Notice of a public meeting of

Constitution

To: Councillors

Date: Friday, 10 April 2026

Time: 10.06 am

Venue:

AGENDA

1.	**Introduction to the Constitution**	(Pages 1 - 24)
2.	**Articles**	(Pages 25 - 180)
3.	**Appendices**	(Pages 181 - 748)

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**



INTRODUCTION TO THE CONSTITUTION

2023

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1. Introduction

1.1 City of York Council has a constitution which sets out:

- how the Council operates
- how decisions are made and
- the procedures which are followed to make sure these are efficient, transparent and accountable to local people.

Some of these processes are required by law, and others are processes which the Council has chosen.

[N.B This introduction reflects the Constitution as it stands in May 2023, and which is subject to change at any time.]

1.2 The purpose of this introduction is to assist the public, Elected Members (City of York Councillors) and Officers (paid staff) by outlining how the Constitution works, and to focus on some of the practical consequences, both in relation to the role of Members of the Council, and that of officers. The terms 'Member' and 'Councillor' are interchangeable.

1.3 The introduction has to simplify the complexities of the Constitution and in some instances what it says will be a general rule rather than explain all the exceptions to the rule. So if the reader is in any doubt, look up the Constitution itself on the website or take advice from the Director of Governance or their staff, who are here to help Members and officers with constitutional advice.

1.4 Agendas, reports and minutes for meetings of Council, Executive and Committees are accessible from West Offices, York and online at https://democracy.york.gov.uk/ieDocHome.aspx?bcr=1

2. What's in the constitution?

2.1 The Constitution is divided into Articles which set out the broad overview of the Constitution. More detailed procedures and codes are contained in the Appendices.

2.2 Article 1 of the Constitution explains the purpose of the Constitution and commits the Council to exercise all its powers and duties in accordance with the law and the Constitution.

2.3 Articles 2 to 24 explain how the key parts of the Council operate and the rights of citizens. They are:

- Members (elected Councillors) of the Council (Article 2)
- Citizens and the Council (Article 3)
- The Full Council (Article 4)
- The Lord Mayor of York, The Sheriff of York and chairing the Council (Article 5)
- The Leader of the Council and the Executive (Article 6)
- Decision-Making (Article 7)
- Scrutiny (Article 8)
- The Audit & Governance Committee (Article 9)
- The Joint Standards Committee (Article 10)
- Staffing Matters and Urgency Committee (Article 11)
- Shareholder Committee (Article 12)
- Planning Major committee and Planning Minor Committee (Article 13)
- The Council's Licensing Functions (Article 14)
- Corporate Appeals Committee (Article 15A)
- Investigating And Disciplinary Committee & Appeals Committee (Article 15B)
- York Health and Wellbeing Board (Article 16)
- Standing Advisory Council for Religious Education (Article 17)
- Corporate Parenting Board (Article 18)
- Joint Arrangements (Article 19)
- Independent Remuneration Panel (Article 20)
- Officers (Article 21)
- Finance, Contracts and Legal Matters (Article 22)
- Review and Revision of the Constitution (Article 23)
- Suspension, Interpretation and Publication of the Constitution (Article 24)

2.4 Citizens have a number of rights in their dealings with the Council. These are set out and referred to in Article 3. Some of these are legal rights, whilst others depend on the Council's own processes.

2.5 Where members of the public use specific Council services, for example as a recipient of social care, they may have additional rights which are not covered in this Constitution or introduction.

2.6 Citizens have the right to:

- vote at local elections if they are registered

- contact their local councillor about any matters of concern to them
- view the Council's constitution (or obtain a copy of it for a fee)
- attend formal meetings of the Council, the Executive and Committees of the Council except where, for example, personal or confidential matters are being discussed
- participate at formal meetings of the Council, the Executive and Committees of the Council in accordance with the Constitution
- find out, from the Forward Plan, what Key Decisions are to be discussed by the Executive or considered by Executive Members, and when
- see agendas, reports and background papers of matters discussed in public, and any record of decisions made by the Council, the Executive, Executive Members and Committees of the Council
- complain to the Council about the services which it provides, or actions or lack of action by the Council or its staff
- complain to the Ombudsman about maladministration if they think the Council has not followed its procedures properly. However, they should only do this after using the Council's own published procedure
- complain to the Council's Director of Governance if they have evidence which they think shows that a councillor has not followed the Council's Code of Conduct for Members, and
- inspect the Council's accounts and make their views known to the external auditor.

