

**Notice of a public meeting of
Executive**

To: Councillors Steward (Chair), Aspden (Vice-Chair), Ayre, Brooks, Carr, Gillies, Runciman and Waller

Date: Thursday, 27 August 2015

Time: 5.30 pm

Venue: The George Hudson Board Room - 1st Floor West Offices (F045)

A G E N D A

Notice to Members - Calling In:

Members are reminded that, should they wish to call in any item* on this agenda, notice must be given to Democracy Support Group by **4:00 pm on Tuesday 1 September 2015**.

*With the exception of matters that have been the subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Corporate and Scrutiny Management Policy and Scrutiny Committee.

1. Declarations of Interest

At this point, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

2. Minutes (Pages 1 - 26)

To approve and sign the minutes of the last Executive meeting held on 30 July 2015.

3. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on Wednesday 26 August 2015**. Members of the public can speak on agenda items or matters within the remit of the committee.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

Filming, Recording or Webcasting Meetings

“Please note this meeting will be filmed and webcast and that includes any registered public speakers, who have given their permission. This broadcast can be viewed at <http://www.york.gov.uk/webcasts>.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officer (whose contact details are at the foot of this agenda) in advance of the meeting.

The Council’s protocol on Webcasting, Filming & Recording of Meetings ensures that these practices are carried out in a manner both respectful to the conduct of the meeting and all those present. It can be viewed at http://www.york.gov.uk/downloads/file/6453/protocol_for_webcasting_filming_and_recording_of_council_meetingspdf

4. Forward Plan (Pages 27 - 34)

To receive details of those items that are listed on the Forward Plan for the next two Executive meetings.

5. Community Stadium and Leisure Facilities Procurement Update (Pages 35 - 54)

This report updates the Executive on the progress of the procurement process for the Community Stadium and City Leisure facilities project, including Yearsley Pool. Members are asked to approve a programme of works to be brought forward from the construction schedule.

- 6. Proposed Decision Making Arrangements** (Pages 55 - 74)
This report informs the Executive of the outcome of consultation in relation to proposals for new decision making arrangements which allow for greater pre decision scrutiny and makes proposals for implementation.
- 7. Advertising Boards ("A" Boards) and Other Equipment on the Public Highway** (Pages 75 - 118)
This report advises the Executive of two options, with regards to "A" Boards and other materials used to promote primarily private businesses across the city.
- 8. Healthy Child Service** (Pages 119 - 140)
This report provides the Executive with a proposal for the future provision of a Healthy Child Service in York.
- 9. Progress Report: City of York Trading Ltd** (Pages 141 - 182)
This report presents Members with an update on the progress of City of York Trading Ltd, the Council's trading organisation for Council services. The report asks the Executive to approve changes to the Shareholder Agreement and support the company's direction of travel and proposed areas for further business case development.
- 10. 2015/16 Finance and Performance Monitor 1** (Pages 183 - 194)
This report presents details of the Council's finance and performance position for the period covering 1 April to 30 June 2015, together with an overview of any emerging issues.
- 11. Capital Programme - Monitor 1 2015/16** (Pages 195 - 210)
This report sets out the projected outturn position for 2015/16 including any under/over spends and adjustments, along with requests to re-profile budgets to/from current and future years.
- 12. Urgent Business**
Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Jill Pickering

Contact details:

- Telephone – (01904) 552061
- E-mail – jill.pickering@york.gov.uk

For more information about any of the following please contact the Democratic Services Officer responsible for servicing this meeting:

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports and
- For receiving reports in other formats

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim własnym języku. (Polish)

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

Meeting	Executive
Date	30 July 2015
Present	Councillors Steward (Chair), Aspden (Vice-Chair), Ayre, Brooks, Gillies, Runciman and Waller
In attendance	Councillors N Barnes, Cuthbertson, D'Agorne, Galvin, Levene, Warters and Williams
Apologies	Councillor Carr

Part A - Matters Dealt With Under Delegated Powers

17. Declarations of Interest

Members were asked to declare, at this point in the meeting, any personal interests, not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests they may have in respect of business on the agenda.

Councillor Ayre declared a personal non prejudicial interest in respect of Agenda item 6 – Castlegate - Update, as the organisation he worked for were in ongoing discussions with Castlegate staff. He left the room and took no part in the discussion and voting thereon.

Councillor D'Agorne also declared a personal non prejudicial interest in Agenda item 6 – Castlegate, as he worked with staff at Castlegate as part of his employment at York College.

18. Minutes

Resolved: That the minutes of the last meeting of the Executive, held on 25 June 2015, be approved and signed by the Chair as a correct record.

19. Public Participation

It was reported that there had been ten registrations to speak at the meeting under the Council's Public Participation Scheme and that six Members of Council has also requested to speak on items, details of which are set out below:

General Remit

Cllr Warters thanked the Executive for their review of the 20mph rollout and signage. He also requested review of the use of the CCTV car in Murton Lane, Murton, highlighted concern at the costs of the Lendal Bridge/Coppergate repayment schemes and requested details of the agreement between York City Knights and the Council in relation to the Community Stadium project.

The Future of York's Guildhall and Riverside – Project Update Report

Cllr Galvin reminded Members of the history and the importance of the Guildhall and its part in the governance of the city over 800 years. He expressed concern at proposals for a restaurant on the site and requested continuation of the historical link and the provision of fully serviced office accommodation for Council staff to ensure a sustainable future for the site. He also requested further examination of the proposals by scrutiny.

Coppergate Traffic Regulation Order Report

Kevin Ward spoke as a freelance consultant on transport matters; he highlighted some of the Chief Adjudicators findings in the report as incorrect as he considered that the Coppergate signage supported the enforcement of the Penalty Charge Notices.

City of York Local Plan

Alan Charlesworth spoke on behalf of the York Action Group Alliance which represented residents in 16 Outer Parishes to express their full support for the new administrations development of the Local Plan, in conjunction with residents. He circulated copies of their Local Plan Manifesto through which they hoped a realistic, achievable and sustainable Local Plan could be put forward.

Jacqueline Ridley spoke on behalf of the Earswick Action Group, adding their support to the production of a Local Plan using evidenced based housing figures. She confirmed that this also included the removal of safeguarded land, the use of

brownfield sites first and protection of the green belt around Earswick.

Cllr N Barnes expressed his hope that the Local Plan could be completed within the required timeframe and expressed concern at the continued use of contingency funds.

Business Improvement District for York City Centre

Frank Wood spoke as a retailer, Chair of the York Retail Forum and member of the City Team Board to confirm their support for a Business Improvement District in the city centre. He asked Members to support the bid, referring to issues around declining footfall, parking, anti social behaviour, collection of waste and recycling which could all be assisted by the bid. He also referred to the need to extend the working day to attract both residents and visitors back to the city.

Adam Sinclair spoke as Managing Director of Mulberry Hall and Chair of the City York Team referring to the established formula of revitalising city's across the country. He referred to existing problems in the city centre and to the need to compete with market competition. He hoped the bid would support both large and small businesses and engage local traders.

Steve Hughes spoke as Project Manager of the City Team, he confirmed that, following reference to the Electoral Commission, it had been recommended that the proposed ballot of local businesses should take place between Monday 26 October and 26 November 2015. He also highlighted details of the BID Board membership which had two places for CYC representatives. He reiterated that, if York was to remain competitive, the BID funds were required to improve the city centre offer.

Cllr Cuthbertson, spoke as Chair of the Economic Development and Transport Policy and Scrutiny Committee which had discussed the BID proposals. He confirmed that copies of the Committee's comments had been passed to the Executive. The Committee supported the BID team's aims and raised a number of concerns regarding A-boards, P&R services, affect on non-levy paying businesses and BID Board membership.

Cllr N Barnes also expressed his support for the BID and its objectives.

Consultation on Decision Making Arrangements

Cllr Levene spoke as Chair of the Corporate Scrutiny Management Policy and Scrutiny Committee which had been consulted on the new decision making arrangements. He confirmed that Members had welcomed proposals for pre-decision scrutiny, more frequent meetings subject to adequate resourcing, the inclusion of scrutiny Chairs at CSMC meetings and ensuring that Executive Member decision making was clear with scrutiny input at an early stage.

Listening to Residents: Ward Committees

Cllr Levene expressed his support for local decision making and accountability subject to this being via a robust process. He requested that the Community Care Fund, which it was proposed to devolve to wards, should be ring fenced for vulnerable residents.

Cllr N Barnes spoke as Chair of the Audit and Governance Committee, urging members to be cautious and to take time to fully examine the proposals for a new approach to community engagement through the revised Ward Committees. He highlighted accountability, risks and affordability in respect of any future audit of the new approach.

Holiday Pay and Overtime

Andrea Dudding spoke on behalf of the Unions, GMB, Unison and Unite, which collectively represented Council staff. She raised concerns that the proposed calculation of holiday pay had been based on 20 statutory annual leave days rather than 28 and requested that, as this was a matter relating to terms and conditions, this should be negotiated. She pointed out that the proposals were detrimental to staff who were the Council's best resource.

Annual Report of the Financial Inclusion Steering Group 2014/15

Richard Bridge spoke in relation to the Council Tax Scheme (CTS) and of his concerns at the effect recent changes to the Scheme were having on York's poorest residents. He highlighted various publications including Advice York's 'Pushed into Poverty' paper which confirmed that financially vulnerable residents now had to meet 30% of their council tax costs as opposed to the previous scheme which allowed up to 100% support. He therefore asked the Council to consult on new CTS which mirrored the cuts.

Rebecca Jeffrey representing Advice York also raised concerns at limiting CTS which meant that all working age residents would have to pay at least 30% CT when the average across the country was only 13%. She referred to research which confirmed that many residents struggled to pay their bills and difficulties they encountered in accessing the discretionary scheme. She requested Members to review its scheme.

Clare Guinam spoke as an Advice Session Supervisor at the Citizens Advice Bureau where she saw the difficulties residents faced in paying their CT, often from loans. She provided a number of quotations from client surveys which highlighted the difficulties local residents faced. She also asked the Council to review the existing scheme.

20. Forward Plan

Members received and noted details of those items on the Forward Plan for the next two Executive meetings, at the time the agenda was printed.

21. The Future of York's Guildhall and Riverside - Project Update Report

Consideration was given to the report of the Assistant Director for Finance, Property and Procurement which set out progress and the actions necessary to secure the future of the Guildhall complex. This included a commitment to improve public access to and interpretation of the historic core of the complex, proposals for enhancing the commercial value of the riverside and a review of the feasibility work and business case relating to the office elements of the project.

Officers presented the report highlighting the key project programme dates and the under mentioned options for the office elements of the site:

Option 1 - Grade A generic office, probably requiring new build annex, where refurbishment is unlikely to produce the quality of office required.

Option 2 - A commercially focused scheme - likely to revolve around restaurants / cafe bars and leisure uses.

Option 3 - A new build annex with generic Grade A office and introducing residential or holiday let accommodation on upper levels.

Option 4 – A refurbished annex option with a serviced office / virtual office offer to the broader creative industries sector.

Members expressed their support for examination of the options and development of a business case.

Resolved: That the Executive agree:

- (i) A commitment to improved public access to and interpretation of the historic core of the complex – The Guildhall Main Hall, the Council Chamber, a new riverside courtyard garden and historic Common Hall Lane, in accordance with the recent Heritage Lottery Fund (HLF) bid.
- (ii) To continue with ongoing project development work including: the procurement of a multi disciplinary design team to progress design and development work.
- (iii) To commission a specialist property agent to: establish the value of the commercial riverside elements of the scheme; advise the design team and market test the proposals. Agree the principle of long leases (typically 25 – 99 yrs) on peripheral elements of the complex (the South Range restaurant and the new build cafe/bar on the north end).
- (iv) To initiate a review of the feasibility work and business case assumptions relating to the office elements of the scheme as presented to Cabinet in December 2014 / and Scrutiny Call-in in January 2015. Requesting an early report back to Executive in September 2015 on the most commercial and viable options for this element of the complex.^{1/2.}

Reasons: (i) In the interests of securing improved public access for residents and visitors, for the future, and maximising the civic and community value of the Guildhall through improved

understanding and appreciation of its historic significance, aligning with the Mansion House Opening Doors project.

- (ii) To ensure that the optimum beneficial re-use of the complex is properly investigated and that project delivery does not suffer unnecessary delay.
- (iii) In the interests of optimising the value and long term sustainability of a publicly accessible riverside with an attractive commercial offer to complement the inherent historic interest of the complex.
- (iv) In the interests of securing the optimum future value for the council from one of its most significant property assets and minimising delay to the project delivery.

Action Required

- 1. Continue ongoing project development work, establish the value of the riverside elements of the scheme and undertake a review of the office space. DW
- 2. Add update report to September's Executive Forward Plan. DW

22. Castlegate: Update

The Executive considered an update report on progress of the transformation of services for young people currently located at Castlegate. The report provided a summary of the work that had taken place since February to develop a new, innovative and sustainable model for youth advice and support services.

The Executive Member confirmed the need for financial savings and to the commitment to retain the service in the city centre together with a full range of services, which had the support of young people.

The Assistant Director (Education and Skills) confirmed details of ongoing work with service users to reshape the service through the YorOk Board and to work with partners including the Clinical Commissioning Group and Primary Care Trust to access sources of funding to ensure this was a sustainable service.

In answer to some Members concerns regarding the report reference to the possibility of Castlegate not being an option due to its sale to the Civic Trust, the Chair confirmed that there were no ongoing negotiations with the Trust in this regard.

Consideration was given to the following options and timeline for developing and implementing the new service:

Option 1 - This option was put to Cabinet in October 2014. The YorOK sub group felt that the preferred option in the original business case should continue to be discussed as there were merits in the proposal related to the opportunities to co-locate a range of services and partners in an existing city centre venue currently used by some groups of young people which required further consideration.

Option 2 - To continue to fund and deliver existing services from Castlegate until April 2016 to allow for the development of a sustainable integrated youth advice and support service.

Resolved: That the Executive agree to:

- (i) Continue to deliver the current range of services from Castlegate as outlined in Option 2, in the report, with continued engagement with partners to develop new, innovative and sustainable models of delivery which provides targeted advice and support for vulnerable young people, 16-24yrs
- (ii) Proceed with Option 2 for the remainder of 2015/16 with a view to agreeing a sustainable model described in paragraph 17, in the report, to be implemented in 2016/17. A detailed proposal and business case for this remodelled service will be developed through the YorOK Board sub-group and be presented to the Executive in October 2015. ¹.

Reason: To allow evidence based practice to emerge from other transformed areas of children's services and delivery and other partnership funding streams to be identified.

Action Required

1. Continue work on a sustainable model for the service and add item to the Forward Plan for

October Executive.

SF

23. Older Persons' Accommodation Programme: The Business Case*[See also Part B minute]*

Consideration was given to a report which provided the Business Case for investment in Older Persons' Accommodation to equip the city for the changing needs of its older population. The Programme sought to address these needs by replacing council run Older Persons' Homes (OPH's) with a range of provision including Extra Care housing and independent sector provided registered residential and nursing accommodation.

Members noted that, on current projections in the financial model, the Programme was affordable and should deliver financial savings of £284k per annum from 2019/20 rising to £553k by the end of 2023/24 and £9.6m over 25 years. It was also anticipated delivery of capital receipts of £3.6m from the sale of the Council's existing OPH's. Members also noted the risks associated with the proposals, and the mitigating action required, which would be kept under review.

The Executive Member welcomed the report and the proposals to move the programme forward highlighting the need for early consultation with OPH residents and relatives.

Concern was raised by a Member that, as residents often wished to remain in their locality, the majority of accommodation appeared to be concentrated in the east of the city and he hoped that, in the longer term, there would be a better balance.

Following further discussion it was

Resolved: That the Executive agree to:

- (i) Proceed with the Older Persons' Accommodation Programme (the Programme) as set out in the report, including:
 - funding 24/7 care support at Glen Lodge and Marjorie Waite Court Sheltered Housing with Extra Care schemes;
 - building a 27 home extension to Glen Lodge;

- seeking the building of a new Extra Care scheme on the site of an existing Older Persons' Home (OPH);
 - procurement of a new residential care facility as part of the wider Health and Wellness Campus at Burnholme; and
 - encouraging the development of additional residential care capacity in York including block-purchase of beds to meet the Council's needs.
- (ii) Approve the Financial Plan for the Programme including:
- use of the £3.554m OPH annual budget for the achievement of the Programme and with the intention of generating annual savings of £284k from 2019/20 rising to £553k by 2023/24 and £9.6m over 25 years;
 - allocation of up to £1.2m from the venture fund over the first four years of the Programme to fund the early years costs of achieving change including £88k of design and pre-planning costs associated with new Extra Care provision and £241k Programme management costs; the investment will be repaid from 2019/20 onwards over a 5 year period being fully repaid by 2023/24; the £88k of design and pre-planning costs would be funded from the Programme management budget and then repaid once the Glen Lodge extension is added to the capital programme with these costs chargeable to revenue should the capital scheme fail to progress and that revenue budgets would be needed to address this; and
 - ring-fence the reinvestment of up to £4m of capital receipts from the sale of the surplus to requirements existing older persons assets listed in the report for use on this Programme, subject to further approval regarding capital expenditure.

- (iii) Undertake a six week period of consultation, this autumn, with the residents, family, carers and staff of two of the Council's OPHs to explore the option to close each home with current residents moving to alternative accommodation and that a further report on the outcome of this consultation be received at the Executive before a final decision to close is made.
- (iv) Note that a recommendation to Council for the £4.15m investment in the Glen Lodge extension be added to the Capital Programme through the appropriate Capital Monitor once the outcome of the funding bid has been confirmed, noting that some of the expenditure may require prudential borrowing with the associated revenue costs being funded through additional rental income.
- (v) Note that a further report will be brought to Executive in the autumn to agree the preferred approach to the development of the Burnholme site in order to deliver a Health & Wellness Campus including residential care provision.
- (vi) Receive regular written updates of the progress of the Programme.¹

- Reason:
- (i) To provide suitable accommodation, ideally in a community setting, for the city's older residents including those with complex care needs, those with dementia and those moving out of, or diverted from moving to, existing Council-run OPHs which are no longer fit-for-purpose.
 - (ii) So that the project can progress.
 - (iii) So that the Executive may decide which homes may close having been fully informed of the views of and options available to existing residents.
 - (iv) So that 27 additional homes can be added to the Glen Lodge Extra Care facility, providing safe and secure accommodation for older people including those with complex needs and dementia.

- (v) So that the building of the Burnholme Health and Wellbeing Campus can progress.
- (vi) So that the Executive can be assured that the Programme is progressing according to plan and will be delivered.

Action Required

1. Proceed with the Older Person's Accommodation Programme, proposed consultation and the provision of regular progress reports.

RW

24. Coppergate Traffic Regulation Order Report

Consideration was given to a report which updated the Executive on the Review Decision of the Chief Adjudicator to the Traffic Penalty Tribunal (TPT) regarding civil enforcement of the Coppergate Traffic Regulation Order by camera.

It was noted that the Chief Adjudicator had held that, whilst the Order was valid to enable enforcement as a bus lane by camera, the Adjudicator considered that the signage was inadequate to convey the meaning of the order and was therefore unenforceable.

Officers highlighted the Adjudicator's key findings as outlined in the report and the recommendation from Counsel against further challenge. It was confirmed that, whilst it would be lawful for the Council to retain the monies, the cost of dealing with claims on an individual basis would exceed the cost of setting up a repayment process. It was also noted that, following a challenge from the National Motorists Action Group that the Auditors were reviewing the accounts and pending publication of their report it was recommended that any decision was subject to the satisfaction of the Section 151 Officer.

Members expressed their support for the suggested repayment process and the need to find a long term solution to the signage and congestion in the city.

Consideration was then given to the following options for

Dealing with PCN revenue

Option 1 – Retaining Monies Pending Appeal

Option 2 - This option would replicate the refund request process that has been approved by Leading Counsel for Lendal Bridge and hence avoid the significant financial and reputational risks of Option 1.

Future TRO enforcement

Option 1 – Revoking the Coppergate Order

Option 2 - Due to the material difference of opinion between the Council and the Chief Adjudicator of the TPT regarding the current signage, Officers recommend that the signage is reviewed, and consulted upon, to adequately communicate the meaning of the Order, and thus comply with Regulation 18.

Resolved: That the Executive agree to:

- (i) Require Officers to implement a Coppergate Repayment Process to facilitate the settlement of claims on the basis of repaying the Penalty Charge Notice (PCN) fine only (from earmarked reserves), in full and final settlement. The deadline for submitting a claim to be 31st March 2016. ¹
- (ii) The deadline for submitting a claim in respect of the existing Lendal Bridge Repayment Scheme to be extended from the 31st December 2015 to the 31st March 2016. ²
- (iii) Authorise Officers to identify, consult upon and analyse options which may include (a) solutions to conveying the meaning of the present Coppergate Order that will satisfy Regulation 18 of the 1996 Regulations, (to potentially include revised signage, road markings and surface treatment) and/or (b) alternative Orders and interventions that may provide more effective traffic solutions.
- (iv) Require Officers to prepare a further report to the Executive presenting the findings from (iii) above, and seeking approval to take forward an agreed solution. ³

- (v) The Council not proactively pursuing enforcement of the Coppergate Order by camera until such time as the solution at (iv) above is implemented.
- (vi) This is subject to the Director of Business Support Services being satisfied that this process meets the Auditors requirements.

Reason: In order to progress issues related to the Coppergate Traffic Regulation Order and to inform future traffic enforcement schemes.

Action Required

- 1. Implement Coppergate repayment scheme. NF
- 2. Extend deadline for Lendal Bridge repayment scheme. NF
- 3. Officers to examine options to the Coppergate Order and add report back to Executive on the Forward Plan NF

25. City of York Local Plan

The Executive considered an update report on progress on the Local Plan. It was noted that, in response to the Council resolution and the changing national and local context that Officers had started work to update the evidence base to inform the next stage of plan production and that this would form the basis of reports to Local Plan Working Group meetings from September onwards.

It was also noted that a further report would be brought to the Executive once the outstanding work in respect of the evidence base had been completed.

The Executive Member highlighted the changes proposed to the Plan, in particular in the areas of housing density and the green belt and the duty to co-operate and he referred to public support and the need to incorporate resident's views.

Councillors Williams and D'Agorne expressed support for the progress to date with the plan preparation but highlighting concerns regarding density and the housing crisis in the city which was likely to require development in the green belt.

Resolved: (i) That the Executive note progress on the Local Plan and the work that is being undertaken to

respond to both the changing national and local context.

- (ii) That approval be given to the release of £65k from contingency to fund the additional work outlined in the report.

Reason: (i) So that a National Planning Policy Framework compliant Local Plan can be progressed.

- (ii) So that the additional evidence base studies identified in the report can be funded within budget.

26. Business Improvement District for York City Centre

Consideration was given to a report of the Director of Communities and Neighbourhoods regarding proposals for the formation of a Business Improvement District (BID) for York City Centre. Members were asked to support the arrangement of a ballot which would allow local businesses to decide whether they wished to form a BID, the benefits of which were set out at paragraph 20 of the report. Members also considered a draft business plan, feasibility study and baseline agreements for the BID.

Officers presented the report and referred to the support received from earlier speakers, the Retail Forum and City Team for the proposals and confirmed the Electoral Reform Society recommendation for an earlier start date for the ballot. Officers also confirmed that the points raised by the scrutiny committee had been noted.

Members also expressed their support for the proposal and confirmed that details of nominations on the BID Board had not yet been confirmed. Consideration was then given to the following options:

- a) Proceed as set out in the report and absorb any costs
- b) Proceed as set out in the report but charge a one off fee for any work carried out
- c) Negotiate that any fees or costs incurred by the Council are removed as part of our contribution to setting up the BID.

Resolved: That the Executive agree to:

- Support the City Centre Business Improvement District (BID) and approve the draft Business Plan put forward by the City Team York Executive
- Confirm that the Executive is satisfied that the York BID proposals are not in conflict with any existing Council Policy, and that the proposed BID boundary has not been manipulated inappropriately
- Approve the Baseline Service Agreement which provides a legal commitment to maintain provision of relevant services in the BID area
- Approve the arrangements for the Council to operate the ballot and act as the collection agent for the levy
- Note the stages and timescales required to implement the decision as outlined in these recommendations.
- Agree to the release of £14k from contingency to fund the additional work outlined in the report.
1.

Reason: To support the continuing development of a Business Improvement District in York, and subsequent progression to ballot stage and to provide a budget for necessary expenditure.

Action Required

1. Proceed with the ballot for a BID in October. PN, PW

27. Consultation on Decision Making Arrangements

The Executive considered the report of the Monitoring Officer which set out proposals for greater cross-party involvement in the decision making process. With policy and scrutiny committees having the opportunity to debate and make recommendations requiring an executive decision prior to the final decision being made. The report set out proposals for how

such a system could be introduced and identified some of the issues which may arise.

Officers highlighted Councillor Levene's earlier comments and summarised the views of the Audit & Governance Committee which were all overwhelmingly in support of the new arrangements.

Members welcomed the comments arising from consultation and expressed support for more cross party discussion, the need to change the culture of the organisation and highlighting the future challenge on both Members and Officers time.

Resolved: That the Executive welcome the suggestions put forward in respect of the new decision making arrangements, including the comments of the Audit and Governance and the Corporate and Scrutiny Management Policy and Scrutiny Committees and await feedback from consultation with the political groups and independent members on the proposals, prior to a decision by the Executive in August.

Reason: To enable revised decision making arrangements to be put in place.

28. Listening to Residents: Ward Committees

Consideration was given to a report which set out a new approach to community engagement through working with local neighbourhoods and the establishment of revised ward committees. It was reported that the Council's new approach to neighbourhood working aimed to support ward members and proposed the reinstatement of ward committees with increased funding to strengthen resident engagement.

Officers reported the comments of the Communities and Environment Policy & Scrutiny Committee from their meeting on 27 July. It was confirmed that they had generally been supportive of the new arrangements and recommended option b, for ward committees to remain informally constituted.

Members welcomed the comments of earlier speakers which would allow ward councillors to champion their communities priorities and suggested a review of the new procedure by the Audit & Governance Committee.

Some Members expressed concern that ward funding would now be allocated on a per capita basis rather than on a need basis and that the Community Care Fund for vulnerable residents would not be ring fenced. They also raised concerns at possible financial risks, pointing out that central procurement of services would make savings for many of the services suggested for devolving to wards.

Following further discussion it was

Resolved: (i) That the Executive agree to:

- The new approach to community engagement including revised ward committees
 - The allocation of increased funding to these ward committees
 - The production of ward fact sheets in order to support ward councillors and explain the process to residents
 - The production of a range of local service choices giving options for how the ward committee funding pot can support local communities
- (ii) That the Ward Committees remain informally constituted relying on the delegated authority of the relevant chief officer to implement the wishes of the committee (subject to Council policy and procedures).
- (iii) That the Executive approve the virement of £150k from the Health & Wellbeing Directorate to Communities and Neighbourhoods Directorate representing the transfer of that element of the Adult Social Care Community Fund to Ward Committees.
- (iv) That the suggested ward spending approach be kept under review and considered by the Communities & Environment Policy & Scrutiny Committee and the Audit & Governance Committee prior to a report back to the Executive in January 2016.¹

Reason: (i ii & iii) To support the Council's commitment to working with local communities and devolving power and budgets to residents.

(iv) In accordance with Financial Regulations

Action Required

1. Implement new the new approach and schedule review on scrutiny and Audit & Governance work plans.

MB, CC

29. Holiday Pay and Overtime

Members considered a report which presented them with details of the pay and process implications relating to the calculation of holiday pay for non contractual overtime and additional hours earned, arising from recent Employment Tribunal decisions.

Officers confirmed that the approach taken by the Council in relation to back-dated claims made to date had been to calculate the additional holiday pay entitlement as a percentage of non contractual earnings and calculated as 7.6923%. In answer to earlier speaker's comments Officers confirmed that the Community Impact Assessment was correct in that there was no discrimination and that every employee was treated fairly.

Following further discussion the following options on pay rates were considered:

- To pay the rate based on CYC previous claims experience and a rate set by another local authority as outlined in paragraphs 8 and 14).
- To pay a higher rate, but there is no evidence base on which to base a decision on a higher rate. Any higher rate would have a greater impact on the council's financial position and on funding for front line services.

Resolved: That the Executive agree to:

- (i) The proposed calculation of holiday pay to be applied to all non contractual overtime and additional hours worked at a rate of 7.6923% of additional non contractual earnings effective from 1st August 2015. ¹.

- (ii) Any future statutorily imposed rate change for the deduction of holiday pay in relation to non-contractual overtime/additional hours will be implemented by the Director of Customer & Business Support Services.²

Reason: To ensure Members are aware of the implications of changes to holiday pay for non contractual overtime and additional hours worked.

Action Required

- 1. Implement changes to calculation of holiday pay with effect from 1 August 2015. PS
- 2. Note that any future statutorily imposed rate change in this area can be implemented by the Director of CBSS. PS

30. Annual Report of the Financial Inclusion Steering Group 2014/15

The Executive considered the 2014/15 outturn report and performance of the Financial Inclusion Steering Group (FISG) which informed them of progress made in delivering financial inclusion activity across the city, arising from the Council's Financial Inclusion Strategy. The report also provided information on the Council's Tax Support Scheme following Advice York's recent review.

It was reported that membership of the FISG included directorate representatives, the York Citizens Advice Bureau and the South Yorkshire Credit Union. Members noted that four grants had been made during 2014/15 and details of the outcomes of all projects for which grants had been made since 2013/14 were detailed at paragraphs 7 to 17.

Officers confirmed that targeted support through the York Financial Assistance Scheme was still considered the best way to assist the most financially vulnerable customers but that, to date, claims for support with Council Tax had seen less than 40% of available money claimed in any one year. Officers also confirmed that further work was required to promote the support to ensure that the assistance reached financially vulnerable residents.

The Executive Member confirmed the need for a review of CTS and an examination of alternative methods of supporting residents.

Following further discussion it was

Resolved: That the Executive agree to note the work of the Financial Inclusion Steering Group.

Reason: To ensure Members are aware of Financial Inclusion activity and how related financial support is administered through Council Tax Support and York Financial Assistance schemes to inform planning for future financial pressures relating to these schemes.

31. 2014/15 Draft Outturn

Consideration was given to a report which provided a year end analysis of the Council's financial performance over the 2014/15 financial year, detailed at Annex 1 in the performance dashboards.

The Council's net General Fund budget for 2014/15 was reported as £124,186k with a provisional outturn of an under spend of £688k, an improvement of £1.4m since Monitor 3. It was noted that the Council's reserve now stood at £7.5m and that beyond 2015/16 significant financial challenges would continue.

Further information in relation to the financial outturn of each directorate was reported at paragraphs 8 to 33 and at Annex 1, together with details of the achievements and challenges in relation to performance.

Resolved: That the Executive note the year end under spend of £688k and that this has been fully utilised in the emergency budget motion agreed by Council on the 16th July 2015.

Reason: To ensure significant financial issues can be appropriately dealt with.

32. Capital Programme Outturn 2014/15 and Revisions to the 2015/16-2019/20 Programme

[See also Part B minute]

Members considered a report which set out the capital programme outturn position, including any under or over spends, the overall funding of the programme and an update on future years.

An outturn of £48.202m was noted compared to an approved budget of £66.205m, an overall variation of £18.115m with the programme continuing to operate within budget.

A summary of the 2014/15 Capital Programme outturn was detailed, in the report and at Annexes A and B, highlighting the total variances for individual departments along with requests for reprofiling and an update on the Economic Infrastructure Fund.

Amendments made to future year's capital programmes as a result of reprofiling and requests for the use of new funding were also reported.

Resolved: That the Executive agree to:

- (i) Note the 2014/15 capital outturn position of £48.202m and approve the requests for reprofiling totalling £19.232m from the 2014/15 programme to future years.
- (ii) Note the additions in future years totalling £1.117m.
- (iii) Note the outturn position of the Economic Infrastructure Fund (EIF) in 2014/1 and revisions to the profile of the £28.5m as set out in Annex B of the report.
- (iv) Approve the revised EIF profile set out at Annex B of the report.

Reason: To enable the effective management and monitoring of the Council's capital programme

33. Treasury Management Annual Report & Review of Prudential Indicators 2014/15

[See also Part B minute]

The Executive considered the annual treasury management review of activities and the prudential and treasury indicators for 2014/15, as required by regulations issued under the Local Government Act 2003.

The position for 2014/15 compared to 2013/14 was summarised, with total borrowing at the start of the year at £311.3m and ending at £317.4m, split between the General Fund and Housing Revenue Account. Details of the interest and investment rates applicable over this period were reported at paragraphs 12 to 16 and prudential indicators for 2014/15 at Annex A.

Resolved: That, in accordance with the Local Government Act 2003 the Executive:

- (i) Notes the 2014/15 performance of Treasury Management activity and
- (ii) Notes the compliance with and movements of the Prudential Indicators in Annex A of the report.

Reason: To ensure the continued performance of the Council's Treasury Management function can be monitored.

Part B - Matters Referred to Council

34. Older Persons' Accommodation Programme: The Business Case

[See also Part A minute]

Consideration was given to a report which provided the Business Case for investment in Older Persons' Accommodation to equip the city for the changing needs of its older population. The Programme sought to address these needs by replacing council run Older Persons' Homes (OPH's) with a range of provision including Extra Care housing and

independent sector provided registered residential and nursing accommodation.

Members noted that the programme management costs were included in the financial model and detailed at paragraphs 105 and 106 of the report.

Recommended: That Council agree that the £1.156m Programme management costs be funded from existing Adult Social Care Capital Grant and are added to the Capital Programme and incurred over four years; these costs would be chargeable to revenue should the capital schemes fail to progress and that revenue budgets would be needed to address this. ¹.

Reason: So that the project can progress.

Action Required

1. Refer to Council.

JP

35. Capital Programme Outturn 2014/15 and Revisions to the 2015/16-2019/20 Programme

[See also Part A minute]

Members considered a report which set out the capital programme outturn position, including any under or over spends, the overall funding of the programme and an update on future years.

It was noted that amendments had been made to future year's capital programmes as a result of re-profiling of schemes from 2014/15.

Recommended: That Full Council agree the restated 2014/15 to 2018/19 programme of £206.231m as summarised in Table 3 and detailed in Annex A of the report. ¹.

Reason: To enable the effective management and monitoring of the Council's capital programme

Action Required

1. Refer to Council.

JP

36. Treasury Management Annual Report & Review of Prudential Indicators 2014/15

[See also Part A minute]

The Executive considered the annual treasury management review of activities and the prudential and treasury indicators for 2014/15, as required by regulations issued under the Local Government Act 2003.

Consideration was also given to an amendment requested to the Treasury Management Annual Investment Strategy, as outlined at Annex B of the report in relation to the Creditworthiness Policy.

Recommended: That Full Council agree amendment to the Treasury Management Annual Investment Strategy per Annex B of the report and the Creditworthiness Policy wording to:

“Typically the minimum credit ratings criteria the Council use will be a short term rating (Fitch or equivalents) of Short Term rating F1 and Long Term rating A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances consideration will be given to the whole range of ratings available, or other topical market information, to support their use.”¹

Reason: To ensure the continued performance of the Council’s Treasury Management function can be monitored.

