

Section 1 - Introduction

Contents

1.1	Purpose and Content of the Constitution.....	2
1.2	What the Council does	3
1.3	City of York Councillors	4
1.4	Councillor’s allowances	5
1.5	Local elections.....	5
1.6	The Lord Mayor and Sheriff	6
1.7	Council staff.....	7
1.8	The Council Leader and the Executive	8
1.9	Executive Decision making.....	8
1.10	Non executive decision making	9
1.11	Allocating responsibility for non- executive decision making	10
1.12	Scrutiny	11
1.13	Political Proportionality	12
1.14	Code of Conduct.....	12
1.15	Transparency and public involvement	13

1.1 **Purpose and Content of the Constitution**

- 1.1.1 The Constitution describes the various bodies that make up the Council, their functions, Membership and procedural rules.
- 1.1.2 In Part 5D (Getting Information and Getting Involved) we have provided information for members of the public and councillors on how you can get information about the Council, and how you can get involved. We hope that this will help people who have an interest in the Council's work, or a particular matter it is dealing with, understand where they can get more information, and how they can contribute to Council activities.
- 1.1.3 You can get a better understanding of what each of the Council's bodies do in Part 3 of this Constitution, including Full Council, Executive, Policy, Overview and Scrutiny Committees, Standards Committee and Regulatory Committees. Part 3 also provides information on the management and Officer structures of the Council. Some Officers have a specific duty to ensure that the Council operates within the law and uses resources wisely. This part of the Constitution says which Council bodies, and which Officers, have authority to make which decisions.
- 1.1.4 The procedural rules that apply to the different Council bodies are contained in the sections relating to those bodies, eg Full Council (Section 4A), the Executive (Section 4B) and Policy, Overview and Scrutiny (Section 4F). You may find these useful if you want to attend a meeting, particularly if you want to be able to ask questions, have a matter discussed, or put your point of view in accordance with the Council's Public Participation Scheme.
- 1.1.5 Sections Parts 5A and 5B have the Codes of Conduct and Protocols which Officers and Members have agreed to comply with. They set the standards of behaviour.
- 1.1.6 The Contents pages at the beginning of this Constitution provide a guide on what is in the Constitution and where you can find it.

1.2 What the Council does

1.2.1 The City of York Council is a Unitary Council. This means that the City Council is responsible for ensuring that most local authority services are provided to York residents. This contrasts with North Yorkshire where some services are provided on behalf of the North Yorkshire County Council and others by the various District Councils – in Harrogate, Ryedale, Selby etc. Unlike in some areas the City Council is not directly responsible for the fire service. That is controlled by a Combined Fire Authority made up of Members of the City of York and North Yorkshire County Councillors. York also has thirty Parish and Town Councils providing some services within their communities.

1.2.2 A very wide range of services is provided by the City Council including:

- Supporting economic development to create jobs in the City
- Waste collection and disposal
- Handling planning applications
- Collecting council tax
- Administering housing and council tax benefits
- Assessing and meeting social care needs of the elderly and people with disabilities
- Supporting families and safeguarding vulnerable people
- Ensuring that effective education is made available for school age children
- Providing council housing and advice or accommodation to the homeless
- Maintaining the local highway network (the Council is not responsible for major routes such as trunk roads)
- Ensuring an effective library service
- Providing swimming pools and leisure centres
- Running the Trading Standards and Environmental Health Services
- Public health

Much more information about what the Council does can be found on the Council's website.

- 1.2.3 York also has thirty Parish and Town Councils. These are independent of the City Council and represent smaller areas. Not every part of York has a Parish Council and, where there is one, the services provided will vary but may include providing allotments, managing burial grounds, providing bus shelters, running community centres and providing litter bins. Parish Councils are notified and will comment on planning applications in their area and may also develop Neighbourhood Plans establishing some general planning principles for their area.
- 1.2.4 Parish Councillors put themselves forward for election every four years. If there are vacancies local people have the right to request a by election following notice of the vacancy being published. If no election is requested then the Parish Council can co-opt individuals to act as Parish Councillors.
- 1.2.5 The City Council does have responsibilities to receive complaints that Parish Councillors may have breached their Code of Conduct, to undertake reviews of parishing arrangements (known as community governance reviews) and to appoint temporary Parish councillors where there would not otherwise be a quorum. Other than this Parish Councils are self governing. Many Parish Councils have their own websites but you can also find contact details for each Parish on the City Council's website.