2.7 The Council welcomes participation by its citizens in its work. For further information on your rights and limitations as a citizen under the Constitution, please see Appendices 2, 3 and 8 or contact the Director of Governance.

2.8 The Constitution has been written to include gender neutral pronouns. Gender pronouns are the terms people choose to refer to themselves that reflect their gender identity. These might be he/him, she/her or gender-neutral pronouns such as they/them. Knowing and using a person's correct pronoun fosters inclusion, makes people feel respected and valued, and affirms their gender identity. We have chosen to use they/their throughout the

Constitution as we continue to promote inclusion and avoid inappropriate gender bias. This reflects our trans-friendly city status and also shows how the council values equality and diversity.

2.9 Information about our services, our councillors and our meetings or how to complain can be found on our website https://www.york.gov.uk/

3. How the Council Operates

3.1 Composition and Role

3.1.1 The Council comprises 47 Councillors elected at the same time every 4 years. They are democratically accountable to residents of their Wards 'through the ballot box'. They are often referred to as "Members". The Council operates executive arrangements under the 'Leader and Executive' model. A fundamental legal concept is the split in political responsibility between executive (Leader and Executive) and non-executive (Council and Committees) functions. Officers (paid staff) of the Council may exercise both executive and non-executive functions as long as they have been delegated to them.

3.1.2 "Full Council" (meetings of all 47 Councillors) take place around 6 times a year. The job of the full Council is to approve the Council's Corporate Plan and main policies (the policy framework as set out in Article 4 and Appendix 1) and the Annual Budget (both revenue and capital) and hold the Executive (Leader and Executive) to account. There are other matters reserved to the Full Council to decide. These are set out in the Responsibility for Functions/ Scheme of Delegation (Appendix 1), and include the appointment of the Leader of the Council, adopting and making changes to the Members' Code of Conduct, and approving the Members' Allowances Scheme. Appendix 1 also details those functions which can only be undertaken by the Executive and others for which the council has a "local choice" as to how the appropriate decision maker should be.

3.1.3 The Council is also responsible for electing its Lord Mayor of York (who is the Chair of Full Council) and Sheriff of York (for the civic leadership of the Council), the Leader of the Council

(for political leadership), and for establishing certain other committees and member bodies and appointing their chairs and vice-chairs. Some of these are responsible for assisting in policy development, scrutinizing and reviewing the decisions of the Executive (such as the Scrutiny Committees), while others have statutory non-executive responsibilities to discharge (such as Planning and Licensing Committees).

3.1.4 The Executive is chaired by the Leader of the Council, who has responsibility for political decisions which are the responsibility of the Executive and are taken by the Executive collectively or by individual Executive Members.

3.1.5 The Council receives regular reports from the Executive, which may make recommendations on Council matters (for example, the Budget), and will also report on decisions already made. The Council and its committees cannot take decisions which are the responsibility of the Executive (which we call the 'Executive'). The Executive cannot take decisions which are the responsibility of the Council and its committees (non-Executive functions) but makes recommendations to Council on the Budget and Policy framework.

3.1.6 The Council also receives reports from its other Committees and Executive Members.

3.1.7 The Chief Operating Officer (as Head of Paid Service), the Director of Governance (as Monitoring Officer) and the Chief Finance Officer (as s151 Officer) all have the right as statutory officers to submit reports directly to the Full Council.

3.1.8 As a result of executive arrangements, unless the matter is one which:

- is for the Full Council or its Committees to determine (as set out in the Constitution, particularly the Responsibility for Functions/ Scheme of Delegation in Appendix 1)
- is contrary to the policy framework or not wholly in accordance with the Council's budget
- cannot in law be the responsibility of the Executive

then the Council or its other Committees cannot take a decision about that matter (or overturn a decision of Executive

or Executive Member). That responsibility rests with the Leader and Executive. Similarly, the Executive or Executive Member cannot take a decision which is the responsibility of the Council or its Committees.

3.1.9 Responsibility for some matters remains with Full Council, either because the law requires this or because it has chosen to retain responsibility as allowed by the law. The Responsibility for Functions/Scheme of Delegation sets out the position in Appendix 1.

