

<b>Meeting:</b>	Executive
<b>Meeting date:</b>	14 December 2023
<b>Report of:</b>	Laura Williams – Assistant Director Customer, Communities and Inclusion
<b>Portfolio of:</b>	Cllr Lomas – Executive Member for Finance, Performance, Major Projects, Human Rights and Equalities

## **Refreshed Governance Arrangements for York’s Human Rights & Equalities Board (“HREB”)**

### **Subject of Report**

1. This report will describe the outputs and recommendations of work undertaken by the Council of the City of York (“**CYC**”) and York Human Rights City Network (“**YHRCN**”) to refresh governance arrangements and Terms of Reference (“**TOR**”) for the HREB.
2. This will allow the board and its members to move forward in ensuring that York delivers against its commitment as a Human Rights City.
3. The report also contains a brief response to the York Human Rights City Network’s Annual Indicator Report (2022) and outlines plans to develop a Human Rights and Equalities Analysis Tool and associated training.

### **Benefits and Challenges**

4. The key benefits of making the decisions outlined in this report are:
  - I. Re-establish an expert group who will be able to assist in policy development at a critical time for York.

- II. Benefit from the expertise of the world leading Centre for Applied Human Rights in developing and refining both the Council's Human Rights and Equalities Analysis ("HREA") and human rights training.

## **Policy Basis for Decision**

5. The new Council Plan, which was adopted in September 2023, contains four core commitments to enable it to deliver the vision for the next four years. The first of these is 'Equalities and Human Rights - Equality of Opportunity'.
6. The commitment states: 'We will create opportunities for all, providing equal opportunity and balancing the human rights of everyone to ensure residents and visitors alike can benefit from the city and its strengths. We will stand up to hate and work hard to champion our communities.'
7. Having the HREB in place will enable CYC to draw on the experience of partners in the city, who will act as 'critical friends', and to effectively hold itself to account.

## **Financial Strategy Implications**

8. Once the HREB is reconvened, and the new HREA is in place, there will be a need for a dedicated equalities resource within the Council and therefore associated staffing costs which will be contained within existing budgets. Resources within the Communities Team are being reviewed to create some capacity to support EDI and Human Rights work corporately. The work across all directorates could be considerable in terms of meeting statutory equalities and human rights responsibilities, including the need for additional training resources to support the delivery of these responsibilities.
9. In light of the Council's current financial challenge, funding any growth in this area of work will require compensatory savings to be identified elsewhere across the Council.

## **Recommendations and Reasons**

### **10. Recommendations:**

That Executive:

- a) Approve the refreshed governance arrangements included in this report including the new Terms of Reference for the Human Rights and Equalities Board at **Annex A**.

b) Note the response to the YHRCN Annual Indicator Report.

c) Note the plans for developing Human Rights & Equality Analysis (“**HREA**”) to support decision-making and plans for subsequent officer training.

11. **Reason:** To allow the Human Rights and Equalities Board and its members to move forward in ensuring that York delivers against its commitment as a Human Rights City.

## **Background**

12. On 24<sup>th</sup> April 2017, the Lord Mayor of York signed a declaration making York the UK’s first Human Rights City. The declaration states that it marks an ambition, not a destination, and as such work on the human rights agenda should be ongoing, with human rights and equalities at the heart of policy and decision making in the city.

13. On 31<sup>st</sup> January 2023, a report was taken to the Decision Session of the Executive Member for Culture, Leisure, and Communities on the Council’s recommitment to York as a Human Rights City (see **Background Papers**). This followed significant discussions to reset the relationship between CYC and the YHRCN following a fundamental breakdown because of City Centre Access decisions made in 2021.

14. One of the recommendations approved by the Executive Member was to commit to moving forward in agreement with YHRCN with a refreshed structure for the Human Rights and Equalities Board produced by a joint task group. This report, along with the refreshed Terms of Reference (**Annex A**), is the culmination of that work.