1.3 City of York Councillors

- 1.3.1 The City of York Council has 47 councillors. They each represent part of the City known as a "Ward". York has 21 Wards. Some are represented by three, some by two and some by one councillor. Details of current councillors and the wards they represent are available on the Council's website.
- 1.3.2 From time to time an independent, national body, the Local Government Boundary Commission, reviews the number of councillors and Ward boundaries and makes recommendations to Parliament for any changes which may be thought desirable. Any agreed changes are set out in legislation.

1.4 Councillors' allowances

- 1.4.1 Councillors are entitled to receive a basic allowance which is the same sum of money irrespective of their role in the Council. Councillors who perform particular roles are also entitled to a special responsibility allowance. Other allowances such as travel, subsistence, and dependent care are also payable. The details of the allowances and expenses which may be claimed are set out in a scheme in part 6 of the Constitution. This scheme has to be approved by full Council. Before changing the scheme the Council must consider a report from an Independent Remuneration Panel but Council does not have to accept the Panel's recommendations.
- 1.4.2 Details of all allowances paid and expenses claimed are published on the Council's website.

1.5 Local elections

- 1.5.1 York has elections every four years when all the Council seats are contested. Normally these take place on the first Thursday in May in the relevant election year and, in accordance with the Local Government Act 1972, newly elected councillors take office on the fourth day after election day. The next local elections are scheduled to take place in 2019.
- 1.5.2 If a councillor retires or dies then, unless it is within 6 months of a normal election date, a by election will be held to fill the vacancy.
- 1.5.3 Most councillors belong to a political party and York currently has representatives of the Labour, Conservative, Liberal Democrat and Green parties. However, there are also independent councillors who do not represent any political party.
- 1.5.4 A great deal of information about the process for standing for election and who is eligible to do so can be found on the Electoral Commission website.

1.6 **The Lord Mayor and Sheriff**

- 1.6.1 York has had a mayor since before 1217, with the status subsequently being elevated to that of Lord Mayor and traditionally recognised as such by Richard II in 1389. The office of Sheriff is the oldest in England dating back to 1396.
- 1.6.2 The Lord Mayor is a councillor formally elected by his or her fellow councillors at the Annual Meeting of the Council. Traditionally this takes place in the ancient Guildhall in mid to late May. To be eligible to be nominated for Lord Mayor a Councillor must, by tradition, have 5 years service. For some years the Council has operated an arrangement whereby points are awarded to political groups based on the number of serving councillors they have at the time of the annual meeting. The group with the most points is given the honour of nominating a councillor to serve as the next Lord Mayor. Having done so they lose 47 points the following year.
- 1.6.3 The Sheriff is nominated by the Lord Mayor and appointed by Council at the annual meeting. The Sheriff may but need not be a councillor.
- 1.6.4 In the past these posts exercised significant political power. Nowadays the role of Lord Mayor largely involves acting as *First Citizen* promoting York and representing the City at civic and ceremonial events, although he or she also chairs the meetings of the full Council. Traditionally the Lord Mayor avoids political activity during his or her term of office and although he or she is entitled to vote on business at Council, the Lord Mayor will often abstain from doing so. The Lord Mayor does though have the right to exercise a second or casting vote at Council meetings if there are an equal number of votes for or against a proposal.
- 1.6.5 The Council's Constitution sets out in more detail the Council's expectation of its Lord Mayor and Sheriff.