3.2 The Lord Mayor and Sheriff

3.2.1 York has had a mayor since before 1217, with the status subsequently being elevated to that of Lord Mayor and traditionally recognised as such by Richard II in 1389. The office of Sheriff is the oldest in England dating back to 1396.

3.2.2 The Lord Mayor is a councillor formally elected by their fellow councillors at the Annual Meeting of the Council. Traditionally this takes place in the ancient Guildhall in mid to late May. To be eligible to be nominated for Lord Mayor a Councillor must, by tradition, have 5 years' service. For some years the Council has operated an arrangement whereby points are awarded to political groups based on the number of serving councillors they have at the time of the annual meeting. The group with the most points is given the honour of nominating a councillor to serve as the next Lord Mayor. Having done so they lose 47 points the following year.

3.2.3 The Sheriff is nominated by the Lord Mayor and appointed by Council at the annual meeting. The Sheriff may but need not be a City of York Councillor.

3.2.4 In the past these posts exercised significant political power. Nowadays the role of Lord Mayor largely involves acting as *First Citizen* promoting York and representing the City at civic and ceremonial events, although they also chair the meetings of the full Council. Traditionally the Lord Mayor avoids political activity during their term of office and although they are entitled to vote on business at Council, the Lord Mayor will often abstain from doing so. The Lord Mayor does though have the right to exercise a second or casting vote at Council meetings if there are an equal number of votes for or against a proposal.

3.2.5 Article 5 of the Council's Constitution sets out in more detail the Council's expectation of its Lord Mayor and Sheriff.

3.3 Meetings of the Council

3.3.1 Meetings of the Council are relatively formal. The Council's Procedure Rules (also known as Standing Orders) (Appendix 3 of the Constitution) govern how a meeting of the Council is conducted and its agenda items. Many Council Procedure Rules also apply to the other Committees. The Executive may choose and does apply them or parts of them to its own proceedings. Meetings are presided over by the relevant Chair.

3.3.2 The report of the Executive to the Council will be presented by the Leader of the Council. The Leader may respond on behalf of the Executive to questions, or they may arrange for a question to be answered by an Executive Member.

3.3.3 At each meeting of the Council there is an allotted time available for members to ask questions of the Leader of the Council and Executive Members. The Leader of the Council and Executive Members (on a rolling basis), present a report to the Council outlining current issues and principal developments within their area. Council has decided that the Chair of the Corporate Scrutiny Committee and the Chairs of the Audit & Governance Committee and the Joint Standards Committee will report annually. Council will also receive an annual report from the Corporate Parenting Board.

3.3.4 The Council will also receive reports from the Chair (or representative) of the Independent Remuneration Panel.

3.3.5 Members of the public may participate at each meeting of the Council via the Public Participation Protocol (Appendices 3 and 8) by presenting a petition, asking a question or making a comment in accordance with the Standing Orders and at the discretion of the Chair. They need to notify the Director of Governance via Democratic Services of the nature and content of their proposed participation by no later than 5pm two working day before the meeting in question.

4. The Executive

4.1 Composition and Role

4.1.1 The Council has chosen to retain executive arrangements and therefore is required by law to have an ‘Executive’, and has chosen the “Leader and Executive” model from the options available. The Leader is appointed by Full Council and who is then responsible for making arrangements to discharge executive functions, whether through the Leader personally, Executive collectively, individual Executive Members, or Officers.

4.1.2 The Executive is not a Committee and is not required to be politically balanced. Its formal meetings are open to the public unless an item qualifies to be dealt with in private (we call it exempt session') in accordance with the Access to Information Rules (Appendix 7).

4.1.3 The Council appoints the Leader at the first Annual Meeting of the Council after elections for a 4 year term (but can subsequently remove the Leader and appoint another).

4.1.4 The Leader is responsible for appointing a Deputy Leader and other members of the Executive. The Executive comprises the Leader of the Council and up to 9 other Executive Members. The Executive cannot have less than 2 members. Council does not appoint individual Executive Members.

4.1.5 The Leader presides at meetings of the Executive with the Deputy Leader presiding in the Leader’s absence. There are no substitutes allowed on Executive.

