6.1 The Members' Working Group on the Constitution has reviewed Council Procedure Rule 9 (Questions and Statements by the Public) and is proposing certain amendments, tracked below, to:

- make it clear that public questions/statements cannot be raised as a way of trying to appeal/complain about a particular committee's decision, as there are other mechanisms of redress for that;
- dis-apply Council Procedure Rule 9 (which currently applies to all committees) to the Council's planning and licensing committees, as it conflicts with other provisions in the Constitution regarding public speaking at those committees, specifically the rules set out in the Code of Practice for Councillors and Officers dealing with planning matters in Part 5 of the Constitution (attached at **Appendix 3**).

### **9. QUESTIONS AND STATEMENTS BY THE PUBLIC**

#### **9.1 General**

Members of the public may ask questions or make statements at ordinary meetings of the Council, and meetings of the Executive and of committees.

9.1.1 This Council Procedure Rule 9 does not apply to the Council's planning and licensing committees (or any other committee of a quasi-judicial nature). Public questions/statements at planning committees are governed by the Code of Practice for Councillors and Officers dealing with planning matters in Part 5 of the Constitution.

#### **9.2 Order of Questions/Statements**

Questions will be asked (or statements made) in the order notice of them was received, except that the Chair may group together similar questions or statements. The Chair has discretion when grouping together similar questions to limit the time for asking such questions.

#### **9.3 Notice of Questions/Statements**

- (a) A question may only be asked (or statement made) if notice including the full text of the question or statement has been given by delivering it in writing or by electronic mail to the

Assistant Chief Executive Legal and Democratic Services no later than midday three working days before the day of the meeting. Each question must give the name of the questioner. The question will be put to the relevant executive portfolio holder or committee Chair. Each statement must give the name of the person by whom it is to be made.

- (b) Copies of all public questions received for a meeting of Council will be circulated to all Members in the Council Chamber.

#### 9.4 **Number of Questions/Statements**

At any one meeting no person may submit more than one question or statement and no more than one such question may be asked or statement made on behalf of one organisation.

#### 9.5 **Scope of Questions/Statements**

The Assistant Chief Executive Legal and Democratic Services may reject a question or statement if it:

- ◆ is not about a matter for which the local authority has a responsibility or which affects the county;
- ◆ is defamatory, frivolous or offensive;
- ◆ is essentially a complaint about and/or appeal against a committee decision;
- ◆ is not within the purview of that particular committee;
- ◆ is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
- ◆ requires the disclosure of confidential or exempt information.

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- 6.2 Subject to any comments Members may have, it is proposed that the Executive recommends the suggested amendments to Council Procedure Rule 9 as set out in paragraph 6.1 of this report to full Council for approval.

#### 7.0 **VOTING – PROPOSAL TO ALLOW ELECTRONIC VOTING IN ADDITION TO THE ‘SHOW OF HANDS’**

- 7.1 Council Procedure Rule 15 (Voting) currently states that all votes should be taken on a show of hands. The Working Group proposes that this should be updated to reflect electronic voting, as the Council is now able to undertake electronic voting at a number of different sites, where meetings are held; the possibility of electronic voting at the meetings of full Council in the Council Chamber at Northallerton is also currently being explored.

- 7.2 Should Members be minded to amend the Constitution in this respect, suggested tracked changes to CPR 15 are set out below to incorporate reference to electronic voting (when available) in addition to the ‘show of hands’:

## **15. VOTING**

### **15.1 Voting In General**

- (a) Every question shall be determined by a show of hands or by the use of the electronic voting equipment, when available and as agreed by the Chair of the meeting. Before any decision to implement electronic voting is taken, there should be consultation with the relevant Executive portfolio holder and the Assistant Chief Executive Legal and Democratic Services.

If the majority is less than seven, the Chair, or not less than 10 Members, may require a division by name, in which case the Assistant Chief Executive Legal and Democratic Services will call the roll of the Council, and each Member present will reply either “for” or “against” or “abstain”. Alternatively if electronic voting is in operation the system will record whether each Member votes either “for” or “against” or “abstain”. The Assistant Chief Executive Legal and Democratic Services will record and count the votes, and inform the Chair, who will then announce the result. The names of the Members and the manner in which they have voted shall be recorded in the Minutes.

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- 7.3 Subject to any comments Members may have, it is proposed that the Executive recommends the suggested amendments to Council Procedure Rule 15.1 as set out in paragraph 7.2 of this report to full Council for approval.

#### 8.0 **HOW ATTENDANCE IS RECORDED - PROPOSAL TO REMOVE THE NEED FOR A SIGNING IN SHEET AT COMMITTEE MEETINGS**

- 8.1 A proposed amendment to Council Procedure Rule 17 (Record of Attendance) is suggested below, to remove the need for a signing in sheet at committee meetings, to reflect the current practice of recording attendance following the meeting via the ModernGov committee management software:

#### **17. RECORD OF ATTENDANCE**

The names of the members present at a formal meeting of the Council, Executive and their committees shall be recorded.

- 8.2 The Working Group discussed issues around recording Members’ attendance at meetings and agreed that the above amendment should be proposed, in the context that a further report on recording attendance generally should be taken to the Working Group for consideration (which may not necessarily require a change to the Constitution).

- 8.3 Subject to any comments Members may have, it is proposed that the Executive recommends the suggested amendments to Council Procedure Rule 17 as set out in paragraph 8.1 of this report to full Council for approval.

#### 9.0 **FINANCIAL IMPLICATIONS**

- 9.1 There are no significant financial implications arising from this report.

#### 10.0 **LEGAL IMPLICATIONS**

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

#### **11.0 EQUALITY IMPLICATIONS**

11.1 There is no impact on equalities issues in this report. A copy of the initial screening form is attached at **Appendix 4**.

#### **12.0 ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

12.1 There are no significant climate change implications arising from this report. A copy of the initial screening form is attached at **Appendix 5**.

#### **13.0 CONSULTATION**

13.1 Relevant Officers and Members have been consulted on the proposed changes set out in this report and its appendices.

13.2 This report also incorporates the views of the Members' Working Group on the Constitution as expressed at the Group's meeting on 12 June 2023.

#### **14.0 REASONS FOR RECOMMENDATIONS**

14.1 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.

#### **15.0 RECOMMENDATIONS**

15.1 That, subject to any comments Members may have:-

- (i) the Executive recommends the suggested miscellaneous amendments as set out in the amendments chart in **Appendix 1** to full Council for approval;
- (ii) the Executive recommends the suggested amendments to the membership of the Health and Wellbeing Board and its Terms of Reference as set out in **Appendix 2** to full Council for approval;
- (iii) the Executive recommends the suggested amendments to Council Procedure Rule 5.2 as set out in paragraph 5.3 of this report to full Council for approval;
- (iv) the Executive recommends the suggested amendments to Council Procedure Rule 9 as set out in paragraph 6.1 of this report to full Council for approval;
- (v) the Executive recommends the suggested amendments to Council Procedure Rule 15.1 as set out in paragraph 7.2 of this report to full Council for approval; and
- (vi) the Executive recommends the suggested amendments to Council Procedure Rule 17 as set out in paragraph 8.1 of this report to full Council for approval.

BARRY KHAN

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26 June 2023

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Background Documents:

- North Yorkshire County Council Constitution

Appendices

1. Proposed Amendments Chart
2. Proposed amendments to Health and Wellbeing Board Terms of Reference and membership lists
3. Code of Practice for Councillors and Officers dealing with planning matters
4. Equality Impact Assessment Screening Form
5. Climate Change Impact Assessment Screening Form