

North Yorkshire County Council

Executive

8 June 2021

Amendments to Council Constitution

Report of the Assistant Chief Executive (Legal and Democratic Services) and the Corporate Director Strategic Resources

1.0 PURPOSE OF REPORT

- 1.1 To present proposed changes to the Constitution to Members, for their consideration and recommendation to the Chief Executive Officer for recommendation, under his emergency delegated powers, to full Council for approval.

2.0 BACKGROUND

- 2.1 The Constitution is maintained by the Monitoring Officer and kept under review on an ongoing basis.
- 2.2 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.
- 2.3 Following on from the expiry of the Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020, which allowed for committee meetings to be held remotely, the County Council resolved at its meeting on 5 May 2021 that, for the present time, in light of the continuing Covid-19 pandemic circumstances, remote live-broadcast committee meetings should continue, with any formal decisions required being taken by the Chief Executive Officer under his emergency decision making powers and after consultation with Officers and Members as appropriate and after taking into account any views of the relevant Committee Members. This approach will be reviewed by full Council at its July meeting.

3.0 AMENDMENTS TO THE CONSTITUTION

- 3.1 The more substantive items for consideration are the subject of separate sections in this report.
- 3.2 Minor miscellaneous changes proposed to the Constitution are set out in the table of proposed amendments set out at **Appendix 1**. These minor amendments are to update the Constitution and correct administrative/typographical amendments. 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 to reflect administrative changes, legal requirements and changes to arrangements for the distribution of responsibilities and the delegation of powers in accordance with decisions taken by those authorised to do so.

4.0 **PROCUREMENT AND CONTRACT PROCEDURE RULES**

- 4.1 The Audit Committee Terms of Reference state that the Audit Committee is to review and recommend to the Executive, changes to the Procurement and Contract Procedure Rules (PCPR). A comprehensive review of the PCPR takes place following County Council elections every four years; however, it is recognised that in the interim there is a need to ensure the PCPR are kept up to date for organisational reasons and legal compliance
- 4.2 Specific proposed changes to the PCPR are set out in **Appendix 2** to this report and seek to give Members an overview of the thinking behind the proposed changes.
- 4.3 The PCPR govern how the Council procures goods, works and services and aligns to the Public Contract Regulations 2015.
- 4.4 The Public Contract Regulations 2015 and the PCPR aim to:
- Simplify the procurement process;
 - Make the procurement process more efficient;
 - Support more cost effective procurement processes;
 - Promote sustainable procurement;
 - Drive supplier engagement and innovation.
- 4.5 The Procurement and Contract Management Strategy sets the vision “to be outcome focused ensuring that all Commissioning, Procurement and Contract Management activity delivers Value for Money and efficiencies for the Council”. The Public Contract Regulations 2015 and PCPR support the Council in delivering this vision.
- 4.6 The Brexit transition period has now concluded meaning that the UK is no longer a member of the EU. The PCPR have been reviewed and updated to remove any references to the EU and the Official Journal of the European Union.
- 4.7 A number of minor miscellaneous amendments have been proposed in order to provide clarity and to ensure the continued efficient operating of decision-making. The proposed amendments are detailed in **Appendix 2** to this report and set out for clarity by way of tracked changes to the PCPR in **Appendix 3**.

5.0 **PROCEDURE FOR MOTIONS AT COUNTY COUNCIL**

- 5.1 On 12 August 2020, the Members’ Working Group on the Constitution considered a proposal to change the rules regarding amendments to motions at full Council to ensure that motions are not altered beyond recognition for political purposes to ‘spoil’ the original motion. The proposal was rejected by a majority vote by the Group at that meeting. Since that decision, the Group Leaders have virtually met to discuss the principle of ensuring that amendments are made for appropriate purposes and for the rules to be clarified so that the Chairman of the Council has the discretion to be able to rule amendments out of order if they are made to spoil the original motion for political purposes by changing it in a way that does not resemble the original motion. The Group Leaders were in favour of requesting the Constitution Working Group to reconsider this issue, which it did on 22 January 2021.
- 5.2 Council Procedure Rule 13(h) currently states:

(h) An amendment shall be either:-

- (i) *to refer the matter to an appropriate body or individual for consideration or recommendation;*
- (ii) *to delete words;*
- (iii) *to delete words and add others; or*
- (iv) *to add words;*

but such deletion or addition of words shall not have the effect of introducing a new proposal into, or of negating the motion before the Council and every amendment must be relevant to the motion to which it is moved.