1.7 **Council staff**

- 1.7.1 The Council employs paid staff known as "Officers" who deliver services on a day to day basis. The Officer team is headed by the Chief Executive. Officers work for the whole Council but the

Officer team is divided into a number of departments or directorates based on related services. Each directorate is headed by a senior Officer known as a Director. The Directors and Chief Executive together form the Council's Corporate Management Team.

The Council is required to have certain Officers by law.

- The Chief Executive acts as the Head of Paid Service and has responsibility for appointing staff below the level of Assistant Director. In practice, of course, this responsibility is generally delegated to managers.
- The Council's Corporate Director of Customer and Corporate Services is the Chief Finance Officer appointed in accordance with section 151 of the Local Government Act 1972. The postholder has legal responsibilities in respect of ensuring the proper conduct of the Council's financial affairs.
- One of the Assistant Directors of Customer and Corporate Services is the Monitoring Officer appointed in accordance with the Local Government and Housing Act 1989. The postholder has legal responsibilities in respect of the Council acting lawfully and without maladministration.
- The Council is required to have a Director of Children's Services, a Director of Adult Social Services and a Director of Public Health to lead on their respective functions. These roles do not necessarily have to be performed by different people.
- The Council must also designate one of its officers as the statutory scrutiny officer with the key function of promoting the role of and supporting overview and scrutiny in the authority. This role is undertaken by the Head of Civic and Democratic Services.

1.7.2 Various pieces of legislation require action to be taken by the “Proper Officer” of the Council. The Constitution sets out which Officer is the Proper Officer for certain purposes. If no specific Officer has been identified then the Chief Executive has that responsibility.

1.8 The Council Leader and the Executive

1.8.1 The full Council appoints one councillor to act as the Council Leader. In York, the Leader is appointed for a four year term or until the end of his or her term of office. The term of office may be shorter if the Leader resigns or loses a vote of no confidence. Where one political group has a majority of seats on the Council the leader of that group will normally be appointed as the Council Leader. The Council Leader has very significant powers relating to decision making.

1.8.2 York operates the system known as “executive decision making” introduced by the Local Government Act 2000 and has a Leader and Executive. One of the key powers of the Leader is to appoint Executive Members and to allocate responsibility for executive decision making. The Leader is entitled to establish an Executive made up exclusively of him or herself and other members of his or her political group. The Leader must appoint at least two Executive Members to serve with him and is entitled to appoint up to nine although York’s Executive currently consists of the Leader and seven other councillors.

1.9 Executive Decision making

1.9.1 The law which governs the way decisions are made within the Council is quite complicated. The Local Government Act 2000 says that any function which the Council performs is a function of the Executive unless there is a specific legal provision which says otherwise. In the main those exceptions are set out in a piece of legislation called the Local Authorities (Functions and Responsibilities)(England) Regulations 2000. The exceptions are relatively few so very many of the decisions made by the Council are the responsibility of the Executive and cannot be made by Councillors who are not Executive Members.

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- 1.9.2 Executive decisions may be taken in a variety of ways. Most commonly decisions may be taken by the Executive collectively in one of their regular meetings, by the Leader or an Executive Member individually or by an individual Officer. The Leader, in line with the Local Government Act 2000, has produced a scheme of delegations which allocates decision making powers including portfolios for Executive Members and this appears in the Constitution.
- 1.9.3 There are some variations to this – for example there are some Joint Committees with other local authorities which may make executive decisions in accordance with agreements establishing the committee. These are referenced in the Constitution.
- 1.9.4 When making executive decisions there are other rules which need to be followed. For example, the Council has rules which must be followed when entering contracts. These Contract Procedure Rules are set out in the Constitution. Executive decisions also have to be made within the overall budgetary framework approved by Council. The Council’s financial regulations include details of how decisions can be made to transfer funds between budgets.
- 1.10 Non executive decision making**
- 1.10.1 The “Functions and Responsibilities” Regulations set out a long list of decisions which are not “Executive” decisions. However, by and large they fall into a few categories:
- Agreeing the budget and policy framework (which consists of certain key plans and strategies). These plans and strategies are developed by Executive but approved by full Council.
 - Taking regulatory decisions – such as granting planning permission or certain licenses and making by-laws
 - Appointing staff
 - Electoral and civic issues

1.10.2 Like executive decisions, non-executive decisions may be taken in a variety of ways. Most commonly these decisions may be taken by the Council meeting together, by a Committee or Sub Committee of councillors or by an Officer. Non-executive decisions cannot be made by an individual councillor. So, for example, an individual Councillor cannot grant planning permission because granting planning permission is a non-executive function.