Action Required

1. Refer to Council.

JP

Cllr C Steward, Chair

[The meeting started at 5.30 pm and finished at 9.10 pm].

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Forward Plan: Executive Meeting: 27 August 2015

Table 1: Items scheduled on the Forward Plan for the Executive Meeting on 24 September 2015

Title and Description	Author	Portfolio Holder
<p>Park & Ride Procurement</p> <p>Purpose of Report: To request authority to procure the Park & Ride Service for the city.</p> <p>Members are asked to approve the proposed procurement route and specification for the Park & Ride service. Approve the submission of a bid for funding for Low Emission Vehicles to the Department for Transport.</p>	<p>Tony Clarke</p>	<p>Executive Member for Transport and Planning</p>
<p>Highway Asset Management Report</p> <p>Purpose of Report: The report gives an overview and update of the strategy and approach taken in the management of our highways assets.</p> <p>Members are asked to:</p> <ul style="list-style-type: none"> (i) Consider the process detailed in the report and comment on its aims and approach and the requirement for future reviews to incorporate national best practice. (ii) Consider and make comment on the Streetlighting Policy document. 	<p>Steve Wragg</p>	<p>Executive Member for Transport and Planning</p>

Title and Description	Author	Portfolio Holder
<p>York Museums Trust Funding</p> <p>Purpose of Report: The report sets out revised arrangements for funding York Museums Trust (YMT) including potential changes to YMT's charging policy, the service level agreement between City of York Council and YMT and other legal agreements.</p> <p>Members will be asked to agree a process for developing a new Service Level Agreement (SLA) and funding settlement.</p>	<p>Charlie Croft</p>	<p>Executive Member for Culture, Leisure and Tourism</p>
<p>Council Plan</p> <p>Purpose of Report: The report presents the final draft Council Plan.</p> <p>Members are asked to review the final draft Council Plan and agree any final amendments</p>	<p>David Walmsley</p>	<p>Executive Leader, Finance and Performance</p>
<p>Community Asset Transfer – Knavesmire Changing Rooms to Hamilton Panthers</p> <p>Purpose of Report: To present details of a community asset transfer by way of a 99 year lease to Hamilton Panthers Football Club of the new changing rooms and community facility to be built in place of the existing buildings.</p> <p>Members are asked to approve the transfer by way of a 99 year lease at a peppercorn rent.</p>	<p>Phillip Callow</p>	<p>Executive Leader, Finance and Performance</p>

Table 2: Items scheduled on the Forward Plan for the Executive Meeting on 29 October 2015

Title and Description	Author	Portfolio Holder
<p>Burnholme Development Business Case</p> <p>Purpose of Report: To present the Executive with the Business case proposals for the redevelopment of Burnholme.</p> <p>Members are asked to approve the Business Case.</p>	<p>Louise Ramsay</p>	<p>Executive Member for Housing and Safer Neighbourhoods and Executive Member for Adult Social Care and Health</p>
<p>ICT Services Report</p> <p>Purpose of Report: To raise the awareness of ICT Services, its strategy, approach and scope.</p> <p>Members are asked to endorse the ICT strategy and service approach.</p>	<p>Roy Grant</p>	<p>Executive Leader, Finance & Performance</p>
<p>Youth Support and Advice Service</p> <p>Purpose of Report: This paper will provide details about the proposed model for a new integrated youth support and advice service for 16-25 year olds. The new model will complete the transformation of services currently located at 29a Castlegate and will result in the development of an integrated and co-located youth service offer operating from a city centre and various community-based venues which will bring together a range of professionals/partners to provide specialist advice and support for young people at risk of NEET, care leavers, those in the youth justice system and from other vulnerable groups. The service would provide targeted support to</p>	<p>Steve Flatley</p>	<p>Executive Member for Education, Children and Young People</p>

Title and Description	Author	Portfolio Holder
<p>promote young people's emotional health and wellbeing and support welfare to work pathways to secure effective transition to adult life for vulnerable young people.</p> <p>Members will be asked to consider and approve the new model for an integrated youth support and advice service for 16-25 year olds.</p>		

Table 3: Items slipped on the Forward Plan

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p>Future Options for Increased Delivery for New Houses</p> <p>Purpose of Report: To review progress of the workstreams under the Get York Building programmes that were agreed at the March 2014 Cabinet Meeting.</p> <p>Executive are asked to note the contents of the report and to consider the recommendations contained within it.</p> <p>This decision will now be taken by Executive in June in order to allow full year performance figures to be included rather</p>	<p>Paul Stamp/Steve Waddington</p>	<p>Executive Member for Housing and Safer Neighbourhoods and Executive Member for Transport and Planning</p>	<p>3 March</p>	<p>Withdrawn</p>	<p>This item has been withdrawn to fit in with other business requirements and will be resubmitted for consideration in the future.</p>

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p>than year end forecast figures.</p> <p>To assist with the scheduling of business for the first meeting of the Executive, this item will now be considered at the 30 July 2015 Executive.</p> <p>This item has changed its name from 'Review of Get York Building Programme 2nd Year' to 'Future Options for Increased Delivery for New Houses'</p>					
<p>Burnholme Development Business Case</p> <p>Purpose of Report: To present the Executive with the Business case proposals for the redevelopment of Burnholme</p> <p>Members are asked to approve the Business Case</p>	Louise Ramsay	Executive Member for Housing and Safer Neighbourhoods and Executive Member for Adult Social Care and Health	25 Aug	24 Sept	To allow additional time to fully evaluate the available procurement routes.

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p>York Central and Access Project</p> <p>Purpose of Report: To update Members on the current status of the project to develop the York Central site.</p> <p>Members will be asked to consider a range of matters regarding the project.</p> <p>This report may contain an annex that may be considered in private as it contains Exempt Information as described in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) in that the information relates to the financial or business affairs of any particular person (including the authority holding that information).</p>	Sarah Tanburn	Executive Member for Economic Development and Community Engagement (Deputy Leader	30 July	26 Nov	To enable further discussions to take place with the Portfolio Holder around the complexities involved in this project.
<p>Southern Gateway</p> <p>Purpose of Report: The report will set out work done to build a coherent vision for the future regeneration of the area around Piccadilly and the Eye of York.</p>	Tracey Carter	Executive Leader, Finance & Performance	24 Sept	Withdrawn	Because the report is not yet ready to present to Members this item has been withdrawn. It will be resubmitted to the

Title & Description	Author	Portfolio Holder	Original Date	Revised Date	Reason for Slippage
<p>Members are asked to agree to release resources to develop proposals to ensure the area is improved and becomes a healthy and vibrant part of the city centre.</p> <p>This report contains an annex that may be considered in private as it contains Exempt Information as described in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 (as amended) in that the information relates to the financial or business affairs of any particular person (including the authority holding that information)</p>					Forward Plan for consideration at a later date.

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Executive

27 August 2015

Report of Director of Communities and Neighbourhoods

Community Stadium & Leisure Facilities Procurement Update

Summary

1. The purpose of this paper is to update Executive on the progress of the procurement process for the Community Stadium and City Leisure facilities project, including Yearsley Pool.
2. The paper reflects the firm commitment given by the new Joint Administration for the long-term future of Yearsley Pool as part of its 12 point plan.
3. The project is now in its final stage of procurement and full commitment is given to its expedient delivery so that construction is completed during the football season 2016/17.
4. A programme of works is proposed to be brought forward from the construction schedule. The costs of these works will be funded from the approved budget. This programme will mitigate risks in the delivery timetable, providing additional contingency. It will also reduce ongoing revenue costs relating to the security and maintenance of the existing buildings.

Recommendations

5. The Executive is asked to:
 - a) Note the commitment to the long-term future of Yearsley Pool and to commence the formal review process acknowledged by the procurement documentation in October 2015 so that this long term commitment to Yearsley Pool is delivered.
 - b) Receive a report by March 2016 setting out the findings of the review process set out in a) above and agree the long-term

management arrangements for the pool after the New Stadium Leisure Centre is operational.

- c) Proceed with a package of early works as set out in paras 23 to 30 of this report in order to de-risk the delivery timetable and mitigate ongoing revenue pressures. The package of early works includes:
 - 1. Demolition of the existing Huntington Stadium and Waterworld
 - 2. The extension of the existing Park & Ride site and associated reconfiguration works to the car parking areas.
 - 3. Progress detailed design aspects of the construction phase.
- d) Agree to cost of these works, valued at c.£2m, being brought forward from the construction schedule (set out in recommendation c) to be funded from the existing approved stadium and leisure budget.
- e) Receive a contract award report for the Stadium Scheme by January 2016.
- f) Authorise the appropriation of land at Huntington Stadium for planning purposes in accordance with the provisions of Section 122 of the Local Government Act 1972 included in title numbers NYK195711, NYK317805, NYK158359, NYK80821 and NYK80822 as set out in Annex 1 and as outlined in red on the plan appended at Appendix 2 of Annex 1.
- g) Take all reasonable steps to secure the removal by agreement if possible of any existing property rights which could prevent the development from going ahead.

Reason: To enable the delivery of this important council project .

Background

- 6. Detailed planning permission was granted in March 2015 and the Judicial Review period ended without challenge in July 2015.
- 7. York City Football Club signed an Agreement to Lease for the new Community Stadium on 22 December 2014, securing the £2m investment from Football Stadia Improvement Fund (FSIF).
- 8. The new regional standard athletics track at York University's Heslington West Campus was completed in June 2015. York City

Athletic Club is now using the facility under the terms of their user agreement following the move from Huntington Stadium.

9. A community archaeological dig, held in partnership with the York Archaeological Trust, began at the end of May, investigating the Roman camp on the site. The dig ran for four weeks with participation from a wide range of volunteers. Archaeologists are currently carrying out post-excavation work.
10. In July York City Knights signed formal legal agreements with the Council securing their occupation of the new community stadium. This also secures access to Bootham Crescent for first team games and the use of York St John University's 3G pitches and sports village at Haxby Road for training and reserve games. This use is governed by the terms of third party agreements between the Council and the respective landowners (York City FC and York St John University). York City Knights have begun to use the facilities at York St John. Work is programmed at Bootham Crescent for early September to enable Rugby League matches to be played there and once the clubs have secured the necessary safety certificate York City Knights will be able to use the ground for matches.

Yearsley Pool

11. The new council administration has set out its commitment to provide a sustainable long-term operational solution for Yearsley Pool. This forms part of the joint administration's 12 point plan.
12. The operation of Yearsley is already included in the Design, Build, Operate, Maintain (DBOM) contract for the first two years up until the point that the New Stadium Leisure Facility is operational (scheduled as part of the currently programme between April and August 2017).
13. As part of the procurement and draft contract, provision has been made for a review process relating to the future of Yearsley. Now the Council has made a clear long-term commitment to the pool, beyond the initial 2 year period included in the leisure contract, it is proposed to use the review process to consider the most appropriate future means of operation. As part of this appraisal all options can be comprehensively examined, ensuring a cost effective solution is identified, without disruption to service delivery.

14. It is proposed that this appraisal begins in October 2015 and a report of the findings be brought back to the Executive by March 2016. This is in line with the existing procurement timetable and will not therefore have any negative impact.
15. There are a number of key stakeholders that would need to be involved in the review process. These include:
 - Nestlé – own all the surrounding property interests including the car parks. Nestlé recently made a commitment to working collaboratively with the council.
 - Yearsley Action Group - YAG represent the interests of many of the user groups at Yearsley Pool and are committed to the continued operation of the pool.
 - Other user groups and interested parties.
 - Greenwich Leisure Limited (GLL) - the preferred bidder in the procurement process. GLL will be operating the pool initially as part of the wider DBOM.

Procurement Process

16. The procurement process for the DBOM and ongoing Maintenance of the New Stadium Leisure Complex and City Leisure Facilities contract began in September 2012. The Competitive Dialogue process resulted in a final bid proposal being accepted at the September 2014 Cabinet. It was agreed that GLL's consortium be appointed as preferred bidder and their proposals be further developed to the point that a contract be awarded within the financial parameters of the scheme (£19m capital and £323k per annum revenue). The cost of the scheme identified in the capital programme is £37m. In October 2014, Full Council approved the additional £4m contribution towards the new leisure facilities at the New Stadium Leisure Complex (included in the £19m above).
17. The scheme is currently progressing through the pre-contract award stage. There are a number of complex workstreams underway that are resource and time intensive which include the finalisation of:
 - All procurement contract / legal documentation.
 - Commercial contracts for the tenants for the retail & leisure proposals.
 - Commercial contracts with the community hub partners.

- Due diligence of draft construction costs and initial value engineering options.
 - Detailed design issues.
18. A number of the work streams such as the commercial negotiations with potential tenants retail, leisure and community tenants require formal contracts being agreed with third parties. Although this work is progressing positively detailed legal and commercial matters still require clarification between the parties.
19. Due to the commercially sensitive nature of much of this work, it is not prudent to provide further details, to ensure that the council protects its financial and legal interests. Also, non-disclosure and other confidentiality provisions are in place between a number of parties and would impact on the procurement process. The Community Stadium Lead Members Group will, however, receive appropriate briefings.
20. A detailed financial review of the final scheme will be provided prior to contract award. This will be provided as a detailed Executive Paper by January 2016 at the latest.

Procurement Timetable

21. The programme for the delivery of the project has been adjusted. It was reported in public in July that the stadium would not be completed for the beginning of the football season 2016/17 as previously estimated.
22. It remains difficult to provide a precise programme for the final stage of the project, as a number of the outstanding workstreams rely on agreements and terms being reached with third parties. Some of these terms may have design implications (however minor), which in turn have an impact on the construction costs, operational model and funding formula.
23. The amended timetable is therefore provided with a range of dates during the football season 2016/17.

Outline timetable

- Finalisation of DBOM contract – Jan / Feb 2016
- Construction begins: Feb / March 2016
- Construction phase of sports stadium element completed :
March / April 2017

- Sports stadium element operational: April / May 2017
- Wider facilities construction completed: May / June 2017

Early works Proposal

24. The dates set out above provide a realistic range for the project delivery. As this is a priority project it is proposed that a package of works be arranged that will streamline the delivery programme, save time and potentially bring the construction programme forward as well as reducing ongoing financial revenue pressure. These works are as follows:

Demolition of facilities

25. The demolition works package will be brought forward from the construction schedule for the existing buildings on the site. The value of the work is c. £400k and includes the diversion of services that are connected to surrounding facilities.

Extension to Park and Ride

26. The proposed extension to the Park & Ride car park and associated access / transport arrangements will be brought forward. These works were included and specified in the original S106 from the Vanguard retail park and funding is in place for these works to be progressed. These works would build contingency into the construction programme and increase capacity of the existing Park & Ride operation. The value of the work is c. £1.2m and would be funded from an existing approved budget.

Progression of detailed design work

27. Consideration would also be given to bringing forward a number of detailed construction design activities that allow the construction process to start earlier. For example, detailed design / specification work on the steel work and piling could begin now so that orders can be placed as soon as the contracts are signed. The value would be c.£400K and be taken directly out of the contract price. The council would control intellectual property rights for the designs.

Risks / Benefits of Early works proposals

28. There are considerable benefits to the overall project in progressing with these works. All the works proposed relate to costs identified in the construction programme (subject to

contract). The works proposed would be brought forward from the main construction schedule. This will build in additional contingency into the timescale, smoothing the programme and de-risking delivery – particularly if unforeseen issues emerge (severe weather etc).

29. The cost of the works will be funded from the approved budget for the stadium and leisure facilities. The majority of this budget is made up of S106 funds provided specifically for delivery of a community stadium. All the works proposed are preparing the site for the delivery of the stadium. If this specific scheme was not to progress the capital works (demolition and construction work) set out would not be abortive costs, as there would still be a requirement on the council to deliver a stadium. The design work would however, have a potentially abortive cost associated with it, as it is possible that if the scheme did not progress, aspects of these designs would change. It would enable the construction programme to be brought forward by approximately 4 weeks and significantly de-risk the pre-construction programme.
30. Bringing this work forward will increase the cost of the work (approximately £50k); however, the Council is currently spending c. £25k per month on National Non Domestic Rates (NNDR), site security and reactive maintenance costs (ensuring the site remains safe) and these costs are likely to increase month by month. Bringing the works forward will remove these additional costs and therefore save the Council money. The additional costs will remain within already approved budgets. They relate to preliminary works on the site (services, security and the fact that the construction would be active for a longer period). Full planning permission has been obtained and includes the demolition of the buildings. No works will commence until the relevant conditions have been met for the recent full planning consent granted.

Risk

31. A detailed risk and issue register is managed by the project team and reported on a monthly basis to the Council's internal Project Board. Many of these risks contain commercially sensitive information and therefore the risk / issue register is not published as part of this report. A comprehensive risk analysis will be provided prior to contract award.

32. The main financial and timescale pressures relate to the finalisation of the commercial contract negotiations, their impact on the design, construction costs, the funding formula and ongoing operations.
33. The risks relating to the early works proposed in paras 23 to 30 are covered in that specific section of the report. There is a risk to the council in progressing with these works, however these are relatively low as the works are being brought forward from the construction schedule and funded from a S106 budget specifically for the delivery of a stadium and associated facilities. The abortive costs would be minimal. All works would need to be controlled by a separate early works contract which would need to be subject to appropriate legal advice.

Financial Issues

34. This project is in an advanced phase of the pre-contract award stage of the procurement. This is a complex commercially structured project. There are a number of detailed commercial negotiations currently being finalised.
35. The proposed early works programme will assist in building contingency into the project timetable and mitigate pressure on other budgets. The capital works would not have the risk of abortive costs if the scheme was not to progress. The risk of abortive design costs are minimal and can be justified considering the programme benefits these provide. All these costs would be met from the approved stadium and leisure budget.
36. The project budget is in the Council's capital programme and remains within the financial parameters set – as reported in the Cabinet Report September 2014. Financial contingencies are in place within this budget to cover variations / pressures on the key risk areas identified. A detailed financial appraisal will be undertaken prior to contract award and this will be reported to the Executive by January 2016.
37. The operation of Yearsley Pool is included within the proposed DBOM contract up to the opening of the New Stadium Leisure Complex (May / June 17 as schedule in outline timetable). A further budget provision has been made at the Council Meeting February 2015, providing up to £300K per annum for the operation of the pool for the proceeding 5 year period (approximately April 2022). The ongoing budgetary provision for Yearsley pool will

need to be considered in a future report to the Executive and full Council to bring this in line with the proposed contract term.

Legal

Appropriation

38. Information relating to the appropriation of the site is provided in Annex 1 of this report.
39. Section 122 of the Local Government Act 1972 enables the Council to 'appropriate' to another purpose/use any land owned by the Council which the Council no longer needs for the purpose for which the land was originally acquired by the Council. Where land has been appropriated for planning purposes Section 237 of the Town and Country Planning Act 1990 enables the carrying out of any development/building works authorised by planning permission where those works interfere with any easement or covenant benefiting a third party subject to payment of compensation to such third party/parties.
40. Section 122(2A) requires that before appropriating any land consisting of or forming part of 'open space' the Council must advertise the proposed appropriation in two consecutive editions of a local newspaper and consider any objections received in response. In order to be 'open space' land must:
 - i. either have no buildings on it at all or at least 95% of the land should have no buildings on it
 - and
 - ii. either be laid out as a 'garden', be used for recreation or lie as waste and unoccupied/vacant land (S.20 of the Open Spaces Act 1906).
41. It is not considered that the land edged red on the plan attached at Appendix 2 (in Annex 1) is 'open space' because it does not fall within the above criteria. Accordingly S.122(2)(A) would not apply so it is not considered necessary to advertise the proposed appropriation.
42. It is reasonable for the Council to use its powers in this case to appropriate the land for planning purposes as the appropriation will facilitate the carrying out of development, re-development or improvement works on the land and this which will contribute to the

promotion of the economic, environmental or social well-being of the City.

Property issues

43. The land comprising the proposed stadium complex/leisure facilities site was originally acquired by Ryedale District Council for leisure purposes.
44. It is considered that appropriation of the land to planning purposes will facilitate the carrying out of development, re-development or improvement works on the land which will contribute to the promotion or improvement of the economic, environmental or social well-being of its area.

Contact details

Authors:	Chief Officer Responsible for the report:		
Tim Atkins Programme Director ext: 1421	Sally Burns Director Communities & Neighbourhoods		
Charlie Croft Assistant Director	Report Approved	✓	Date 19 August 2015
Specialist Implications Officers:			
Ian Floyd Deputy Chief Executive & Director of CBSS		Rachel Dolby Deputy Head of Legal Services	
Wards Affected:			All ✓
For further information please contact the author of the report			

Annex 1: Appropriation of Land at Kathryn Avenue, Huntington Stadium, for Planning Purposes

Glossary of Terms

GLL	Greenwich Leisure Limited
NSLC	New Stadium Leisure Complex
CYC	City of York Council
OJEU	Ordinary Journal of the European Union
DBOM	Design, Build, Operate, Maintain
CD	Competitive Dialogue
UoY	University of York
YSJ	York St John
RFL	Rugby Football League
YCFC	York City Football Club
MDA	Match Day Agreement
S106	Section 106
FSIF	Football Stadia Improvement Fund
YCK	York City Knights
EU	European Union
NNDR	National Non Domestic Rates
3G	Third Generation Astroturf pitch
P & R	Park and Ride

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Appropriation of Land at Kathryn Avenue, Huntington Stadium, for Planning Purposes

Background

1. The Council acquires and holds property for various statutory purposes in order to perform its functions. The process of changing that purpose without changing the ownership is described as appropriation.
2. The Council has the power to acquire and hold property for various statutory purposes to perform its functions. In order to use land for a purpose other than the one for which it was acquired the land must be “appropriated” for a different use. Appropriation is a statutory process which allows the Council to transfer property within its ownership from one use to another.
3. Section 122 of the Local Government Act 1972 enables the Council to appropriate land for any statutory purpose for which it is authorised to acquire land. The Council must, therefore, determine that the land is no longer needed for the original purpose for which it was acquired and appropriate it for planning purposes.
4. Appropriation of the land for planning purposes requires the Council to consider the following factors:
 - that the appropriation will facilitate the carrying out of development, re-development or improvement on or in relation to the land or is required for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated;
 - that the proposed development, re-development or improvement works will contribute to the promotion of the economic, social and/or environmental well-being of the area;

- the provisions of the development plan, whether planning permission is in force and any other considerations that would be material to the determination of a planning application for development of the land;
 - that the land is no longer required for the original purpose for which it was acquired
5. Where land is appropriated for planning purposes, it is then held by the Council under the statutory provisions of Part 9 of the Town and Country Planning Act 1990. The practical consequence (by virtue of Section 237 of the Town and Country Planning Act 1990, as amended by Schedule 9 of the Planning Act 2008) is that the erection, construction or carrying out of any maintenance of any building or work on the land and subsequent use of the land is authorised under those planning powers, if the works are done in accordance with planning permission, even if they interfere with third party rights.
 6. The purpose of Section 237 of the Town and Country Planning Act 1990 (as amended) is to ensure that where land has been appropriated for planning purposes, then existing rights, which could prevent the development of that land from proceeding in accordance with the planning permission, can be overridden. The rights are overridden whether the Local Authority or a person deriving title from it undertakes the development. Persons who would otherwise benefit from those rights are entitled to claim compensation for the interference with them.
 7. The power contained in Section 237 of the Town and Country Planning Act 1990 (as amended) does not remove the legitimate rights of owners or occupiers as to compensation which may arise from the interference with such rights, but it does remove the potential for excessive claims and it also removes the potential for such owners or occupiers to frustrate the development by obtaining an injunction to prevent interference with their rights.
 8. On the 09 September 2014 Cabinet approved the appropriation of the land at Monks Cross South as part of a report on the Community Stadium Project. However no location/boundary plan was appended to that report.

The Scheme

9. As part of the York Community Stadium development land surrounding the existing stadium is required for development in order to provide sufficient room for the stadium and connected community hub building and the new planned leisure facilities to provide community programmes and access to a range of leisure venues.
10. The procurement process started in September 2012 under EU regulations and is now complete with a final scheme chosen and approved by Cabinet.
11. A final scheme has now been approved and as part of this process the land now needs to be appropriated under Section 122 of the Local Government Act 1972 so that the land is clear of any legal rights for the redevelopment of the scheme.
12. Land held by the Council under title numbers NYK195711, NYK317805, NYK158359, NYK80821 and NYK80822 are all affected and included in this request for appropriation, as shown in the plan in Appendix 1.
13. Various rights and easements exist on the titles. There is also the potential for claims that could be made in respect of title issues and covenants despite exhaustive checks. As the land is no longer required in its current use, the land can be appropriated for planning purposes under Section 122 of the Local Government Act 1972.
14. Section 237 of the Town and Country Planning Act 1990 will then apply in conjunction with the planning permission for the scheme, to override those rights that exist on the site subject to the persons with the benefit of those rights being able to claim compensation.
15. Any dispute about financial matters relating to the overriding of rights would be referred to the Upper Tribunal (Lands Chamber) for decision if it is not possible to resolve the issues on a voluntary basis.
16. The Council is responsible for the payment of compensation (if any) for the effect of the development upon the rights overridden. The red line for the development site is shown in the plan in Appendix 2.

17. Defective title insurance has already been acquired by City of York Council for the site from Aviva to cover any unknown rights that may exist affecting the area under development.

Analysis/Options

18. Appropriation of this land is required to enable the approved development of this site to take place. The consortia bidding have requested that this appropriation take place before the contract is completed and the development can commence.
19. The alternative option is to not to carry out this appropriation. This option is not recommended because:-
 - a) the bidders have indicated they will not complete the contract and therefore no development will take place.
 - b) the Council's Leisure facilities would have no operator in place and therefore closure of the Huntington site would occur, or the facilities would have to become Council operated at significant cost to the Council.
 - c) the procurement may have to restart at considerable cost and delay to the Council.
20. Section 122 of the Local Government Act 1972 enables the Council to 'appropriate' to another purpose/use any land owned by the Council which the Council no longer needs for the purpose for which the land was originally acquired by the Council. Where land has been appropriated for planning purposes Section 237 of the Town and Country Planning Act 1990 enables the carrying out of any development/building works authorised by planning permission where those works interfere with any easement or covenant benefiting a third party subject to payment of compensation to such third party/parties).
21. Section 122(2A) requires that before appropriating any land consisting of or forming part of 'open space' the Council must advertise the proposed appropriation in two consecutive editions of a local newspaper and consider any objections received in response. In order to be 'open space' land must:

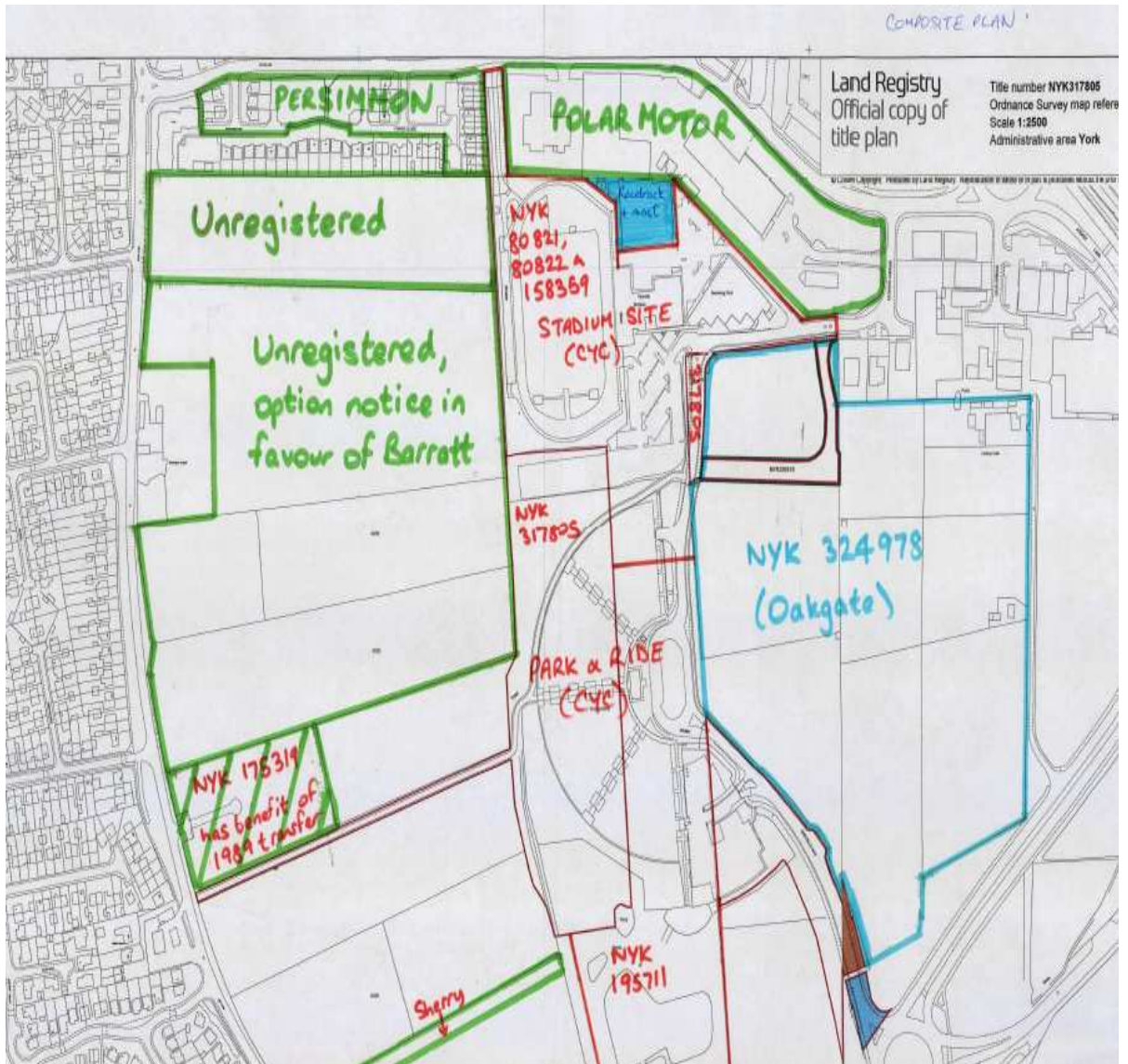
- (i) either have no buildings on it at all or at least 95% of the land should have no buildings on it and
- (ii) either be laid out as a 'garden', be used for recreation or lie as waste and unoccupied/vacant land (S.20 of the Open Spaces Act 1906)

22. It is not considered that the land edged red on the plan attached at Appendix 2 is 'open space' because it does not fall within the above criteria. Accordingly S.122(2)(A) would not apply so it is not considered necessary to advertise the proposed appropriation.
23. It is reasonable for the Council to use its powers in this case to appropriate the land for planning purposes as the appropriation will facilitate the carrying out of development, re-development or improvement works on the land and this which will contribute to the promotion of the economic, environmental or social well-being of the City.

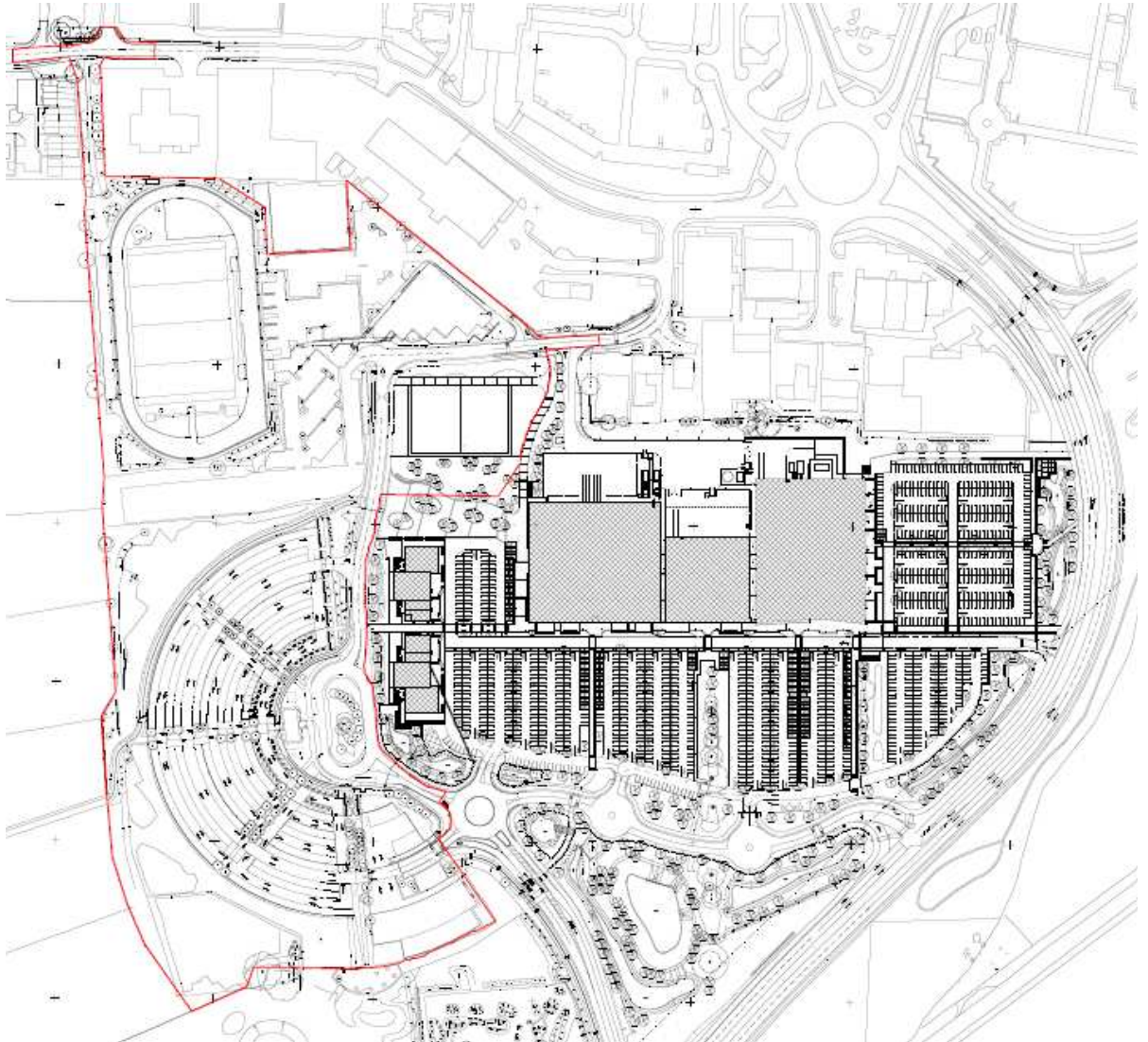
Risk Management

24. If the appropriation is approved then contracts can be awarded and development can commence in due course thus removing the risk to the physical development.
25. A risk remains that compensation claims may arise due to the extinguishment of rights on the site.

Appendix 1 – Title Plan



Appendix 2 - Red Line Plan for the Huntington Stadium Site



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Executive

27 August 2015

Report of the Monitoring Officer

Proposed Decision Making Arrangements

1. Summary

1.1 At the last meeting of the Executive a report was considered in relation to proposals for new decision making arrangements allowing for greater pre decision scrutiny. That report is attached at Annex A for ease of reference. This report informs the Executive of the outcome of that consultation and makes proposals for implementation.

