

Appendix A

Set out below are extracts from the Constitution where amendments have been made under delegation. The updated Constitution is available on the Council's website in full. Text in red has been added. Words in italics or scored through indicate where text has been deleted.

Part 1 - Summary and Explanation

The Constitution is subject to and must be interpreted in accordance with legislation.¹

¹ NB: Where there is conflict between the Constitution and any legislative changes the legislation takes precedence.

- submit questions to meetings of the Council and contribute to investigations when invited to do so by the overview and scrutiny committees.
- complain to the Monitoring Officer in line with the arrangements in part 5.2 of the constitution if they have evidence which they think shows that a councillor has not followed the Councillor Code of Conduct; and

Part 2 – Articles of the Constitution

1.4 Interpretation and review of the Constitution

The Constitution is subject to and must be interpreted in accordance with legislation.

Any reference in this Constitution to particular statutory provisions, or subsidiary legislation, shall include any subsequent statutory provisions or subsidiary legislation, which either replicates or substantially replicates any of those particular statutory provisions or subsidiary legislation.

Where the provisions of this Constitution require interpretation, such interpretation will be undertaken by the Monitoring Officer and/or in their absence their Deputy Monitoring Officer.

4.1 Meanings

- (a) **Policy Framework.** The policy framework means the following plans and strategies:
- Corporate Plan
 - Asset Management Strategy
 - Statement of Licensing Policy (Gambling)
 - Licensing Act 2003 Policy (Alcohol)
 - Plans and strategies which together comprise the Development Plan.
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4.3 Council meetings

There are three types of Council meeting:

- (a) the annual meeting;
- (b) ordinary meetings;
- (c) extraordinary meetings.

and they will be conducted in accordance with the Council Procedure Rules¹ in Part 4 of this Constitution.

¹ And/or the Remote Meeting Rules as applicable.

7.6 Proceedings of the Executive

Proceedings of the Executive shall take place in accordance with the Executive Procedure Rules set out in Part 4 of this Constitution.²

² And/or the Remote Meeting Rules as applicable.

13.5 Decision-making by the Council

Subject to Article 13.9, the Council meeting will follow the Council Procedures Rules set out in Part 4 of this Constitution when considering any matter.³

³ And the Remote Meeting Rules where applicable.

16.3 Publication

- (a) The Chief Executive will make available a copy of this Constitution to each councillor upon delivery to him/her of that individual's declaration of acceptance of office on the councillor first being elected to the Council.
- (b) The Chief Executive will ensure that copies are available for inspection at the Council's offices,⁴ its website, libraries and other appropriate locations, and can be purchased by members of the local press and the public on payment of a reasonable fee.

⁴ Access to buildings will be subject to compliance with Covid-19 guidance. The Constitution is available on the Council's website.

Part 3 - Responsibility For Functions
Part 3.2 Summary of Responsibilities
Shared Functions

Function	Decision-Making Bodies	Extent of Functions
Plans and alterations which together comprise the Development Plan ⁵	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification
Licensing Policy Statement (Gambling) ⁶	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification
Licensing Act ⁷ 2003 Policy (Alcohol)	The Executive	Formulation and Development
	The Council	Adoption, amendment and modification

⁵ S38 and s15 Planning and Compulsory Purchase Act 2004

⁶ S349 Gambling Act 2005

⁷ Licensing Act 2003

Role and Composition of the Executive
Members of the Executive

Councillor Mark Crane – Leader of the Council with specific responsibility for Strategic Matters, External Relations, Leisure and Partnerships

Councillor Richard Musgrave – Lead Councillor for Place Shaping and Deputy Leader of the Council

Councillor Clifford Lunn – Lead Councillor for Finance and Resources

Councillor David Buckle – Lead Councillor for Communities and Economic Development

Councillor Chris Pearson – Lead Councillor for Housing, Health and Culture

The Leader

Main Role

To lead on leisure, the development of external relations and local, regional, national and European policy and strategic partnerships.

Deputy Leader and Place Shaping Portfolio

Main Duties and Responsibilities

iv. To lead on the Housing Delivery Programme Board to give strategic oversight and direction to the implementation of the Council's Housing Delivery Plan

Individual Executive Councillor Decision making for 2019/20

3.4.2 LICENSING AND APPEALS COMMITTEE

(c) Animal welfare functions under The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018.

PART 3.7 - JOINT COMMITTEES

REMOVED paragraph 3.7.2 North Yorkshire Procurement Partnership

3.9.3 Specific Functions delegated to the Chief Executive

- (i) to have authority over all other officers (except the Monitoring Officer and the Section 151 Officer when either act in that capacity) and to be able to approve sub delegation of any of their functions in their absence;
- (g) Under the Data Protection Act 2018 and Freedom of Information Act 2000, and guided by the Access to Information Procedure Rules, to decide appeals as to whether applications by councillors for access to material should be refused.