15. There was also a commitment to respond to the Annual Indicator Report, which is included below.

## **York’s Human Rights & HREB**

16. The full Terms of Reference for the HREB are included at **Annex A**, and significant changes to note are:

I. There will be co-chairs moving forward to address any conflict issues, particularly where the Board disagrees with a decision of the CYC Executive. The co-chairs will be the relevant portfolio

lead Executive Member and one Independent Chair, elected annually from within the membership of the board.

- II. Reviewing a sample of CYC's Human Rights and Equalities Analyses used in CYC policy decision-making to identify learning, areas for improvement and to recommend training as required, has been added to the remit.
- III. The HREB will now consider any "**Declaration of Incompatibility**" which is submitted from the YHRCN Steering Group, prepare commentary and guidance on its contents, and provide that commentary and guidance to the Leader of the Council and the Chair of the Corporate Services, Climate Change, and Scrutiny Management Committee, either of whom may choose to refer the issue for consideration by scrutiny.

## **York Human Rights City Network's Annual Indicator Report (2022) 'Human Rights in York: Seeking to Rebuild'**

17. Since 2016, the YHRCN has produced an annual indicator report to measure York's journey to becoming a Human Rights City. The report measures indicators in 5 key areas, which were developed in partnership with CYC, North Yorkshire Police and the voluntary sector. In the January 2023 report CYC committed to respond to each indicator report and report back to Executive.
18. The recommendations contained in the report, along with the CYC response, are detailed below:

### **Earnings Gap**

- **YHRCN Recommendation** – *"...to make the city more resilient to economic shocks such as the cost of-living crisis, we recommend that employers in York work towards paying their employees the Living Wage Foundation's Real Living Wage (£12:00 per hour). We also recommend that the Council does what it can to encourage this."*

### **Gender Pay Gap**

- **YHRCN Recommendation** – *"We recommend that the Council carry out research into the particular issues underlying wage inequality in York, so that strategies can be developed in order to tackle this issue. We also recommend that economic policy planners ensure that the problem of*

*tackling gender-related wage disparity is foregrounded in their work.”*

- **CYC Response** – CYC is proud that gap between wages for men and women in CYC is very low (The mean gender pay gap for CYC is 0.6% [0.6%] and the median gender pay gap for the Council is -0.4% [-0.5%]). This has been the case for quite some time and CYC is committed to ensuring this does not change significantly in the future.

A key priority in the Council Plan is ‘A fair thriving, green economy for all’. CYC has been a Living Wage employer since 2013, and in 2021 joined a movement of organisations in York when it signed up to the Good Business Charter, which requires accredited organisations to pay the Living Wage as part of a series of 10 commitments. York subsequently became the first Good Business Charter City, with the local NHS Trust, both Universities, Aviva and the Joseph Rowntree Foundation being a key part of that accreditation and all signing up to the GBC themselves. At time of writing, 96 York organisations and businesses become GBC accredited, with a [list](#) maintained on the Council website, alongside a complementary list of 54 [Real Living Wage employers in York](#). CYC continues to encourage all businesses to consider this step as a means of boosting employee morale and productivity, fighting the cost-of-living crisis, and attracting new staff. York Economic Partnership has established a Good Business Task and Finish group and, among other priorities, will be working to expand GBC membership in York.

### **Attainment Gap**

- **YHRCN Recommendation** – *“We encourage the Council to build upon its efforts to lower the attainment gap in York and recommend that it consider whether greater efforts could be made to tackle the financial barriers to education.”*
- **CYC Response** - Even though CYC has made progress in improving attainment outcomes for children from disadvantaged backgrounds through our work to improve speech, language and communication in the early years, the gap remains too wide, and CYC still has more to do. A key commitment in addressing the financial barriers highlighted

in the indicator report is the KS2 Universal Free School Meals Pilot, which was considered at Executive on 16<sup>th</sup> November 2023. A healthy breakfast or lunchtime meal can improve academic performance, including school attendance, which impacts on achievement and attainment. Research shows that providing a healthy school breakfast is a cost-effective way to increasing attainment, bringing 2-months of additional progress in an academic year for KS1 pupils (Crawford et al. 2016) and two grades higher at GCSE (Adolphus et al. 2019).