2. Recommendations

2.1 Members are recommended to:

- a) Confirm the introduction of pre decision scrutiny arrangements and their commitment more generally to involving scrutiny in improving the quality of decisions made by the Council
- b) To endorse the proposed arrangements for pre decision scrutiny as set out in this report and described in the guide at Annex A.
- c) To invite the Corporate and Scrutiny Management Policy and Scrutiny Committee to:
 - i) Consider how best to involve Members of other Scrutiny Committees in its pre decision call in work
 - ii) Establish a Sub Committee to deal with urgent call ins
 - iii) To consider the remits of Scrutiny Committees and the membership of CSMPSC itself with a view to presenting proposals to Council
- d) To agree to review the new arrangements at the end of the Municipal Year

Reason: To enable revised decision making arrangements to be put in place

3. Background

- 3.1 The report to the last Executive meeting has been considered by both the Corporate and Scrutiny Management Policy and Scrutiny Committee (CSMPSC) and the Audit and Governance Committee (A&G). In addition political groups and independent members have been consulted.
- 3.2 There is very widespread support for the key principle of seeking to involve more Members in the process leading to decisions being made. It is also recognised that ultimately it is the Executive which has the legal responsibility for decision making on those matters which are statutorily within its remit.
- 3.3 There is support for the specific proposal to allow Scrutiny Committees to comment on reports before a decision is made. There is also support for moving more generally to a system of earlier engagement with scrutiny before an issue reaches the decision making stage. Good dialogue between Executive Members and Scrutiny Committees on major decisions coming forward and key priorities will assist in this.
- 3.4 There is a consensus that CSMPSC would be the appropriate Committee to deal with pre decision call in of items coming to the full Executive. It was recognised that this would lead to an increase in workload and CSMPSC would be prepared to meet monthly to accommodate this change.
- 3.5 There is support for the suggestion that there should be arrangements made to enable members of the relevant “service area” scrutiny committees to participate when CSMPSC considers an issue relevant to the particular Committee. In this regard two options had support:
 - Establishing CSMPSC as a Committee of Chairs of the Scrutiny Committees (recognising that some extra Members may be required to achieve political balance)
 - For CSMPSC to invite Members of the relevant Committees to participate in the debate when CSMPSC considers a call in relevant to that Committees work.

- 3.6 Ultimately Full Council would need to consider any change to the membership of CSMPSC. There are other proposals for a review of Scrutiny Committees and this matter might best be considered further as part of that review. In the interim the Executive is recommended to ask CSMPSC to consider whether it wishes to implement the second option and to determine exactly how that would work. One simple solution could be to invite the relevant Chair and Vice Chair or their nominees.
- 3.7 There was recognition that there should be a filtering system so that not every executive decision will go through scrutiny before coming to an Executive Member or the full Executive. There was general support for the suggestion of replicating the post decision call in process requiring three Members to call the decision to Committee.
- 3.8 The possibility of the new system delaying decision making was acknowledged as a genuine concern. To assist with this there was support for allowing only one week for a call in to be submitted rather than two as proposed in the original paper.
- 3.9 Although CSMPSC would be prepared to meet more frequently there was a view from the Committee that there should be a separation between call ins and ordinary meetings. It is therefore proposed to schedule a call in meeting each month in addition to the scheduled meetings for routine business.
- 3.10 The arrangements for dealing with any call ins for Executive Member decisions are particularly challenging and this was widely recognised. There was support for the relevant Scrutiny Committee to handle these call ins. However, it was felt by some that these meetings should be separated from routine scrutiny meetings.
- 3.11 Rather than attempt to impose a rigid set of rules it is proposed that these call ins should be managed on an ad hoc basis with the following options being available:
- The matter being considered at a scheduled Scrutiny Meeting if the Chair and Vice Chair so agree
 - The matter being considered at a specially convened meeting of a Scrutiny Committee - again with the agreement of the Chair and Vice Chair
 - The matter being referred to the next scheduled CSMPSC (Calling In) meeting in any other case

- 3.12 There was recognition from consultees that the new system will need to have an urgency process. The two categories of urgent decision identified in the previous report were accepted. So a general urgency process would be used where the normal time limits could not be complied with but an urgent scrutiny meeting could be convened after statutory notice of a meeting has been given.
- 3.13 It was felt that the urgency process should involve a Scrutiny Committee. It is proposed that CSMPSC be invited to establish a Sub Committee to deal with any call ins which cannot follow normal process for reason of urgency.
- 3.14 For any decision which is so urgent that a special meeting cannot be convened then there should be a special urgency process. The previous report proposed two options:
- Securing the approval of the Chair of the relevant scrutiny committee to the decision being taken
 - The Leader certifying that the decision needs to be taken urgently
- 3.15 It would be fair to say that the majority of Members of CSMPSC and A&G Committees supported the latter option. However, there were those who supported the former pointing out that it is a system which has worked satisfactorily for many years in the rare cases where an urgent key decision has had to be taken which was not on the Forward Plan.
- 3.16 In some cases in the future the decisions which cannot follow the new pre decision scrutiny route will also be decisions which have not appeared on the Forward Plan for a full 28 days and therefore statutorily require the approval of the Scrutiny Committee Chair to the decision being taken as urgent. Rather than operate two systems Officers' recommendation would be to have one and therefore follow the first option above.
- 3.17 Since the Executive announced its proposals one proposed Executive Member decision has been through a pre decision scrutiny route. That scrutiny committee was followed immediately by a separate decision making session. Comment has been made that this was confusing for the public. It also duplicated some processes. It is suggested that the new arrangements should not involve a separate decision making session and that instead the Executive Member should simply be asked to indicate whether he

or she is able to indicate their decisions. This can then be formally recorded and published separately.

- 3.18 The proposal that decisions which operate as recommendations to Council should not be subject to pre decision call in had general support.
- 3.19 There is support for reviewing the remits of the Scrutiny Committees. In year changes clearly have some practical difficulties but the Executive may wish to consider inviting CSMPSC to bring forward proposals for consideration at Council.
- 3.20 It was suggested that there should be a review of the new arrangements and it is proposed that an initial review at the end of the Municipal Year might be appropriate.
- 3.21 Finally there was a request for an easy to use guide to the new arrangements. A draft appears at Annex B.

4. Options

- 4.1 The Executive may accept or reject any of the proposals put forward and may put forward alternatives.

5. Analysis

- 5.1 The analysis is contained in the body of the report.

6. Consultation

- 6.1 This report has been developed following consultation with Audit and Governance Committee, Corporate and Scrutiny Management Policy and Scrutiny Committee, Political groups and the independent Members.

7. Council Plan

- 7.1 Effective and inclusive decision making will assist in achieving all Council plan priorities

Implications

- 8. The implications are:

- Financial – the proposals will lead to additional meetings. The key impact of this will be on the Democratic Services team but will be accommodated within the additional resources provided to the team as a result of the budget decisions made at the last Council
- Equalities - none
- Legal - as York operates a Leader and Cabinet model of decision making under the Local Government Act 2000, executive decisions must be taken in accordance with the provisions of that Act and Regulations issued under it. Decisions will be open to challenge if the Executive or an Executive Member were to slavishly follow the recommendations of a Scrutiny Committee without applying their own independent judgment. The proposals being recommended for implementation can all be adopted as working arrangements without formal constitutional change.

9. Risk Management

- 9.1 The report identifies risks in respect of the timeliness of decision making and the transparency of decision making.

**Author and Chief
Officer responsible for
the report:
Andy Docherty
Assistant Director
Tel No. 01904 551004**

**Report
Approved**



Date 19/8/2015

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annexes

Annex A – Report to Executive on 30th July 2015

Annex B - Draft Guide to the new executive decision making arrangements

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Executive

30 July 2015

Report of the Monitoring Officer

Consultation on Decision Making Arrangements

1. Summary

- 1.1 A key priority of the new council leadership is to ensure there is greater cross-party involvement in the decision making process and that these decisions are taken in a more open and transparent way.

The new leadership want policy and scrutiny committees to have the opportunity to debate and make recommendations on matters requiring an executive decision before a final decision is taken.

This report sets out proposals for how such a system could be introduced and identifies some issues which may arise. It is proposed that this report form the basis for consultation with Audit and Governance Committee, Corporate and Scrutiny Management Policy and Scrutiny Committee, political groups and independent members.

- 1.2 The proposals seek to balance three key principles:

- That there should be an opportunity for scrutiny of executive decisions before they are made
- That proper decision making should not be unduly delayed or fettered
- That there should be greater transparency not only of what decisions are made but by whom.

2. Who will undertake pre decision scrutiny?

- 2.1 It is proposed that the arrangements for scrutiny will vary according to whether the decision is proposed to be taken by the full Executive or an Executive Member acting alone.

- 2.2 For an Executive Member decision it is suggested that the policy and scrutiny committee within whose remit the issue lies will have the scrutiny responsibility. For matters coming to the Executive it is proposed that CSMC will be the scrutiny committee.
- 2.3 The suggestion that CSMC have oversight of Executive reports is made simply for reasons of effective administration. There may be concerns that this means that members of the relevant scrutiny committee will not get to scrutinise the most significant decisions relating to their area. This concern could be mitigated by one or more of the following:
- Scrutiny committees asking for early reports on significant issues in advance of Executive reports being drafted and thereby influencing policy development and the contents of the final Executive report
 - Arrangements for representatives of the scrutiny committee to have a right to participate in the debate at CSMC
 - Considering the make up of CSMC – could it, for example, be largely made up of the Chairs of the other scrutiny committees?

3. How will a decision come for scrutiny?

- 3.1 It has always been possible for a Scrutiny Committee to identify issues which will, in due course, require an Executive decision and for the Committee to review those issues. Such scrutiny at an early stage of policy development can help frame future debates and reports and is not in any way affected by these proposals.
- 3.2 What these proposals do seek to achieve is to give Scrutiny and Policy Committees the opportunity to see a report in its final (or close to final) form and to debate recommendations on the report prior to the final decision being made.
- 3.3 There are various ways that the Council could arrange to bring a report to the relevant scrutiny and policy committee including:
- All decisions coming for scrutiny routinely
 - Any Member being able to request a proposed decision be added to the Scrutiny agenda

- Replicating the post decision “call in process” requiring three Members to call the decision to Committee
- Have the Chair/Vice Chair operate as a filter for Member requests in much the same way as Planning Committee operates in bringing to Committee matters which would normally be decided under delegated powers.

3.4 Having all matters come for scrutiny routinely may not be the best use of Committee or Officer time and so some filter system is recommended. That in use for planning matters works well and may be an appropriate model.

4. How will Members know what decisions are to be made?

4.1 The Forward Plan is key to this and there will need to be considerable discipline in adding matters to the Plan in good time and with sufficient detail as to what is to be decided.

5. What would the timescales be?

5.1 Working backwards a possible **minimum** timeline for a decision to be taken at a meeting of the Executive might look something like:

Day 0 (Thursday)	Executive meets
Day minus 8 (Wednesday)	Executive agenda published with CSMC recommendations
Day minus 14 (Thursday)	CSMC meets
Day minus 22 (Wednesday)	CSMC agenda published
Day minus 24 (Monday)	Democratic services notified that decision is to be scrutinised
Day minus 41 (Friday)	Forward plan published

5.2 This timeline has some issues.

- The only practical way to make this system work is to move CSMC from a six weekly to a monthly cycle, meeting a fortnight before each Executive meeting.
- The Forward plan is currently published monthly as standard (previously this was a legal requirement). 28 days notice is required between publication and decision. It is suggested that a move to a rolling Forward Plan with weekly publication would make sense and the timetable above requires it.
- More seriously this time line allows only one full working day between notification that the decision will be scrutinised and the report needing to be with democratic services. Accordingly either Officers would have to work to having final reports ready for the CSMC agenda deadline or the timetable needs to be pushed back.
- The timeline is based on giving Members at least two week's notice to "call in" a decision. There is a question as to whether that is reasonable notice. Whatever the right notice period is, it is suggested that it needs to be set by reference to the decision date.

5.3 The issue is perhaps even greater for Executive Member decisions. The proposal is that decision sessions will run to the same timetable as the relevant scrutiny committee. With the exception of Health Scrutiny, those Committees are scheduled to meet seven times a year. If that continues then this may have consequences for the timeliness of proposed decisions. Given publication deadlines, some decision may wait up to twelve weeks. Possible options discounting a return to private decision making are:

- Move all Scrutiny Committees to a monthly cycle
- Schedule Executive Member decisions sessions between as well as alongside Scrutiny meetings allowing matters which have not been called in to be progressed more swiftly

5.4 Under current arrangements any decision made by the Executive or an individual Member is open to post decision call in. That could, of course, further stretch the timetable.

5.5 None of these issues are insurmountable and most decisions should be able to follow this process. There does though need to be a level of pragmatism which accepts that some urgent decisions will have to be made sooner than this system allows. Some decisions have a statutory timeline which may be difficult to meet while following this process – for example the Council has eight weeks to designate a Neighbourhood Area in connection with neighbourhood plan applications. Officers can determine these if straightforward but where there are objections they will be presented to the Executive Member. At best this will be known four weeks into the process. Other decisions may be urgent because of potential financial or reputational impacts on the Council. These decisions ought to be very much in the minority.

6. Urgent decisions

6.1 There are several ways that the issue of urgent decisions could be tackled. Options might include:

- A “special urgency” process for decisions which are particularly urgent. There is such a process for making key decisions which are not on the Forward Plan. That involves seeking the consent of the Chair of the relevant scrutiny committee to the decision being taken. An alternative would be for the Leader to certify that the decision cannot wait and then be accountable to CSMC for so certifying.
- A “general urgency” process for decisions which cannot wait until the next scheduled meeting but can be taken after normal notice of a meeting has been given and the meeting held.

6.2 A general urgency process might then involve one of the following:

- a) Scheduling a special meeting of the appropriate scrutiny committee
- b) Refer the decision to CSMC if it has a scheduled meeting within an appropriate timescale
- c) Establishing an “urgency” sub committee of CSMC to be called on an ad hoc basis. Such a committee could even meet immediately before the Executive or the decision session.
- d) Referring these decisions to Staffing Matters and Urgency Committee (which has fortnightly meetings scheduled but is not a scrutiny committee)

6.3 Whatever system is implemented Members may wish to consider reviewing its use periodically.

7. How would the scrutiny committee/decision session operate?

7.1 Under current procedures decision sessions operate as though they are a formal local authority meeting. If we continue on that basis then logically the new system would either have:

- the Committee meet, adjourn to allow the decision session to take place and then reconvene or
- the executive business would be the final item on the agenda and the decision session would open on the committee meeting closing.

7.2 Of these two options the latter provides a clearer distinction between the two sets of proceedings but may mean an Executive Member and members of the public interested in an executive decision having to wait some time before the executive business can be completed.

7.3 An alternative solution might be that the executive business is an early agenda item for the Scrutiny committee, public participation takes place at least on that item, an officer presents the report, the Executive Member participates in the debate and at the close of the debate the Chair asks the Executive Member whether he or she is able to announce his or her decision. That decision would then be recorded in a decision notice in accordance with legal requirements. If a decision is delayed it would either be referred to the full Executive or taken at another decision session.

7.4 One potential downside to this suggestion is that it might not be clear who the decision maker is. While it is to be expected that the views of the Committee would be given very great weight, legally the decision rests with the Executive and decisions would be open to challenge if the Executive member does no more than rubber stamp a decision.

8. What about decisions requiring Council approval?

8.1 There are relatively few decisions which require Full Council approval but they include:

- Agreeing the budget

- Agreeing expenditure outside of virement limits – typically significant capital spend
- Agreeing specified key plans – including the local plan and the Council plan

These decisions would not currently be subject to post decision scrutiny.

- 8.2 Cross party engagement in the local plan is already ensured through the Local Plan Working Group.
- 8.3 The budget report is inevitably finalised close to the deadlines for an Executive recommendation and in any case opposition parties tend to like to propose a full budget amendment for Council. Scrutinising the Executive's budget report, even if it can be made available, may not be terribly productive. However, Scrutiny could develop a more significant role in looking at the principles underpinning the budget in the run up to the Executive producing its draft.
- 8.4 It is therefore suggested that Executive recommendations to Council should not be subject to the new pre decision scrutiny process.

9. Scrutiny Committee remit

- 9.1 There is a further consequence for Executive Members in that many of the portfolios come within the remit of more than one Scrutiny Committee. It seems appropriate to review those remits to see whether it is possible to bring them more in line with portfolios.

10. Officer in consultation decisions

- 10.1 To improve openness and transparency the new council leadership also proposes to end the occasional practice whereby decisions may have been taken by an officer in consultation with the Executive Member. Where a decision requires the active involvement of the Executive Member the new leadership believe that the decision should be taken by the relevant Executive Member in a public decision session. This will allow reports to be published in advance and for residents and councillors to speak at the meetings.

11. Options

11.1 The Executive may accept or reject any of the proposals put forward and may put forward alternatives.

12. Analysis

12.1 The analysis is contained in the body of the report.

13. Consultation

13.1 This report is being presented to the Executive, Audit and Governance Committee and Corporate and Scrutiny Management Committee by way of consultation. Political groups and the independent Members will also be asked for their views.

14. Council Plan

14.1 Effective and inclusive decision making will assist in achieving all Council plan priorities

15. Implications

15.1 The implications are:

- Financial – there are no financial consequences arising directly from this report. The final proposals following consultation may have a resource impact, particularly for the staffing of the Democratic Services team, which will need to be considered in due course.
- Equalities - none
- Legal - as York operates a Leader and Cabinet model of decision making under the Local Government Act 2000, executive decisions must be taken in accordance with the provisions of that Act and Regulations issued under it. Decisions will be open to challenge if the Executive or an Executive Member were to slavishly follow the recommendations of a Scrutiny Committee without applying their own independent judgment.

16. Risk Management

16.1 The report identifies risks in respect of the timeliness of decision making and the transparency of decision making.

17. Recommendations

17.1 Members are requested to:

- Indicate any immediate views on the proposals contained in this report
- Agree to consult with both the Audit and Governance Committee and the Corporate and Scrutiny Management Policy and Scrutiny Committee along with political groups and independent members on the proposals in July. Before a final proposal is brought forward in August.

Reason: To enable revised decision making arrangements to be put in place

**Author and Chief Officer
responsible for the report:
Andy Docherty
Assistant Director
Tel No. 01904 551004**

Report
Approved



Date 01/07/2015

Wards Affected:

All

For further information please contact the author of the report

Background Papers:

None

Annexes:

None

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Guide to the new executive decision making arrangements

1. The Forward plan will be published weekly as standard
2. All new decisions will be highlighted as such. Each decision will include an anticipated decision date.
3. Officers should be aiming to populate the plan at least 12 weeks in advance of the decision. It should be exceptional for a matter to be added less than 5 week before the decision is due.
4. Within 7 days of an item being added to the Plan it may be called in by 3 Members
5. Democratic Services will then facilitate the decision being referred to scrutiny and will do so in liaison with the Chair and Vice Chair of the relevant Policy and Scrutiny Committee, the Executive Member or Leader and the Officers concerned. Any issues of urgency will be considered at this stage.
6. If it is a decision to be made by the full Executive the report will normally go to the CSMPSC (Calling In) meeting preceding the proposed Executive. The outcome of the Committee's deliberations will be reported to the Executive.
7. CSMPSC will allow some Members of the relevant Committee to participate in their debate but not vote. CSMPSC will determine the details for these arrangements.
8. If it is a proposed Executive Member decision then the report will normally go to the relevant Policy and Scrutiny Committee within whose remit the decision lies. Democratic Services will liaise with the Chair and Vice Chair to determine whether this is to a scheduled or a specially convened meeting. A fall back is that instead the matter is referred to the CSMPSC (Calling In) meeting. 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.
9. The Executive Member will attend these meetings and be invited to indicate his or her decision at the conclusion of the debate. This will then be recorded and published as an Executive Member decision.

10. In an urgent situation where the delay in following the standard procedures is considered to be critical but a meeting cannot be arranged with proper statutory notice then a Sub Committee established by CSMPSC will consider the call in.
11. If there is insufficient time to call a meeting of the Sub Committee the Chair of CSMPSC must agree to the decision being taken.



Executive**27 August 2015**

Report of the Director of City and Environmental Services

Advertising Boards (“A” Boards) and Other Equipment on the Public Highway**Summary**

1. The purpose of this report is to advise the Executive of two options, with regards to “A” Boards and other materials used to promote primarily private businesses across the city. This follows on from the former Cabinet resolution (10/02/15), attached at Annex B.

Recommendations

2. It is recommended that the Executive approves the following:
 - (i) That Officers prepare a Consultation Draft Policy to include a formal licensing arrangement for A Boards in accordance with strict criteria, (this being consistent with the earlier Cabinet resolution) and commence a consultation exercise on the Draft Policy over forthcoming months;
 - (ii) That such consultation to be focused to provide engagement with representatives of the business community, in particular retail groups and the Business Improvement District (BID) and also representatives of those who are blind and partially sighted, those with mobility issues such as charities/groups including the RNIB, Guide Dogs and York specific groups, such as York Blind and Partially Sighted Society (YB&PSS);
 - (iii) That a further report be brought to the Executive later in the year to present the findings of this consultation and a recommended Final Draft Policy, together with estimated financial implications of implementation and enforcement. At this next stage the Final Draft Policy will have been the subject of a full Equalities Impact Assessment and consultation process, before being recommended to Members for approval.

Reason:

To provide adequate control of the many and varied obstructions (particularly for those with impaired mobility for example, blind and/or partially sighted) temporarily located on the public highway. This taking into account of the Council's responsibilities under the Highways Act 1980, the Equality Act 2010 and Town & Country Planning Act 1990.

To contribute further to the removal of street clutter, improve the street scene and public realm.

Background

3. The report attached (Annex A) is that of the Community Safety Overview & Scrutiny Committee 12/01/15, which was considered by Cabinet on 10/02/15 (Annex B). This report provides comprehensive background and history to "A" Boards in the city and presented a series of options, from maintenance of the current position (one of tolerance and action on occasion), voluntary guidelines, policy with/without licensing, total ban or some combination.
4. In its consideration of this report the Cabinet resolved to request (The Director of CES) to prepare guidelines for the use of A Boards across the city, in consultation with interested parties, for consideration at a future meeting.
5. Members confirmed that enforcement was key, as there was need to balance the use of "A" Boards with the livelihood of small businesses. With limited resources there was need to work with and support businesses to find alternative methods of advertising.
6. Further work by officers was temporarily halted due to a need to reprioritise resources. A letter was received dated 17th June from RNIB, Annex C. The RNIB campaigns for a zero tolerance approach from local authorities; however it recommends an approach which whilst aligned to this, would give some flexibility, in having a formal application process. The letter goes on to say that if the Council were minded to follow this approach they would seek to work with the council in developing the policy/detail. Also attached (Annex D) is the Council's formal response to the letter.

Options

7. **Option 1 – Zero Tolerance.** To put in place a policy which bans the siting of "A" boards or comparable advertising materials from placement on the public highway. Whilst seemingly straightforward, ensuring compliance could require substantial officer resource, with an expectation that it is robustly enforced. It would also probably be seen as draconian and not

fully aligned with the views expressed by Cabinet members previously. Hackney Council are known to have a ban in place, however this approach would not currently appear to be the norm for most local authorities in England and Wales.

8. This option is not recommended at this point in time as it is felt that analysis and consultation on a regulated approach requiring “A” Boards to be controlled through licence is worthy of consideration and further reporting.
9. **Option 2** – Prepare a Draft Policy and consult appropriate bodies. The Draft Policy would propose that A Boards require formal permission and would only be permitted by licence within strict parameters. An annual application process would be put in place, with a likely fee charged; assessment by officers; notice placement; ability of the public to raise objections. It is envisaged that the policy would include a series of essential criteria, such a limiting the number, size and location of “A” boards. An example of such a Policy followed by Liverpool City Council is shown at Annex B.
10. As highlighted within the CSO&SC report, this option will require an adequate level of resources in order for it to be prepared, implemented, monitored and enforced. The further analysis will determine a reasoned estimation of what this will be. As such, full approval of a licensed approach will be expected to have financial implications for the Council with budgetary matters addressed.
11. This is the recommended option. As discussed above, it facilitates further examination of what a licensed system would authorise, what the process would be, the financial implications and how it would represent a robust and defensible approach to complying with the Council’s statutory duties under the Highway, Planning and Equality legislation. It would of course provide for engagement with representatives of the business sector and groups such as the RNIB, Guide Dogs and YB&PSS, and would be subject to a full equalities impact assessment before bringing before a future Executive to consider whether to approve and implement.

Consultation

12. Subject to the decision by the Executive consultation will be undertaken during the development of the draft policy. The results of the consultation will be reported to Members when the draft policy is brought back for a decision on implementation.

Council Plan 2011-2015

13. This item contributes to the priorities of protecting vulnerable people and protecting the environment.

Implications

Legal	There are no legal implications.
Financial	It is anticipated that the licence fee will be utilised to provide resources for the administration of the policy. An assessment of the potential for enforcement activities to be undertaken through existing street based services e.g. Civil Enforcement Officers, will be contained in the final report
Human Resources	There are no HR implications.
Crime and Disorder	There are no crime and disorder implications
Sustainability	There are no sustainability implications
Equalities	There are no equalities implications with the report, however as highlighted at 2(iii), the recommended option will include for the provision of a full EIA.
Property	There are no property implications

Risk Management

14. In compliance with the Council's risk management strategy there are no risks associated with the recommendations in this report.

Contact Details:**Author**

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Report **Date** 31/07/15
Approved

Wards Affected:

All

For further information please contact the author of the report

- Annex A Community Safety Overview & Scrutiny Committee 12/01/15
- Annex B Report to Cabinet 10/02/15
- Annex C Liverpool Council "A" Board Policy
- Annex D RNIB letter
- Annex E CYC response

Glossary of abbreviations used in the report:

- BID – Business Improvement District
- CES – City & Environmental Services
- CSO&SC – Community Safety Overview & Scrutiny Committee
- EIA – Equality Impact Assessment
- HR – Human Resources
- RNIB – Royal National Institute for the Blind
- YB&PSS - York Blind and Partially Sighted Society

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Annex A



Community Safety Overview & Scrutiny Committee 12 January 2015

Report of the Assistant Director Governance & ICT

Review of the Use of A-boards –Final Report

Summary

1. This report presents the findings from the A-boards Scrutiny Review together with the arising recommendations.

Background to Review

2. In March 2013, this Committee were asked to consider whether or not to carry out a scrutiny review on the use of A-boards, with the aim of identifying suitable requirements/ guidelines that could be implemented across the whole city. It was suggested that as part of a review Members could consider:
 - Whether introducing an A-board licence was a suitable approach, recognising:
 - a. It may have income potential, and may encourage more responsible use, and help monitor the proliferation of A-boards.
 - b. It would require an appropriate level of enforcement which may have a significant impact on staff resources.
 - What appropriate Enforcement measures could be taken by the Council in relevant situations under the Highways Act 1980. It was recognised that to help address the staffing resource issue, Members could to consider the approach taken by Brighton & Hove i.e. identifying additional staff resource in monitoring and enforcing the streetscape through improved cross directorate/team working, with officers undertaking multiple enforcement regimes, including the use of civil enforcement officers, city cleaning officers and PCSOs.

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- What might be acceptable in respect of A-boards e.g. dimensions, colour, design, rules on illumination and safety considerations etc
4. CYC Highways agreed that a review based on the suggestions above would be beneficial, as in their view their current practise was time consuming, resulted in allegations of victimisation and did not effectively tackle the problems some people had freely and safely using the footway.
 5. The Committee noted the work being undertaken by officers in support of the then Cabinet Member for Transport & Planning's consideration of a zero tolerance zone for the city centre. This included looking at how those businesses that were benefitting from boards due to their location being off the beaten track, might be affected by the introduction of a zero tolerance zone (recognising it might affect their viability). The intention was to identify how best to overcome that problem whilst still ensuring the majority of boards were removed. It was also intended that an approved policy for the city centre would be implemented, however given the Scrutiny Review; it was not considered an appropriate use of resources to advance it until the proposed scrutiny review had been concluded.
 6. However, the Committee agreed they did not want to see one approach for the city centre and another for the rest of the city. Instead, some members of the Committee argued strongly for recommending a total ban on A-boards across the whole city.
 7. Other members of the Committee in recognising that it was necessary to clamp down on those that were dangerous, agreed that the council should acknowledge that the overwhelming majority of A-boards were safe and sensible, vital for local businesses and supportive of York's economy. They therefore did not agree with the suggested recommendation to Cabinet. Instead they argued for the introduction of some sensible guidelines and the provision of appropriate enforcement. The Committee therefore requested some initial information on the implications of both options and the effect they may have on the city and CYC resources.
 8. In April 2013, CYC's Traffic Network Manager provided the requested information (see Annex A) suggesting that whilst a total ban would benefit the appearance of the city and the safety of the partially-sighted, there would likely to be an adverse consequence to the small business community. There would also be resource implications around the ability of the Traffic Network Team to enforce a city wide ban.

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9. At the same meeting, the Committee was made aware of a petition on A Boards submitted by Micklegate traders in March 2009 to a meeting of the then Executive Member for City Strategy and Advisory Panel(EMAP), which led to the Executive Member approving the development of intervention guidelines for an enforcement policy for the removal of A-boards and the like from the Public Highway.
10. Noting that the introduction of guidelines had previously been agreed but not acted on, and having agreed that some permanent action was required, the Committee agreed not to proceed with a report recommending that the Cabinet approve a total ban of A-boards. Instead they agreed to undertake a review to identify suitable guidelines for the use of A-boards, taking into account other issues such as alternative ways of advertising and health and safety issues. The Committee also agreed to set up a Task Group to carry out the review on their behalf, made up of the following members:
 - Cllr Helen Douglas (Task Group Chair)
 - Cllr Keith Orrell
 - Cllr Gerard Hodgson

Initial Information Gathered

11. A-boards are used by businesses and other organisations to advertise on the highway, including footway, verge and sometimes in the city centre the carriageway (during pedestrian only periods). They are generally metal, wood or plastic boards in an 'A' shape, and their positioning can regularly present an obstruction and potential hazard to users of the highway, pedestrians in particular.
12. The proliferation of A-boards can make it difficult to negotiate the path, and falling over an A-board can be painful and can adversely affect a person's confidence and mobility. Therefore it is essential for all people including those in wheelchairs or with pushchairs, and the blind and partially sighted to have a clear route along a pavement. Without this, many people will walk into A-boards and injure themselves, or inadvertently walk into the road whilst attempting to avoid an A-board. Sometimes A-boards are at different distances from the kerb on the same street; this increases the possibility of crashing into more than one A-board in a short space of time.

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13. Local Authority Responsibilities

Councils have a dual role in the control of A-Boards on the highway, that of the:

- Local Planning Authority who have powers and duties under the Town and Country Planning Act 1990 (as amended) and the
- Highway Authority who under the Highways Act 1980 have powers and duties to protect the rights of the public to the use and enjoyment of the highway, specifically in regard to the use of the highway safely and without obstruction, and responsibility for street scene enforcement.

14. However, an A-Board located on private land contained within the forecourt of a premise requires neither express consent under the planning system nor approval under the Highways Act.

15. A number of other types of advertisement can also be displayed by a shop or other business without needing the Council's Consent i.e. they have 'Deemed Consent', except those on a listed building which require listed building consent. However, there are size and positioning limits on those signs e.g.:

- An unlit 'fascia' sign above the shop window and below any first floor windows.
- An unlit hanging or projecting sign at right angles to the frontage, at least 2.5 metres above the ground (Outside of a conservation area, certain types of illumination to these signs are permitted).
- Signs inside a shop provided they are more than 1 metre back from the window

16. The Government has produced an illustrated booklet which explains the types of advertisement that is allowed without needing consent, entitled 'Outdoor advertisements and signs: a guide for advertisers' – see: <http://www.communities.gov.uk/documents/planningandbuilding/pdf/326679.pdf>

17. Where consent is needed, the following Draft Local Plan policies are used to judge the application :

GP21 – Advertisements - Consent will be granted for signs, hoardings and large advertising panels where their size, design, materials, colouring and any form of illumination does not detract from the visual amenity of the areas in which they are displayed, particularly with regard

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to the character of listed buildings or conservation areas, and a) there is not adverse effect on public safety and b) in residential areas on sites clearly visible from roads, the advertisement is in keeping with the scale of surrounding buildings and public areas.

HE8 – Advertisements in Historic Locations - Within conservation areas, or on listed buildings, advertisements will be expected to comply with policy GP21 and consist of: a) a design and scale that respects the character and appearance of the area and b) good quality materials that are sympathetic to the surface to which they are attached. Within conservation areas externally illuminated advertisements that require large light fittings will not be permitted.

GP22 – Banners - Advertisement consent will only be granted for the display of banners on or between buildings, structures or trees where there are of a high quality and are maintained as such, and there would be no adverse effect on highway safety or visual amenity.

18. National Best Practice

Nationally, there is no agreed best practice. The Task Group considered, a comparative scrutiny review carried out by **Brighton & Hove** in 2010, undertaken as a result of concern over how accessible their public highways were. They considered whether pavements in the city were too cluttered thereby reducing the ability of residents and visitors to move freely, in particular those with mobility issues. The review took into account and balanced the competing needs of different groups of highway users. They considered evidence from disability advocacy groups, residents associations, business associations and private residents, and carried out site visits to areas identified as hotspots around the city. As a result of their review they introduced a licensing scheme for the use of A-boards – see copy of their scheme at Annex B. There are a number of other Local Highway Authorities that have introduced a licensing scheme.

19. Where a licence is not required some Local Highway Authorities have agreed some voluntary guidelines / requirements for use of A-boards on the public highway - see example of voluntary guidelines in use in **Bristol** at Annex C. In those areas, an organisation that wishes to place an A-board on the highway is responsible for complying with those guidelines.

20. Some Local Highway Authorities allow the use of A-boards and only take action when necessary – see example policy from Essex County Council

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at Annex D. Whilst others enforce a total ban – see copy of example policy banning the use of A-boards in Hackney at Annex E.

21. Use of A-Boards in York
City of York Council (CYC) has a long established practise of tolerating A- boards on the highway unless a complaint is made in which case action is taken to get the board removed. CYC's Highways Team confirmed the current approach regularly results in the board owners making complaints about staff because they feel victimised, and this then takes up a significant amount of staff time in dealing with the complaint.
22. Approximately 5 years ago in the city centre, a more thorough approach was taken following a number of more wide ranging complaints. At that time advice was given that only if a board was positioned flat against a property, would be unlikely that any further action would be taken. As a result most of the A-boards in the footstreets area were removed by their owners. By tackling the city centre as a project rather than taking individual action, officer time dealing with the matter was substantially reduced.
23. In addition, City of York Council went through the process of actively de-cluttering the city centre by taking action to remove street signs, bollards and other items of street furniture.
24. However, officers have confirmed that a reduction in resources has resulted in the issue of obstruction by A-boards not being as vigorously acted upon as in the past. As a result, a brief audit undertaken in late 2012 identified approximately 150 boards back on the city centre streets causing obstructions. For example, in 2011 three A-boards were observed in front of an historic building at the Goodramgate / Deangate junction. In the first week of December 2012 this number had increased to eight boards in a line.
25. By early 2013 (at the time this review was commenced), the level of obstruction of the footway was becoming a growing concern, and was seen as a very real problem for those who were blind / partially sighted or needed to use a wheelchair. In particular, a growing number of A-boards in the Clifton Green area were identified, some of which were obstructing the footpaths, and others were tied to trees. The Task Group recognised the same kinds of issues were most likely being duplicated in other local shopping areas.
26. CYC's Arboricultural Manager confirmed that signs are often chained around trees and locked sometimes preventing stem clearing work as

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had been the case along Clifton Green. In that particular area the sign also blocked visibility for cars exiting onto the main road.

