

North Yorkshire Council
The Charter Trustees for Scarborough
25 October 2024
Creation of Scarborough Town Council
Report of the Assistant Director Legal

1.0 PURPOSE OF REPORT

- 1.1 To provide information on work being done to support the creation of a town council for Scarborough following the decision by Council on 24 July 2024.
- 1.2 To propose that the Charter Trustees (except the member for Eastfield division) act as a shadow town council for the purposes of being a consultative body in relation to the actions set out in this report.

2.0 SUMMARY

- 2.1 To summarise the process for creating the new town council and to propose the role of the Charter Trustees in relation to this process.

3.0 BACKGROUND

- 3.1 On 24 July 2024 Council resolved to create a town council for Scarborough for the unparished parts of the town currently covered by the Charter Trustee area. The town council will be created with effect from 1 April 2025, with the first elections to be held on Thursday 1 May 2025.
- 3.2 The North Yorkshire (Structural Changes) Order 2022 made provision for Charter Trustees to be created on 1 April 2023 for those parts of the town which were unparished. The Charter Trustees will be dissolved once the newly elected town councillors come into office.
- 3.3 This report will set out the work required to support the creation of the new town council and to hand over the responsibilities of the Charter Trustees to the new town council.

4.0 CREATION OF TOWN COUNCIL

- 4.1 A working group of officers from Legal, Democratic Services, Elections and the Parish Liaison team has been created, with officers joining from other teams such as Finance when required. The group is working to identify actions to be completed to ensure a safe and legal transition to the new town council.

Matters relating to the creation of new parish councils and the winding up of Charter Trustees are governed by the following regulations:

- (i) The Local Government (Parishes and Parish Councils) (England) Regulations 2008 - provisions for distribution of property, rights and liabilities
- (ii) Local Government Finance (New Parishes) Regulations 2008 – provision for financial matters including issuing precepts for new parishes

This work falls into two main sections:

- 4.2 **Reorganisation Order** – the order confirms all the key information relating to the creation of the parish including the name of the town council, timing of elections, warding pattern and names, and council size. In addition, the Order will include a number of schedules which set out information on items to be transferred including land and property, ceremonial items, funds and balances and any other responsibilities. Work is currently underway to identify all such matters.
- 4.2.1 Allotments held for any purpose of the Allotments Acts 1908 to 1950 are required to be transferred to a parish council on its creation; there are a number of such allotments within the unparished parts of Scarborough and work is underway to identify which sites these are and any liabilities/responsibilities which will need to be transferred from North Yorkshire Council to the town council alongside these.
- 4.2.2 Ceremonial and historical property which formed the civic collection belonging to Scarborough Borough Council was required to be transferred to the Charter Trustees on their creation on 1 April 2023. All such property is now required to be transferred to a new town council. This includes mayoral regalia, silver and plate and items of historical interest. A schedule of all the items forming the civic collection will be appended to the Reorganisation Order.
- 4.2.3 Any outstanding financial balances relating to the Charter Trustees account will be transferred to the town council.
- 4.2.4 The Reorganisation Order will also need to include a figure for the budget requirement for the new parish for its first year. A calculation will need to be made based on the anticipated running costs of the new town council, with funds also allocated for service provision. This budget requirement figure will be used to calculate the anticipated precept, which will be subject to approval at the budget meeting of North Yorkshire Council in February.
- 4.2.5 Consultation will take place with the Charter Trustees to establish an anticipated budget requirement figure for approval by budget Council and inclusion in the Order.
- 4.3 **Implementation work** – following the making of the Order work will need to take place in preparation for the town councils coming into existence on 1 April and to ensure that they are in a position to agree the various items of business which should be included on the agenda for the first Annual Meeting. The first Annual Meeting must take place within 14 days of the elections, which will be held on Thursday 1 May 2025.
- 4.3.1 That first agenda should include matters such as appointment of chair and vice-chair, appointment of a parish clerk/responsible financial officer, adoption of the code of conduct and standing orders, noting the budget agreed by North Yorkshire as the principal council and agreement on dates and venues for meetings of the town council.
- 4.3.2 Accordingly the following items should be considered in preparation for this:
1. **Recruitment of an (interim) parish clerk/responsible financial officer**
 2. **Budget** – the principal council would be responsible for agreeing the Year 1 budget as part of parish precept setting, consultation will take place with the division councillors in setting the figure. The budget and precept would then be noted at the first meeting. See the Local Government Finance (New Parishes)(England) Regulations 2008.
 3. **Code of conduct and standing orders**, based on the National Association of Local Councils (NALC) model code and standing orders for adoption at the annual meeting

4. **Insurance** – make arrangements to ensure the town council is adequately insured (contents, public liability and employer’s liability)
5. **Bank account** – set up an account and make arrangements for appropriate signatories (usually the clerk and chair), ensure arrangements are in place for the clerk to be paid.
6. **YLCA** – obtain a quote for membership cost to enable the town councils to make a decision on joining at the first meeting
7. **Office accommodation and meeting room provision** – make arrangements for the parish council to have access to appropriate office space and an office address; book meeting rooms for the first few meetings to enable a calendar of meetings to be confirmed at the first meeting
8. **First Annual Meeting** – the summons to be sent from the Proper Officer of the principal council, prior to the appointment of a parish clerk by the parish council. Agenda and reports to be prepared by NYC officers or an interim clerk

4.3.3. Any costs incurred by NYC can be reclaimed from the precept funds.

4.3.4 Cost of election – the Leader stated at Executive on 18 July 2023 that he was not minded to re-charge Harrogate Town Council and Scarborough Town Council for their first elections, given that they were outside of the electoral cycle.