### Disaggregated Data

- **YHRCN Recommendation** – *“We [therefore] recommend that the Council work with civil society groups, and others, to identify areas where there are gaps in information, and to determine what new kinds of data are needed.”*
- **CYC Response** – Publishing data can be costly, but CYC recognises the need, as custodian of the city’s data, to try and do as much of this as possible. Suggestions for new datasets can be submitted via the contact form at <https://www.yorkopendata.org/faqs/>. The CYC Communities’ Team and Ward Councillors will continue to work with groups across the city to identify gaps and flag those to the Business Intelligence Team. Similarly, if any group would like a conversation with the Business Intelligence team directly, the request can be submitted at the above link. There are no planned events around Open Data, but this could be resourced and advertised in 2024.

### Accessible Information

- **YHRCN Recommendation** – *“We [therefore] welcome the Council’s endeavours to increase digital inclusion in York. We urge the authority to devote the requisite resources to that project so that those who wish to interact with public services through digital means have the capacity to do so. However, not everyone has the capability, or the desire to interact in this way. We therefore encourage the Council to make all efforts to ensure that a variety of formats are available through which York’s residents can interact with the public sphere.”*

- **CYC Response** - 100% Digital York is a partnership of organisations which aims to give residents in York the choice and opportunity to get online and know where to access help when they need it. We want everyone to understand how digital can benefit them, be able to gain the skills they need to make the most of digital and get connected. We also recognise that some people may not be able to get online, no matter how much support they are given, at a time when there is more focus on digital delivery of services than ever before. Teams continue to look at the most effective ways to provide non-digital support and improve accessibility.

## **Human Rights and Equalities Analysis Tool**

19. An Equalities Assessment, or Analysis, is an evidence-based approach designed to help organisations ensure that their policies, practices, events, and decision-making processes are fair and do not present barriers to participation or disadvantage any protected groups from participation.
20. CYC currently uses an Equalities Impact Assessment (“**EIA**”) Tool during the initial stages of developing new strategies, policies, functions, or services, prior to starting a procurement exercise and before decisions are made.
21. This tool does include a section for Human Rights Impacts to be considered, but it is not always used effectively. We would like to bring this to the fore and will be working with the University of York’s Centre for Applied Human Rights (“**CAHR**”) to develop a new Human Rights and Equalities Analysis Tool.
22. To develop this tool, CAHR will work alongside Council officers on the second phase of the City Centre Access Consultation. Using the access workshops and recommendations to inform that development means that the Centre has a “live” example to design the tool and stress test thinking.
23. Once complete, the HREA will replace the EIA at CYC in all circumstances. As referenced in the HREB TOR at **Annex A**, the HREB will look at a random selection of completed HREA on a regular basis to look for learning points, good practice and identify any training needs.

## **Human Rights Training**

24. In addition to the support provided to develop the HREA the CAHR has provided training for both Members (during the 2023 Member Induction Programme) and Chief Officers.
25. A version of this training, with particular focus on proportionality in decision making using the new HREA tool will be rolled out across CYC over the next year.

## **Consultation Analysis**

26. The Leader, Deputy Leader, and portfolio holder along with senior officers, including the Chief Operating Officer, have met with the YHRCN Executive to develop the proposals included in this report.
27. The work to refresh both the TOR and governance arrangements for the HREB was undertaken by a task group made up of members of the YHRCN Executive, CYC and other members of relevant civil society groups, such as Inclusive Equal Rights UK, reflecting our commitment to partnership working and co-production.
28. The draft TOR was shared with the YHRCN Steering Group for their consideration. YHRCN is a civil society partnership hosted jointly by York CVS (Centre for Voluntary Service) and the CAHR at the University of York. York CVS roots the Network within York's vibrant civil society. CAHR roots the Network in wider human rights discourse.

## **Options Analysis and Evidential Basis**

### **Options**

29. The three options Members could consider in respect of this report are below:
  - I. Option 1 – To agree the recommendation at paragraph 10a and reconvene the HREB.
  - II. Option 2 – To suggest an alternative governance structure or mechanism to consider Human Rights issues in the City.
  - III. Option 3 – To disband the HREB.