27. CYC's countryside officer expressed concern around the use of trees for displaying notices, as signs and chain can cause abrasion damage to tree bark and if very tight, prevent tree growth and expansion eventually killing the tree as it grows.

Consultation

28. As work on the scrutiny review got underway, a number of members of the public and a number of local business owners expressed an interest in participating in the review asking that their views be considered. With this in mind and in light of the initial information gathered, the Task Group agreed to hold a consultation event in order to give all interested parties an opportunity to make their views known.
29. A wide range of interested parties were invited to the event held in February 2014, including individual traders, a number of disabled people who had expressed an individual interest in being involved, those who had recently made a complaint to the CYC Highways Team, members of the Council's Equality Advisory Group, and representatives from other relevant organisations e.g.:
 - Royal National Institute of Blind People
 - York Access Group
 - York Older People Assoc (YOPA)
 - Guide Dogs for the Blind Association
 - York Federation of Small Businesses
 - York Retailers Forum
 - York Civic Trust
30. Feedback from the event is shown at Annex F.
31. The Task Group also considered a briefing issued by the National Institute of Blind People (RNIB) on 'What can I do about... Advertising boards (A-boards)', which makes clear that the RNIB supports a complete ban on A-boards.

Analysis of A-board Options

32. Taking the approaches in place elsewhere and taking account of the previous decision made by an Executive Member in 2009 (see

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paragraphs 9-10), there are a number of options on the use of A-boards to consider:

- A. Maintain the current arrangements
- B. Introduce voluntary guidelines
- C. Introduce a policy for the use of A-boards with or without a licensing scheme
- D. Introduce a total ban
- E. Introduce a combination of the above

33. Options A & B

To a degree, both these options are in theory self regulating in that if a business is careful with its 'obstruction' a complaint is less likely to be made. Problems in the past have erupted when there has been an over zealous reporting of problems by individuals for reasons more to do with the look of the streetscape rather than an actual serious obstruction. Having said that there are clearly some areas where protecting the street scene should be regarded as a high priority e.g. Stonegate or where pedestrian flows are very high. The risk with both approaches is a gradual increase in number of A-boards over time and in the case of Option B a gradual drift away from the council's guidelines.

However, if the voluntary guidelines were adhered to (Option B) they may help to mitigate the number of complaints received as they would encourage a more uniform approach to the placement of a-boards, which affected parties agreed would make life easier if A-boards were to remain present on the streets of York.

34. Option C

This option has its attractions in that this approach is very strictly regulated and would therefore be much less reliant on personal views of complainants, businesses, officers and Members. This option would require a uniform approach and introduce clear dos and don'ts and would result in an overall reduction in A Boards. It would also mean that the parameters on 'free unobstructed' pavement widths would result in there being some streets where the use of A-boards would not be accepted, unless flat against the building frontage e.g. where the footways are less than 2 metres wide. The introduction of a licensing scheme and the associated cost to businesses may lead to a reduction in the number of A-boards on York streets and help address the issue of multiple A-boards per business.

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35. Option D

This option is a very simple and straight forward approach but if applied universally across the whole authority area could not only take up significant officer time but be seen as unnecessary and unhelpful by some, the business sector in particular. The Highways Team would estimate an annual figure of around 150 complaints (some to do with the look of the streetscape rather than an actual serious obstruction), but were unable to provide an exact breakdown of the types of complaints received. Based on that number and the reasons behind some of those complaints, Option D may be deemed a heavy handed approach.

36. Option E

This option recognises the differing circumstances across the York area and could for example designate the city centre for a ban on A-boards whilst maintaining the current toleration approach for the outlying areas where pedestrian flows are significantly lower. Further work would be necessary to set out reasonable boundaries for the different zones.

37. Enforcement of Options

- Options A & B - Option B would require officers to carry out a one off piece of work to draft the voluntary guidelines. Once in place, the neither of these options would require additional staff resources if officers continued only responding to complaints as and when received.

To enable either approach to flourish, officers would need to be able to give priority to clear cases of obstruction whilst resisting the more frivolous complaints in the knowledge that this approach is fully supported by elected Members. There would of course continue to be differing views on what a clear case of obstruction is so it is suggested that if voluntary guidelines were to be introduced, reference be made to pictorial examples of acceptable and unacceptable uses of "A" boards rather than using strict arbitrary measurements.

- Options C & D – Both of these options would incur significant officer time if a decision were taken to proactively investigate and enforce breaches of the policy and non licensed A-boards, or enforcing a total ban. Staff resources do not currently exist within the Highways Team to enforce these options in a proactive way; hence a new post would be required, probably in the Grade 5 or 6 range.

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In the case of Option C, the cost of this post could potentially be recouped from the income generated by the issue of annual licences. However the introduction of a licensing scheme may deter some businesses from using A-boards thereby limiting the income generated.

The alternative approach would be to consider the approach taken by Brighton & Hove i.e. identifying additional staff resource in monitoring and enforcing the streetscape through improved cross directorate/team working, with officers undertaking multiple enforcement regimes, including the use of civil enforcement officers, licensing officers, city cleaning officers and PCSOs.

Also in the case of Option C, if a decision were taken to only respond when a complaint is received (as currently happens) no additional staff resource would be required. However the Highways Team would not recommend that approach as it would significantly water down the positive impact a policy could have. This approach would also not be acceptable for use with option D as it would result in no change to the current arrangements.

- Option E – This option would be likely to require some enforcement dependent on the combination of options used, which again may lead to the need for additional resources.

Review Conclusions

38. Bearing in mind the level of re-emergence of A-boards in the city centre, the Task Group recognised that much of the benefit of the councils de-cluttering work previously undertaken had since been lost. Furthermore, they recognised the growing number of alternative forms of street furniture being used for advertising purposes e.g. bicycles, flower carts etc. They therefore agreed that any consideration of the options above should apply to all forms of street advertising not just A-boards.
39. The Task Group acknowledged the reasons why a business would choose to use an A-board; inexpensive form of advertising, versatile, increasing footfall etc. However, whilst they heard from a number of businesses on the benefits they bring (see notes from consultation event at Annex F), they were unable to evidence the actual value / income generated by the use of street advertising, to the individual businesses. The Task Group were also encouraged to hear that businesses would adhere to guidelines on the use of A-boards if they were introduced.

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40. When implementing policies a Local Authority has a duty (Equality Act 2010) to consider the impact and take reasonable mitigating measures to ensure equality issues are not compromised. So in recognising the perceived benefits for individual businesses, the Task Group also had to balance those against the very genuine and evidenced difficulties that obstructions to the highway create for highway users, particularly the Blind, partially sighted and those with mobility difficulties.
41. The Task Group recognised the difficulty of positioning an A-board in such a way that it works for all. They noted that guide dogs are trained to steer their owners around permanent obstructions and to walk along the outside edge of the pathway, and are therefore more affected by A-boards placed in that position rather than those up against the building line. As that they learn their regular routes and obstructions that are continually re-positioned (as in the case of many A-boards) affect their progress. In comparison, the Task Group noted those who are partially sighted and those who use canes prefer to walk along the building line.
42. They acknowledged the view of the consultees representing those affected groups that whilst a total ban on the use of A-boards would be their preferred option (option D), their alternative preference would be an agreed policy addressing the most appropriate placement of A-boards etc to control and limit their obstructiveness (Option C).
43. Furthermore, the Task Group recognised there are some streets, particularly in the city centre where the width of the footpath and roadway (during pedestrian only hours) would not allow for the use of an A-board regardless of a policy, licensing scheme or voluntary guidelines. The Task Group agreed that implementing a total ban in those streets was the only option. However they agreed the Council should encourage businesses in those streets to use other forms of advertising and were pleased to learn of the Council's forthcoming The Legible York (Wayfinding) Project ¹ which would provide additional advertising opportunities.
44. The issue of resourcing the enforcement of the various options was also considered. The Task Group accepted the Highways Team did not have

¹ A scheme supported by Reinvigorate York, to deliver improved orientation/navigation for residents and visitors in the city. It is aimed at encouraging more people to walk, more of the time. The first phase of implementation will take place in spring 2015, any will include a totally new mapping base of the city centre installed within new street furniture/totems/monoliths and supplemented with finger posts. It will enable a significant volume of other information to be accessible through the use of smart technology e.g. a layer which includes retail, eating and leisure information. The intention being that this will provide much wider opportunities for businesses in the city to promote their offer.

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the relevant resources and therefore agreed the approach taken by Brighton & Hove should be investigated as a potential way forward for York i.e. identifying additional staff resource through improved cross directorate/team working, with officers undertaking multiple enforcement regimes, including the use of civil enforcement officers, licensing officers, city cleaning officers and PCSOs.

45. They also acknowledged the risk of liability associated with some of the options but recognised that as all of the options have been introduced by other Highway Authorities across the country it must be possible to manage any such risks effectively. For example, they noted that those Local Authorities with a licensing scheme had written into their policy that the licensee must indemnify the council against any claims in respect of injury, damage or loss arising out of the grant of the licence and stipulated the amount of Public Liability Insurance cover required.
46. Overall, having considered all of the options, the Task Group agreed that the current arrangements were unacceptable i.e. that A-boards are not permitted but are tolerated until a complaint is made. They agreed this arrangement suited none of the interested parties, that it created confusion and that it left the council open to criticism.

Review Recommendations

47. Therefore having considered all of the information gathered in support of the review and all of the available options, the Task Group agreed that recommending the introduction of some suitable 'guidelines' as per the review remit, would not be the right approach for York. They therefore agreed to recommend **Option E** i.e.:
 - i) The introduction of a policy allowing the use of A-boards under strict criteria.
 - ii) The policy to include a list of streets where the use of A-boards is prohibited at all times due to the limited widths of footways
 - iii) That appropriate resources be identified to ensure the full and proper enforcement of the new policy. This to include consideration of the potential for improved cross directorate/team working outlined in paragraph 44 above.
48. The Task Group chose not to recommend the introduction of a licensing scheme.

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49. In January 2015 the Task Group presented their draft final report to the full Community Safety Overview & Scrutiny Committee. The Committee endorsed the draft recommendations listed above and agreed to make a further recommendation that:
- iv) The Policy (based on Option E, as detailed in Recommendations (i) & (ii) above) be trialled for a two year period.

Council Plan 2011-15

50. Ensuring the public highway remains free of obstruction and safe for all users (particularly for those with mobility difficulties or who are blind / partially sighted), contributes to the corporate priorities of building safer inclusive communities, and protecting vulnerable people. The use of A-boards also encourages and supports new and existing small businesses to set up and grow, thereby helping to create jobs and grow the economy.

Implications & Risk Management

51. **Financial & HR** – The recommended option would require additional staff resources which may have a cost implication depending on the source of those additional resources. However the introduction of a licensing scheme could potentially mitigate any additional staffing costs.
52. **Equalities** – The use of A-boards does have an adverse impact on the blind and partially sighted, and those with mobility issues and those with small children in pushchairs etc. However an agreed standard approach to their use would go some way to mitigate their impact.
53. **Legal** - All of the options outlined in the report with the exception of Option D could result in complaints of obstruction of the footway by those most affected, which this Council as the local Highway Authority would have to justify to the complainant. However, other Highway Authorities are successfully managing the risk of liability from either allowing or licensing obstructions in the highway. Therefore all of the options are suitable for consideration.

Appendix 1

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Report Approved **Date** 20 December 2014

Wards Affected:

All

For further information please contact the author of the report

Background Papers: N/A

Annexes:

Annex A – Initial Analysis of Pros & Cons of introducing a City Wide Ban on A-Boards

Annexes B-E – Example Policies for Various Options

Annex F – Feedback from Consultation Event held February 2014

Annex B



Report of the Community Safety Overview & Scrutiny Committee

A-boards Scrutiny Review Final Report - Cover Report

Introduction

1. This cover report presents the final report from the A-boards Scrutiny Review and asks Cabinet to approve the recommendations arising from the review.

Background to Review

2. In March 2013, this Committee were asked to consider whether or not to carry out a scrutiny review on the use of A-boards, with the aim of identifying suitable requirements/ guidelines that could be implemented across the whole city. At that time some members of the Committee argued strongly that instead of carrying out a review of that nature they should be recommending a total ban on A-boards across the whole city.
3. In April 2013, CYC's Traffic Network Manager provided information which suggested that whilst a total ban would benefit the appearance of the city and the safety of the partially-sighted, there would likely to be an adverse consequence to the small business community. There would also be resource implications around the ability of the Traffic Network Team to enforce a city wide ban.
4. The Committee was also made aware of a petition on A Boards submitted by Micklegate traders in March 2009 to a meeting of the then Executive Member for City Strategy and Advisory Panel (EMAP), which led to the Executive Member approving the development of intervention guidelines for an enforcement policy for the removal of A-boards and the like from the Public Highway.
5. Noting that the introduction of guidelines had previously been agreed but not acted on, and having agreed that some permanent action was required, the Committee agreed not to proceed with a report

recommending that the Cabinet approve a total ban of A-boards. Instead they agreed to undertake a review to identify suitable guidelines for the use of A-boards, taking into account other issues such as alternative ways of advertising and health and safety issues.

6. A Task Group made up of the following members was subsequently set up to carry out the review on their behalf:

- Cllr Helen Douglas
- Cllr Keith Orrell
- Cllr Gerard Hodgson

7. The Task Group worked on the review between June 2013 and December 2014.

Review Recommendations

8. In January 2015, the Community Safety Overview & Scrutiny Committee considered the Task Group's review findings as presented in the final report at Appendix 1 and endorsed their draft recommendations listed below:

- i) The introduction of a policy allowing the use of A-boards under strict criteria.
- ii) The policy to include a list of streets where the use of A-boards is prohibited at all times due to the limited widths of footways.
- iii) That appropriate resources be identified to ensure the full and proper enforcement of the new policy. This to include consideration of the potential for improved cross directorate/team working outlined in paragraph 44 of the review final report.

9. The Committee also agreed to make a further recommendation that:

- iv) The Policy (based on Option E, as detailed in Recommendations (i) & (ii) above) be trialled for a two year period.

Council Plan 2011-15

10. Ensuring the public highway remains free of obstruction and safe for all users (particularly for those with mobility difficulties or who are blind /

partially sighted), contributes to the corporate priorities of building safer inclusive communities, and protecting vulnerable people. The use of A-boards also encourages and supports new and existing small businesses to set up and grow, thereby helping to create jobs and grow the economy.

Options

11. Having considered the final report at Appendix 1 and its associated annexes, Cabinet may choose to amend and/or approve, or reject the recommendations arising from the review as set out in paragraphs 8 & 9 above.

Implications & Risk Management

12. The implications and risks associated with the recommendations above are detailed in paragraphs 51-53 of the review final report at Appendix 1.

Recommendations

13. Having considered the final report and its annexes, the Cabinet is recommended to approve the recommendations shown in paragraph 8 & 9 above.

Reason: To conclude the Scrutiny Review in line with CYC Scrutiny procedures and protocols.

Contact Details

Author:

Melanie Carr
Scrutiny Officer
Scrutiny Services

Tel No.01904 552054

Chief Officer Responsible for the report:

Andrew Docherty
AD Governance & ICT

Report Approved

Date

23 January 2015

Wards Affected:

All



For further information please contact the author of the report

Background Papers: None

Annexes:

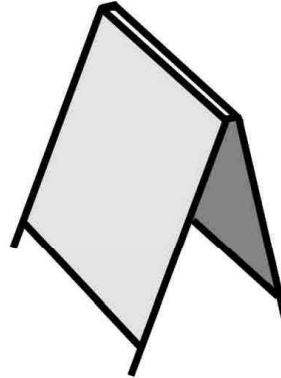
Appendix 1 – A-boards Scrutiny Review Final Report

Annex C

'A' Board Guidelines

'A' Boards

Permission and Management Guidance



Introduction

Advertising Boards, or 'A' Boards, are small movable advertising boards commonly seen on footways outside businesses, advertising services or products.

As these boards are located in the public realm, their physical presence impacts on all highway users and if placed in inappropriate locations they can be inconvenient or hazardous to the public, especially those with disabilities.

The Council aims to encourage business growth and understands businesses need to advertise and therefore supports the appropriate use of 'A' Boards. The Council, however, also requires that the public realm is accessible for all and that barriers to accessibility are removed or mitigated.

The Council has adopted these guidelines to provide a clear framework whereby a business can apply for permission to place an 'A' Board on a footway. This permission will be based on the criteria set out below which address the suitability and nature of the location and the management of 'A' Boards by the business.

In adopting the 'A' Board Permission and Management Guidelines the Council aims to make all areas of the city clean, vibrant, accessible and safe.

1.0 What is the aim of this guidance?

- 1.1 To explain where an 'A' Board can be placed on a footway so they don't cause an unnecessary obstacle to the safe use of footway.

2.0 What is an 'A' Board?

- 2.1 'A' Boards are all types of adverts, directional, information signs placed upon the footways. This does not include boards on private property, including privately owned shopping centres.
- 2.2 'A' Boards shall be a standard A1 size (637 x 1100 x 800mm) and a maximum of 1.1 metres high. Note: all 'A' Boards shall fall within these parameters unless otherwise approved in writing by the Council.
- 2.3 The Following will not be permitted:
 - Rotating or swinging signs.
 - More than one 'A' Board per business.
 - Illuminated/Powered or with amplified speakers.
 - Affixed to the footway or street furniture.
 - 'A' Boards that cannot be removed by hand or require mechanical assistance to remove.

3.0 Why do I have to obtain permission?

- 3.1 For any object/structure to be placed on the footway it is a legal requirement of s115 of the Highways Act 1980 that the appropriate permission be obtained from the Council.
- 3.2 To ensure that the powers contained within the Highways Act 1980 and Road Traffic Regulation Act 1984 Town and Country Planning Act 1990 and Town and Country Planning (Control of Advertisements) (England) Regulations 2007 are applied fairly and consistently and in the public interest.
- 3.3 If permission is granted, an 'A' Board licence will be issued which will contain the conditions of the permission.

'A' Board Guidelines

4.0 How do I apply for permission?

- 4.1 The Council has produced an application form which you should have received with this guidance which you need to fill in and submit. The form requires you to assess where your 'A' Board can go on the footway and to provide information to enable the Council to consider your application.
- 4.2 It is important you read these guidelines carefully before you complete your application form.
- 4.3 At the end of this guidance there is a flow diagram which shows how the application is processed and what you need to do.

5.0 Where can I place an 'A' Board?

- 5.1 Assessing where your 'A' Board can go on the footway is the critical part of your application. **You must ensure there will be a minimum 2 metre free and unobstructed clearance of footway around the 'A' Board at all times.**
- 5.2 This minimum clearance of 2 metres cannot be reduced as it is the minimum width of highway desired to enable wheelchairs and pushchairs to pass safely.
- 5.3 'A' Boards can only be located on footways within the frontage of your building. They cannot be located away from your business, at the end of the street or on the opposite side of the road.
- 5.4 Placing 'A' Boards in sensitive areas, such as conservation areas or close to listed buildings, may be unacceptable. This is because of the adverse impact that the proliferation of such displays can have on visual amenity. If relevant to your application, the visual amenity consideration of the 'A' Boards will form part of the Councils assessment.
- 5.5 Where multiple business occupancy premises share joint accesses, only one 'A' Board will be permitted per building frontage.
- 5.6 'A' Boards **can** be located at:
 - The back of footway or where existing obstructions (such as service boxes, bins, lamp columns, etc) are clustered together and form an existing obstruction, providing that the 2 metre minimum clearance rule is still achieved and is set back a minimum of 500mm from the face of the kerb.
 - On a grass verge, providing it is a minimum 500mm from the kerb edge and does not obscure pedestrian or driver sight lines or traffic signs.
- 5.8 'A' boards **cannot** be located:
 - In the middle of the footway.
 - Within 500mm of the kerb face.
 - Affixed to or on existing street furniture.
 - On a road.
 - Adjacent to building emergency exits.
 - Outside other businesses.

- 5.9 If the footway fronting your business cannot accommodate the 'A' Board **and** the 2 metres unobstructed clearance (e.g. the footway is too narrow, street furniture etc) then Council is unable to grant permission. However, if you contact the Council (details below) we will discuss with you what other possible alternative options may be available.

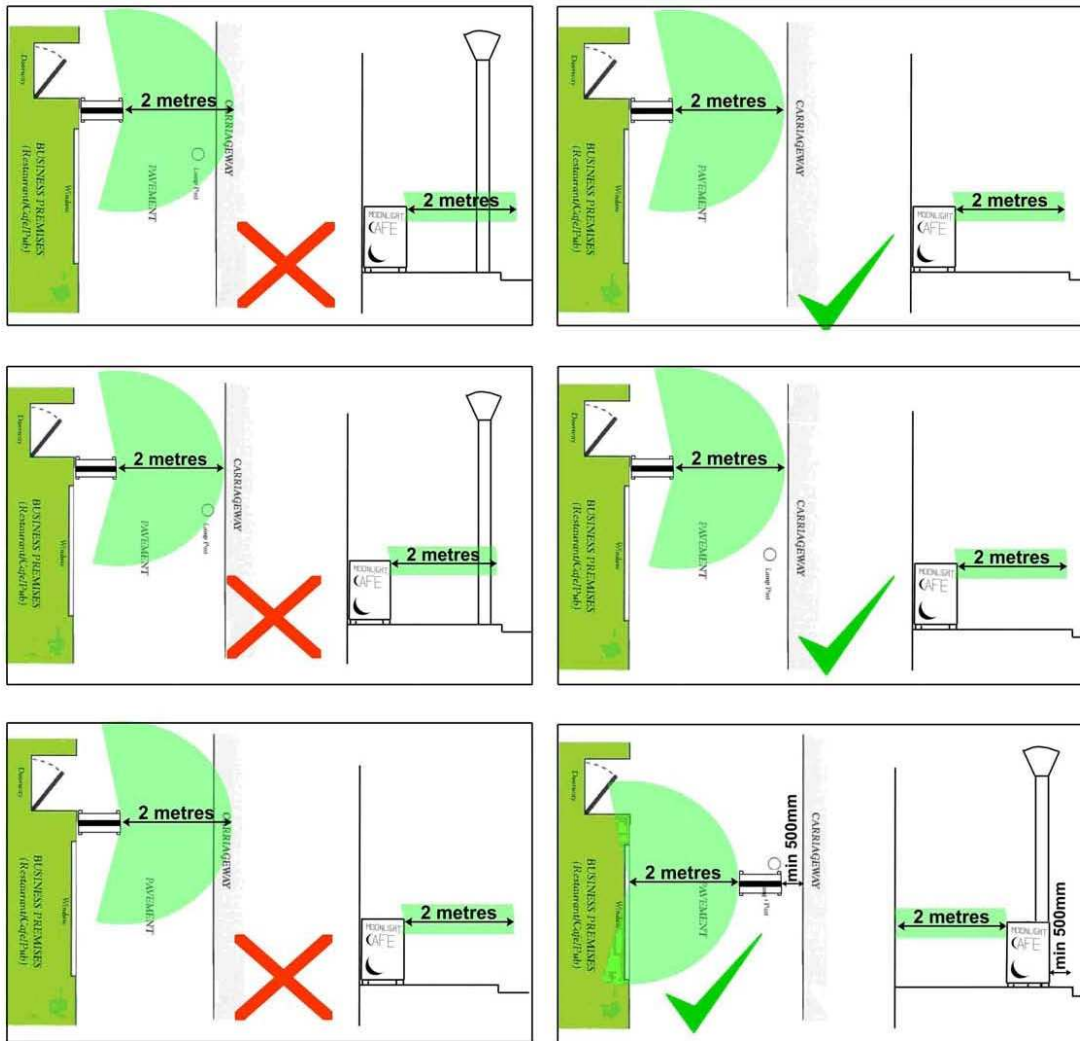
Indicative sketches have been produced (see the right page) to assist and guide you on acceptable locations. Please note these are to assist you to consider how to apply the criteria your board location does not need to match this exact image.

It is important to note you are responsible for locating where the 'A' Board should be placed. You need to measure and assess the footway in front of your business and when you think you have selected a suitable location mark this on the application form plan.

6.0 Compliance and enforcement

- 6.1 Once permission is granted, all 'A' Boards must comply with this guidance together with the conditions of the licence. The Council reserves the right to take enforcement action where compliance is not achieved.
- 6.2 'A' Boards placed on the footway without permission create a nuisance, breach advertising legislation or present a danger and will be removed by the Council in accordance with relevant legislation.
- 6.3 Council officers will regularly inspect 'A' Boards to ensure the conditions of the licence are upheld. If it is found the Licensee is not complying with the conditions of the licence then the Council may withdraw permission for the 'A' Board.
- 6.4 If the 'A' Board is not managed in accordance with the licence and these guidelines, the Licensee will receive a verbal notification in the first instance from a Council Officer. Following this, should the Council be required to revisit the licensee to reinforce compliance, the Licensee will receive a written notification that they must ensure the conditions of the licence are adhered to. Should the Licensee continue with non-compliance with the conditions of the licence then the Council may move to withdraw the highway licence and the associated permission.
- 6.5 In the event of the Council moving to withdraw the highway licence, the Licensee will have the right to appeal to an officer or committee of members.
- 6.6 Please note the history of a businesses management of an 'A' Board will form part of the consideration to issue a new licence, or renewal of permission.

'A' Board Guidelines



7.0 Making an application

- 7.1 Once you have read the guidance and assessed where an 'A' Board can be located, you need to complete the application form and submit it to the Council together with payment. It is important that you make sure you have provided all necessary information.
- 7.2 Once we have received an application, it will be assessed to ensure the guidance criteria have been met. If that is the case, we shall issue you a notice which you must display in such a position (e.g. shop window) that it can be viewed by the public for 28 days. This is because the legislation requires that the public receives prior notification and that, if they have reason, they can raise objections to the Council.

- 7.3 Following this 28 day period, if no objections have been received the permission will be granted. A licence will be issued and you may place the 'A' Board on the footway at the approved location.
- 7.4 However if objections are received during the 28 day notification period these objections together with your application, will be assessed by a committee of the Council on whether to grant permission. Further details are available upon request.

8.0 How long does a licence last?

- 8.1 Every 'A' Board licence will last for one year from the date of the end of the notification period. This will be recorded on your licence and you must reapply for renewal no later than 6 weeks before the permission expires.

'A' Board Guidelines

9.0 Management of 'A' Boards.

- 9.1 Once an 'A' Board licence has been granted, it is the responsibility of the Licensee to ensure the 'A' Board is managed in accordance with the conditions of the permission and these guidelines (see 6.7).
- 9.2 The Licensee is wholly responsible to ensure that the 'A' Board is located at the approved location and must ensure it is inspected and maintained on a regular basis. This must be conveyed to the staff who will place and remove the 'A' Board.
- 9.3 'A' Boards can only be located as detailed on the application form plan. Moving them to alternative locations is not allowed.
- 9.4 If the 'A' Board, for whatever reason, is moved from the approved location, it must be replaced or removed from the highway immediately by the Licensee.
- 9.5 The 'A' Board must conform to the specification within this guidance and as detailed in the application form.
- 9.6 The 'A' Board cannot be left on the footway outside the opening times of the business it serves.
- 9.7 The 'A' Board cannot be left on the footway after 9pm.
- 9.8 'A' Boards that become damaged must be removed and repaired or renewed.
- 9.9 'A' Boards cannot carry any other structure or object.

10.0 Conditions of an 'A' Board licence

- 10.1 The Highway permission will take the form of a licence which, when issued, must be displayed in a prominent position and be visible for inspection by Council Officers.
- 10.2 The licence will contain a number of conditions, examples of which are:
 - The Licensee shall carry public liability insurance and will indemnify the Council against any claims that might arise in respect of injury, damage or loss arising out of the grant of permission unless such arise out of negligence by the Council.
 - The licence will limit the hours of permission to business operating hours but not between the hours of 9pm and 6am.
 - Outside the permitted hours of operation the 'A' Board must be removed and stored in the business premises.

Please note: The 'A' Board Permission and Management Guidance is not exhaustive and any application may be assessed against additional criteria depending on the nature of the 'A' Board, location or other matters the Council considers pertinent. In addition the Council reserves the right to condition a licence as it deems appropriate for any individual licence application.

11.0 Fees

- 11.1 The Council's basic fee for granting permission for an 'A' Board and issuing a highways licence, is currently set at £50 for a one year licence period. Please note this figure will be reviewed annually and you should check the current fee before making any payment.
- 11.2 For the locations where the Council is land owner (such as in the City Centre) an additional £50 annual charge is applicable to the licence permission fee.

12.0 Contact details

If you wish to discuss any of the guidance please contact the following:

**Highways Development Control
Highways & Transportation
Municipal Buildings
Dale Street
Liverpool L2 2DH**

**Telephone 0151 233 3001
Email hdc@liverpool.gov.uk**

'A' Board application process

1. Applicant obtains guidelines and application form.
2. Applicant completes application form based on information contained in the guidance.
3. Applicant submits to Council application form and fee.
4. Council assesses application - Note: If the application is incomplete or does not contain required information, the form will be returned and will not be assessed until it is resubmitted with the form completed correctly.
5. Following assessment and if the application meets the required criteria, a notice will be issued to the applicant who must display and maintain it for a period of no less than 28 days in a prominent position e.g. window, fronting the 'A' Board location. – Please note it is important this notice stays in position for 28 days. Failure to comply will make the application invalid.
6. If no objections are received, an 'A' Board licence permission will be issued.
7. If objections are received, the Council shall assess the objections and make a decision whether to issue the licence or refuse.
8. Upon completion of the one year permission, the applicant must reapply for a new licence following this process.

Annex D

Andy Docherty
Monitoring Officer
City of York Council
West Offices
Station Rise
York YO1 6GA

By post and fax: monitoringofficer@york.gov.uk

17 June 2015

Dear Mr Docherty

Guidance on the use of A boards in York

We write concerning the lawfulness of the Council's current and proposed approach to the use of A board advertising on the streets of York.

The difficulties A boards cause

It is essential for many people including blind and partially sighted people to have a clear route along a pavement. The proliferation of A-boards can make it difficult for blind and partially sighted people to negotiate the path. This can result in people walking into A-boards and injuring themselves, or inadvertently walking into the road whilst attempting to avoid an A-board.

Falling over an A-board can be painful, and can adversely affect a person's confidence and mobility. RNIB campaigns for a complete ban on the use of A-boards as we consider that this is the only realistic way to prevent the proliferation of Aboards enabling blind and partially sighted people to walk along their local streets without fear of injury.

Background to this matter

This matter has a long history which we do not intend to detail here. The facts relied upon are as follows;-

Royal National Institute of Blind People

Patron Her Majesty The Queen • **President** Dame Gail Ronson DBE

Chair Kevin Carey • **Chief Executive** Lesley-Anne Alexander CBE

Principal address: 105–121 Judd Street, London WC1H 9NE • Registered charity number 226227 (England and Wales), SC039316 (Scotland) and 1109 (Isle of Man) Incorporated by Royal Charter • Registered in England no. RC000500

The Council currently has a policy that A boards are not permitted but they will be tolerated until a complaint is made. This policy has led to a significant increase in the use of Aboard advertising which has had a detrimental effect on blind and partially sighted people, other vulnerable pedestrians and on the street scene.

In March 2013, following complaints from blind and partially sighted people, the Council established a Community Safety Overview and Scrutiny Committee to consider the use of A board advertising on the streets of York. The Scrutiny Committee did not report until January 2015, however, in their report they acknowledged the difficulties that A boards caused blind and partially sighted and other disabled people, they also set out some of the legislation governing this area, looked at “National Best Practice” and set out a number of options as to the proposed way forward including licensing, a complete ban and informal guidelines.

The Committee recommended that Option E in their report be implemented. This consisted of:-

- i) The introduction of a policy allowing the use of Aboards under strict criteria
- ii) The policy to include streets where the use of A boards is prohibited at all times due to the limited use of footways
- iii) That resources be identified to ensure the full and proper enforcement of the new policy.

The review does not appear to have conducted an equality impact assessment (see below) but stated that:-

“Equalities – the use of A boards does have an adverse impact on blind and partially sighted, and those with mobility issues and those with small children in pushchairs etc. However, an agreed approach to their use **would go some way** to mitigate their impact” **[emphasis added]**

In terms of risk management the report stated:-

“Legal – All of the options outlined in the report with the exception of option D could result in complaints of obstruction of the footway by those most

affected, which this council as local highway authority would have to justify to the complainant. However, other highways authorities are successfully managing the risk of liability by either allowing or licensing obstructions to the highway. Therefore all of the options are suitable for consideration”

The Scrutiny Committee report was discussed by the Cabinet on 10 February 2015. There was general consensus amongst the Councillors as follow:-

- The current situation was unacceptable
- There should be a balance between the needs of vulnerable pedestrians and traders
- There was no need for Aboards in the main thoroughfares
- There should be a presumption against the use of Aboards unless the business could show that they were necessary
- There was a need for planning to look at other forms of advertising
- There were no additional resources for enforcement

The minutes record the decision of the Cabinet as follows:-

“That having considered the Task group’s final report and annexes, Cabinet agree to request the Director of City and Environmental Services to prepare guidelines for the use of Aboards across the city, in consultation with interested parties, for consideration at a future meeting. Although this item was discussed in February 2015, it does not appear that any draft guidelines have yet been produced.

The law in relation to the use of Aboards

RNIB is concerned that the Council has not adequately understood the law in relation to the use of Aboards and how this might impact on any guidelines that are proposed. We have enclosed with this letter a document prepared by RNIB which sets the legal position out in some detail. This was sent to all Cabinet members prior to the meeting.

We have briefly set out the legal provisions below in so far as they relate to any guidelines proposed by the Council:-

The Highways Act 1980

The Highways Act places certain obligations on highways authorities to prevent obstruction to the highway in particular:-

- Section 130(3) states that it is the duty of a council who is a highway authority to prevent, as far as possible, the stopping up or obstruction of the highway

Much of the case law around obstruction focuses on whether the obstruction in question was a reasonable use of the highway, however, case law has determined that a permanent obstruction (i.e. one that is not **purely** temporary in nature) to the highway is never a reasonable use of the highway. 'De minimus' obstructions are not considered to be obstructions and some obstructions may be considered reasonable.

In RNIB's view it is highly likely that the majority of A boards placed on the highway would be considered unlawful obstructions for the following reasons:-

- The obstruction caused by the A board is not purely temporary in nature
- There is no element of necessity in its deployment (as with, say, scaffolding),
- The obstruction caused would not be considered 'de minimus' (as their 'footprint' is not insubstantial) and
- They are nothing to do with the use of a highway as a means of transit (rather they are there to attract customers to the premises).

