

Report of the Head of Civic Democratic & Legal Services

## **Constitutional Update**

### **Summary**

1. The Council has recently reorganised its services into 4 mainline Directorates. As a result the delegations for officers under these new Directorates need re-aligning in the Constitution. This report details those re-alignments and sets out a number of minor changes to Council Standing Orders, which more appropriately reflect the way the meeting is actually run, in accordance with political agreement.

### **Background**

2. The constitutional changes set out in this report arise from the Executive decision to agree the 'Organisational Review' proposals, and from political agreements relating to the way Council meetings themselves operate. As Monitoring Officer responsible for ensuring the Constitution is maintained and updated, the Interim Head of Civic, Democratic & Legal Services is seeking Council's endorsement of the changes.

### **Consultation**

3. Audit & Governance Committee is most usually consulted upon constitutional change in this Authority and makes appropriate recommendations to Council on any changes. However, it does not meet until 26 April 2010, too late to make any recommendations to Council in April. Due to the gap between Council meetings with the next one not being until July 2010, it was considered important for these constitutional adjustments to be made as soon as was reasonably possible, ensuring that the Constitution remains current and officers and Members are clear about their roles/powers within it. In appreciation, however, of the role of Audit & Governance Committee in recommending constitutional change to Council, the Interim Head of Civic, Democratic & Legal Services has consulted with Group Leaders on the way forward and has provided all Members of Audit & Governance Committee with details of the constitutional changes which are the subject of this report.

## **The Changes**

4. The detailed changes to Council Procedural Rules (Standing Orders) are set out in Annex 1 to this report and they are also itemised in the recommendations set out below, to be moved by the Leader of the Council. The changes to the officer delegations are set out below within the recommendations, with the **only** actual changes being in the location of the various functions.

## **Options**

5. Full Council can approve the changes set out in this report by way of a motion put by the Leader, or it can reject them and ask the Interim Head of Civic Democratic & Legal Services to review them further.

## **Corporate Strategy**

6. Having a Constitution which is effectively maintained and updated, as appropriate, to reflect working changes the Council has agreed to its structures and ways of working, is part of contributing to the Council's aim to an effective organisation, with high standards in everything we do.

## **Implications**

7. There are no known financial, human resource or other implications associated with the recommendations in this report. There are, however, potential legal implications if the Council fails to maintain a current and up to date version of its Constitution. Article 16 of the Constitution sets out the duty of the Monitoring Officer in relation to monitoring and reviewing the Constitution and in reflecting within it changes Council has agreed to its arrangements.

## **Risk Management**

8. There are no known risks associated with the recommendations in this report, other than the potential legalities identified above and a potential confusion to officers and the public if the Constitution does not reflect the Council's actual working practices.

## **Recommendations**

9. In accordance with the matters reserved to Council under the Constitution, Full Council is asked to:

A agree the following recommendations in relation to Part 3D of the Constitution (the Officer's Delegation Scheme):

1. to amend paragraph 2.1.6 to read as follows:

*2.1.6 The Chief Executive is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to Equalities, Marketing and Communications. More for York Programme Office, Performance, Policy and Partnerships with the exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to the Full Council, a Committee of the Council or to the Executive for consideration.*

2. to delete all of Paragraph 2.3 save for paragraph 2.3.8; replace with the following and renumber accordingly:

### *2.3.1 Director of Customer and Business Support*

*2.3.1.1 The Director of Customer and Business Support is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to:*

*Civic Legal & Democratic Services*

*Corporate Finance*

*Council Tax*

*Council Tax Benefit*

*Creditors*

*Debtors*

*Fraud*

*Housing Benefit*

*Human Resources*

*Insurance*

*Internal Audit*

*IT&T*

*Payroll*

*Procurement*

*Register Office*

*Risk Management*

*York Customer Centre*

*with the exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or to the Executive for consideration.*

*2.3.1.2 He/she is responsible for internal audit under Regulation 5 of the Accounts and Audit Regulations 1996. The post holder is authorised to set the Council Tax Base and to take all appropriate action to implement the Council's Treasury Management policy. The postholder will be designated Section 151 Officer.*

### *2.3.2 Director of City Strategy*

*2.3.2.1 The Director of City Strategy is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to: ,*

*Building Control  
City Centre Management & Development  
Conservation & Urban Design  
Development Control  
Economic Development  
Emergency Planning & Business Continuity  
Engineering Consultancy  
Highways Network Strategy & Management  
Land Charges  
Major Sites Development  
Property Services  
Sustainability and carbon reduction  
Transport Planning  
Waste Strategy*

