

NORTH YORKSHIRE COUNTY COUNCIL

DECISION RECORD

Re: Changes to the Officers' Delegation Scheme in the Constitution

This record is produced in accordance with the Local Authorities (Executive Arrangements)(Meetings and Access to Information)(England) Regulations 2012

This form should be used to record:

- **EXECUTIVE decisions (key or otherwise) taken by an individual Executive MEMBER; and**
- **EXECUTIVE decisions (key or otherwise) taken by an OFFICER (either alone or in consultation with an Executive Member)**
- **A non-Executive decision taken by an OFFICER which falls into one of the following descriptions:-**
 - (i) under a specific express authorisation; or**
 - (ii) under a general authorisation to officers to take such decisions and, the effect of the decision is to**
 - **grant a permission or licence;**
 - **affect the rights of an individual; or**
 - **award a contract or incur expenditure which, in either case, materially affects that relevant local government body's financial position.**

(One form per decision)

The following decision has been taken: -

After consideration of a report of the Assistant Chief Executive (Legal and Democratic Services) regarding clarification changes to the Officers' Delegation Scheme in the Constitution in relation to Coronavirus legislation, the Chief Executive Officer:

1. notes the previous amendments made to the Constitution by the Assistant Chief Executive (Legal and Democratic Services) under his delegated powers;
2. approves the following amendments to the Officers' Delegation Scheme:

4.4 To the Corporate Director – Business and Environmental Services

...

- (n) To exercise all other functions for trading standards and consumer protection not included in (m) above including, but not limited to, the Council's enforcement functions under:

- the Health Protection (Coronavirus, Restrictions) (No. 2) (England) Regulations 2020 as amended;
- the Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 and associated Secretary of State Designation Letter dated 16 June 2020;
- the Health Protection (Coronavirus, Collection of Contact Details etc and Related Requirements) Regulations 2020;

- the Health Protection (Coronavirus, Restrictions) (Obligations of Undertakings) (England) Regulations 2020;
- the Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020 and
- any successor and future Coronavirus legislation (including but not limited to Acts of Parliament and Statutory Instruments) as may be enacted;

(including, but not limited to, the powers to issue enforcement notices, bring enforcement proceedings and take all enforcement action).

4.8 To the Director of Public Health for North Yorkshire

The statutory functions of the Director of Public Health in relation to public health, including, but not limited to, those set out in the Public Health (Control of Disease) Act 1984, the NHS Act 2006, Health and Social Care Act 2012 and related regulations; including, but not limited to:

...

(d) Council functions that relate to planning for, or responding to, emergencies involving a risk to public health including, but not limited to, such functions arising out of all Coronavirus related legislation (including but not limited to Acts of Parliament and Statutory Instruments) and including but not limited to the power to issue directions under the Health Protection (Coronavirus, Restrictions) (England) (No.3) Regulations 2020 (and any successor and other Coronavirus related legislation), and to recommend to the Corporate Director Business and Environmental Services the taking of relevant enforcement functions under such Coronavirus related legislation;

Schedule 4

Officers' Delegation Scheme

North Yorkshire County Council has functions given to it by statute. Certain functions rest with the authority as a whole. These powers can be delegated to Officers under s101 Local Government Act 1972. Other functions, called Executive Functions rest with the Council's Executive, and can be delegated by the Executive to Officers. Within this scheme, functions delegated are marked either Executive or Council to indicate the origin of the delegation.

References in this Scheme to any legislation (e.g. Act of Parliament, Statutory Instrument, EU Directive) shall include a reference to any amendment or re-enactment of such legislation.

By whom: Richard Flinton, Chief Executive Officer, under his emergency delegated powers

On: 21 October 2020

Was this an executive decision?

YES/NO

If an executive decision, was it also a key decision?

YES/NO

Please note that this decision was treated under the Access to Information Procedure Rule 16 Special Urgency procedure and that call-in has been exempted from this decision by the Chairman of the County Council under Overview and Scrutiny Procedure Rule 16(h), via the blanket exemptions' notice dated 27 April 2020.

Reasons for decision: -

Under his delegated decision making powers in the Officers' Delegation Scheme in the Council's Constitution, the Chief Executive Officer has power, in cases of emergency, to take any decision which could be taken by the Council, the Executive or a committee.

The Chairmen of the Council's Overview and Scrutiny Committees and the Chairman of the Council have given their respective consents to emergency decisions by the Chief Executive Officer in response to the Covid-19 pandemic being treated under the Special Urgency Procedure and being exempt from call in where timescales do not permit observance of the usual access to information timescales. Such consents were published in the blanket exemptions' notice dated 27 April 2020.

This matter was treated under that blanket consent notice due to the need for the Constitution to be up to date and for absolute clarity over officer roles in relation to the fast-changing Coronavirus related legislative framework.

The Chief Executive Officer noted the decision by the Assistant Chief Executive (Legal and Democratic Services) on 15 September 2020 using his delegated powers under Articles 15.02(c)(i) and (ii) of the Constitution to update the references in the specific delegation to the Corporate Director Business and Environmental Services in paragraph 4.4(n) of the Officers' Delegation Scheme in order to keep the Constitution up to date.

The Chief Executive Officer approved the further amendments to the Officers' Delegation Scheme in order to provide absolute clarity in the Constitution over the respective roles of the Corporate Director Business and Environmental Services and the Director of Public Health in relation to the issuing of notices and taking of enforcement action under the Coronavirus-related legislation and to future-proof the Constitution regarding any changes to that legislative framework.

Details of any alternative options considered and rejected: -

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Conflicts of Interest

Please record below details of any conflict of interest declared by a Member or Officer regarding the decision and any dispensation granted by the Standards Committee or Monitoring Officer in respect of that conflict.

Conflict	Dispensation?

Background Papers

Please attach to this decision notice, for publication, the background papers that disclose any facts or matters on which this decision, or an important part of the decision, was based and which were relied on to a material extent in making the decision, but this does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

Signed
RICHARD FLINTON, Chief Executive Officer

Publication Date: 21 October 2020

Directorate – Central Services

***Note 1 regarding Executive decisions only:
This decision will come into force, and may then be implemented, on the expiry of 5 clear working days after publication, unless any 6 members of the Council object to it and call it in by notice in writing (including e-mail) to The Assistant Chief Executive (Legal and Democratic Services).***

Note 2: non-executive and non-key executive decisions by Officers are not subject to call in.

Contact for further information: moira.beighton@northyorks.gov.uk

Contact for copy of report considered: moira.beighton@northyorks.gov.uk

To: The PA to the Assistant Chief Executive (Legal and Democratic Services) - for onward circulation to:

All Members of the Council; All Management Board; All Management Board Secretaries; All Senior Managers; All Democratic Services Officers; All Corporate Development Officers; Senior Press Officer; Communications Officer