It is not clear that highways officers or Councillors have understood their highways obligations when determining whether they will 'permit' the placement of Aboards on the pavement. If an Aboard constitutes an obstruction, the Council has a duty to remove it.

Advertisement Control

We welcome Cabinet members indications that they want to see the planning department working with traders to develop alternative sympathetic forms of advertising on buildings to replace A boards. However, it is not clear that Councillors or officers have had regard to the other obligations on the planning team which relate to the use of advertising in the street.

The Town and Country Planning (Control of Advertisements) (England) Regulations 2007 regulate the placement of outdoor advertisements. The regulations set out a number of categories of deemed consent but these categories will not generally apply to Aboard advertising. Any advert not benefitting from deemed consent will require the express consent of the relevant local planning authority provided via an application for planning permission. Displaying an Aboard without consent is a criminal offence and prosecution can result in a fine of up to £2,500. If an Aboard is placed on the highway without consent then it will not be considered a reasonable use of the highway and will therefore constitute an obstruction in breach of the Highways Act (*Westminster City Council v. Moran* 1999 77 P & CR 294).

It is not clear that the Council or traders understand this and we are very concerned that a number of Aboard policies (including the Bristol policy – see below) refer to the fact that the guidelines do not absolve traders of these obligations without explaining what these obligations actually are.

The Equality Act

Under the provisions of the Equality Act 2010 it is unlawful for a public authority to discriminate in the exercise of its public functions. This includes highways functions.

Section 19 of the Act makes it unlawful to indirectly discriminate against disabled people. Indirect discrimination may occur when a service provider applies an apparently neutral provision, criterion or practice which puts disabled people at a particular disadvantage.

Section 20 (3) requires that where a provision criterion or practice puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, an Authority must take such steps as is reasonable to avoid the disadvantage

Section 20(4) requires that where a physical feature puts a disabled person at a substantial disadvantage in comparison to a person who is not disabled, an Authority is required to take such steps as is reasonable to have to take to avoid the disadvantage.

Local Authorities, and highways and planning authorities in particular, are also subject to the Public Sector Equality Duty (PSED) and are required to have "due regard" to equality outcomes in everything they do. Councils are required to ensure that they eliminate discrimination, advance equality of opportunity and foster good relations between, amongst others, disabled and non-disabled people.

A Highways Authority that has a policy of allowing the use of Aboards and/or a practice of not taking action against those which obstruct the pavement may be considered to be indirectly discriminating against blind and partially sighted people.

A Planning Authority which has a practice of not taking action against A boards placed without consent may be considered to be indirectly discriminating against blind and partially sighted people.

The duty to change practices, policies and procedure is likely to extend to changing policies which unreasonably prevent advertising on walls forcing advertising onto the streets in the form of Aboards which disadvantages blind and partially sighted people.

A boards are likely to constitute physical features under the Equality Act and so the Highways Authority will need to take action to ensure that these boards do not place blind and partially sighted people at a substantial disadvantage.

Similarly Authorities which have a policy of allowing A board obstructions etc will need to impact assess these arrangements to ensure that they meet the requirements of the PSED. It is likely that this will require local authorities to specifically consult with blind and partially sighted people. Where negative impacts are identified, the local authority will need to consider changes to the policies/practices in order to eliminate discrimination and better promote equality of opportunity and good relations between disabled people and non-disabled people (including traders). Simply stating that having an agreed

standard approach to use the use of Aboards “would go some way” to mitigating their impact is unlikely to be sufficient.

Summary

In summary, it is clearly unlawful to place an A board on the street without explicit advertisement consent from the local planning authority. If an A board is placed without the necessary advertising consent it is unlawful and would therefore be considered to be an unreasonable obstruction to the pavement requiring the highways authority to take action.

Whilst a planning authority has the power to grant advertisement consent to an A board in deciding whether to grant permission they will need to give consideration to safety issues which arise for vulnerable pedestrians.

In addition advertisers would need to obtain the consent of the local highways authority as ‘owners’ of the land on which the Aboard is placed as part of the application process. In determining whether to grant consent, the highways authority will need to consider whether any obstruction caused is ‘de minimus’. If it was not considered ‘de minimus’ the highways authority would then need to consider whether the obstruction was reasonable in any event. They will also need to consider their duties under the Equality Act and in relation to the PSED.

A local authority which fails to take action against unlawful advertisements or obstructions to the pavements leaves itself open to Judicial Review action to enforce the requirements of the Highways Act and/or the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and /or the Public Sector Equality Duty. They will also leave themselves open to a County Court action for breach of the Equality Act. Where a person is injured following a collision with an Aboard the Council is also potentially liable for any personal injury claim.

The policies of other local authorities

The Scrutiny Committee report provided details of other policies being operated by authorities around the country and as noted above suggested that none of the approaches outlined in the Committee report were problematic legally as other authorities appeared to be managing these risks effectively. RNIB considers that the approach of other Councils who have no

policy (effectively allowing Aboards without any restriction), have informal guidelines or operate a licensing regime is unlawful and increasingly places these Councils at serious risk of litigation.

It would appear from the Cabinet meeting that the informal guidelines adopted by Bristol City Council were considered a model that could be adopted in York subject to some changes. Having discussed this matter with our colleagues in Bristol they have informed us that the policy adopted in Bristol is not effective in controlling the use of Aboards in the city and that they continue to be problematic for blind and partially sighted residents and visitors.

The Council should also note that Surrey County Council have adopted a similar informal approach and they are currently facing legal action from a blind man who fell over an A board injuring himself. The legal action is brought on the basis of breach of the Equality Act (in particular a failure to enforce the requirements of the guidelines) and a personal injury claim.

If the Council adopts a similar (guidelines) approach to that adopted by Surrey County Council and a blind or partially sighted resident is injured falling over an A board it is likely that the Council will face similar action.

Proposed way forward

As noted above, RNIB campaigns for a zero tolerance approach to Aboards. However, we have given very careful consideration to the discussion at the Cabinet meeting and discussed the matter with other groups representing the interests of blind and partially sighted people and would like to suggest a compromise position which we think will address the requirements set out by the Cabinet on 10 February, the needs of blind and partially sighted people and other vulnerable pedestrians and the needs of small business who believe they are likely to be adversely affected by a complete ban. Crucially, we consider that the proposal outlined below is also within the law.

The Council should adopt a general policy of zero tolerance of A boards. However, the policy will make clear that in exceptional circumstances a trader may still make an application to the local planning authority for advertisement consent (as the law requires) for an A board where they can demonstrate that their business would suffer a significant detriment by not having an Aboard.

The application would need to demonstrate to the satisfaction of the highways team (as owners of the land) that the placement of the board would not constitute an (unreasonable) obstruction and would not place vulnerable pedestrians at risk. They would also need to demonstrate that they have explored alternative forms of advertising but that these are not feasible. In determining the application for advertisement consent the planning authority should consult blind and partially sighted people in accordance with section 175A of the Highways Act.

As part of the duty to make reasonable adjustments, the planning team would also need to give serious consideration to any alternative forms of advertising suggested and the Council's policy would make clear that alternative forms of advertising would be considered.

We believe the above approach would serve to limit the number of Aboards on the streets to those small businesses who could demonstrate that it was imperative for their business to have one and there was no other way of meeting their advertising needs. We consider that this accords with the view of Cabinet members. It would ensure that both the Council and blind and partially sighted people are aware of the locations of approved Aboards. This should make any enforcement easier and assist blind and partially sighted people in navigating the streets.

If the Council were prepared to consider the above approach, RNIB and other blind and partially sighted people organisation would be happy to work with the Council to develop a policy. However, if the Council simply wishes to go along with the guidelines approach such as that operated by Bristol and Surrey then we would be extremely reluctant to engage in further consultation as we believe that this approach is unlawful and places blind and partially sighted people and other vulnerable pedestrians at risk. It also places the Council at risk of liability.

We look forward to hearing from you with 21 days setting out the Council's proposed approach to this matter and timescales.

Please ensure that your response is provided in electronic (word) format in order to facilitate transcription.

Yours sincerely

Samantha Fothergill
Solicitor

Annex E



RNIB
105 Judd Street
London
WC1H 9NE

Customer & Business
Support Services

Andrew Docherty
Assistant Director of Governance and ICT

West Offices
Station Rise
York YO1 6GA

Email: alison.hartley@york.gov.uk
Direct Line: 01904 55 3487
Fax: 01904 55 1047

Our ref: AHA LCS1.1631
Your ref:

08 July 2015

Dear Ms Fothergill

Re: Guidance on the use of A Boards in York

Thank you for your letter dated 17 June 2015.

The Council is acutely aware of its statutory duties and responsibilities in relation to the Highway Act 1980 and those under the Equality Act 2010, including the public sector equality duty.

To clarify, no decision has yet been made by the Council in relation to the form that any policy may take in relation to the enforcement of A Board advertising on the highway. The work in developing a fair and reasonable policy to deal with the issue is ongoing. The report to which you refer was taken to the Cabinet following a recommendation from the Overview and Scrutiny Committee, and Officers are presently working on a draft policy to put before the Executive (formerly Cabinet). Should the Executive resolve to do so, extensive consultation will take place on any proposed policy.

I agree that in formulating and consulting upon such a policy, an Equalities Impact Assessment will be required. I also agree that A Boards are capable of being unreasonable obstructions on the highway, and that it is necessary to consider the impact of any policy which may consider licensing A Boards, on people with disability, including blind or partially sighted people. To identify and assess such impacts, meaningful consultation and engagement with those affected must be carried out.

The Council is therefore very pleased that the RNIB wish to continue to engage with the Council in this process. The Officers anticipate that the next report to the Executive will be

Director: Ian Floyd

www.york.gov.uk

on 27th August, and look forward to receiving your feedback through the consultation processes that will follow.

Yours faithfully

Alison Hartley
Senior Solicitor



Executive**27 August 2015**

Report of the Director of Children's Services, Education and Skills

Healthy Child Service**Summary**

1. The purpose of this report is to provide the Executive with a proposal for the future provision of a Healthy Child Service in York.

Recommendations

2. Executive are asked to:
 - a) Approve Option Three – to allow the contracts for the existing health visiting, school nursing and National Child Measurement Programme to end on 31 March 2016 and create an “in house” provision with a new delivery model with effect from 1 April 2016.

Reason: Given the imperative to ensure that the establishment of a new Healthy Child Service supports the delivery of the transformation programme already in progress across children's services and, in particular, the offer provided by Children's Centres and Youth Services, including Castlegate, this is the option that provides the greatest flexibility and value for money. It will also facilitate local integration with health services for children and young people that are delivered by NHS organisations such as York Hospital NHS Foundation Trust and Tees, Esk and Wear Valleys NHS Foundation Trust.

Background

3. The Healthy Child Programme (HCP) was published in 2009 and sets out the recommended framework of services for children and young people aged 0-19 years to promote optimal health and well-being, prevent ill-health and provide early intervention when required.
4. The HCP delivers universal services to all children and families, including routine screening and developmental checks. Through the programme,

families in need of additional support and children who are at risk of poor outcomes can be identified and the appropriate support provided; a key aim of the HCP is to reduce health inequalities.

5. Effective implementation of the HCP 0-5 years contributes to a range of health and well-being outcomes such as:
 - Strong parent-child attachment and positive parenting; resulting in better social and emotional wellbeing and improved resilience
 - Care that helps to keep children healthy and safe
 - Healthy eating and increased physical activity contributing to a reduction in childhood obesity
 - Prevention of some serious and communicable diseases through promoting uptake of immunisation programmes
 - Increased rates of breastfeeding
 - Improved readiness for school and improved learning
6. The HCP 5-19 years aims to improve a range of public health outcomes including:
 - Improved sexual health and a reduction in rates of sexually transmitted infections in young people
 - Reduced numbers of teenage pregnancies
 - Healthy diet and exercise contributing to a reduction in obesity
 - Improved learning and educational outcomes
 - Smoking prevention and cessation
 - Alcohol and substance use prevention and awareness
 - Improved emotional health and well-being and improved resilience
 - The programme also incorporates the mandatory function of the National Child Measurement Programme (NCMP)

Current Commissioning Arrangements

7. City of York Council (CYC) became responsible for the HCP 5-19 years with the transfer of public health in April 2013. It was agreed to put in place a Deed of Novation to transfer the existing contract for the provision of school nursing and NCMP from the NHS to the Council up to 31 March 2015. A recent waiver to contract procedure rules extended this contract to 31 March 2016. The provider is York Teaching Hospital NHS Foundation Trust.

8. On 28 January 2014 the Department of Health confirmed the transfer of 0-5 child public health services commissioning. The transfer on 1 October 2015 completes the transfer of public health responsibilities to local authorities.
9. The scope of the transfer includes the 0-5 Healthy Child Programme specifically:
 - Health visiting services (universal and targeted)
 - Family Nurse Partnership services (targeted services for teenage mothers)
10. The following commissioning responsibilities will remain with NHS England (NHSE):
 - Child Health Information System (CHIS)
 - The 6-8 week GP check (Child Health Surveillance)
 - NHSE are also responsible for the antenatal and newborn screening and childhood immunisation programmes
11. The Government has announced that certain universal elements of the HCP will be mandated in regulations in the same way it has for sexual health and some other public health services. The universal elements that are mandated are:
 - Antenatal health promotion review
 - New baby review by a health visitor usually around 10-14 days after birth
 - 6-8 week assessment
 - 1 year assessment
 - 2 to 2.5 year review (this is to be a joint review carried out by the health visiting service and the early years provider where a child is accessing early years provision)
12. NHSE issued guidance in October 2014 to support local areas with contract transition for health visiting and Family Nurse Partnership (FNP). York does not have a FNP service; for health visiting, in order to ensure a smooth transition of responsibilities and sustainability of services, CYC has approved a Deed of Novation to confirm the contract with York Hospital Teaching NHS Foundation Trust will transfer to the Council on 1 October 2015 and be extended for a further six months to 31 March 2016.

Consultation

13. The transfer of responsibility for the HCP 0-5 to the local authority provides a unique opportunity for CYC, together with our partners, to think about how we want to transform and integrate health, education and children's social care services and improve quality health and wellbeing outcomes for our children and young people.

Some of the opportunities already identified include:

- Joining up commissioning for children's public health services, early help and wider family services
 - Streamlining universal access to the HCP with early intervention and targeted programmes for families needing more help
 - Better integration of services at the point of delivery with improved access and improved service user experience helping to lead to improved outcomes for children, young people and families and reduced health inequalities
14. CYC is intending to take advantage of the opportunity by developing a new Healthy Child Service that will offer an integrated child and family centred approach and deliver the HCP 0-19 years.
 15. The YorOK Board launched a public consultation on a proposed 0-19 Healthy Child Service in May of this year (See **Annex 1 and 2**). A key element of the consultation has been to seek the views of a wide range of people about how health visiting and school nursing services are currently provided across the city and how the needs of our younger residents can be met in future through a new single 0-19 Healthy Child Service delivering both the HCP 0-5 and 5-19 elements.
 16. The consultation was co-ordinated by the Children's Trust Unit and comprised of:
 - Stakeholder mapping which was tabled at various forums for scrutiny and feedback
 - A development day was hosted by York Teaching Hospital NHS Foundation Trust for front line staff to share the proposed vision for the new service and provide an opportunity for them to help shape this and discuss the challenges and potential opportunities it presents. This event was attended by representatives from the Vale of York CCG and CYC children's and public health services
 - Face to face discussions took place at a range of forums including internal Council meetings, the Youth Council, the 'Show Me I Matter'

Panel, the Head Teacher's forum for primary and secondary schools and School Governors

- Communication via the media to the public and via existing communication channels to the Vale of York CCG, Partnership Commissioning Unit, NHSE, PHE, Elected Members, staff in the Council and partner organisations including newsletters sent out to schools, colleges, community and voluntary organisations. A dedicated email account was set up for people to submit feedback
- Three short confidential on-line surveys were disseminated using Survey Monkey aimed at young people, parents and practitioners

17. 92% of respondents agreed with the proposed vision and strategic framework for the new Healthy Child Service. Some of the gaps in provision and priorities emerging from the consultation include:

- The importance and increasing demand for help with issues related to emotional wellbeing and mental health
- Lack of advice and practical help after children have been weighed and measured as part of the National Child Measurement Programme
- Lack of provision for young people aged 16 and over
- Insufficient focus on the needs of children and young people who are at higher risk of poor health outcomes
- Lack of clarity and publicity about what the services provide
- Inconsistency of services being offered in different settings, particularly education settings
- The importance of having effective screening and health checks to identify problems that may be impacting on the child's development and identifying these problems early
- Better integration of services – universal, targeted and specialist

Recommended Model

18. The new service is intended to give every child in York the best start in life and enable young people to achieve their full potential through supporting them to make healthier life choices.

19. Some of the challenges that the new delivery model will need to address include:

- Development of a multi-agency and integrated approach to improving emotional health and wellbeing in children and young

people focusing on prevention and early intervention with appropriate support to help reduce the need for more specialist interventions

- Ensuring the accessibility and visibility of the service and better communication about the role
- Ensuring that there is a standard operating framework in place to ensure consistency of quality of care across all settings where the service is offered and measurement of outcomes
- Establishing a seamless HCP including having due regard to key transition points such as on entering school, entering and leaving care and transition to adult provision, particularly for young people with complex health and care needs
- Effective partnership working with NHS commissioned services including screening, childhood immunisation, maternity, primary care and paediatric services for children and young people with long term health conditions and complex health care needs
- Meeting unmet need including outreach work with children and young people not in mainstream school including those being educated at home, those in Pupil Referral Unit and alternative education as well as 16-19 years old who may be in need or at risk of unhealthy behaviours
- Building on the work taking place to develop a family focused approach and supporting cross-cutting priorities in the Council Plan
- Prioritising important public health action such as breastfeeding, smoking prevention, alcohol and substance misuse, healthy weight and improved sexual health and reduction in teenage pregnancies and stopping work that is not included in the service specification
- Ensuring appropriate data collection and reporting systems are in place across the service, to collect evidence of activity and impact as well as routine feedback from service users, partners and stakeholders
- Ensuring that the service delivers value for money

Options

20. Three options are available:

Option 1 – Do not re-procure a new service

Option 2 – To re-procure a new service through competitive tender

Option 3 – To allow the existing contracts for health visiting, school nursing and National Child Measurement Programme to lapse on 31 March 2016 and create an “in house” provision based on the recommended model for the new 0-19 Healthy Child Service from 1 April 2016

Analysis

21. Option 1 – Do not re-procure a new service

- 21.1 This is not an acceptable option. Some elements of the HCP 0-19 are mandated and set out in government regulations and the Council will be required to report to the Department of Health against these mandated elements.
- 21.2 The Council’s contract procurement regulations and procedure rules do not provide any opportunity to extend the existing contracts through a further waiver to contract procedure.

22. Option 2 – To re-procure a new service through competitive tender

- 22.1 This was the original plan with the intention of going out to tender through an open procurement exercise and award of a new contract for delivery of an integrated 0-19 Healthy Child Service from 1 April 2016. A commissioning project team had been established and a procurement timetable developed to enable a tendering process to be completed in accordance with EU procurement regulations.
- 22.2 However it became apparent in March 2015 that there had not been any consultation or engagement with service users, partners or stakeholders in the development of the proposed delivery model and insufficient regard had been given to the linkages with other Council provided children, young people and family services and opportunities for wider integration and efficiencies.
- 22.3 A consultation and engagement exercise has subsequently been carried out as outlined earlier in this report. Based on this feedback, it is clear that the existing health visiting, school nursing and NCMP services, although being highly regarded, are a long way off from our recommended delivery model and there is insufficient time to work with the current provider on a transformation programme in preparation for going out to tender.
- 22.4 Moreover the budget allocated to the existing services from the local authority public health grant allocation is based on historical investment decisions made by the NHS which has been ‘lifted and shifted’ to the Council. If we were to award a new contract based on

this level of investment it would significantly hamper our ability to realign the budget to other Council priorities in the future without undergoing complex contract negotiations to secure agreement to a waiver to contract.

- 22.5 It has not been possible to undertake any benchmarking to establish whether the current services are value for money. Historically health visiting and school nursing services have been provided as part of 'block' community services contracts with NHS providers and services have evolved to meet local needs. Therefore there are no reliable criteria on which to compare the cost of providing the services across local authority areas.
- 22.6 There is not a vibrant market for these services which have historically been delivered by the NHS (although their origins lie with local government until the transfer of public health to the NHS in 1975). Other providers are beginning to emerge but the market is in its infancy and we are aware of one local authority in the region who are preparing to bring their school nursing service "in house" having failed to secure an appropriate provider through an open tender process.
- 22.7 There is a risk that we would not find a suitable provider through a tender process but even if we are successful in awarding a contract the first twelve months of the contract are likely to be taken up by jointly undertaking service reviews, stakeholder consultation and engagement on improvements that need to be made to the service and service transformation. This will take up considerable officer capacity in addition to the work involved with actually managing a contract of this value.
- 22.8 Any opportunities for efficiencies arising from better alignment to Council priorities and integration with Children's Centres and Youth Services transformation plans would also be much more difficult to realise.
- 22.9 In conclusion this is not the recommended option.
- 23. Option 3 - Allow the existing contracts for health visiting, school nursing and National Child Measurement Programme to lapse on 31 March 2016 and create an "in house" provision based on the recommended model for the new 0-19 Healthy Child Service from 1 April 2016.**
- 23.1 This is the recommended option. Given the imperative to ensure that the establishment of a new 0-19 Healthy Child Service supports the delivery of the transformation programme already in progress across

children's services, education and skills and, in particular, the offer provided by Children's Centres and Youth Services, including Castegate, this is the option that provides the greatest flexibility.

- 23.2 It will also facilitate local integration with health services for children and young people that are delivered by NHS organisations such as York Hospital NHS Foundation Trust and Tees, Esk and Wear Valleys NHS Foundation Trust, the new provider of child and adolescent mental health services for York.
- 23.3 It is recommended that a phased approach is adopted that will enable the development of the new Healthy Child Service to be aligned to the transformation programme for Children's Centres and Youth Services.

Delivery Programme

24. Phase One from 1 August 2015 to 31 March 2016

- Phase 1 of the development of the new service will be to bring health visiting, school nursing and the NCMP together into a single Healthy Child Service with a new Standard Operating Model that takes account of the service gaps and emerging priorities identified.
- A key priority will be to ensure the safe transition of the existing services from York Teaching Hospital NHS Foundation Trust to the Council for delivery from 1 April 2016. A project steering group and overarching project plan will be put in place.
- Increasingly local authorities are employing nursing staff and the Royal College of Nursing has worked in collaboration with the Local Government Association to produce a helpful guide that sets out the accountability and employment needs of nursing staff. This will be used to help inform transition planning.
- There will need to be shared accountability across the Children's Services, Education and Skills (CSES) Directorate and Public Health for the delivery of outcomes and so there will be joint responsibility for managing the transition. It is proposed that operational delivery for the service is developed within Children's Services with professional leadership and clinical responsibility for the service sitting with the Director of Public Health. The DPH will be accountable to Public Health England for these elements of the service.

25. Phase Two from 1 April 2016 to March 2017

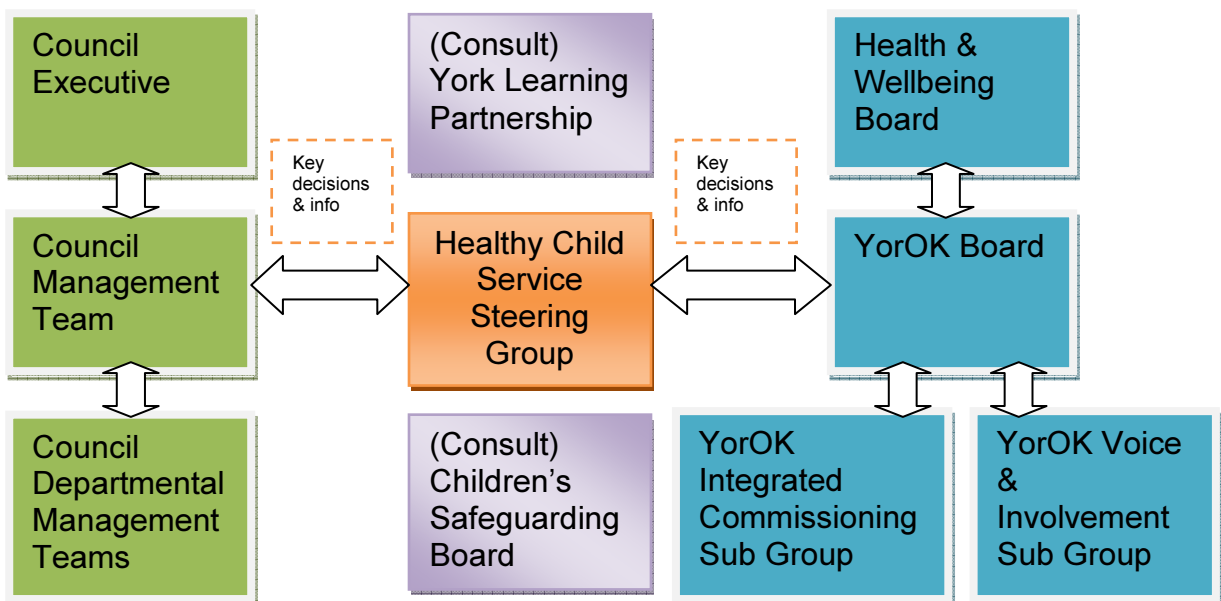
- Phase 2 will involve work to ensure that the new service more closely aligns with the priorities set out in the Council Plan, the refreshed Children and Young People’s Plan and supports the rewiring of Council commissioned/directly provided services for children, young people and families.
- This will involve identifying and exploiting the opportunities to link into the transformation of Children’s Centres, Youth Services, Castlegate etc. thereby improving delivery and outcomes while maximising the opportunity for efficiencies against a background of shrinking budgets.

26. Phase Three from April 2017 to 31 March 2018

- Undertaking further consultation and engagement with children and young people, parents/carers and other key partners and stakeholders to explore alternative delivery models for a fully integrated Healthy Child Service. A report on options for delivery of the service to be presented to the Executive for decision by 31 March 2018.

27. A Healthy Child Service Steering Group will be established with responsibility for producing a project plan for the transition of the services to the Council and development of the new delivery model. The accountability for this steering group is described in Figure 1 below:

Figure 1.



Council Plan

28. This proposal specifically relates to the priorities within the draft Council Plan 2015-19 currently out for consultation:

- **A Prosperous City for All** - the new Healthy Child Service will be aimed at ensuring that every child and young person in York has the best start in life and is supported to achieve their full potential
- **A Focus on Frontline Services** – by ensuring that all York’s younger residents live and thrive in a city which allows them to contribute fully to their communities and neighbourhoods and where every child has the opportunity to get the best start in life and are encouraged to live healthily
- **A More Responsive and Flexible Council that puts Residents First and Meets its Statutory Obligations** – by ensuring that the new service delivers the mandated elements of the Healthy Child Programme and contributes to the Council’s statutory duties for improving health and reducing health inequalities in our residents

Associated Implications and Risk Management

29. **Financial**

- The Council has a budget of £592,000 for the school nursing service in 2015/16 and will receive an additional grant of £901,000 for the transfer of the health visiting service for the six months from 1 October 2015. The annual budget for the combined service will, therefore, be £2,394,000 at current funding levels.
- If **Option Three** is approved, the total cost (including on costs) of the staff to be transferred to the Council is £1,992,000 at 2015/16 prices (See Annex 3 for a breakdown). This leaves a remaining budget of £402,000 which is expected to be sufficient to cover the non staffing costs of the service, together with any one off costs of the transfer.
- It should be noted that the funding for the service forms part of the Local Authority Public Health Grant Allocation from the Department of Health, which has not yet been confirmed for 2016/17. The potential impact of future reductions in the grant will need to be met from efficiencies generated by bringing the health visiting and school nursing services together.

30. **Human Resources**

- Should **Options Two or Three** be approved, there will be TUPE (Transfer of Undertakings of Employment) implications for the transfer

of staff currently providing the service from York Teaching Hospital NHS Foundation Trust to a new provider or the Council.

- If **Option Three** is approved, in keeping with the legal advice contained under paragraph 32, a detailed Human Resources project plan will need to be developed to ensure a safe and legal transfer takes place.
- Furthermore an overarching project plan will need to be developed. Identification of resources to support the transfer of 50+ NHS staff to the Council will need to be included as part of that project plan. This option will require dedicated input from Human Resources.
- The transfer would include health visitors and school nurses who are qualified nurses who have undergone further training to be recognised as Community Specialist Public Health Practitioners and they are regulated by the Nursing and Midwifery Council (NMC). The Council's Recruitment and Selection procedures and Workforce Development offer will need to be reviewed in light of the specialist skills, Continuous Professional Development requirements and mandatory training associated with this staff group.
- The Council's trade union recognition agreement will need to be reviewed to consider the inclusion of the Royal College of Nursing as the professional association representing qualified nurses.
- In order to deliver the opportunities for integration within existing CYC provided services the service will be operationally managed within the Children's Services, Education and Skills Directorate with day to day operational responsibility sitting with the Director of Children's Services, Education and Skills. This will need to be reflected in the role and responsibility of the Director of Children's Services and therefore the appropriate Management of Change process should be followed.
- The professional leadership and clinical governance responsibilities will need to be reflected in the role and responsibility of the Director of Public Health who will be accountable to Public Health England for these elements of the service.

31. **Equalities**

A Community Impact Assessment is in the process of being completed. The 0-19 Healthy Child Service is a universal service accessible to all children, young people and families in York but the new service will have a key focus on reducing the gap in service provision identified during the

consultation to specific groups such as the homeless, gypsy and traveller communities and ensure equity of access across the city.

32. **Legal**

- **Options Two and Three** are likely to entail a service provision change under the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).
- If under **Option Two** a new service is procured from a new Provider, then the NHS staff who are assigned to the current health visiting, school nursing and NCMP services would transfer to the new Provider and there would be minimal risk to the Council. This is because under TUPE the procurement would be classed as a 'second-generation' contracting out and the Council would effectively step-back whilst the York Hospital Trust and new Provider determine any issues associated with the transfer of NHS staff. This situation may not apply however if the current Services were to be procured and divided between multiple service Providers. In this case it is possible that TUPE would not apply because of a 'fragmentation' of the Services.
- If under **Option Three** the existing health visiting, school nursing and NCMP contracts are brought 'in-house', then TUPE would apply such that everything under or in connection with an individual's contract would transfer to the Council. In effect the transferred NHS staff would be employed by the Council under their existing NHS terms and conditions of employment and this is likely to include not only those terms expressly included in individual contracts, but also any non-contractual rights and obligations provided by York Hospital Trust. Transferring NHS staff would be required to join the Local Government Pension Scheme or retain their existing NHS pension. Potential redundancy costs could be an issue if in the future a decision is taken to restructure the 'in-house' service.

33. **Crime and Disorder**

There are no crime and disorder implications arising from this report.

34. **Information Technology (IT)**

- The transfer of commissioning responsibility for 0-5 services to local authorities in October 2015 will create additional responsibilities on the Council for the data collection and reporting to the Health and Social Care Information Centre against mandatory performance indicators.

- Should **Option Three** be approved, a detailed IT project plan will need to be developed to ensure a safe transfer to the Council. This will require dedicated input from the Business Intelligence Hub.
- It is not clear at this stage at how much work resides within the CSES area, or staff moving across. If as hinted, on an initial fact-finding look at 0-5 datasets and other areas, that this is a significant data negotiation, capture, cleansing, reporting and management process, it might be worth thinking that the resources needed will be similar to other large statutory returns within the children's services arena, such as Troubled Families / Children in Need Census that are currently managed by the Hub.
- The skills needed to manipulate the information efficiently and accurately exist at present.
- At this stage there is little detail about how the data needs to be captured and held from an IT perspective, as well as who may need to access this information. CYC is currently undergoing the changes to the main case management system for children and this may provide opportunities to develop a shared child record.
- The bringing together of this information, alongside other datasets currently held by the Hub, will put the council in a stronger position to understand and commission services in the future.

35. **Property**

There are no property implications arising from this report. The health visiting service is already based in Children's Centres and the intention is to co-locate the school nursing service.

36. **Risk Management**

- The project to transfer responsibility for the delivery of health visiting, school nursing and the NCMP services from the NHS into the Council carries a number of risks. It is a multi-million pound project that has a tight delivery timescale with the requirement to have completed a safe transfer by 31 March 2016. These are new services to the Council which will need to be integrated into corporate policies and procedures.
- To mitigate these risks, the project must be adequately resourced. The Council has arranged to put in place stronger strategic leadership from Public Health with the appointment of an interim Director of Public Health who will be responsible for project delivery. Additional project

support has been identified within the Public Health Team and negotiations are underway with York Teaching Hospital NHS Foundation Trust to secure a member of staff on secondment to the Council to support the work programme. Cross directorate support and commitment will also be required to ensure that each directorate meet their identified and agreed delivery timescales.

- A detailed project plan with a timeline and risk register is being produced. This will be in place by the end of August 2015 with regular reporting to the Council Management Team and YorOK Board on progress. The YorOK Board will be responsible for briefing the Health and Wellbeing Board
- A Communication Plan will ensure that all key stakeholders are informed of key decisions and briefed on progress.
- In addition contact has been made with North East Lincolnshire Council who already deliver an “in house” service and employ health visiting and school nursing staff, to learn from their experience and they have agreed, in principle, to a “buddying” relationship.