1.11 **Allocating responsibility for non- executive decision making**

1.11.1 By and large full Council decides who should have the power to perform these functions and the scheme of delegation in the constitution sets out the allocation of responsibilities which has been agreed.

1.11.2 There are some exceptions to this though. For example the law says that the budget and certain key plans and strategies which make up the policy framework can only be approved by full Council. Similarly, by law, the Head of Paid Service (or Officers he or she authorises) and not councillors are responsible for appointing most staff. Councillors are only involved in the appointment of the Chief Executive, Directors and Assistant Directors.

1.11.3 Part 3 of the Constitution describes in more detail where decision making responsibilities lie and includes terms of reference for the various Committees.

1.11.4 The Council has appointed a Health and Wellbeing Board. The Board is responsible for encouraging providers of health and social care to work together and has certain statutory functions. Although it operates as a form of Committee the Health & Wellbeing Board is unusual in that some of the membership is set out in law (including, uniquely, certain Officers), the Leader has the power to nominate to some positions and some positions are reserved to postholders who are not councillors.

1.12 Scrutiny

- 1.12.1 The Council appoints a number of scrutiny committees made up of councillors who are not members of the Executive. These Committees have the power to review or scrutinise decisions taken on behalf of the Council and to make recommendations on matters affecting York residents. In doing so Committees may look at the activities of other organisations working in York and they have specific legal powers to require NHS bodies, the police, fire service and probation to provide information to help their work.
- 1.12.2 The Committees often appoint task and finish groups to undertake particular pieces of work, gathering evidence on an issue affecting the City and preparing a report for consideration by the Committee. Most of these reports will result in recommendations to Executive suggesting steps that could be taken to improve the way the Council does its business and supports local people.
- 1.12.3 There are some exceptions but normally, where the Executive or an individual Executive Member has made a decision, any three councillors may “call that decision in” for review. This power also applies in the unusual event of an Officer making a decision which meets the constitutional definition of a “key decision”. A decision which has been called in is referred to a meeting of the Customer & Corporate Services Scrutiny Management Committee. The reason for the decision and the call in will be explained and debated. The Committee cannot overturn a decision but may refer it back to the decision maker to be reconsidered or refer it to full Council for discussion.
- 1.12.4 Arrangements are also in place for an issue to be scrutinised before a decision is made by an Executive Member or the Executive. When a decision is due to be made either by an Executive Member or the Executive it is published on the Forward Plan. Within seven days of an item being added to the plan it may be called in provided that not fewer than three named Councillors lodge a written notice with Democratic Services not later than 5.00pm on the seventh day following publication of the Forward Plan. The notice must identify the item to be called-in and give reasons for the calling-in. In the

case of a forthcoming Executive decision, the Corporate and Scrutiny Management Policy and Scrutiny Committee will consider the matter and the outcome of the committee's deliberations will be reported to the Executive. If it is a forthcoming Executive Member decision that is called in, then the report will normally go to the relevant Standing Policy & Scrutiny Committee within whose remit the decision lies. In some cases, dependent on the nature of the decision, it may go to the Customer & Corporate Services Scrutiny Management Committee (Calling In). This could be either because it is impractical to organise an additional scrutiny committee meeting in the timescale available or because the Chair and Vice Chair do not agree. The Executive Member will attend the meeting to hear the views of the scrutiny committee Members. Following this the Executive Member will make his decision.