5.3 At the meeting on 12 August 2020, it was recommended that a new paragraph be added at the end of Council Procedure Rule 13(h) to state:

“For motions moved under Rule 11.1, an amendment must not seek to substantially alter the proposal of the original motion so as to lose the meaning of the original motion.”

5.4 This wording was rejected and therefore upon the request of the Group Leaders, the Monitoring Officer reviewed alternative wording so that the Working Group could reconsider this issue.

5.5 At the Working Group meeting on 22 January 2021, the following two alternative proposals were considered for adding to Rule 13(h) following the Group Leaders’ discussion (a typographical error has been corrected in the wording of Option 1 – “substantial” in the wording considered by the Working Group has now been corrected to read “substantially”):

(a) Option 1:

“Where an amendment does not directly seek to negate or nullify a motion, the Chairman has the discretion to reject any amendment that seeks to substantially alter the proposal of the original motion so as to lose the intention of the original motion.”

or

(b) Option 2:

“Where an amendment does not directly seek to negate or nullify a motion, the amendment must not alter the proposal of the original motion so as to lose the intention of the original motion.”

The first option would clarify that the Chairman of the Council has the ultimate discretion in ruling such an amendment out of order for such purposes as it is clearly a judgement call to be made on each amendment and would place the decision on whether an amendment is seeking to politically spoil the original motion in the hands of an elected Member. The second option seeks to prevent all such amendments from being submitted in the first place, but would still rely on a level of interpretation by the Monitoring Officer and the Chairman.

5.6 The Working Group agreed unanimously to refer the proposed amendment to Council Procedure Rule 13(h) in Option 1 to the Executive for recommendation to full Council for approval, as it gives the discretion to the Chairman.

6.0 FINANCIAL IMPLICATIONS

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

7.0 **LEGAL IMPLICATIONS**

7.1 There are no significant legal implications arising from this report.

8.0 **ENVIRONMENTAL IMPLICATIONS**

8.1 There are no significant environmental implications arising from this report.

9.0 **CONSULTATION**

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

10.0 **REASONS FOR RECOMMENDATIONS**

10.1 For the reasons set out in **Appendices 1, 2 and 3** and in the body of this report, it is recommended that, subject to any comments Members may have, the recommendations and changes to the Constitution set out below be proposed to the Chief Executive Officer for recommendation to the County Council for approval.

11.0 **RECOMMENDATIONS**

11.1 That, subject to any comments Members may have, the proposed amendments to the Constitution set out in **Appendix 1** be recommended to the Chief Executive Officer for recommendation, under his emergency decision making powers, to full Council for approval.

11.2 That, subject to any comments Members may have, the proposed changes to the Procurement and Contract Procedure Rules in the Constitution as set out in **Appendices 2 and 3** be proposed to the Chief Executive Officer for recommendation, under his emergency decision making powers, to full Council for approval.

11.3 That, subject to any comments Members may have, the proposed addition to Council Procedure Rule 13(h) in the Constitution as set out in **paragraph 5.5(a)** of this report be proposed to the Chief Executive Officer for recommendation, under his emergency decision making powers, to full Council for approval

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25 May 2021

Background Documents:
The Council's Constitution

Appendices:
Appendix 1 – Proposed Amendments
Appendix 2 – Proposed changes to the PCPR
Appendix 3 – Tracked changes to the PCPR