Contact Details

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Chief Officer and Executive Members Responsible for the report:

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Report Approved



Date 29/07/15

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Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Annexes

Annexe 1 - Vision and Strategy: an approach for health visiting and school nursing

Annexe 2 - Life Course Healthy Child Programme 0-19

Annexe 3 – School Nursing & Health Visiting Transfer – Staffing Costs

Background Papers

<https://www.gov.uk/government/publications/healthy-child-programme-pregnancy-and-the-first-5-years-of-life>

<https://www.gov.uk/government/publications/healthy-child-programme-review-of-children-aged-2>

http://webarchive.nationalarchives.gov.uk/+www.dh.gov.uk/en/publicationsandstatistics/publications/publicationspolicyandguidance/dh_107566

Royal College of Nursing. Employing Nurses in Local Authorities. 2014
www.rcn.org.uk

Glossary of abbreviations used in the report:

CCG – Clinical Commissioning Group

CHIS – Child Health Information System

CSES – Children’s Services, Education and Skills

CYC – City of York Council

DPH – Director of Public Health

EU – European Union

FNP – Family Nurse Partnership

HCP – Healthy Child Programme

NCMP – National Child Measurement Programme

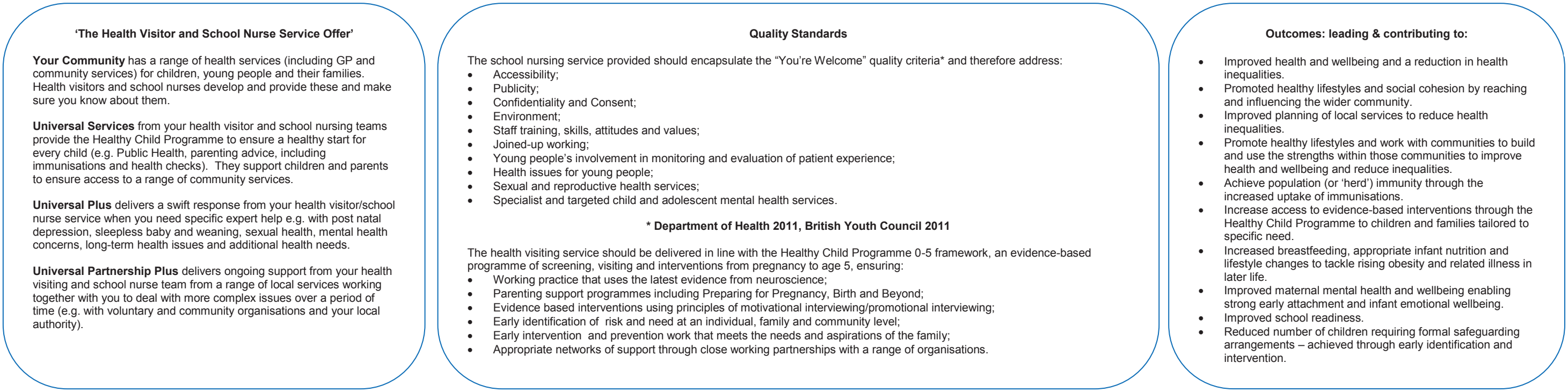
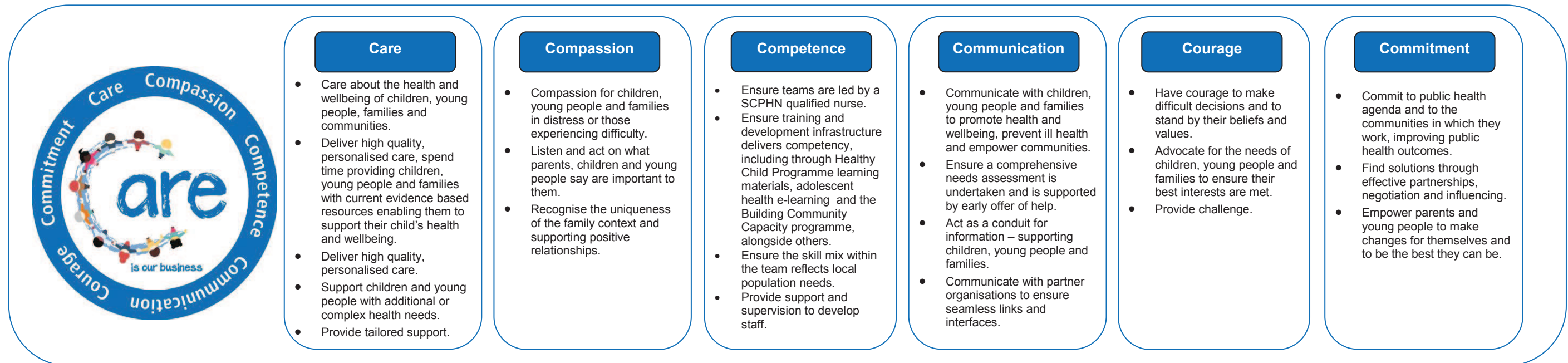
NHSE – NHS England

NMC – Nursing and Midwifery Council

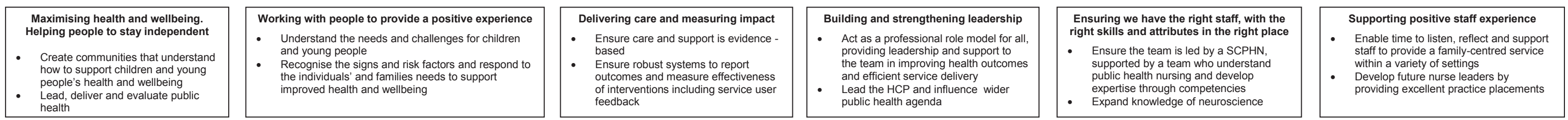
PHE – Public Health England

TUPE – Transfer of Undertakings (Protection of Employment) Regulations
2006

Improving the health and wellbeing of children and young people 0-19. The Health Visiting and School Nursing contribution to improving health outcomes for children, young people and families, below outlines the health visitor and school nurse contribution to leading and delivering the Healthy Child Programme 0-19 years (October 2009). The Vision and Service Models for Health Visiting and School Nursing have been set in the context of the broader national nursing strategy - Developing a Culture of Compassionate Care (December 2012), which includes the six Cs – values and behaviours together with the six priority actions for maintaining health and wellbeing outcomes.



Making this happen for children and young people - health visitors and school nurses should lead in these six areas and embedded throughout is Leadership, Ownership, Partnerships



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Life Course Healthy Child Programme 0-19

Universal

- Health and development reviews
- Screening and physical examinations
- Immunisations
- Promotion of health and wellbeing, e.g.
 - smoking
 - diet and physical activity
 - breastfeeding and healthy weaning
 - keeping safe
 - prevention of sudden infant death
 - maintaining infant health
 - dental health

Promotion of sensitive parenting and child development

Involvement of fathers
Mental health needs assessed

Preparation and support with transition to parenthood and family relationships

Signposting to information and services

Universal plus

- Emotional and psychological problems addressed
- Promotion and extra support with breastfeeding
- Support with behaviour change (smoking, diet, keeping safe, SIDS, dental health)

Parenting support programmes, including assessment and promotion of parent-baby interaction

Promoting child development, including language

- additional support and monitoring for infants with health or developmental problems
- common Assessment Framework completed

Higher risk

- High-intensity-based intervention
- Intensive structured home visiting programmes by skilled practitioners
- Referral for specialist input
- Action to Safeguard the child
- Contribution to care package led by specialist service.

The best start
for all children

Safeguarding



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School Nursing & Health Visiting Transfer**Staffing Costs**

	NHS Band	fte	Total Cost* £'000
School Nursing Team			
School Nurse (term time)	7	1.44	69
School Nurse (term time)	6	1.04	37
School Nurse (term time)	5	4.19	121
Support Worker (term time)	3	1.78	35
Total School Nurses		8.45	262
Health Visitor Team			
Practice Educators	7	2	101
Health Visitors	6	30.96	1,320
Staff Nurses	5	1.7	58
Child Development Workers	4	5	134
Clerical Support	2	5.5	117
Total Health Visitors		45.16	1,730
Total Staffing Costs (2015/16 prices)		53.61	1,992

*All staff assumed to be at the top of the payscale.

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Executive

27 August 2015

Director of Customer, Business and Support Services

Progress Report: City of York Trading Ltd

Summary

- 1 This report presents Members with an update on the progress of City of York Trading Ltd (CYT Ltd) the council's trading organisation for council services. Members are asked to approve changes to the Shareholder Agreement (see Annex A) and support the company's direction of travel and proposed areas for further business case development.

Recommendations

2. Executive is asked to:
 - a. Agree the changes to the Shareholder Agreement.
 - b. Note the progress and growth made to date by CYT Ltd.
 - c. Support the further development of the business including business cases for those areas identified in this report.

Reason: To ensure Executive members understand the progress of the council's Trading Company and are involved in setting the direction of the future business.

Background

3. The former Cabinet approved the creation of a Local Authority Trading Company in February 2011. Following a further detailed report to Cabinet in October 2011 CYT Ltd was formed on 18th of November 2011. It is a company wholly owned by the City of York Council as the single shareholder. Trading commenced in June 2012 using the WorkwithYork (WWY) brand to provide agency staff to schools in the area.
4. In June 2013 the former Cabinet received a business case for the extension of the supply agency activity, and approved the transfer of all remaining casual staff business from the council to CYT Ltd from 1 September 2013. This work was completed by March 2014.

5. During 2014/15 the company commenced trading an Information Technology (IT) offer to a private sector client in York. Prior to this a report to the former Cabinet in July 2013 set out details of the council's ICT service's offer and aspirations for expanding service provision with public service partners and the private sector, through CYT Ltd. The company's Board of Directors has recently heard further details about how the success of the early work is to be built on in future years.

Performance to date

6. The company's main purpose is to provide professional high quality support services which evolve from City of York Council services. This may be in the form of using the company to deliver services in a different manner (as with the WorkwithYork supply agency), or to use the company to exploit opportunities to trade with other organisations (as with ICT Services).
7. The services provided by the company currently remain focused upon the Work with York brand. This has been the main focus of attention with a view to establishing this service as a sizeable trading organisation with capacity for further growth. Within the first three years the brand has been developed, and WWY now trades effectively with around 50 schools and a range of other clients, with turnover for the period 2014/15 of £5.3m (compared to £2.4m in 2013/14) and operating profit of almost £300k (compared to £125k in 2013/14) . As in the previous year, a dividend to the council as shareholder will be recommended to the Board and the Shareholder Committee in September 2015.
8. The first year of trading IT services to a private sector client has derived a small profit as planned, but the size of this element of the business was very small with a turnover of £100k.

Growth of Existing Businesses

9. The focus for the existing product range in coming years will be to maintain the company's current sector client base and to look to expand significantly into other sectors (other public bodies/private sector) both within and outside of York. There is considered to be significant opportunity to increase the overall turnover of the WWY activity by moving into these areas, and the overall long term development and sustainability of the company will require significant growth. Investment in systems and sales/business development expertise in WWY will support this level of growth in business activity, and the company's Marketing Strategy will focus upon achievement of these new markets.

10. The scale of opportunity for growth lies in surrounding schools, local authorities and private sector, and the company will be seeking to move rapidly into these areas. By 2018, the company aims to have increased its turnover to some £10m having exceeded the previous 2016 target of £4.5 million by the end of 2014/15.

New Product Offers

11. Options for expanding the range of services provided by the company will continue to be considered, including opportunities to trade a wider range of support and other council services through the company. Currently business cases are being developed for:
 - Expanding the IT service offer;
 - Workforce Development (Learning & Development);
 - Services to Schools – the complete offer of schools support services;
 - Webcasting and filming services;
 - Other opportunities arising from the transformation work of the council across all services.
12. The benefits of operating through the company include:
 - ability to develop own identity;
 - ability to trade freely across all sectors;
 - flexibility on pay grades ;
 - performance related pay;
 - business like approach.

Governance Review and Changes to Shareholder Agreement

13. In 2014 the CYT Board and the Shareholder Committee received the results of an internal review of company governance arrangements which identified changes needed to the shareholder agreement covering, for example, the need for external directors on the Board. It also confirmed that the company complies with principles of good governance, for example a chair not involved in day to day management, separate executive directors/non executive directors, and regular reporting on performance. The following paragraphs cover the resulting recommended changes to the Shareholder Agreement.
14. When the council established CYT Ltd it established a Shareholder Committee to regularly review the activities of the company and monitor its performance. A Shareholder Agreement was put in place between the council and the company which set out the roles and responsibilities of the

Shareholder Committee. It also set out certain steps which the company could not take without the approval of the Committee and some which would require Council approval through the Executive. The inclusion of these provisions demonstrates that the council retains sufficient control of the company to maintain the “Teckal” exemption allowing direct contract awards. With the benefit of the aforementioned review the Shareholder Committee has proposed some changes to the shareholder agreement which would support the adoption of the version as set out in the Annex.

15. In summary these amendments:

- Reflect the fact that this is no longer an agreement in anticipation of establishing a new company and accordingly remove obsolete wording.
- Alter the balance between the numbers of executive and non executive directors allowing now a maximum of five of the former (minimum two) and maximum four of the latter (minimum one).
- Make minor wording changes to provisions relating to the appointment of directors but maintaining the principle that the Shareholder Committee approves these appointments.
- No longer make any reference to the Shareholder Committee including the Leader or his nominee.
- Clarify that any decisions required of the Council will not be made by the Committee but will be made under normal Council decision making processes with the Shareholder Committee making recommendations where appropriate.
- Tighten the focus of the Committee’s oversight of the company to the business plan and performance – reflecting the role which the Committee has actually worked on.
- Vary the requirement for the Council to approve the business plan so that such approval is only required where structural changes are proposed or where staff are to be transferred. Other changes would still be overseen by the Shareholder Committee.
- Remove the requirement for formal consent from the Council for a number of specific matters including: incurring material expenditure or capital liabilities exceeding £10,000, sponsoring events or supporting

charitable activities, paying certain remuneration, settling claims and approving the charging policy.

Consultation

16. The Board of Directors of CYT Ltd and the Shareholder Committee have discussed and agreed the changes recommended in this report

Options

17. Members can choose to agree or to disagree with the changes to the Shareholders Agreement as stated in recommendation a) or propose amendments.
18. There are no alternative options for recommendation b) which asks members to note the progress made by the company.
19. With regard to recommendation c) Members may consider alternative options for business development or disagree that that the business should be developed further in this way. Development of alternative proposals, as with those mentioned in paragraph 11 would be subject to Executive and CYT Board of Directors approval before any business case could be implemented.

Analysis

20. All information is contained in the body of the report.

Council Plan

21. Outcomes achieved by the activities covered in this report help to deliver priorities in the draft Council Plan 2015-19 in support of 'Our purpose is to be a more responsive and flexible council that puts residents first and meets its statutory obligations'.

Implications

22.

a) Financial

The financial health of the business is monitored at an operational level by the Executive Directors, by the CYT Board and the Shareholder Committee. Company performance is currently strong, however to maximise future returns to the shareholder (the council) and to continue to invest in and grow the business to secure its future success the business

development opportunities should be pursued. They, however, should only be implemented on the provision and acceptance of sound business cases agreed by the Executive and CYT Board of Directors.

b) Human Resources (HR)

Business cases will need to fully explain the impact of changes on staff and meaningful engagement with the workforce and their representatives undertaken on any proposals. There are no direct HR implications of this report.

c) Equalities

No known implications

d) Legal

Legal Implications are covered in the body of the report.

e) Crime and Disorder

No known implications.

f) Information Technology (IT)

Further development of the IT offer is covered in the body of the report, there are not anticipated to be any impacts on the ICT service provided to the council.

g) Property

No known implications.

h) Other

No known implications.

Risk Management

23. The key risk is that the company fails to maintain its financial and growth position at a time when the council is seeking opportunities to maximise income generation and develop sustainable service delivery options. The controls operated through the make-up of the Company Board and the Shareholder Committee should manage this risk.

Contact Details

Author:

Pauline Stuchfield
AD Customers &
Employees
Tel No.01904 551100

Chief Officer and Executive Member

Responsible for the report:

Ian Floyd
Director of Customer, Business and Support Services
Report of Executive Leader for Finance & Performance

Report Approved

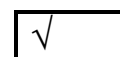


Date 6th August 2015

Specialist Implications Officer(s)

Financial: Ian Floyd
Director of Customer & Business Support Services
Legal: Andrew Docherty
AD for Governance and ICT

Wards Affected: *List wards or tick box to indicate all*



Background Papers: Cabinet

Cabinet Report - Establishment and Governance of the Local Authority Trading Company 4th October 2011

Cabinet Report- City of York Trading Ltd (CYT)
Business Development - 4 June 2013

Cabinet Report - City of York Trading – ICT Services.
16 July 2013

Annexes

Annex A Amended CYT Ltd Shareholder Agreement

List of abbreviations used in the report:

CYT Ltd - City of York Trading Ltd
IT - Information Technology
WWY - WorkwithYork

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Annex Amended CYT Ltd Shareholder Agreement

DATED _____ **2015~~2~~**

(1) CITY OF YORK COUNCIL

- and -

(2) CITY OF YORK TRADING LIMITED

SHAREHOLDERS AGREEMENT

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THIS AGREEMENT is made on 20122015

BETWEEN

- (1) **CITY OF YORK COUNCIL** of The Guildhall, York YO1 9QN (the "**Council**");
- (2) **CITY OF YORK TRADING LIMITED** a company registered in England, (Company No. 07852072) whose registered office is at The Guildhall, York YO1 9QN (the "**Company**");

RECITALS

- (A) The Council is a local authority within the meaning of the Local Government Act 2000.
- ~~(B) The provisions of the Local Government Act 2003 and the 2009 Trading Order (as defined below) allow all local authorities to trade in function related activities through the medium of a private limited company.~~
- ~~(B) The Company is a private company established in 2012 and is limited by ordinary shares of £1.00 each. The sole member of the Company is the Council, holding 1 ordinary share.~~
- ~~(C) Having regard to its obligations and responsibilities as a publicly funded body and following the preparation and approval of the Business Case, the Council has decided that it wishes to take advantage of such trading powers~~
- ~~(D)(C) Accordingly, the Council has prepared the Business Case and the Business Plan in order to consider and approve the provision of various business support services and other function related activities currently carried on by Council departments to the Company, for the purpose of the~~The Company is established under the provisions of the Local Government Act 2003 and the 2009 Trading Order with powers to providing provide and managing manage the Services to other third parties and ~~possibly~~ the Council.
- ~~(E) The Company is a private company limited by ordinary shares of £1.00 each. The sole member of the Company is the Council, holding 1 ordinary share.~~
- ~~(F)(D) The parties entered a Shareholders agreement in 2012 have decided to enter into this Agreement to regulate the manner in which the Company is to be managed and this Agreement replaces the original agreement.~~

1 DEFINITIONS AND INTERPRETATION

1.1 The following words and phrases shall, where the context so requires bear the following meanings:

- "2009 Trading Order"** Statutory Instruments 2009 No. 2393 Local Government, England The Local Government (Best Value Authorities) (Power to Trade) (England) Order 2009
- "Act"** means the Companies Act 2006 including any duly enacted modification, re-enactment or amendment thereto, and any statutory instrument derived from it
- "agreed terms"** means in a form agreed between the parties and initialled by them or their legal representatives accordingly
- "Annual Budget"** means the annual budget to be approved by the Board and adopted by the Company each year in accordance with the provisions of clause [145](#) of Schedule 2 of this Agreement
- "Annual Business Plan"** means the Business Plan as revised by the Board each financial year in accordance with the provisions of clause [145](#) of Schedule 2 of this Agreement
- "Articles"** the Articles of Association of the Company as amended from time to time
- "Associate"** means in relation to any company:
- (a) any company of which such company is a subsidiary;
 - (b) any subsidiary of such company; or
 - (c) any other subsidiary of such company's holding company;
- "Board"** means the board of directors of the Company as constituted in accordance with this Agreement and the

Articles from time to time

"Business Case"

means the business case dated 10 August 2011 prepared and approved by the Council for the purpose of:

- (a) explaining and justifying the proposed objectives of the trading enterprise and assessing the associated risks;
 - (b) explaining the associated investment and other resources required;
 - (c) identifying the expected financial results of the trading enterprise and any other relevant outcomes;
 - (d) identifying whether or not the Council should proceed with the proposal to provide the Services through the medium of the Company; and
 - (e) dealing with future opportunities for the provision of Services and/or other activities to other parties
- as amended, updated, supplemented or replaced from time to time.

"Business Day"

means a day other than a Saturday, Sunday or a bank holiday in England

"Business Plan"

means the business plan dated 4 October 2011 prepared by the Council for the purpose of setting out the objectives of the Business, how they are able to be achieved and how related standards are to be met

"Business"

means the trading business carried out or to be carried out by the Company as set out in the Business Plan

"contribution"

means any contribution made to a surplus of the

	Company
"contributor"	means any Shareholder who has contributed to a surplus of the Company
"CPA"	means the Audit Commission's local authority comprehensive performance assessment regime
"Chairman"	means such Director or Non-Executive Director as may from time to time be appointed as chairman of the Board <u>by—in accordance with a recommendation of</u> the Shareholder Committee
"Completion"	means completion of this Agreement in accordance with its terms
"Connected Party"	means in relation to any Shareholder any Associate, employee, director or authorised representative of that Shareholder
"Corporate Covenants"	means the covenants set out in Part 1 of Schedule 2
"Council Covenant"	means the covenant set out in Part 2 of Schedule 2
"Council Mission Statement"	means the Council's Corporate Strategy Document 2011/12 as updated, supplemented or replaced from time to time.
"Directors"	means the directors of the Company appointed in accordance with the terms of this Agreement and the Articles from time to time (each a " Director ")
"Encumbrance"	means any interest or equity of any person (including any right to acquire, option or right of pre-emption) or any mortgage, charge, pledge, lien, assignment, hypothecation, security interest (including any created by law), title retention or other security agreement or arrangement or a rental, hire purchase credit sale or other agreement for payment on deferred terms

"Executive Director"

means a Director who is engaged in the day to day running and administration of the trading business carried out or to be carried out by the Company and shall for the avoidance of doubt include the managing director and the financial director of the Company from time to time

"Indebtedness"

means any obligation for the payment or repayment of money, whether joint or several, actual or contingent, in respect of:-

(a) moneys borrowed or raised (including the capitalised value of obligations under financial leases and hire purchase agreements and deposits), debit balances at bank accounts and interest and other charges thereon or in respect thereof;

(b) any liability under any debenture, bond, note, loan stock, commercial paper or other security or under acceptance or documentary credit, bill discounting or note purchase facilities;

(c) any liability in respect of the deferred acquisition cost of property, assets or services to the extent payable after the time of acquisition or possession thereof by the party liable;

(d) any guarantee or other assurance against financial loss in respect of any of the indebtedness specified in this definition;

(e) any cost or liability under any interest rate or currency hedging agreement; and

(f) any other transaction having the commercial effect of the borrowing or raising of money

"Law"

means:

(a) any applicable statute or proclamation or any

delegated or subordinate legislation;

(b) any enforceable community right within the meaning of section 2 (1) European Communities Act 1972;

(c) any applicable guidance, direction or determination with which the Parties or some of them are bound to comply to the extent that the same are published and publicly available or the existence or the contents of them have been notified to the Company by the Shareholders; and

(d) any applicable judgement of a relevant court of law which changes binding precedent in England and Wales,

in each case in force in England and Wales

"Memorandum"	means the memorandum of association of the Company
"Non-Executive Director"	means a Director who is not engaged full time in the day to day running and administration of the Business
"Ordinary Shares"	means the ordinary shares of £1 each in the capital of the Company
"parties"	means the parties to this Agreement
"Project Documents"	means this Agreement, the Services Agreement and the Articles
"Project"	means any project undertaken by the Company in accordance with the Business Plan or as otherwise agreed to be undertaken by the Council
"s151 Officer"	means the officer appointed by the Council from time to time with responsibility for the proper administration of the Council's financial affairs pursuant to s151 of the Local Government Act 1972.
"Services Agreement"	means the services agreement entered into between the

(1) the Council and (2) the Company in respect of the making available and/or provision of the various business support services and other function related activities by the Council to the Company for the purposes of the Business

- "Services"** means the various business support services and other function related activities to be provided and managed by the Company to other third parties and possibly the Council.
- "Shares"** means issued shares in the capital of Company of any class
- "Shareholder"** means any person holding Shares from time to time
- "Shareholder Committee"** means the Shareholder committee to be appointed in accordance with Clause 8 of this Agreement
- "Shareholder Policy"** means the policy developed by the Council detailing the role and responsibilities of the Shareholder Committee as amended from time to time

1.2 This Agreement shall be interpreted according to the following provisions, unless the context requires a different meaning:

- 1.2.1 The headings and marginal notes and references to them in this Agreement shall be deemed not to be part of this Agreement and shall not be taken into consideration in the interpretation of this Agreement.
- 1.2.2 Except where the context expressly requires otherwise, references to clauses, sub-clauses, paragraphs, sub-paragraphs, parts and Schedules are references to clauses, sub-clauses, paragraphs, sub-paragraphs and parts of and Schedules to this Agreement and references to Sections, Appendices and Attachments (if any) are references to Sections, Appendices and Attachments to or contained in this Agreement.
- 1.2.3 The Schedules to this Agreement are an integral part of this Agreement and a reference to this Agreement includes a reference to the Schedules.

- 1.2.4 Words importing persons shall, where the context so requires or admits, include individuals, firms, partnerships, trusts, corporations, governments, governmental bodies, authorities, agencies, unincorporated bodies of persons or associations and any organisations having legal capacity.
- 1.2.5 Where the context so requires words importing the singular only also include the plural and vice versa and words importing the masculine shall be construed as including the feminine or the neuter or vice versa.
- 1.2.6 The language of this Agreement is English. All correspondence, notices, and information shall be in English.
- 1.2.7 References to any Law are to be construed as references to that Law as from time to time amended or to any Law from time to time replacing, extending, consolidating or amending the same.
- 1.2.8 References to a public organisation shall be deemed to include a reference to any successor to such public organisation or any organisation or entity which has taken over either or both the functions and responsibilities of such public organisation.
- 1.2.9 The words in this Agreement shall bear their natural meaning. The parties have had the opportunity to take legal advice on this Agreement and no term shall, therefore, be construed contra proferentem.
- 1.2.10 In construing this Agreement, the rule known as the ejusdem generis rule shall not apply nor shall any similar rule or approach to the construction of this Agreement and accordingly general words introduced or followed by the word "other" or "including" or "in particular" shall not be given a restrictive meaning because they are followed or preceded (as the case may be) by particular examples intended to fall within the meaning of the general words.
- 1.2.11 Reference to a document being in Agreed Form is a reference to the form of the relevant document agreed between the parties and for the purpose of identification initialled by each of them or on their behalf.
- 1.2.12 Where this Agreement states that an obligation shall be performed "**no later than**" or "**within**" or "**by**" a stipulated date or event which is a prescribed number of Business Days after a stipulated date or event the latest time for

performance shall be noon on the last Business Day for performance of the obligations concerned.

1.2.13 A reference to a "**subsidiary**" or "**holding Company**" in this Agreement shall have the meaning given to them respectively in the Act.

1.2.14 In the event of conflict between the terms of this Agreement and the Articles, the terms of this Agreement shall prevail and, in the event of such conflict, the Shareholders shall procure at the request of any of the Shareholders such modification to the Articles as shall be necessary to remedy such conflict.

1.2.15 A person, being a company, shall be "controlled" by another person if that other person owns a majority of the voting equity of that person or controls the majority of the votes at meeting of the board of directors of that person.

2 COMPLETION

2.1 Completion shall take place immediately upon the execution of this Agreement by each of the parties.

2.2 At Completion:

2.2.1 the Company shall procure that the necessary board and/or Shareholder resolutions are passed to ~~adopt the Articles with immediate effect and~~ enter into this Agreement ~~and the Services Agreement~~; and

2.2.2 the Council shall procure that the necessary steps are taken to approve the entry into this Agreement ~~and the Services Agreement~~.

3 COVENANTS

3.1 The Company covenants with the Council in the terms of the Corporate Covenants set out in Part 1 of Schedule 2.

3.2 The Council covenants with the Company in the terms of the Council Covenant set out in Part 2 of Schedule 2.

4 FURTHER CAPITAL

4.1 The Council shall not be required to subscribe for any further Shares or to provide any additional funding for the Company.

- 4.2 If, in the opinion of the Board the Company requires further funding, the Board shall, having consulted the Council, determine how the Company should obtain such additional funding, whether by way of the allotment of further Shares, by obtaining additional debt finance, or such other means as the Board may determine, provided always that the Board shall obtain prior written consent from the Council in accordance with the Corporate Covenants.

5 WARRANTY

- 5.1 The Company warrants and represents to the Council that it is duly incorporated under the law of England and Wales and has the corporate power to enter into and to exercise its rights and perform its obligations under the Project Documents to which it is a party and has not traded prior to the date of this Agreement;

6 PURPOSE AND MANAGEMENT

- 6.1 The primary purpose of the Company will be to develop the Business in accordance with the Business Plan and each subsequent Annual Business Plan thereafter. At all times during the term of this Agreement:

6.1.1 the Company shall operate policies which are consistent with the Council Mission Statement;

6.1.2 the business of the Company will consist exclusively of the Business;

6.1.3 with the exception of those matters reserved to the Council pursuant to the Corporate Covenants, all the business of the Company, other than routine day to day business, shall be undertaken and transacted by the Directors;

6.1.4 no payment will be made by the Company and no cheque or payment instruction of the Company shall be signed other than in accordance with the mandates (general or specific) authorised by the Board from time to time;

6.1.5 the Company will conduct the Business and its affairs in a proper and efficient manner and for its own benefit and in accordance with the Business Plan.

7 BOARD AND MEETINGS

- 7.1 The minimum number of Directors shall be four, consisting of at least ~~three~~two Executive Directors and at least one Non-Executive Director.

7.2 The maximum number of Directors shall be nine, consisting of not more than ~~seven~~five Executive Directors and ~~two~~four Non Executive Directors.

~~7.3 The persons nominated and appointed to act as the initial Executive Directors are:~~

~~7.3.1 Ian Floyd (as Managing Director);~~

~~7.3.2 Keith Best (as Finance Director);~~

~~7.3.3 Pauline Stuchfield (as HR and Customer Services Director); and~~

~~7.3.4 Andrew Docherty (as Legal & IT Director).~~

~~7.4 The first person nominated and appointed to act as the initial Non Executive Director is Julie Gunnell, with responsibility for Customer and Business Support Services.~~

~~7.5~~7.3 Any Director who is not an employee of the Company shall be appointed upon the terms and conditions set out in Schedule ~~4~~3 or such other terms as the Board may agree from time to time.

7.4 The quorum for Board meetings shall be three consisting of at least one Non Executive Director. At Board meetings each Director shall have one vote.

~~7.5 The Company shall procure that the Directors shall appoint the Directors recommended by the Shareholder Committee and the Shareholder Committee shall recommend for appointment a replacement Director should the number of Directors of a particular description fall below the number specified in paragraph 7.1..~~

~~7.6~~

7.6 The Company shall procure that the Directors shall appoint the Non Executive Director recommended by the Shareholder Committee as Chairman of the Board. ~~If at any Board meetings the numbers of votes for and against a proposal are equal, the Chairman (or other Director chairing the meeting) shall have a casting vote.~~

7.7 The Company shall not remove or purport to remove any Director as a director of the Company or any of its subsidiaries without the prior written consent of the Council.

~~7.8~~

7.8 Resolutions of the Board shall be determined by a simple majority of votes cast for or against each resolution.

7.9 If at any Board meetings the numbers of votes for and against a proposal are equal, the Chairman (or other Director chairing the meeting) shall have a casting vote

7.10 Unless otherwise agreed by all of the Directors, the Directors shall be given not less than 10 Business Days' notice (or such other period of notice as may be agreed from time to time by all of the Directors) of each meeting of the Board, specifying the date, time and place of the meeting. All meetings of the Board shall take place at such location as the Board shall agree.

7.11 Unless otherwise agreed by the Board:

7.11.1 meetings of the Directors shall be held at least quarterly on such dates as they may agree (and failing such agreement on such day as the Chairman shall decide);

7.11.2 a telephone conference call or video conference or a combination of the same, at which all participants are able to speak to and hear each of the other participants and at which for all times at that meeting a quorum of the Directors is able to so participate, shall be valid as a meeting of the Directors;

7.11.3 a resolution in writing signed by all the Directors entitled to receive notice of a meeting and vote at the meeting shall be as valid and effectual as if it had been passed at a meeting of Directors duly convened and held; and

7.11.4 any Director shall by notice to the Company and each other Director be entitled to convene a meeting of the Directors on not less than 10 Business Days notice.

7.12 Unless otherwise agreed by all of the Directors, an agenda (and copies of any relevant supporting documents) for each meeting of the Board shall be sent to all Directors not less than 5 Business Days prior to the relevant meeting and, unless otherwise agreed by all of the Directors, draft minutes of meetings of the Board will be sent to each Director as soon as practicable after the holding of the relevant meeting.

~~7.13 All Directors shall be appointed by the Shareholder Committee and the Shareholder Committee shall appoint a replacement Director should the office of a Director appointed by it be vacant at any time for whatever reason. Any such appointments or removals shall be in writing, served on the Company and signed by or on behalf of the Council and otherwise effected in accordance with the provisions of this Agreement and the Articles.~~

~~7.14 The Company shall not remove or purport to remove any Director as a director of the Company or any of its subsidiaries without the prior written consent of the Council.~~

~~7.15~~ 7.13 The Company expressly acknowledges that, where Directors are employees of the Council, those Directors will act in accordance with their legal and general responsibilities as directors and not (for the avoidance of doubt) in their capacity as employees of the Council.

8 SHAREHOLDER COMMITTEE

8.1 In support of the Company's business objectives, the Council agrees to establish a Shareholder Committee. The Shareholder Committee will ~~be chaired by the Leader of The Council (or his delegated Member) and~~ will consist of ~~at least the Leader and two other~~ a minimum of three Members of the Council, up to and including a maximum of four Members of the Council. The Shareholder Committee shall appoint one of its members as Chair^{AD11}.

8.2 ~~The role of the Shareholder Committee shall be as set out in the Shareholder Policy.~~ The role of the Shareholder Committee shall not be operational. The Shareholder Committee shall not have powers to make decisions on behalf of the Council or the Company. It shall be the means by which the Council shall:

8.2.1 Recommend for appointment all Directors and the Non Executive Director who is to act as Chairman of the Board, and approve best practice policies in relation to such appointments, the constitution of the Board, remuneration of Directors and the employment and recruitment of staff;

8.2.2 Receive and review the Business Plan and each Annual Business Plan;

8.2.3 review the financial performance of the Company;

~~8.2.4 communicate the practical application of the Council Mission Statement to the Board and how the Company is able to contribute to it being attained;~~

~~8.2.5~~ 8.2.4 make recommendations to the Council on how it should exercise the functions flowing from its ownership of Shares;

~~8.2.6 review the policies of the Company relating to procurement and ensure the appropriate policies are in place;~~

~~8.2.7 the past and future business activities of the Company;~~

~~8.2.8~~ 8.2.5 consider the performance by all parties of their respective obligations under the Project Documents; and

~~8.2.9~~ 8.2.6 consider the Directors' response to any queries previously raised by the Shareholder Committee.

- 8.3 The Shareholder Committee will meet with the Board at least once every three months to consider and review the matters set out in Clause 8.2 above ~~in accordance with the Shareholder Policy~~.
- 8.4 The Board will send a report at least twice per year to each member of the Shareholder Committee. The Directors shall provide all information reasonably required for the Shareholder Committee to conduct an effective review.
- 8.5 The Shareholder Committee will not have any executive authority over the Company but shall allow the Parties to make representations to one another in relation to (inter alia) the Company's performance under this Agreement, and the Council and the Company's satisfaction of their respective obligations under the Services Agreement.

9 DISTRIBUTIONS

- 9.1 For each accounting reference period of the Company in respect of which its annual audited accounts show that the Company has surplus contributions available, the Company shall, unless the Council otherwise determines, procure that such surplus shall be applied in the following manner:
- (a) the provision of capital to finance the continuing operations and internal growth of the business of the Company in accordance with an Annual Business Plan;
 - (b) retention of profits consistent with the normal commercial requirements of a business similar to that carried on by the Company;
 - (c) the distribution of any surplus to contributors on the basis of their respective contributions to such surplus.

Any surpluses which remain undistributed may be distributed to the Shareholders as deemed appropriate by the Directors.