4.1.6 The Leader determines the number of areas of political responsibility and their allocation to members of the Executive; these are known as portfolios. The Leader has decided that 7 members, other than the Leader (who also has responsibility for Corporate Services, Policy, Strategy and Partnerships), shall be Executive Members, leading on the matters within the following remits:

- Deputy Leader and Economy
- Children, Young People and Education
- Health, Wellbeing and Adult Social Care
- Environment and Climate Emergency
- Finance, Performance, Major Projects and Equalities

- Housing, Planning and Safer Communities
- Transport

4.1.7 The Leader (or Executive) may authorise individual Executive Members to take decisions relating to Executive functions either generally or in respect of particular decisions.

4.1.8 The Executive (or individual Executive Members as delegated) can take decisions on all matters relating to the executive functions of the Council but not those matters which are non-executive functions which:

- are reserved to the full Council (e.g. Budget and Policy Framework, Members' Allowances and Code of Conduct)
- are ones which by law the Executive cannot take (e.g. deciding Planning applications and Standards and Ethics matters)
- by choice have not been allocated to the Executive.

4.1.9 In general terms, as most functions are the responsibility of the Executive, it is the Executive or its Executive Members who will take the main 'political' decisions in relation to nearly all Council services, as long as they are in line with the Council's Budget and Policy Framework.

4.1.10 Many decision-making powers are delegated to professional Officers to allow the day to day operation of services to continue, or the implementation of political policy. The standing delegations are wide-ranging but there are limitations e.g. officers will not generally be taking ‘Key Decisions’ (see below). The Responsibility for Functions/Scheme of Delegation contains the scheme of delegation to Officers which allows the Chief Operating Officer, Corporate Directors and Directors (collectively known as Chief Officers) to sub-delegate further (Appendix 1).

4.1.11 Collectively and individually the Executive are subject to the scrutiny arrangements which the Council has established (Section 5 below) as part of the checks and balances for executive arrangements.

4.2 Key Decisions

4.2.1 Certain types of decision which are the responsibility of the Leader and Executive are called ‘Key Decisions’. Only the Executive take Key Decisions; and (generally) 28 days advance notice has to be given of them in a public document known the Forward Plan (see 4.3 below).

4.2.2 Key decisions are ones discharging executive functions which are likely to:

- Have a financial impact of £500k or above; and / or
- Have a significant impact on two or more elected wards in York (Article 7 of the Constitution).

4.3 The Forward Plan

4.3.1 A Forward Plan provides notice of anticipated Key Decisions to be taken by the Executive. It is prepared on a rolling basis and contains information about the matter for decision, when the decision is likely to be taken and by whom. For transparency, our Forward Plan also includes, as far as practicable, non-Key Decisions going to Executive and Executive Members.

4.3.2 The purpose of the Forward Plan is to alert the public and members to when Key Decisions are to be taken so that they are aware of the topic to be considered and can comment to their local Councillor or the Executive Members, or attend or view the meeting of Executive on webcast.

4.3.3 The Forward Plan is updated on a rolling basis so that as more details become available, more information can be included in the Plan. It is available on the Council's website here: https://democracy.york.gov.uk/mgListPlans.aspx?RPId=733&RD=0&bcr=1

4.3.4 The details in relation to the Forward Plan are set out in Article 7.

4.3.5 The Forward Plan will describe the following (so far as available):

- the matter in respect of which the Key Decision is to be taken

- whether the decision is to be made in public or private
- the date or period for the taking of the decision

4.3.6 There are detailed procedures in Article 7 of the Constitution about taking Key Decisions which for some reason have not been included in the Forward Plan in time or which are very urgent. The Corporate Scrutiny Committee also has a right to require the Executive to report to the Council on Key Decisions which they believe to have been taken otherwise than in accordance with the required procedures.

4.4 Meetings of the Executive

4.4.1 The Executive will meet regularly (usually monthly) during the year, in public unless the matter to be discussed is confidential or exempt and the law allows the meeting in private (e.g. to protect commercial confidentiality). The Leader and Executive have agreed to the same public participation rights at public meetings of the Executive as for the Council.

4.4.2 The Constitution allows the Leader (or the nominated substitute) of the main political opposition group to attend and speak at meetings of the Executive but not to vote. The Chief Officers (or their representatives) will be entitled to be present at all meetings of the Executive.