*with the exception of those functions where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or to the Executive for consideration. The Director of City Strategy is also authorised to exercise any functions in relation to common land and village greens, other than the determination of applications to register common land or village greens where representations are received.*

*2.3.2.2 The Director of City Strategy will exercise his/her delegated authority in respect of Transport Schemes in consultation with the Executive Member for City Strategy.*

*2.3.3 Director of Communities and Neighbourhoods*

*2.3.3.1 The Director of Communities and Neighbourhoods is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to :*

*Adult & Community Education  
Arts & Culture  
Civils (drainage, stonemasons, blacksmiths etc)  
Cleaning (all building cleaning including schools)  
Environmental Health & Trading Standards  
Fleet  
Housing  
Libraries & Heritage  
Licensing & Bereavement Services  
Neighbourhood Management  
Parking Services  
Parks & Open Spaces  
Safe City  
Sport & Active Leisure  
Street Environment Services  
Voluntary & Community Sector Support*

## Waste Services

*with the exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or to the Executive for consideration.*

### 2.3.4 Director of Adult Children and Education Services

*2.3.4.1 The Director of Adult Children and Education Services is authorised to discharge any function of Full Council, a Committee of the Council or of the Executive in relation to*

#### *Care Management & Social Work*

#### *Children's Trust*

#### *Commissioning, Planning & Contracting*

#### *Disabled Children & Young People Services*

#### *Early Years Service*

#### *Education*

#### *Fostering & Adoption*

#### *Home Care*

#### *Mental Health Services*

#### *Residential Care*

#### *Respite Care*

#### *Schools*

#### *Special Educational Needs*

#### *Young People's Services*

*with the exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or to the Executive for consideration. He/she is authorised to approve new Instruments and Articles of Government for Schools, provided legal requirements are met, and to approve changes of names for schools in consultation with the Executive Member for Children and Young People's Services.*

- 3 to delegate to the Head of Civic Democratic and Legal Services authority to make any other consequential drafting amendments to the Constitution, where changes to the allocation of functions and/or job titles are required by the above changes.

#### Reason:

To ensure that the Constitution properly reflects the decision of the Executive on 15<sup>th</sup> December 2009 to agree to approve a new senior management structure of the City of York Council and to create the posts of Director of Customer and Business Support Services, Director of Communities and Neighbourhoods and Director of Adult, Children and Education Services and to retain the post of Director of City Strategy, with the revised responsibilities.

**Note:** The above recommendations bring these changes into effect by ensuring that the new job titles are reflected in the Constitution and that the changes in responsibilities are also reflected. No other changes have been made.

B agree to amend Council Procedure rules (CPR) as follows:

- i) CPR 1.3 to clarify that all items of business must be completed by the expiry of the meeting time.
- ii) CPR 4.2 and 4.3 to clarify that budget council is an ordinary meeting of the Council but with different business and to ensure the CPR reflects the order of business as currently adopted by the Council
- iii) To add a CPR stating that business at Extraordinary Meetings is restricted to the item of business for which the meeting has been called.
- iv) To amend CPR 6.1 to clarify that public participation at Extraordinary meetings shall be restricted to the item of business for which the meeting has been called
- v) To amend CPR 7.1 to clarify that petitions presented at Extraordinary meetings shall be restricted to the item of business for which the meeting has been called
- vi) To amend CPR 8 to clarify that the leaders of all groups may respond to the Leader's report and that the Leader has an opportunity to respond to their comments. The amendment also separates the Leaders report from recommendations from the Executive.
- vii) To amend CPR 14 to clarify that a motion to extend the meeting before three and a half hours have elapsed can be moved without notice.
- viii) To amend 15.3.8 to clarify that a motion to extend the time of the meeting may be moved when a motion is under debate
- ix) To amend the note to 15.6.2. to clarify that the intention of this note is to remove time limits for the Leader and the Leaders of other groups on the Council when proposing or amending a budget motion but not otherwise.
- x) To add a new 16.2 clarifying that members should avoid discussion of individual officers at Council meetings
- xi) To delete 20.3 as this is incorrect but add a new 20.2c to bring the CPR in line with the Code of Conduct for members.
- xii) To make other minor drafting amendments.

**Reason:**

To remove areas of immediate ambiguity from the Council Procedure Rules and ensure that they reflect current practice and the law.

**Contact Details**

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**Report Approved**



**Date** 19 March  
2010

**Specialist Implications Officer(s)**

**Finance:** N/A

**Legal:** Alison Lowton

**Wards Affected:**

**All**



**For further information please contact the author of the report**

**Background Papers:**

**Annexes:** Annex 1 Council Procedural Rules detailed changes