10 DATA PROTECTION, FREEDOM OF INFORMATION AND ANTI-BRIBERY

- 10.1 The Company shall:

10.1.1 comply with its obligations under the Data Protection Act 1998 (including where appropriate giving notification to the Information Commissioner thereunder), the Computer Misuse Act 1990, Human Rights Act 1998, Freedom of Information Act 2000 and the Bribery Act 2010;

10.1.2 provide the Council with such information as the Council may require to satisfy itself that the Company is complying with the obligations referred to in Clause 10.1.1;

10.1.3 provide the Council with all such assistance as the Council may require to enable it to comply with its obligations under the Freedom of Information Act 2000;

10.1.4 notify changes to the registrable particulars of the Company and take such other steps as may be necessary to afford the Council access to information which is required by the Council in connection with any of its statutory duties and responsibilities and for any purpose connected with this Agreement.

10.2 Neither party shall knowingly do anything which places the other in breach of its respective obligations under the Computer Misuse Act 1990, Data Protection Act 1998, Human Rights Act 1998, the Freedom of Information Act 2000 or the Bribery Act 2010.

11 CONFIDENTIALITY

11.1 For the purposes of this clause 11, "**Confidential Information**" means all information (whether marked as confidential or not) of a confidential nature disclosed (whether in writing, verbally or by any other means and whether directly or indirectly) by one party (the "**Disclosing Party**") to another party (the "**Receiving Party**") whether before or after the date of this Agreement including, without limitation, any information relating to the Disclosing Party's, operations, processes, plans or intentions, know-how, design rights, trade secrets, market opportunities and business affairs.

11.2 During the term of this Agreement and after termination or expiry of the Agreement for any reason whatsoever, the Receiving Party shall:

11.2.1 keep Confidential Information confidential;

11.2.2 not disclose Confidential Information to any other person other than with the written consent of the Disclosing Party or in accordance with this Agreement; and

11.2.3 not use Confidential Information for any purpose other than the performance of its obligations under this Agreement and the other Project Documents

11.3 During the term of this Agreement, the Receiving Party may disclose Confidential Information to its employees, contractors, sub-contractors, agents and advisers under conditions of confidentiality in each case to the extent that it is reasonably necessary for the purposes of this Agreement, or any other Project Document and may disclose Confidential Information to its funders, prospective funders, prospective Shareholders of the Company or prospective purchasers of its assets under conditions of confidentiality. In each case the permitted recipient of such Confidential Information shall be known as a "**Recipient**".

11.4 The Receiving Party shall so far as practicable procure that each Recipient is made aware of and complies with all the Receiving Party's obligations of confidentiality under this Agreement as if the Recipient were a party to this Agreement.

11.5 The obligations contained in clauses 11.2 and 11.4 shall not apply to any Confidential Information which:

11.5.1 is at the date of this Agreement in, or at any time after the date of this Agreement comes into, the public domain other than through a breach of this Agreement by the Receiving Party or any Recipient;

11.5.2 can be shown by the Receiving Party to the reasonable satisfaction of the Disclosing Party to have been known by the Receiving Party before disclosure by the Disclosing Party to the Receiving Party;

11.5.3 subsequently comes lawfully into the possession of the Receiving Party from a third party who is not bound by duties of confidentiality; or

11.5.4 is required by Law or a regulatory authority or body or any Government department or by the Project Documents to be disclosed.

12 COMPLIANCE WITH LAWS

- 12.1 The parties agree that they shall not use the trading powers pursuant to the Local Government Act 2003 to authorise trading in anything or service which the Council is statutorily obliged to do or provide in relation to any person.
- 12.2 Nothing in this Agreement shall be deemed to, or shall require the Council to fetter its discretion in relation to any matter whatsoever.
- 12.3 The Company will keep proper books of account and make true and complete entries of all its dealings and transactions of and in relation to its Business.
- 12.4 The Company shall not carry out any activity which would or could render the holding of Shares by the Council unlawful provided that where a proposed change of Law would render such shareholding unlawful the Council will use its reasonable endeavours to take such steps as are necessary to allow it to continue lawfully to hold its Shares; and
- 12.5 The Company will if it requires any approval, consent or licence for the carrying on of its business in the places, and in the manner in which it is from time to time carried on or proposed to be carried on, use all reasonable endeavours to maintain the same in full force and effect.

13 GOVERNING LAW AND JURISDICTION

- 13.1 This Agreement shall be subject to the laws of England and Wales.
- 13.2 The parties agree that the courts of England and Wales shall have exclusive jurisdiction to hear and settle any action, suit, proceeding or dispute in connection with this Agreement and irrevocably submit to the jurisdiction of those courts.

14 FURTHER ASSURANCE

Each party will execute any document and do any thing and use all reasonable endeavours to procure that any third party (where necessary) executes any deed or document and does any thing reasonably necessary to implement the terms of this Agreement.

15 COSTS

15.1 Each party shall bear its own costs in relation to the drafting, negotiating and implementation of the Project Documents.

16 DURATION

16.1 Forthwith upon it ceasing to hold any Shares the Council shall cease to have any rights or obligations under this Agreement save that its obligations under clause 11(Confidentiality) shall not be affected.

16.2 Save as provided in clauses 16.1, 16.4 and 16.5 this Agreement shall continue in full force and effect until the earliest of the following dates:

16.2.1 the date on which an effective resolution is passed or a binding order is made for the winding-up of the Company; or

16.2.2 the date on which the parties agree in writing to terminate this Agreement.

16.3 In the event of a termination occurring other than in accordance with clause 16.2.2, the Company shall (if not already in liquidation) be placed into voluntary liquidation and after payment of liabilities, its assets shall be distributed to in the same proportions as the members holdings of Shares at the time of the determination.

16.4 The provisions of this Agreement shall nevertheless continue to bind the parties after termination of this Agreement to such extent and for so long as may be necessary to give effect to the rights and obligations embodied herein.

16.5 Nothing in this Agreement shall operate so as to prejudice any rights which one party may have against another and which may have accrued before its termination.

17 ASSIGNMENT

17.1 This Agreement, shall be binding on, and shall ensure to the benefit of, each of the parties and their respective successors.

17.2 No party shall assign, transfer, sub-contract or otherwise dispose of any interest in this Agreement.

18 ENTIRE AGREEMENT

Except where expressly provided otherwise in this Agreement, this Agreement constitutes the entire agreement between the parties in connection with its subject matter and supersedes all prior representations, communications, negotiations and understandings concerning the subject of this Agreement.

19 NOTICES

19.1 All notices under this Agreement shall be in writing and all certificates, notices or written instructions to be given under the terms of this Agreement shall be served by sending the same by first class post, facsimile or by hand, leaving the same at the addresses set out for each party at the beginning of this Agreement.

19.2 Any party to this Agreement may change its nominated address or facsimile number by prior notice to the other parties.

19.3 Notices given by post shall be effective upon the earlier of (i) actual receipt, and (ii) five (5) Business Days after mailing. Notices delivered by hand shall be effective upon delivery. Notices given by facsimile shall be deemed to have been received where there is confirmation of uninterrupted transmission by a transmission report and where there has been no telephonic communication by the recipient to the senders (to be confirmed in writing) that the facsimile has not been received in legible form:

19.3.1 within two (2) hours after sending, if sent on a Business Day between the hours of 9am and 4pm; or

19.3.2 by 11am on the next following Business Day, if sent after 4pm, on a Business Day but before 9am on that next following Business Day.

20 CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

It is agreed for the purposes of the Contracts (Rights of Third Parties) Act 1999 that this Agreement is not intended to, and does not, give to any person who is not a party to this Agreement any rights to enforce any provisions contained in this Agreement.

21 WAIVER

- 21.1 No exercise or failure to exercise or delay by either party in exercising any right, power or remedy under this Agreement shall constitute a waiver by that party of any such other right, power or remedy.
- 21.2 If there is any conflict between the provisions of this Agreement and the Articles, the terms of this Agreement shall prevail.

22 SEVERABILITY

- 22.1 If any provision of this Agreement shall be declared invalid, unenforceable or illegal by the courts of any jurisdiction to which it is subject, such provision may be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability or legality of the remaining provisions of this Agreement.

23 NO AGENCY

- 23.1 Nothing in this Agreement shall be construed as creating a partnership.
- 23.2 No party shall be deemed to be, an agent of any other party and no party shall hold itself out as having authority or power to bind any other party in any way.

24 AMENDMENTS

This Agreement may not be varied except by an agreement in writing signed by duly authorised representatives of the parties.

TERMINATION OF PREVIOUS AGREEMENT

25 The Shareholders Agreement dated [] which this Agreement replaces is hereby revoked subject to the savings in clause 16.4 of that Agreement

IN WITNESS WHEREOF the parties have executed this Agreement the day and year first above written

SIGNED (but not delivered until the date hereof) as a
DEED by **CITY OF YORK TRADING LIMITED** acting by

a director, in the presence of:

WITNESS:

Signature:

Address:

.....

.....

Occupation:

SIGNED (but not delivered until the date hereof) as a
DEED by **CITY OF YORK COUNCIL** by affixing the
common seal

in the presence of a duly authorised officer:

Signature:

Print Name:

Occupation:

SCHEDULE 1

Details of the Company

Name	City of York Trading Limited
Date of incorporation	18 November 2011
Place of incorporation	England and Wales
Company number	07852072
Registered office	The Guildhall, York YO1 9QN
Directors and shadow directors	Andrew Neil Docherty, Ian Michael Floyd, Keith Best, Pauline Stuchfield and Julie Gunnell
Accounting reference date	30 March
Auditors	

SCHEDULE ~~2~~1

Part 1 - Corporate Covenants

1 SHAREHOLDER CONSENTS

1.1 The Company undertakes to the Council that it shall not, (save as set out in or as required by this Agreement) without the prior written consent of the Council carry out any of the matters referred to in paragraph 1.2 of this Schedule 2.

1.2 The matters referred to in paragraph 1.2 of this Schedule 2 are:

1.2.1 making any substantial changes to the Business Plan or any Annual Business Plan, such changes being to ~~the Services and/or Projects to be undertaken by the Company, to the management~~ structure of the Company and/or the Business, and/or the transfer of council employees to or from the Company (whether or not any such transfer is subject to the Transfer of Undertakings (Protection of Employment) Regulations 2006 or otherwise);

~~1.2.2 the approval of any Business Plan or Annual Business Plan;~~

~~1.2.3~~ 1.2.2 the allotment of any further share capital of the Company;

~~1.2.4~~ 1.2.3 a variation of any rights, including class rights, attaching to any shares of the Company;

~~1.2.5~~ 1.2.4 the re-purchase or cancellation by the Company of any Shares, or the reduction of the amount (if any) standing to the credit of its share premium account or capital redemption reserve (if any) or any other reserve of the Company;

~~1.2.6~~ 1.2.5 the re-purchase, repayment, redemption or cancellation of any loan stock issued by any company controlled by the Company other than in accordance with their terms;

~~1.2.7~~ 1.2.6 the formation of any subsidiary undertaking;

~~1.2.8~~ 1.2.7 the entering into of any joint venture agreement with any third party;

~~1.2.9~~ 1.2.8 acquire any interest in the share capital or instruments convertible into share capital of any other company or body corporate;

~~1.2.10~~ 1.2.9 _____ amendments to the Articles;

~~1.2.111.2.10~~ _____ ~~incurring any material expenditure or liability of a capital nature exceeding £10,000 (including for this purpose the acquisition of any asset under lease or hire purchase);~~

1.2.121.2.11 _____ borrowing any money or obtain any advance or credit in any form other than normal trade credit or other than on normal banking terms for unsecured overdraft facilities or vary the terms and conditions of any borrowings or bank mandates;

1.2.131.2.12 _____ entering into any material contract or arrangement outside the ordinary course of its business;

1.2.141.2.13 _____ selling, transfer, lease, licence or in any other way dispose of any of its assets otherwise than in the ordinary course of its business;

1.2.151.2.14 _____ factor or assign any of its book debts;

~~1.2.16~~ ~~pay any remuneration or expenses to any person other than as proper remuneration for work done or services provided as proper reimbursement for expenses incurred in connection with its business;~~

~~1.2.17~~ the making of any ~~charitable or~~ political donations ~~or sponsorship;~~

1.2.181.2.15 _____ commencing any legal or arbitration proceedings (other than in the ordinary course of business);

~~1.2.191.2.16~~ _____ ~~settle any claim made by any third party otherwise than in the ordinary course of business;~~

1.2.201.2.17 _____ making any claim, disclaimer, surrender, election or consent of a material nature for tax purposes;

1.2.211.2.18 _____ acquiring or making any investment in another company or business or incorporating any subsidiary;

1.2.221.2.19 _____ creating or allowing to subsist any Encumbrance over any of its assets;

1.2.231.2.20 _____ giving any guarantee, indemnity or security in respect of the obligations of any other person;

~~1.2.24~~ ~~the charging policy in connection with the Services other than as set out in the Business Plan or an Annual Business Plan;~~

~~1.2.25~~ 1.2.21 _____ changinge the accounting policies of the Company;

~~1.2.26~~ 1.2.22 _____ changinge the accounting reference date of the Company;

~~1.2.27 vary the emoluments of any of its Directors or of any Shareholder or of any Associate of a Director or Shareholder;~~

~~1.2.28~~ 1.2.23 _____ entering into or varying any contract or arrangement (other than a contract of service or for services and whether legally binding or not) with any of its Directors or any Shareholder or with any Associate of a Director or Shareholder;

~~1.2.29~~ 1.2.24 _____ the devolution or transfer of management control to persons outside the Board save as set out in the Business Plan or an Annual Business Plan;

~~1.2.30~~ 1.2.25 _____ the appointment or dismissal of any Executive Director ~~otherwise than those whose names appear in clause 8.3 of this Agreement~~ or the Non Executive Director who acts as Chairman of the Board or the amendment of any rights to appoint certain numbers of Directors;

~~1.2.31~~ 1.2.26 _____ the commencement of any winding-up or dissolution or of the appointment of any liquidator, administrator or administrative receiver of the Company or any of its assets unless it shall have become insolvent, and no party shall present or cause to be presented or allow any act which would result in the winding up or the presentation of any petition for the winding up of the Company;

~~1.2.32~~ 1.2.27 _____ a change of name, registered office or principal place of business of the Company;

~~1.2.33~~ 1.2.28 _____ any change in the status of the Company as a limited liability company;

~~1.2.34~~ 1.2.29 _____ the commencement by the Company of any new business not being ancillary to or in connection with the Business

~~1.2.35~~ 1.2.30 _____ the making of any material change to the nature of the Business by the Company;

~~1.2.36~~ 1.2.31 _____ lending any money to any person (otherwise than by way of deposit with a bank or other institution the normal business of which includes the acceptance of deposits) or grant any credit to any person (except to its customers in the normal course of business);

~~1.2.37~~ 1.2.32 _____ the capitalisation of profits or reserves of the Company;

~~1.2.38~~1.2.33 _____ a listing of the Company's entire share capital;

~~1.2.39~~1.2.34 _____ the Company participating in any activity which is detrimental to and/or incompatible with the Business;

~~1.2.40~~1.2.35 _____ the Company participating in any activity which is detrimental to and/or incompatible with the Council Mission Statement;

~~1.2.41~~1.2.36 _____ the agreement of and the declaration and payment of any dividends by the Company save where such declaration and distribution is made in accordance with this Agreement;

~~1.2.42~~1.2.37 _____ acquiringe the assets and/or undertaking of any other business entity; and

~~1.2.43~~1.2.38 _____ enteringf into any negotiations concerning:

~~1.2.43.1~~1.2.38.1 _____ the sale or issue of any shares of the Company or any of its subsidiaries;

~~1.2.43.2~~1.2.38.2 _____ the sale of any material part of the business, undertaking or assets of the Company, or any of its subsidiaries;

~~1.2.43.3~~1.2.38.3 _____ the refinancing of the Company or any of its subsidiaries.

2 POSITIVE OBLIGATIONS

2.1 The Company undertakes to the Council that:-

2.1.1 any expansion development or evolution of the Business will only be effected through the Company or a wholly owned subsidiary of the Company;

2.1.2 the Company shall, and shall procure that its subsidiaries shall, insure with a reputable insurance office and keep so insured at all times:-

2.1.2.1 all their respective insurable assets and undertakings which a prudent company would insure against loss (including loss of profits or business interruption), damage and such other risks as a prudent company would insure against; and

2.1.2.2 all their respective insurable potential liabilities in respect of which a prudent company would insure; and

2.1.2.3 all their respective directors and officers in respect of any potential liability arising in respect of them in their personal capacity;

all in such manner and to such extent as shall be in accordance with good commercial practice with regard to assets and liabilities of a like character and in comparable circumstances;

2.1.3 the Company shall observe, perform and comply with the terms of the Project Documents,

2.1.4 the Company shall adopt and maintain policies in respect of its employees equivalent to those adopted by the Council in respect of the Council employees;

2.1.5 the Company shall adopt and maintain environmentally friendly working practices.

3 MANAGEMENT

3.1 The Company shall procure that all decisions made by or on behalf of the Company or any of its subsidiaries which are material to the Company and its subsidiaries as a whole are approved either at a properly convened meeting of the Board or by a resolution in writing signed by or otherwise approved in writing by all of the Directors of the Company.

4 INFORMATION OBLIGATIONS

4.1 The Company shall:-

4.1.1 keep the Council informed of material matters relating to the progress of its Business and that of every subsidiary of the Company to such extent and in such form and detail as the Council may from time to time reasonably require and shall supply to the Council such written particulars of any matters concerned with and arising out of the activities of the Company and any of its subsidiaries as the Council may from time to time reasonably require;

~~4.1.2 without limiting the generality of paragraph 4.1.1 above, deliver within 21 days of the end of every three month period (such period to commence on the date of this Agreement) to the Council an information pack comprising monthly management accounts including:-~~

~~4.1.2.1 profit and loss account for month and year to date with comparison to budget;~~

~~4.1.2.2 cash flow for month and year to date with comparison to budget;~~

~~4.1.2.3 balance sheet with comparison to budget;~~

~~4.1.34.1.2~~ Without limiting the generality of paragraph 4.1.1 of this Schedule above, deliver forthwith upon the same becoming available and not in any event later than 120 days after the end of each relevant financial year to the Council copies of the audited profit and loss accounts and audited balance sheets of the Company and any of its subsidiaries and the audited consolidated profit and loss account and the audited consolidated balance sheet of the Company and its subsidiaries all in respect of each financial year of the Company and any of its subsidiaries;

~~5~~ **ANNUAL BUSINESS PLAN**

~~5.1~~ The Company shall prepare and deliver to the Council at least 45 days before (but not sooner than 60 days before) the commencement of each of its financial years an Annual Business Plan in respect of the forthcoming financial year and the Company shall agree the content of such Annual Business Plan with the Council prior to so delivering it and shall in any event procure that the Annual Budget included in each such Annual Business Plan shall be in such form at and detail as the Council shall reasonably require from time to time;

~~5.2~~ If the Company fails to comply with the information obligations set out in this Schedule the Council shall be entitled to instruct a firm of chartered accountants to prepare and submit to the Council and the Company at the cost of the Company such information as should have been supplied to the Council pursuant to this paragraph and such other financial information concerning the Company and its subsidiaries as the Council shall reasonably require and the Company shall (and shall procure that its subsidiaries shall) give such accountants all reasonable access to its financial records and premises and all reasonable assistance which such accountants may request for this purposes;

~~65~~ **PROPERTY OBLIGATIONS**

The Company shall advise the Council forthwith upon the Company or any of its subsidiaries becoming aware of the same of any discovery on any premises owned, leased, occupied or controlled by the Company or any of its subsidiaries of any substance capable of causing pollution of the environment in circumstances where such pollution is likely to materially adversely affect the value of such premises or the businesses of any of the Company and its subsidiaries.

SCHEDULE 2

Part 2 – Council Covenant

- 1 The Council undertakes to the Company other than that it will generally act in a manner that will promote the Business and the best interests of the Company and act at all times in good faith towards the Company, subject at all times to its statutory and common law duties.

SCHEDULE 3

Letters of appointment of Nominated Directors

[on the headed notepaper of the Company]

[name and address of Nominated Director]

Dear

CITY OF YORK TRADING LIMITED ("Company")

1. This letter contains the terms which we have discussed and agreed for your appointment as a non-executive director of the Company, as the nominated director of []. Your appointment is made pursuant to and is subject to the terms and conditions set in the Shareholders' Agreement dated 2015 and made between, (1) City of York Council and (2) the Company (the "**Shareholders Agreement**").
2. You will be expected to attend the Board Meetings and General Meetings of the Company. You will receive details of all such meetings in advance.
3. You will not, whether during the appointment or after its termination, except in the proper course of your duties or as required by law, use or divulge, and shall use all reasonable endeavours to prevent the use or disclosure of, any trade or business secrets or any information concerning the business or finances of the Company or of any dealings, transactions, or affairs of the Company or any client, customer or supplier of the Company which comes to your knowledge during the course of this appointment and will comply with the provisions of clause 12 (Confidentiality) of the Shareholders Agreement as if it applied to you. You will, however, be entitled to disclose information to the Shareholder appointing as permitted under the Shareholders Agreement.
4. The appointment will automatically cease in relation to the Company in the event that you resign as a director or are removed from office in relation to the Company. In particular, in signing this letter, you acknowledge that your office is subject to the terms of the Shareholders' Agreement and the Company's Articles of Association (the "**Articles**") and may be determined as permitted under the terms of the Shareholders' Agreement and the Articles and that such termination will not give rise to any claim against the Company whatsoever.

5. On termination of your appointment, you agree that you will promptly return to the Company Secretary all papers and property of the Company which are in your possession or under your control.

Please indicate your acceptance and acknowledgement of these terms by signing the attached copy.

Yours sincerely

.....

SIGNATORY

I agree to and acknowledge the terms and conditions set out above relating to my appointment as non-executive director of City of York Trading Limited.

Signed

Dated



Executive**27 August 2015****Report of the Director of Customer & Business Support Services****2015/16 Finance and Performance Monitor 1****Purpose of the Report**

- 1 To present details of the Council's finance and performance position for the period covering 1 April to 30 June 2015, together with an overview of any emerging issues. This is the first report of the financial year and assesses performance against budgets, including progress in delivering the Council's savings programme.

Summary

- 2 The forecast financial pressures facing the council are projected at £1,904k. This is an improvement from previous years where the monitor 1 forecast was £2,924k at this time last year and £3,722k in 2013/14.

Recommendation

- 3 Executive is asked to note the current finance and performance information
Reason: To ensure expenditure is kept within the approved budget

Analysis

- 4 All aspects of the public sector are continuing to face challenging times in the light of the Government's commitment to reduce the national deficit as first outlined in the Comprehensive Spending Review (CSR) published in October 2010. As a result, in recent years the Council has had to deal with very large reductions in funding, combined with a range of significant pressures.
- 5 To provide some context to this, the Council:
 - has made £16.4m of savings over the period 2007/08 to 2009/10.
 - has made a further £74.2m of savings covering the period 2010/11 to 2015/16.
 - and has therefore made a total of £90.6m of savings over the 9 years covering 2007/08 to 2015/16.

- has since the 2010 CSR (2011/12-2015/16) experienced government grant reductions of some £37.6m, or 46%.

6 The Council's net budget is £119,760k. Following on from previous years, the challenge of delivering savings continues with £12m to be achieved in order to reach a balanced budget. Early forecasts indicate the Council is facing financial pressures of £1,904k and an overview of this forecast, on a directorate by directorate basis, is outlined in Table 1 below.

2014/15 outturn		2015/16 Forecast Variation
£'000		£'000
+196	Children's Services, Education & Skills	+1,113
+957	City & Environmental Services	+610
+98	Communities & Neighbourhoods	+257
-219	Customer & Business Support Services	nil
+193	Adult Social Care	-177
+108	Public Health	-59
+8	Office of the Chief Executive	+160
-2,029	Central budgets	nil
-688	Total	+1,904

Table 1: Finance overview

7 The following sections provide more details of the main variations and any mitigating actions that are proposed.

Children's Services, Education & Skills

8 Despite a reduction in the number of Children Looked After and a reduction in expenditure of almost £1m since 2012/13, the underlying budget pressure from previous years results in a net projected overspend within children's social care resources budgets. This includes forecast pressures on Out of City, Independent Foster Agency placements and contract placements (£548k, £540k and £144k respectively).

9 Within Children's safeguarding additional staffing costs of £163k are being incurred. This is due to extra staff being employed in excess of the numbers provided for within the budget to cope with the increased

demand. In addition, a number of vacant posts are being covered by more expensive agency staff also creating a budget pressure. Forecast pressures, due to increased complexity of cases, of £79k on The Glen, £169k on Adoption, Residence and Guardianship order and £96k on transport are partly offset by under spends on Inter Agency Adoption Fees (£79k), children's trust staffing (£54k), legal fees (£46k) and Special Educational Needs services (£43k).

- 10 It is considered that the current expenditure levels in this area are now at the appropriate level to ensure proper safeguarding arrangements and adequate provision. The number of Children Looked After is unlikely to reduce in the foreseeable future, and York's unit cost is already the lowest of all 150 Local Authorities nationally. Although opportunities to reduce costs further will continue to be explored any further savings in this area are likely to be limited. Therefore, options elsewhere within the directorate will need to be considered to produce a balanced budget for 2015/16.
- 11 A number of posts being kept vacant within early years learning & welfare and connexions services result in a forecast underspend of £262k. A range of smaller variations make up the overall directorate position.

City & Environmental Services

- 12 There is a forecast shortfall from parking income (£136k). There have been technical issues with the payment machines and barriers at the Pay on Exit car park at Marygate, which are being addressed but are currently forecast to contribute to approximately half the shortfall. Actual income will continue to be monitored closely.
- 13 There is a forecast overspend of £149k due to the forecast shortfall in dividend from Yorwaste due to the company facing difficult trading conditions and £200k due to unachieved income targets from charges at the Household Waste Recycling Centre. In addition there are forecast savings in waste disposal from lower tonnages (£100k) and additional income from landfill gas (£100k).
- 14 There is a shortfall of £100k unachieved ANPR income due to the non-enforcement of Coppergate, £50k additional costs across CCTV mainly due to the use of temporary staffing and increased costs of £46k for traffic systems maintenance contracts due to additional system requirements. A range of other minor underspends and proposed mitigations make up the total directorate position.

Communities & Neighbourhoods

- 15 There are a budget pressures being experienced in Learning Services of £83k where a restructure will be implemented over the coming months and £85k in leisure due to Waterworld.

Customer & Business Support Services

- 16 A range of budget variations is currently forecast however, mitigation plans are in place to ensure the directorate outturns within the approved budget. Work will continue to try and identify additional savings to help the overall position.

Adult Social Care

- 17 Despite continued pressures due to demographic changes, the directorate is forecasting an overall underspend for the year of £177k.
- 18 There is a net projected underspend of £66k on staffing budgets due mainly to some posts being held vacant pending a review of the service.
- 19 Residential and nursing care budgets are projected to underspend by £157k. This is due to a projected increase in Continuing Health Care income being secured of £391k, offset by the costs of a projected net additional placement requirement for 9 customers in excess of the number assumed when the budget was set.
- 20 Based on the number of Deprivation of Liberty Safeguards (DoLS) assessments carried out to date there is likely to be an underspend on this budget of £128k.
- 21 There is a projected overspend of £132k within Older Peoples Home budgets. This is due to net additional staffing costs of £186k, mainly in respect of care assistant costs that have been maintained beyond the originally budgeted for dementia matters pilot period (+£74k) and additional service manager costs (+£49k). This is partly offset by net additional income of £50k due to higher than expected occupancy levels.
- 22 Small Day Service and Supported Employment budgets are projected to underspend by £141k due mainly to staffing savings resulting from a number of vacant posts across the service. In addition, based on current and projected placement numbers, there is expected to be a net underspend of £65k within the Supported Living Scheme budgets.
- 23 The directorate's budget for 2015/16 includes a requirement to deliver savings totalling £1.3m from the on-going work being undertaken on service transformation. To date savings of £1,064k have been identified

leaving a budget pressure of £236k. Other pressures within the director's staffing budget and redundancy costs account for the remaining £38k projected overspend.

Public Health

- 24 Within Public Health there is a forecast underspend of £59k. The main underspends come from Substance Misuse (£40k) and reviewing provision of emergency hormonal contraception (28k). This does not take account of the proposed in year reduction in public health grant as Government is still consulting on the method for apportioning this reduction. If taken as a straight 7% reduction across all councils this would be approximately £520k for York.

Office of the Chief Executive

- 25 A range of budget variations is currently forecast, mainly due to staffing pressures following a number of restructures across the directorate. Mitigation plans are being developed to address these pressures.

Housing Revenue Account

- 26 The Housing Revenue Account is budgeted to make an in year surplus of £2.6m. A review of the budgets in the area shows that, overall, the account is expected to outturn on budget and there are no significant pressures to report at this time. The working balance of £14m at 31/3/15 will therefore increase to £16.6m by 31/3/16 in line with the HRA business plan.
- 27 Work is currently in progress to update the HRA business plan following the recent government announcements to require councils to sell their high value properties when they become vacant and to reduce social housing rents by 1% per year for the next four years. While the full extent of the impact of these changes is not yet known, the HRA will be required to make significant efficiencies in order to mitigate the reduction in income without reducing the HRA balance below prudent and sustainable levels.
- 28 To give some idea of the scale of these changes and their impact on the HRA, the requirement to reduce housing rents by 1% could potentially reduce income by up to £12m over a 4 year period. This is because the business plan assumed annual rent increases of approximately 3% pa. The requirement for a 1% reduction therefore results in a swing of some 4%.

Corporate Budgets

- 29 These budgets include Treasury Management and other corporately held funds. At this early stage in the year there is no variation to report on these budgets. However, they will continue to be closely monitored to identify any potential underspends.

Loans

- 30 Further to a scrutiny review, it was agreed that these quarterly monitoring reports would include a review of any outstanding loans over £100k. The only loan in this category is that of £1m that was made to Yorwaste, a company part owned by the Council, in June 2012. Interest is charged at bank base rate plus 1% and all repayments are up to date.

Performance

Children's Services, Education & Skills

- 31 The number of Children Looked After is 201 at Q1 end, which is stable within the expected safe range. The number of children subject to a Child Protection Plan continues last year's trend and remains at a lower level than previous years.
- 32 The key areas of financial pressure relate to Children Looked After, so whilst there is good control around the overall numbers, the costs of Independent Fostering Agency places, and out of area placements will continue to be an issue. It is, therefore, an increasing priority for progress to be made in several aspects of the Children's Services transformation to create different options which allow a higher proportion of York's looked after population to remain in the city.
- 33 The Key Stage 2 results will be reported at Quarter 2. Work continues across the city to focus on narrowing the gap in attainment between those in receipt of free school meals and their peers. The York 300 project is providing analysis of the progress of year 6 pupils in receipt of free school meals and this will continue to be monitored in support of this work.
- 34 Children in academic years 12 to 14 who are Not in Education, Employment or Training remained low in Q1 at 4.7%. However, good initial participation outcomes for year 11 leavers are impacted by a significant dropout rate from post 16 provision, and this should continue to be monitored.

City & Environmental Services

- 35 427 missed bins were reported between April and June with 58% put right by the end of the next working day. Although the number of missed bins has halved compared to the same period in 2014/15, the percentage put right within timescale has also fallen. In Q1 2014/15 there were 858 missed bins with 73% put right by the end of the next working day.

Communities & Neighbourhoods

- 36 The number of homeless households in temporary accommodation increased to 71 at the end of Quarter 1 from 65 at the end of 2014/15. Positive action prevented homelessness for 191 households in the quarter, an improvement compared to 179 during the same period last year.
- 37 There were 2,986 reported crimes in Q1 2015/16 which is 245 higher than during the same quarter in 2014/15. Anti Social Behaviour call for service recorded by North Yorkshire Police remained consistent with levels seen in Q1 2014/15 at 2,454.
- 38 61 reports of graffiti were made between April and June 2015 (up from 47 in the same period last year) with obscene graffiti taking an average of 0.7 days to remove (around half the average for 2014/15). However, non obscene graffiti took an average of 2.8 days to remove, a drop in performance compared to 2014/15.

Customer & Business Support Services

- 39 The first quarter call volumes in customer services are the heaviest of the year following annual council tax billing. The numbers were 66,218 for general enquiries and 8,114 for Benefits with 81.6% and 82.5% of the calls being answered respectively. The target answer time is 20 seconds and the first quarter performance was 45% (general enquiries) and 59.1% (Benefits). The overall performance continues to rise into the second quarter 2015/16. The number of residents visiting the customer centre in the first quarter was 17,504 with 65% being seen within 10 minutes. Customer satisfaction from those customers who have responded is 69% face to face and 98% where they have phoned. Work is being undertaken to improve customer response rates to the satisfaction survey.
- 40 The collection rate for Council Tax at the end of quarter 1 was 29.81%, an increase of 0.3% on quarter 1 in 2014/15 (each 0.1% equates to £93k). Business Rate collection was 32.27%, an increase of 2.69% above quarter 1 in 2014/15 (each 0.1% equates to 106k).

- 41 Housing Benefit performance remained consistently on target for the second consecutive quarter at the end of June 2015. The average time for new claims being 15 days, change of circumstances 10 days and the combined average 11 days. This places York as the second best performing authority within our benchmarking group of local unitary councils.
- 42 Total Council sickness absence (excluding Schools) averaged 2.2 days per FTE in Q1, slightly lower than 2.7 days during the same period in 2014/15. Stress absence was also slightly lower in Q1 2015/16 than in Q1 2014/15 (0.6 and 0.7 days per FTE respectively).

Adult Social Care

- 43 Whilst financial information shows clear control at present, there remains a high level of demand and pressure. The delay in the implementation of the second part of the Care Act will reduce some pressures, but there is potential for a sustained increase in assessments, based on the publicity around the Act. The demand at the “front door” will continue to be monitored carefully.
- 44 Overall figures on delayed discharges over the last year showed some improvement. However, this remains an area of concern and weekly “SitRep” meetings continue with health colleagues to retain a focus.
- 45 Permanent admissions figures now show York around the regional and national average, which is a significant improvement. However, pressures across the homecare sector in the city continue to be an issue, with the ability of providers to recruit staff a key factor. Work to implement a key worker scheme continues in mitigation of this risk, along with a continued focus by the commissioning team in partnership with providers.
- 46 The assessment of people in relation to Deprivation of Liberty Standards is an area where the authority has significant pressures, and although efforts are being made to streamline the process, it requires significant resource. Whether the demand can be met by the existing resource with improved processes is not yet clear, so there is potential for the under spend in this area to disappear.

Public Health

- 47 New data continues to show that York is a relatively healthy city. The prevalence of smoking, at 15.8%, is significantly below the national

average, whilst new data on 15 year-olds smoking shows this to be similar to the national average.

- 48 York has more active adults than national average, which has a wide variety of health benefits. However, there has been an increase in alcohol related admissions to hospital, which puts York at a similar rate to the national picture.
- 49 Over the first two years of the GP health check programme, a similar percentage of people were offered health check as the national average. However, there was a lower take-up rate in York.