## Analysis

30. It is recommended that Executive progress Option 1 and agree the recommendations at paragraph 10a.
31. When the Lord Mayor signed the declaration making York a Human Rights City in 2017 it was the result of six years hard work and campaigning by civil society. It was recognised that this marked an ambition, not a final destination.
32. The two-year period that the HREB has now been inactive is a significant disturbance to that journey and it is vital to the Equalities and Human Rights commitments contained in the Council Plan that it is reconvened as soon as possible. The recommendation of the Steering Group and task group involved in the development of the TOR is to reconvene on this basis recognising that prior to city centre access decisions in 2021 the HREB partnership worked well.
33. Option 2, to suggest an alternative structure, is not recommended given that the HREB format worked very well until 2021 and the governance arrangements and TOR are the result of co-production between YHRCN, CYC and civil society. It would also result in further delay to the City's ambitions around being a Human Rights City.
34. Option 3, to disband HREB, would further damage the relationship between CYC and YHRCN and leave CYC without a mechanism to hold itself to account and draw on the incredible experience and expertise that partners have to offer in this area and is therefore not recommended.

## Organisational Impact and Implications

35.
  - **Financial** – The financial implications are outlined in paragraph 8 above. Whilst the staffing costs will remain within existing budgets, further resources will be needed for training purposes across all equalities responsibilities.
  - **Human Resources (HR)** - An additional post will be created to lead EDI in the council, including work to support the HREB. Resources will be built into the Equalities, Access & Inclusion Team in the new financial year. The renewed focus

on Human Rights and Equalities will positively impact staff as well as residents.

- **Legal** –As this decision will likely impact more than one ward within the city it should be classed as a Key Decision per Article 7.3 of the CYC Constitution. The Executive are therefore the appropriate body to take any decision related to the matters discussed in this report.

As in the report to the Executive Member Decision Session that took place on 31<sup>st</sup> January 2023, the continuation of the Human Rights City commitment will assist in demonstrating CYC’s consideration of the human rights impacts of both the Executive and non-Executive decisions taken by CYC.

Article 7.2.1 of the CYC Constitution requires that all decisions taken on and behalf of the Council will made respect for human rights and equality of opportunity.

It is noted from the proposed amendments to the TORs in **Annex A**, that as part of its remit the HREB will be able to consider any “Declaration of Incompatibility” submitted by the YHRCN Steering Group, and then prepare commentary and guidance on its contents, and provide that commentary and guidance to the Leader of CYC and the Chair of the CYC Corporate Services, Climate Change, and Scrutiny Management Committee, either of whom may then choose to refer the issue for consideration by Scrutiny.

In the event that both the Leader of the Council and the Chair of the Corporate Services, Climate Change and Scrutiny Management Committee do not, within a period 2-months, refer the Declaration of Incompatibility, and the associated commentary and guidance, for consideration by Scrutiny, the HREB may then choose to refer the matter to all the Group Leaders of the Council, who in whom may choose to refer the issue for consideration by Scrutiny.

As per Section 11 of the Scrutiny Procedure Rules under Appendix 5 of the CYC Constitution, only Councillors have the ability to request that a decision be subject to call-in.

The proposed amendment to HREB TORs does not in Legal’s view directly conflict with the CYC Constitution (including, but not limited to Articles 7 (Decision Making), 8

(Scrutiny) and the relevant procedure rules in Appendices 3 to 6), so long as submission of any matters raised by HREB to Scrutiny are done so via the proper channels. That being said, in line with *Wednesbury* principles, the Council's discretion to take decisions, which at times may be contrary to the expressed views of the HREB or the YHRCN, cannot be fettered in any way, and members of Executive or Scrutiny should not allow any declarations, commentary, or guidance from HREB or any other outside body to predetermine or colour their opinion in anyway.