4.3.5 It is proposed that the division councillors of the unparished area (the Charter Trustees) except the member for Eastfield division which falls outside the geography of the new town council, be treated as a ‘shadow council’ and whilst they would have no formal powers, they can act as a consultation body to inform decisions made in relation to items at 4.3.2 above.

4.3.6 It is also proposed that an interim clerk be appointed to undertake some of the tasks set out above and that the Yorkshire Local Councils Association be consulted on the steps taken in preparation of implementing the new town council.

4.4 Charter Trustees and new town councils – the Local Government (Parishes and Parish Councils) (England) Regulations 2008 part 15 (Appendix A) make provision for occasions where a reorganisation order constitutes a parish in an area previously a charter trustee area.

4.4.1 The regulations state that on the date on which the first parish councillors come into office (Tuesday 6 May) the Charter Trustees will be dissolved and the Mayor and Deputy Mayor cease to hold office. All property, rights and liabilities of the Charter Trustees would become the property, rights and liabilities of the parish council.

4.4.2 The accounts of the Charter Trustees shall be made up to the 6 May 2024 and shall be audited and subject to the same procedures as if the Charter Trustees had not been dissolved.

5.0 CONSULTATION UNDERTAKEN AND RESPONSES

5.1 Consultation with the Scarborough Trustees is proposed in relation to the implementation of the town council as set out in the body of this report.

6.0 ALTERNATIVE OPTIONS CONSIDERED

6.1 To not prepare for the implementation of the town council. This is not recommended as in order to create a viable town council the steps identified in this report must be undertaken.

6.2 To not consult the Charter Trustees. This is recommended for rejection as pending an election to the new town council the Charter Trustees are the elected representatives for the area.

7.0 FINANCIAL IMPLICATIONS

7.1 Details of financial implications are contained within the body of the report.

8.0 LEGAL IMPLICATIONS

8.1 Legal advice is contained in the body of the report

9.0 EQUALITIES IMPLICATIONS

9.1 Equalities Impact Assessments were completed during the Community Governance Review and no implications were identified.

10.0 CLIMATE CHANGE IMPLICATIONS

10.1 Climate Change Impact Assessments were completed during the Community Governance Review and no implications were identified.

11.0 REASONS FOR RECOMMENDATIONS

11.1 To give effect to Council's resolution of 24 July 2024 to create a new town council.

12.0 RECOMMENDATIONS

That (1) the Charter Trustees note the report; and

(2) the Charter Trustees (except the member for Eastfield division) act as a shadow town council for the purposes of being a consultative body in relation to the actions set out in this report.

APPENDICES:

Appendix A – Local Government (Parishes and Parish Councils)(England) Regulations 2008 part 15

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17 October 2024

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Note: Members are invited to contact the author in advance of the meeting with any detailed queries or questions.

Local Government (Parishes and Parish Councils) (England) Regulations 2008 part 15

15.—(1) The following provisions of this regulation apply in any case where, in consequence of a reorganisation order, a city or town for which charter trustees have been constituted by or under any enactment becomes wholly comprised in a parish or in two or more parishes.

(2) On the date on which the first parish councillors for the parish or parishes (as the case may be) come into office—

- (a) the charter trustees shall be dissolved;
- (b) the mayor and deputy mayor (if any) shall cease to hold office as such;
- (c) the appointment of any local officer of dignity shall be treated as if it had been made by the parish council;
- (d) all property, rights and liabilities (of whatever description) of the charter trustees shall become property, rights and liabilities of the parish council; and
- (e) any legal proceedings to which the charter trustees are party may, subject to rules of court, be prosecuted or defended (as the case may be) by the parish council.

(3) Without prejudice to paragraph (2), regulation 5 (continuity of matters) shall apply in a case to which this regulation applies as if the charter trustees were a transferor authority and the parish council were a transferee authority.

(4) In paragraphs (2) and (3) “the parish council”—

- (a) in relation to a city or town which becomes comprised in the area of a single parish, means the council of that parish;
- (b) in relation to a city or town which becomes comprised in the area of more than one parish, means the council of such one of those parishes as is specified in the reorganisation order.

(5) The accounts of the charter trustees and of its committees and officers shall be made up to the date referred to in paragraph (2), and shall be audited in the same manner, and subject to the same procedures and penalties, as if the charter trustees had not been dissolved.