3.9.5 Specific Functions delegated to the Solicitor to the Council

- (d) To undertake all of the Council's functions in connection with:
 - Local Authority Legal Services
 - Local Land Charges and Searches/Enquiries
 -
 -
 - National Assistance Act 1948 and subsequent legislation
- (i) To be responsible for the provision of legal advice to the 151 Officer relating to information governance

3.9.6 Specific Functions delegated to the Chief Finance Officer (s151)

- (xiii) Information governance including Freedom of Information and Data Protection

Part 4 - Rules of Procedure

4.1 - Council Procedure Rules

Annual Meeting of the Council

Timing and Business

The Annual Meeting of the Council shall be held¹:

¹ Unless otherwise determined by the Council (or Chief Executive exercising emergency powers) pursuant to The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

Time and place of meetings

The time and place of meetings will be determined by the Council and notified in the summons sent by the Chief Executive ²

² Unless otherwise determined by the Council (or Chief Executive exercising emergency powers) pursuant to The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020

4.8– Contract Procedure Rules

CONTRACT PROCEDURE RULES – Appendix C

2.7 Failure to comply with the CPRs **are a serious matter and** may result in disciplinary action.

2.8 Breaches to these CPR's are to be reported to the Head of Commissioning, Contracts and Procurement in the first instance who will ascertain if a material breach has occurred. Where further action is judged necessary the breach will be reported to Leadership Team to determine appropriate action.

2.9 A record of all breaches will be maintained by the Commissioning, Contracts and Procurement team.

Key Decision and Forward Plan

9.4 Publication of the Forward Plan

11.3 The estimated Value of the Contract shall be recorded in writing prior to quotations being sought. Quotations above £25,000 **must** be invited using the E-Sourcing system, **unless an alternative method is agreed with the Head of Commissioning, Contracts and Procurement, or a nominated officer.**

11.4 If a Director or Head of Service considers it to be appropriate that any ITQ shall be available to all potential Participants then a notice advertising the opportunity shall be published through the E-Sourcing System (**unless alternative is agreed**) and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the Value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITQ documents may be obtained and the closing day for receipt of

quotations by the Council.

12.2 Where there are sufficient numbers of providers at least **four** written tenders will be invited. Tenders must be invited by publishing an open opportunity on the E-Sourcing System, **unless an alternative method is agreed with the Head of Commissioning, Contracts and Procurement, or a nominated officer.**

13.3 All OJEU Contract notices must also be published on Contracts Finder.

The current thresholds (as at January 2020) are: **[DATE & FIGURES HAVE BEEN AMENDED]**

Goods OR Services - £189,330

Works - £4,733,252

Contracts for Social and other Specified Services - £663,540 (light touch regime)

18.3 Open Tenders

If a Contract (including a Contract for Social or Other Specific Services or a Contract for Works) has a Value in excess of £50,000 but below EU threshold then the following procedures shall apply:

- (i) A notice advertising the opportunity shall be published through the E-Sourcing System and Contracts Finder, **unless an alternative method is agreed with the Head of Commissioning, Contracts and Procurement, or a nominated officer** and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the Value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITT documents may be obtained and the closing date for receipt of tenders by the Council.

19. Restricted Tenders

Only in the case of Social or Other Specific Service Contracts or Works Contracts in excess EU thresholds if a Director or Head of Service in consultation with the Solicitor to the Council, **considers** it appropriate that any tender shall be restricted to selected participants by following the restricted procurement procedure, then the following procedures shall apply:

- (i) A notice advertising the opportunity and inviting expressions of interest shall be published through the E-Sourcing System, **unless an alternative method is agreed with the Head of Commissioning, Contracts and Procurement, or a nominated officer** and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the Value, location and a subject matter of the Contract. The notice shall specify brief details of the Contract and invite potential Participants to complete a request to participate for submission to the Council in order to be considered to be invited to tender. The notice shall include details as to how requests to participate are to be submitted and the closing date for their receipt by the Council.

20. Framework Agreements

[DELETED SECTION 21 - APPROVED LIST OF PROCEDURE]

Submission Receipt, Opening and Registration of Tenders

23.4 Emailed tender documents or tender submissions are not acceptable for procurements that have a Value above £5,000, **unless approved by the Head of CC&P, or nominee**

Submission of Tenders

26.3 Where the electronic tendering system is unavailable or deemed not appropriate for the procurement exercise, authorisation to use alternative electronic means of tender submission is required from **the Head of Commissioning, Contracts and Procurement, or a nominated officer**, Invitations to Tender may be transmitted by electronic means.

Waiver of Contract Procedure Rules

32.2 ...

- (vii) The purchase of a work of art, **performing art, animation / video** or museum specimen;