- **Procurement** – There are no direct procurement impacts contained in this report. However, protected characteristics can be focused on when considering social value in procurement and the new HREA Tool will be used prior to starting a procurement exercise.
- **Health and Wellbeing** – The UK is a signatory to the International Covenant on Economic, Social and Cultural Rights (ICESCR). This means the UK is bound, in international law, to protect the right to health. The HREB will support the Council Plan ambition of a 'health generating city for children and adults' and the new HREA tool will consider health impacts. The Public Health team will support the development of this tool.
- **Environment and Climate action** - In a resolution of 8 October 2021, the UN Human Rights Council (UNHRC) recognised that access to a healthy and sustainable environment is a universal right. Although nonbinding, this resolution could be a first step towards filling a significant gap in international law. The HREB and the new HREA Tool will support CYC to ensure that the financial burden of climate action is not carried by those groups who can least afford it. YHRCN are also giving thought to an additional indicator to reflect this focus on climate action.
- **Affordability** – Article 25 of the Universal Declaration of Human Rights (UDHR) states '*Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in*

*circumstances beyond his control*. The HREB and the new HREA Tool will support CYC to ensure that the core commitment of affordability is met, so that everyone who lives in York benefits from the success of the city, targeting support at those who need it most and supporting communities to build on their own strengths and those of the people around them.

- **Equalities and Human Rights** - The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions). Equalities Impact Assessments/Analysis should be completed during the initial stages of developing new strategies, policies, functions or services, prior to starting a procurement exercise and before decisions are made. They can also be used to aid delivery of other projects or schemes. As this report seeks to improve both the Council's governance around Human Rights and Equalities and the development of a new Human Rights and Equalities Analysis Tool, there will be significant positive impacts for all those protected under the Equalities Act 2010 and Human Rights Act if the recommendations in the report are taken forward.
- **Data Protection and Privacy** - As there is no personal data, special categories of personal data or criminal offence data being processed, there is no requirement to complete a DPIA. This is evidenced by completion of DPIA screening questions AD-01633.
- **Communications** The communications service annual plan is being developed to take account of the commitments of the newly adopted council plan, 'One City for all', and consequently work done by the to create opportunities for all, providing equal opportunity and balancing the human rights of everyone to ensure residents and visitors alike can benefit from the city and its strengths will be intrinsic to communications activity. In relation to this specific report and

the recommendations within it communications activity is likely to be restricted to media management.

- **Economy** - There are no direct economic impacts contained in this report. However, Article 23 of the Universal Declaration of Human Rights (UDHR) states '*Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.*' The work of the HREB will support the Council Plan ambition of a 'fair, thriving, green economy for all'. Any work undertaken as a response to recommendations of the HREB, or the annual Human Rights Indicator Report, will be considered in line with resource available.

## **Risks and Mitigations**

35. The main risks that have been identified associated with the proposals contained in this report are those which concern effective partnership working and York's Human Rights City status.
36. To not move forward with this commitment to a refreshed Human Rights and Equalities Board would significantly impact the Council's ability to deliver on key commitments to Human Rights and Equalities. The board will bring together partners who are experts in their field and allow council decisions to receive proper scrutiny and robust, constructive challenge.

## **Wards Impacted**

All

## Contact details:

For further information please contact the author of this Decision Report.

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## Background papers

- Decision Session – Executive Member for 2023 Culture, Leisure and Communities, 31 January 2023 ‘*City of York Council - Human Rights City Commitment Strategy*’ [Report.pdf \(york.gov.uk\)](#)
- York Human Rights City Network’s Annual Indicator Report (2022) ‘*Human Rights in York: Seeking to Rebuild*’ [York Human Rights City Indicator Report 2022](#)
- Digital Inclusion Update – Children, Culture & Communities Scrutiny Committee 7 November 2023 [Digital Inclusion Final Scrutiny Report 2023-11.pdf \(york.gov.uk\)](#)

## Annexes

Annex A: Draft Terms of Reference – Human Rights and Equalities Board

## Abbreviations

CAHR – Centre for Applied Human Rights (University of York)

CYC – City of York Council

EIA – Equalities Impact Assessment

HREA – Human Rights and Equalities Analysis (Tool)

HREB – Human Rights and Equalities Board

NEET – Not in Education, Employment or Training

TOR – Terms of Reference

UNHDR - Universal Declaration of Human Rights

YHRCN – York Human Rights City Network