1.13 Political Proportionality

- 1.13.1 Where the Council appoints Committees and makes certain other appointments then generally speaking it must comply with principles of political proportionality. These mean that any political group with a majority on the Council must have a majority on each Committee. Subject to that the allocation of the *total* number of Committee places should be proportionate to the representation on the Council. Finally and subject to the first two principles the allocation of places on each *individual* Committee should also be proportionate. These rules can be waived by Council if no Member objects.
- 1.13.2 These rules do not apply to the Council's Executive. It is possible for the Executive to be made up of members of only one political group.

1.14 Code of Conduct

- 1.14.1 The Council has adopted a code of conduct which all councillors must follow. The Council has a Standards Committee which oversees the code and can hear complaints that the Code has been breached. The Committee also deals with complaints in respect of local Parish councillors and, for

that reason, the Standards Committee is a joint committee established with Parish Councils.

- 1.14.2 The Council's Monitoring Officer has a key role in administering the process in respect of member complaints and may be contacted for further advice.

1.15 Transparency and public involvement

- 1.15.1 The most significant right that residents have to affect the way the Council operates is to exercise their right to vote if registered to do so. There are many other ways though that residents can gain information about how the Council operates and become involved with the work of the Council.
- 1.15.2 Residents are, of course, entitled to contact their local Councillor about any matter of concern to them. Residents can also attend one of the Ward Committee meetings that are held in each area. These are led by the local councillors and supported by groups and other partners who are active in the area.
- 1.15.3 The Council welcomes customer feedback both positive and negative. Any complaints about the Council's services will be considered in accordance with its policy. A resident who is dissatisfied with the Council's response to a complaint is entitled to pursue it with the independent Local Government Ombudsman
- 1.15.4 A great deal of information about the Council is available on its website including information about all Council expenditure, allowances paid to Members and the salaries of the most senior staff. Other information is freely available from the Council on request. In addition the Freedom of Information Act and Data Protection Act give statutory rights to information which will usually be provided unless there is a proper reason to refuse the request – such as information being commercially sensitive or containing personal information relating to third parties. Residents also have the right to inspect the Council's accounts and make their views known to the external auditor.

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- 1.15.5 The Council publishes a calendar for a full year of its formal meetings on the Council's website and formal notice of each meeting is displayed at the Council offices. Agendas and reports are usually available to be inspected in advance of the meeting either on the website or at the offices. The exception to this is where a report contains "exempt information" such as the details of the proposed price of land which the Council is considering selling or of legal action which the Council is considering taking against an individual. Key documents (other than published works) relied upon to a material extent in preparing a report will normally be listed in the report. These "background papers" are accessible in the same way as reports.
- 1.15.6 The Council also publishes a forward plan of matters upon which decisions will be taken by the Executive or individual Executive Members. In most cases a matter will have been on the forward plan for at least a month (often longer) before a decision is taken but there are special procedures allowing urgent decisions to be brought forward.
- 1.15.7 The public are welcome to attend formal meetings of the Council, Executive and Committees. Very occasionally it may be necessary to meet in private session because "exempt" business is being discussed. The Council will normally give at least 28 days notice where the Executive is likely to be discussing exempt business. As a rule though, even if a report contains exempt information, Councillors will debate it in public if it is possible to do so without disclosing the sensitive information.
- 1.15.8 Most formal meetings include an agenda item for public participation where members of the public are entitled to speak to councillors on matters relating to their business. There are many other ways that residents can get involved with the work of the Council such as bringing forward a petition, giving evidence to a scrutiny committee, responding to public consultations or lobbying their councillor.
- 1.15.9 The Council keeps and makes available to the public copies of agendas, reports and minutes of its meetings. Records of decisions made by Executive Members and some office decisions are also published on the website. Increasingly the

Council is arranging for its meetings to be video or sound recorded and the recordings are available on the Council's website.

This introduction is only a brief summary of how the Council operates. There is much more detail in the Constitution itself. We are reviewing the whole Constitution to make it as easy to read as possible but, if you need any further help please do not hesitate to contact us at: Democratic Services, West Offices, Station Rise, York YO1 6GA
email:democratic.services@york.gov.uk