Office of the Chief Executive

- 50 The York Open Data website launched in March 2015 with 285 data sets, attracting over 650 individual users to the site in the month. Between April and June 2015 this increased to 3,107 users visiting the site, with 1,382 downloads of the available data sets.
- 51 Much of the data on economic performance is released on an annual basis and numbers on Gross Value Added and average wages in the City, an area of concern in recent years, will be published in December.
- 52 Employment continues to be strong in the City as the number of Job Seekers Allowance claimants continue to fall. However, whilst the city centre has low vacancy rates compared to many other places, there has been a slight increase in the number of vacant city centre shops in Quarter One.

Consultation & Options

- 53 This report is for information so no options are presented.

Corporate Priorities

- 54 The information and issues included in this report demonstrate progress on achieving the priorities set out in the Council Plan.

Implications

- 55 The implications are:
- Financial - the financial implications are dealt with in the body of the report.

- Human Resources - the HR implications of change is managed in accordance with established council procedures. As part of this process consultation with trade unions and affected staff will continue to be undertaken and every opportunity will be explored to mitigate compulsory redundancies, such as vacancy controls, flexible working, voluntary redundancy / early retirement and extended redeployment. Where consideration is being given to the transfer of services to another provider TUPE will apply which will protect the terms and conditions of employment of transferring staff. A programme of support for staff who are going through change is planned which will help staff adapt to changes to the way they will need to work or to prepare for a move into a new role.
- Equalities - there are no specific equality implications to this report, however equalities issues are accounted for at all stages of the financial planning and reporting process.
- Legal - there are no legal implications to this report.
- Crime and Disorder - there are no specific crime and disorder implications to this report.
- Information Technology - there are no information technology implications to this report.
- Property - there are no property implications to this report.
- Other - there are no other implications to this report.

Risk Management

- 56 The risk management processes embedded across the council continue to contribute to managing the risk issues associated with major projects and key areas of service delivery.

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Ian Cunningham Group Manager – Shared Intelligence Bureau Ext 5749	Report Approved	√	Date 17 August 2015
Wards Affected: All			
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Annexes:

Annex One – Priority Board Scorecards – *published online only*

Glossary of abbreviations used in the report:

ANPR - Automatic Number Plate Recognition

CSR -Comprehensive Spending Review

HR – Human Resources

HRA – Housing Revenue Account

TUPE - Transfer of Undertakings (Protection of Employment) Regulations
2006

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Executive

27 August 2015

Report of the Director of Customer and Business Support Services

Capital Programme – Monitor 1 2015/16

Summary

- 1 The purpose of this report is to set out the projected outturn position for 2015/16 including any under/over spends and adjustments, along with requests to re-profile budgets to/from current and future years.
- 2 The 2015/16 capital programme approved by Council on 26 February 2015, and updated for amendments reported to Executive and Council including the 16 July Budget Amendments, resulted in an approved capital budget of £100.381m.

Recommendations

- 3 Executive is asked to:
 - Recommend to Full Council the adjustments in the programme of a decrease of £5.091m in 2015/16 as detailed in the report and contained in Annex A.
 - Note the 2015/16 revised budget of £95.290m as set out in paragraph 6 and Table 1.
 - Note the restated capital programme for 2015/16 – 2019/20 as set out in paragraph 30, Table 2 and detailed in Annex A.

Reason: To enable the effective management and monitoring of the Council's capital programme.

Consultation

- 4 The capital programme was developed under the Capital Resource Allocation Model (CRAM) framework and agreed by Council on 26 February 2015. Whilst the capital programme as a whole is not consulted on, the individual scheme proposals and associated capital receipt sales do

follow a consultation process with local Councillors and residents in the locality of the individual schemes.

Summary of Key Issues

- 5 A decrease of £5.091m is detailed in this monitor resulting in a revised capital programme of £95.290m. £5.300m of the decrease is attributable to re-profiling to budgets to future years. Offsetting this is a net increase of £209k attributable to an increase in government grants available and use of S106 funds. The Councils borrowing need across the 5 year programme has reduced slightly, by £174k, as a result of the changes set out in this report.
- 6 Table 1 outlines the variances reported against each portfolio area.

Directorate	Department	Current Approved Budget £m	Projected Outturn £m	Variance £m
CSES	Children's Services, Education & Skills	18.185	13.361	(4.824)
ASC	Adult Social Services	1.679	1.464	(0.215)
CANS	Communities Culture & Public Realm	3.015	3.127	0.112
CANS	Housing & Community Safety	19.193	19.193	0.000
CES	Highways & Waste	6.226	6.226	0.000
CES	Transport	8.483	8.619	0.136
CES	Economic Development	0.058	0.058	0.000
CES	Community Stadium	20.714	20.714	0.000
CBSS	Asset Management	3.559	3.559	0.000
CBSS	West Offices - Admin Accom	0.512	0.512	0.000
CBSS	IT Development Plan	2.996	2.696	(0.300)
CBSS	Misc(Contingency)	0.443	0.443	0.000
CBSS	Economic Infrastructure Fund	15.318	15.318	0.000

	Total	100.381	95.290	(5.091)
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Table 1 Capital Programme Forecast Outturn 2015/16

- 7 To the mid point in August there was £13.2m of capital spend representing 13% of the revised monitor 1 budget.

Analysis

- 8 A summary of the key exceptions and implications on the capital programme are highlighted below.

CSES – Children Services, Education and Skills

- 9 There is a single request for re-profiling funds from 15/16 to 16/17 required as part of this report.
- 10 In 2015/16 the main focus of Basic Need expenditure is on the schemes at Fulford School and St Barnabas Primary School. Apart from these expansions, only a small number of minor schemes will be carried out in this financial year. A total of £520k is committed to providing the local authority's contributions to the two EFA funded school rebuilds (Carr Infant and Lord Deramore's Primary), under the Priority Schools Building Programme (PSBP), that were the subject of successful bids in 2012. At Carr Infant an estimated contribution of £370k is funding additional classrooms within the new building and some landscaping works, neither of which will be funded by the EFA. These two schemes are expected to complete in 2015/16 therefore the contributions will be required in this financial year.
- 11 As a result of the above, it is proposed to re-profile an amount of £5m of the Basic Need programme into 2016/17 whilst work is on-going to plan the best use of this funding to respond to the pupil pressures across the city.
- 12 There are a number of minor amendments for CSES programme resulting in a net increase to the programme of £176k, all funded by grants received from the Department for Education or S106's.
- 13 The forecast spend inclusive of the above for 15/16 is £13.361m.

Adult Social Services

- 14 There are a number of adjustments required as part of this report. It should be noted that the scheme has been revised to reflect the Older Persons

Accommodation review report as approved by 30th July Executive creating a multi year £1.706m scheme. In addition it is proposed that £298k under the Older Persons Homes Infrastructure works scheme is transferred to the Older Persons Accommodation Review.

- 15 An adjustment is required to reduce the budget and remove the prudential borrowing element of the Burton Stone Community Centre. The building will now not be used as originally proposed, although a small element of the budget is being retained for the sensory room. This results in a net reduction of £174k. Any future capital investment needs will be considered and reported to Executive in the usual way.
- 16 A number of other minor adjustments to the ASC programme result in a net reduction to the programme of £41k.
- 17 The forecast spend inclusive of the above for 15/16 is £1.464m.

Communities and Neighbourhood Services – Communities, Culture and Public Realm

- 18 The Gateway to History (York Explore Phase 2) scheme sees a reallocation of funding from the capital element of the scheme to revenue resulting in a reduction in the capital programme of £158k. The reallocation of the grant is allowable in this circumstance as the conditions of the grant allow an element to be used to fund revenue activities.
- 19 The Parks and Open Spaces schemes are updated to reflect proposed in year activity and results in an increase of £120k all funded from S106 contributions.
- 20 The Little Knavesmire Pavilion scheme sees an increase in the overall cost of the scheme from £500k to £650k to reflect the final scope of the scheme. The scheme is primarily funded from external sources including Football Association (50% of overall cost), Football Foundation and Sport England. The council's contribution to the scheme remains unchanged at £100k.
- 21 The forecast spend inclusive of the above for 15/16 is £3.127m.

Communities and Neighbourhood Services - Housing & Community Safety

- 22 No amendments are proposed in relation to Housing and Community Safety and the projected 15/16 spend is profiled at £19.193m.

- 23 Regarding the delivery of new council housing, all 27 homes have now been completed at Beckfield Lane. The 18 council homes have been let and sales have completed on 7 of the 9 market homes. Hewley Avenue is on site with 8 all homes due to complete in October, and 14 homes will complete at the Pack of Cards in November. Tender returns are due back for Ordnance Lane (39 unit homeless accommodation and 18 council homes), Fenwick Street (8 council homes), Chaloners Road (8 council homes) and Pottery Lane (6 council homes) in September.
- 24 Two more loft conversions have been completed so far this year with a further 4 identified for conversion. Since this programme began, a total of 98 properties have been surveyed for their suitability for conversion and by the end of the year, 30 conversions will have been carried out from the original £1m budget.
- 25 The £1.1m Heating installation programme is progressing well and the budget is on track to be spent in full by the end of the year. The Tenants Choice programme (£2.95m) is progressing broadly in line with expectations with 97 dwellings completed to date. In addition, a further 19 void properties where tenants previously refused works have now been brought up to equivalent standards. More than 160 properties have been identified as requiring major damp remedial works; this work will be coordinated with the Tenants Choice works where replacement bathrooms or kitchens are required. All other schemes are progressing as expected for this point in the year and there are no variations to any schemes to report at this time.

City & Environmental Services – Highways & Waste

- 26 The programme is currently projecting a 15/16 spend of £6.226m.

City & Environmental Services - Transport + Economic Development

- 27 Additional Better Bus Area 2 grant has been identified and will be added to the existing programme of works, resulting in a revised budget of £612k. The increase is funded by a Better Bus Area 2 grant.
- 28 The Economic Development budget of £58k remains as is in 15/16.

City & Environmental Services – Community Stadium

- 29 There are no amendments to report. As contracts are finalised the profile will be updated to reflect the development schedule.

Customer and Business Support Services - Administrative Accommodation

- 30 No changes to the projected spend are proposed at this monitor with in year spend budgeted at £0.513m.

Customer and Business Support Services – Asset Management / IT Development Plan / Contingency/ Economic Infrastructure Fund (EIF)

- 31 No schemes under the Asset Management area require adjustment and the programme is forecast to spend £3.559m.
- 32 The IT development plan programme of works requires £300k of funds to re-profile from 15/16 to 16/17 reflecting the latest delivery plans for the current financial year.

Summary

- 33 As a result of the changes highlighted above the revised 5 year capital programme is summarised in Table 2.

Gross Capital Programme	2015/16	2016/17	2017/18	2018/19	2019/20	Total
	£m	£m	£m	£m	£m	£m
Children's Services, Education & Skills	13.361	15.312	5.256	5.081	5.081	44.091
Adult Social Services and Public Health	1.464	0.917	0.967	0.915	0.565	4.828
Communities Culture & Public Realm	3.127	0	0	0	0	3.127
Highways & Waste	6.226	3.231	3.168	2.977	2.977	18.579
Housing & Community Safety	19.193	14.260	9.831	8.472	9.812	61.568
Transport	8.619	2.293	4.331	1.660	1.660	18.563
Community Stadium	20.745	0	0	0	0	20.714
Economic Development	0.058	0	0	0	0	0.058
Asset Management	3.559	1.212	0.300	0.300	0.300	5.671
West Offices - Admin Accom	0.512	0	0	0	0	0.512

IT Development Plan	2.696	2.220	2.245	2.025	1.970	11.156
Contingency	0.443	0	0	0	0	0.443
Economic Infrastructure Fund	15.318	2.284	0	0	0	17.602
Revised Programme	95.290	41.729	26.098	21.430	22.365	206.912

Table 2 Revised 5 Year Capital Programme

Funding the 2015/16 – 2019/20 Capital Programme

- 34 The revised 2015/16 capital programme of £95.321m is funded from £47.760m external funding and £47.561m of internal funding. Table 3 shows the projected call on resources going forward.

	2015/16	2016/17	2017/18	2018/19	2019/20	Total
	£m	£m	£m	£m	£m	£m
Gross Capital Programme	95.290	41.729	26.098	21.430	22.365	206.912
Funded by:						
External Funding	47.729	25.507	16.890	14.086	14.344	118.556
Council Controlled Resources	47.561	16.222	9.208	7.344	8.021	88.356
Total Funding	95.290	41.729	26.098	21.430	22.365	206.912

Table 3 – 2015/16 –20

19/20 Capital Programme Financing

- 35 The Council controlled figure is comprised of a number of resources that the Council has ultimate control over how it chooses to apply them, these include Right to Buy receipts, Revenue Contributions, Supported (government awarded) Borrowing, Prudential (Council funded) Borrowing, Reserves and Capital Receipts.
- 36 Capital receipts should be considered at risk of not being realised within set time frames and to the estimated values until the receipt is received. The capital programme is predicated on a small number of large capital receipts which, if not achieved, would cause significant funding pressures for the programme. The Director of Customer and Business Support closely monitors the overall funding position to ensure that over the full duration of

the capital programme it remains balanced. Any issues with regard to financing will be reported as part of the standard reporting cycle to the Executive.

Council Plan

37 The capital programme is decided through a formal process, using a Capital Resource Allocation Model (CRAM). CRAM is a tool used for allocating the Council's capital resources to schemes that contribute toward the achievement of the Council Plan. The Capital Asset Board (CAB) meet monthly to ensure the capital programme targets the Councils Plan. The capital programme addresses all priorities of the Council Plan as shown in the main body of the report.

Implications

Financial Implications

38 The financial implications are considered in the main body of the report.

Human Resources Implications

39 There are no HR implications as a result of this report

Equalities Implications

40 There are no equalities implications as a result of this report

Legal Implications

41 There are no legal implications as a result of this report

Crime and Disorder

42 There are no crime and disorder implications as a result of this report

Information Technology

43 The information technology implications are contained in the main body of the report.

Property

44 The property implications of this paper are included in the main body of the report.

Risk Management

- 45 The capital programme is regularly monitored as part of the corporate monitoring process. In addition to this the Capital Asset Board (CAB) meets regularly to plan monitor and review major capital schemes to ensure that all capital risks to the Council are minimised.

Contact Details

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Debbie Mitchell Corporate Finance Manager 01904 554161	Report Approved	√	Date 17/08/15
Wards Affected: All			
<i>For further information please contact the author of the report</i>			

Specialist Implications:
<i>Legal – Not Applicable</i>
<i>Property – Not Applicable</i>
<i>Information Technology – Not Applicable</i>

Annexes

Annex A – Capital Programme 2015/16 to 2019/20

Glossary of Abbreviations used in the report:

ASC – Adult Social Services

CAB - Capital Asset Board Capital Resource Allocation Model

CSES - Children's Services, Education & Skills

EFA – Education Funding Agency

PSB - Priority Schools Building Programme

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	2015/16 Budget £000	2015/16 Revised Budget £000	2015/16 Budget £000	2016/17 Revised Budget £000	2015/16 Budget £000	2017/18 Revised Budget £000	2015/16 Budget £000	2018/19 Revised Budget £000	2015/16 Budget £000	2019/20 Budget £000
TOTAL GROSS EXPENDITURE	9,258	80,406	3,367	37,427	3,340	25,701	5,752	21,095	22,390	22,390
Developers Contributions	0	16,546	0	300	0	300	0	0	0	0
Government Grant	223	13,693	0	8,906	2,037	4,287	0	2,250	2,250	2,250
SCE - Government Grant	-909	7,742	-306	7,207	-224	7,194	7,053	7,053	7,053	7,053
Major Repairs Allowance	22	4,878	-724	4,803	464	4,774	-1,301	4,808	5,066	5,066
Capital Receipts in Lieu of SCA/GG	0	0	0	0	0	0	0	0	0	0
Non Government Grant	544	619	544	544	0	0	0	0	0	0
Other Contributions	0	750	100	100	0	0	0	0	0	0
Other Grants	0	0	0	0	0	0	0	0	0	0
TOTAL EXTERNAL FUNDING	-120	44,228	-386	21,860	2,277	16,555	5,752	14,111	14,369	14,369
Revenue Contribution Departmental	2,111	7,745	2,847	6,021	614	3,832	-50	2,389	3,471	3,471
Capital Receipt Departmental	1,714	1,714	0	0	0	0	0	0	0	0
Right to Buy Receipt	0	0	0	0	0	0	0	0	0	0
SCE - Borrowing	0	0	0	0	0	0	0	0	0	0
Venture Fund	0	0	0	0	0	0	0	0	0	0
Earmarked Reserve	0	0	0	0	0	0	0	0	0	0
Departmental Prudential Borrowing	120	1,402	0	750	0	750	0	750	0	0
Corporate Prudential Borrowing	5,433	15,855	906	4,796	449	4,564	50	3,845	4,550	4,550
Corporate Prudential Borrowing (EIF)	0	7,361	0	4,000	0	0	0	0	0	0
Revenue Contribution Corporate (PB)	0	0	0	0	0	0	0	0	0	0
Revenue Contribution Corporate	0	2,043	0	0	0	0	0	0	0	0
Corporate Capital Receipt (PB)	0	0	0	0	0	0	0	0	0	0
Corporate Capital Receipt	0	58	0	0	0	0	0	0	0	0
Corp Cap Rec Unfunded	0	0	0	0	0	0	0	0	0	0
TOTAL INTERNAL FUNDING	9,378	36,178	3,753	15,567	1,063	9,146	0	6,984	8,021	8,021

	2014/15		2014/15 Revised	2014/15		2015/16 Revised	2014/15		2014/15	2016/17 Revised	2014/15		2014/15	2017/18 Revised	2014/15		2014/15	2018/19 Revised	2014/15		2014/15	2019/20	Gross Capital Programme To be Funded	Gross Capital Programme To be Funded	
	Outturn	Outturn	Budget	Adj	Reprofile	Budget	Adj	Reprofile	Budget	Adj	Reprofile	Budget	Adj	Reprofile	Budget	Adj	Reprofile	Budget	Adj	Reprofile	Budget	14/15 - 18/19	15/16 - 19/20		
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000
Gross Expenditure by Department																									
CSES - Children's Services, Education and Skills	79	-2,370	6,366	0	2,370	18,185	0	0	10,337	0	0	5,281	0	0	5,106	0	0	5,106	0	0	5,106	0	0	45,275	44,015
H&WB - Adult Social Services & Public Health	541	-378	1,035	-20	378	1,435	0	0	535	0	0	545	0	0	555	0	0	555	0	0	565	0	0	4,105	3,635
CANS - Communities, Culture and Public Realm	4	-1,005	4,053	0	1,005	3,015	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	7,068	3,015
CES - Highways & Waste	-2	-1,066	6,239	0	1,066	5,976	0	0	3,231	0	0	3,168	0	0	2,977	0	0	2,977	0	0	2,977	0	0	21,591	18,329
CANS - Housing & Community Safety	5	-2,072	15,200	0	2,072	17,753	0	0	12,099	0	0	9,831	0	0	8,472	0	0	9,812	0	0	9,812	0	0	63,355	57,967
CES - Transport	136	-2,071	6,091	0	2,071	8,483	0	0	2,293	0	0	4,331	0	0	1,660	0	0	1,660	0	0	1,660	0	0	22,858	18,427
CES - Community Stadium	0	-443	1,447	0	443	20,714	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	22,161	20,714
CES - Economic Development	0	0	0	0	0	58	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	58	58
CBSS - Asset Management	0	-1,075	421	0	1,075	3,559	0	0	1,212	0	0	300	0	0	300	0	0	300	0	0	300	0	0	5,792	5,671
CBSS - IT Development Plan	-59	-769	1,099	0	769	2,996	0	0	1,920	0	0	2,245	0	0	2,025	0	0	2,025	0	0	1,970	0	0	10,285	11,156
CBSS - West Offices (Admin Accommodation)	0	-512	21	0	512	512	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	533	512
Capital Contingency	0	-143	40	0	143	443	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	483	443
Economic Infrastructure Fund	413	-7,328	6,190	0	7,328	16,489	0	0	5,800	0	0	0	0	0	0	0	0	0	0	0	0	0	0	28,479	22,289
Total by Department	1,117	-19,232	48,202	-20	19,232	99,618	0	0	37,427	0	0	25,701	0	0	21,095	0	0	22,390	0	0	22,390	0	0	232,043	206,231

	2015/16	2015/16	2015/16	2015/16	2015/16	2016/17	2015/16	2017/18	2015/16	2018/19	2015/16	2019/20	Gross Capital Programme To be Funded	
	Mon 1	Mon 1	Revised	Pre Mon 1	Mon 1	Mon 1	Revised	Revised	Mon 1	Mon 1	Mon 1	Budget	15/16 - 19/20	
	Adj	Reprofile	Budget	Adj	Adj	Reprofile	Budget	Budget	Adj	Adj	Adj	Budget	£000	
	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	£000	
CSES - Children's Services, Education and Skills														
NDS Devolved Capital	-20		436		-25		431		-25	431		-25	431	2,160
DfE Maintenance			3,998				2,400		2,400	2,400		2,400	13,598	
Basic Need	168	-5,000	1,584			5,000	11,656		2,250	2,250		2,250	19,990	
Huntington Secondary School - New Block			85				0		0	0		0	85	
Universal Infant Free School Meals			124				0		0	0		0	124	
Fulford School Expansion			5,870				450		0	0		0	6,320	
Carr Junior Expansion			58				0		0	0		0	58	
St Barnabas Primary Expansion			646				0		0	0		0	646	
Schools Electrical Supply Upgrade			257				200		0	0		0	457	
Family Drug & Alcohol Assess/Recovery Facility			100				0		0	0		0	100	
Knavesmire Classroom Expansion	28		28				0		0	0		0	28	
Enhanced Resource Provision - SEN			175				175		175	0		0	525	
TOTAL GROSS EXPENDITURE	176	-5,000	13,361	0	-25	5,000	15,312		-25	5,256		-25	5,081	44,091
TOTAL EXTERNAL FUNDING	176	-5,000	12,829	0	-25	5,000	15,037		-25	5,081		-25	5,081	43,109
TOTAL INTERNAL FUNDING	0	0	532	0	0	0	275		0	175		0	0	982
H&WB - Adult Social Services & Public Health														
Joint Equipment Store			136				105		105	105		105	556	
Disabled Support Grant			170				180		190	200		210	950	
Telecare Equipment			360				250		250	250		250	1,360	
Health and Safety Works at Social Services Establishments			0				0		0	0		0	0	
Adult Services Community Space	-80		8				0		0	0		0	8	
OPH Infrastructure Works	-298		192				0		0	0		0	192	
Changing Lives Grant + Autism Grants			0				0		0	0		0	0	
Older Person's Accommodation Review	298		542	382			382	422	422	360		360	1,706	
Burton Stone Community Centre	-135		56				0		0	0		0	56	
TOTAL GROSS EXPENDITURE	-215	0	1,464	382	0	0	917	422	967	360	915	565	4,828	
TOTAL EXTERNAL FUNDING	-41	0	606	382	0	0	382	360	360	0	0	0	1,348	
TOTAL INTERNAL FUNDING	-174	0	858	0	0	0	535	62	607	360	555	565	3,120	
CANS - Communities, Culture and Public Realm														
Millfield Lane Comm Sports Centre			380				0		0	0		0	380	
York Explore Phase 2	-158		83				0		0	0		0	83	
Barbican Auditorium			17				0		0	0		0	17	
City Art Gallery Refurb and Extension			0				0		0	0		0	0	
Parks and Open Spaces Development	120		120				0		0	0		0	120	
Little Knavesmire Pavilion	150		633				0		0	0		0	633	
York Explore - Infrastructure Improvements			0				0		0	0		0	0	
Museums Trust			500				0		0	0		0	500	
War Memorial			78				0		0	0		0	78	
Smarter York - Better Play Areas			295				0		0	0		0	295	
York Art Gallery Gardens			350				0		0	0		0	350	
Theatre Royal - Temporary Structure			0				0		0	0		0	0	
York Theatre Royal			120				0		0	0		0	120	
Public Convenience Facilities			138				0		0	0		0	138	
River Safety			0				0		0	0		0	0	
Litter Bin Upgrade (solar powered)			138				0		0	0		0	138	
Knavesmire Culverts			275				0		0	0		0	275	
TOTAL GROSS EXPENDITURE	112	0	3,127	0	0	0	0	0	0	0	0	0	3,127	
TOTAL EXTERNAL FUNDING	112	0	812	0	0	0	0	0	0	0	0	0	812	
TOTAL INTERNAL FUNDING	0	0	2,315	0	0	0	0	0	0	0	0	0	2,315	
CES - Highways & Waste														
Highway Resurfacing & Reconstruction (Struct Maint)			3,081				2,831		2,768	2,577		2,577	13,834	
Special Bridge Maintenance (Struct maint)			354				200		200	200		200	1,154	
Replacement of Unsound Lighting Columns			179				0		0	0		0	179	
LED Lighting Replacement Programme			1,327				0		0	0		0	1,327	
City Centre Damaged Bins Replacement			0				0		0	0		0	0	
Fleet Vehicles			430				0		0	0		0	430	
Highways Improvements			173				0		0	0		0	173	
Watercourse Restoration			100				0		0	0		0	100	
Tour de France Highways Improvements			0				0		0	0		0	0	
Highways Drainage Works			226				200		200	200		200	1,026	
Highways, Road Adoption and Drainage Fund			250				0		0	0		0	250	
Wheeled Bins in Back Lane and Terraced Areas			106				0		0	0		0	106	
TOTAL GROSS EXPENDITURE	0	0	6,226	0	0	0	3,231	0	3,168	0	2,977	0	18,579	
TOTAL EXTERNAL FUNDING	0	0	2,270	0	0	0	2,081	0	2,018	0	1,827	0	10,023	
TOTAL INTERNAL FUNDING	0	0	3,956	0	0	0	1,150	0	1,150	0	1,150	0	8,556	
CANS - Housing & Community Safety														
Modernisation of Local Authority Homes			2,331				2,035		2,022	1,139		1,361	8,888	
Assistance to Older & Disabled People			400				400		400	400		400	2,000	
MRA Schemes			4,878				4,803		4,774	4,808		5,066	24,329	
Local Authority Homes - Phase 1			8,984	2,161			4,297		0	0		0	13,281	
Water Mains Upgrade			270				1,000		1,000	500		1,250	4,020	
Building Insulation Programme			192				0		0	0		160	352	
Disabled Facilities Grant (Gfund)			1,019				1,175		1,225	1,275		1,275	5,969	
Air Quality Monitoring (Gfund)			130				0		0	0		0	130	

	2015/16 Mon 1 Adj £000	2015/16 Mon 1 Reprofile £000	2015/16 Revised Budget £000	2015/16 Pre Mon 1 Adj £000	2015/16 Mon 1 Adj £000	2015/16 Mon 1 Reprofile £000	2016/17 Revised Budget £000	2015/16 Mon 1 Adj £000	2017/18 Revised Budget £000	2015/16 Mon 1 Adj £000	2018/19 Revised Budget £000	2015/16 Mon 1 Adj £000	2019/20 Budget £000	Gross Capital Programme To be Funded 15/16 - 19/20 £000
Crematorium (Gfund)			0				0		0		0		0	0
Travellers Site Improvements (Gfund)			0				0		0		0		0	0
Loft Conversions			289				0		0		0		0	289
IT Infrastructure			500				450		410		350		300	2,010
Empty Homes (Gfund)			200				100		0		0		0	300
Property Buy Back			0				0		0		0		0	0
TOTAL GROSS EXPENDITURE			19,193	2,161	0	0	14,260	0	9,831	0	8,472	0	9,812	61,568
TOTAL EXTERNAL FUNDING			5,552	0	0	0	5,503	0	5,524	0	5,608	0	5,866	28,053
TOTAL INTERNAL FUNDING			13,641	2,161	0	0	8,757	0	4,307	0	2,864	0	3,946	33,515
CES - Transport														
Better Bus Area Fund	136		612				0		0		0		0	612
Local Transport Plan (LTP)			4,576				1,870		1,870		1,570		1,570	11,456
York City Walls - Repairs & Renewals (City Walls)			253				90		90		90		90	613
Access York			250				0		0		0		0	250
Leeman Road Flood Defences			317				0		0		0		0	317
Alley Gating			58				0		0		0		0	58
Pay on Exit Car Parking Pilot			0				0		0		0		0	0
Highways Improvements			2,220				0		0		0		0	2,220
Scarborough Bridge			333				333		2,371		0		0	3,037
CES - Community Stadium														
Community Stadium	0		20,714				0		0		0		0	20,714
TOTAL GROSS EXPENDITURE			20,714	0	0	0	0	0	0	0	0	0	0	20,714
TOTAL EXTERNAL FUNDING			14,304	0	0	0	0	0	0	0	0	0	0	14,304
TOTAL INTERNAL FUNDING			6,410	0	0	0	0	0	0	0	0	0	0	6,410
CES - Economic Development														0
Small Business Workshops			58				0		0		0		0	58
TOTAL GROSS EXPENDITURE			58	0	0	0	0	0	0	0	0	0	0	58
TOTAL EXTERNAL FUNDING			0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTERNAL FUNDING			58	0	0	0	0	0	0	0	0	0	0	58
CBSS - Asset Management														
Fire Safety Regulations - Adaptations			108				0		0		0		0	108
Removal of Asbestos			56				0		0		0		0	56
Riverbank Repairs - Scarborough to Clifton Bridge			6				0		0		0		0	6
Riverbank Repairs - Blue Bridge Slipway			0				0		0		0		0	0
Riverbank Repairs - Marygate			251				0		0		0		0	251
Photovoltaic Energy Programme			346				0		0		0		0	346
Parliament Street Toilet Demolition			6				0		0		0		0	6
29 Castlegate Repairs			33				0		0		0		0	33
Decent Home Standards Works			11				0		0		0		0	11
Fishergate Postern			53				0		0		0		0	53
Holgate Park Land - York Central Land and Clearance			397				0		0		0		0	397
Hazel Court - Office of the Future Improvements			1				0		0		0		0	1
Asset Maintenance + Critical H&S Repairs			347				200		200		200		200	1,147
Community Asset Transfer			175				0		0		0		0	175
River Bank repairs			339				0		0		0		0	339
Stonebow House Freehold			62				0		0		0		0	62
Critical Repairs and Contingency			356				0		0		0		0	356
Mansion House Restoration			912				912		0		0		0	1,824
Project Support Fund			100				100		100		100		100	500
TOTAL GROSS EXPENDITURE			3,559	0	0	0	1,212	0	300	0	300	0	300	5,671
TOTAL EXTERNAL FUNDING			579	0	0	0	544	0	0	0	0	0	0	1,123
TOTAL INTERNAL FUNDING			2,980	0	0	0	668	0	300	0	300	0	300	4,548
CBSS - IT Development Plan														
IT Equipment		-300	2,696			300	2,220		2,245		2,025		1,970	11,156
TOTAL GROSS EXPENDITURE		-300	2,696	0	0	300	2,220	0	2,245	0	2,025	0	1,970	11,156
TOTAL EXTERNAL FUNDING		0	0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTERNAL FUNDING		-300	2,696	0	0	300	2,220	0	2,245	0	2,025	0	1,970	11,156
CBSS - West Offices (Admin Accommodation)														
West Offices - Admin Accommod			512				0		0		0		0	512
TOTAL GROSS EXPENDITURE			512	0	0	0	0	0	0	0	0	0	0	512
TOTAL EXTERNAL FUNDING			0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTERNAL FUNDING			512	0	0	0	0	0	0	0	0	0	0	512
Capital Contingency														
Capital Contingency			443				0		0		0		0	443
TOTAL GROSS EXPENDITURE			443	0	0	0	0	0	0	0	0	0	0	443
TOTAL EXTERNAL FUNDING			0	0	0	0	0	0	0	0	0	0	0	0
TOTAL INTERNAL FUNDING			443	0	0	0	0	0	0	0	0	0	0	443
Economic Infrastructure Fund														
Access York Phase 1			0				0		0		0		0	0
Better Bus Fund	-324		773				0		0		0		0	773
Re-invigorate York			100	2,062			2,062		0		0		0	2,162

	2015/16 Mon 1 Adj £000	2015/16 Mon 1 Reprofile £000	2015/16 Revised Budget £000	2015/16 Pre Mon 1 Adj £000	2015/16 Mon 1 Adj £000	2015/16 Mon 1 Reprofile £000	2016/17 Revised Budget £000	2015/16 Mon 1 Adj £000	2017/18 Revised Budget £000	2015/16 Mon 1 Adj £000	2018/19 Revised Budget £000	2015/16 Mon 1 Adj £000	2019/20 Budget £000	Gross Capital Programme To be Funded 15/16 - 19/20 £000
Newgate Market			0				0		0		0		0	0
Super Connected Cities			0				0		0		0		0	0
EIF central fund	324		14,445	-5,578			222		0		0		0	14,667
TOTAL GROSS EXPENDITURE	0	0	15,318	-3,516	0	0	2,284	0	0	0	0	0	0	17,602
TOTAL EXTERNAL FUNDING	0	0	6,452	-1,710	0	0	90	0	0	0	0	0	0	6,542
TOTAL INTERNAL FUNDING	0	0	8,866	-1,806	0	0	2,194	0	0	0	0	0	0	11,060
Gross Expenditure by Department														
CSES - Children's Services, Education and Skills	176	-5,000	13,361	0	-25	5,000	15,312	-25	5,256	-25	5,081	-25	5,081	44,091
H&WB - Adult Social Services & Public Health	-215	0	1,464	382	0	0	917	422	967	360	915	0	565	4,828
CANS - Communities, Culture and Public Realm	112	0	3,127	0	0	0	0	0	0	0	0	0	0	3,127
CES - Highways & Waste	0	0	6,226	0	0	0	3,231	0	3,168	0	2,977	0	2,977	18,579
CANS - Housing & Community Safety	0	0	19,193	2,161	0	0	14,260	0	9,831	0	8,472	0	9,812	61,568
CES - Transport	136	0	8,619	0	0	0	2,293	0	4,331	0	1,660	0	1,660	18,563
CES - Community Stadium	0	0	20,714	0	0	0	0	0	0	0	0	0	0	20,714
CES - Economic Development	0	0	58	0	0	0	0	0	0	0	0	0	0	58
CBSS - Asset Management	0	0	3,559	0	0	0	1,212	0	300	0	300	0	300	5,671
CBSS - IT Development Plan	0	-300	2,696	0	0	300	2,220	0	2,245	0	2,025	0	1,970	11,156
CBSS - West Offices (Admin Accommodation)	0	0	512	0	0	0	0	0	0	0	0	0	0	512
Capital Contingency	0	0	443	0	0	0	0	0	0	0	0	0	0	443
Economic Infrastructure Fund	0	0	15,318	-3,516	0	0	2,284	0	0	0	0	0	0	17,602
Total by Department	209	-5,300	95,290	-973	-25	5,300	41,729	397	26,098	335	21,430	-25	22,365	206,912
TOTAL GROSS EXPENDITURE	209	-5,300	95,290	-973	-25	5,300	41,729	397	26,098	335	21,430	-25	22,365	206,912
TOTAL EXTERNAL FUNDING	383	-5,000	47,729	-1,328	-25	5,000	25,507	335	16,890	-25	14,086	-25	14,344	118,556
TOTAL INTERNAL FUNDING	-174	-300	47,561	355	0	300	16,222	62	9,208	360	7,344	0	8,021	88,356

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