4.4.3 The Executive will consider reports usually from Executive Members, containing recommendations for Executive to consider. In addition to notification in the Forward Plan, the reports will normally be publicly accessible at least 5 clear working days before the proposed decision, unless the topic is confidential or exempt

4.4.4 As part of the 'checks and balances', decisions taken by the Executive and Executive Members are subject to the 'call-in' procedures referred to in Section 5 below. Save in the limited circumstances referred to, decisions will not take effect until the fifth working day after publication of the decision to allow the possibility of call-in. The public notice of the decision must say whether implementation is so urgent that it cannot await the outcome of possible call-in and why. Urgency of implementation should be specifically addressed in reports.

4.4.5 The Leader or Executive can delegate Executive Members to

take decisions, which are not taken in public. However, notice of the topics to be considered by an Executive Member is published in the Forward Plan, and reports published in advance of the decision.

4.4.6 A formal record of decisions of the Executive and of Executive Members is published and every member notified to commence the potential call-in period; a copy will also be publicly available for inspection on the website and at West Offices. These decisions will be published within three working days of the decision (normally circulated on the day of decision) and are the formal record of decisions which acts as the “trigger” for the 'call-in' procedure (see 5.2 below and Appendix 5). They will also indicate which items (if any) are urgent so that they are not subject to ‘call-in’ but fall to be dealt with under the urgency procedures of paragraph 15 of Appendix 7 of the Constitution, summarised in 4.4.7 below.

4.4.7 Urgent implementation cases will be those where delay likely to be caused by the call-in process could seriously prejudice the Council’s or the public’s interests, or the interests of any person to whom the decision relates, and the Chair (or in their absence Vice-Chair) of the Corporate Scrutiny Committee agrees that the decision is urgent and cannot reasonably be deferred. These provisions allow a 'check and balance' allowing a person outside the Executive to decide whether or not there should be urgent implementation without the risk of call-in suspending the decision.

4.4.8 The Executive’s own procedures are governed by Appendix 4 of the Constitution. The Executive is not a Committee of the Council and can largely govern its own procedure.

4.5 Consultation with others

4.5.1 Reports to the Executive and or Executive Members and or Officers about proposals relating to the Council’s Policy and Budget Framework must contain details of the nature and extent, and outcome, of consultation with stakeholders and the relevant Scrutiny Committee as and where appropriate. Reports on other matters will set out the details and outcome of consultation where appropriate.

4.5.2 The Executive and individual Executive Members may make

arrangements for consultation about matters for which they are responsible.

5. Scrutiny Arrangements

5.1 Composition and Role

5.1.1 The Council operates executive arrangements and as part of the 'checks and balances' is required by law to have arrangements for Scrutiny which help develop policies and service delivery, and monitor the performance of the Council and can scrutinise decisions of the Executive etc.

5.1.2 Any bodies established to carry out Scrutiny functions have no delegated powers to take decisions on behalf of the Council or overturn decisions of Executive or Executive Members.

5.1.3 The Council has established an over-arching Corporate Scrutiny Committee, and 2 Standing Scrutiny Committees all of which must be politically balanced. These Committees can establish, as required, specific Scrutiny Task Groups to conduct specific scrutiny tasks e.g. in depth scrutiny issues.

5.1.4 The size of any informal Scrutiny Task Group will vary according to the purpose for which it is established. Task Groups need not be politically balanced, so as to allow Members with a particular knowledge or interest or commitment to take part, and are not formal committees.

5.1.5 The People Scrutiny Committee or a Scrutiny Task Group when dealing with education matters will co-opt in a voting capacity non- Councillors as required by law (church and parent governor representatives). Scrutiny Task Groups invite other non-Councillors to serve in a non-voting capacity to assist in their work.

5.1.6 Executive Members cannot serve on the Scrutiny committees or any other scrutiny body.

5.1.7 The main responsibilities of the Corporate Scrutiny Committee include agreeing the Scrutiny Work Programme, co-ordinating

the work for the other scrutiny Committees. It also deals with the call-in of decisions made by the Executive. The People Scrutiny Committee scrutinises matters relating to health services in York and responds to consultation from Health Partners on substantial proposed developments.

5.1.8 The Scrutiny Committees have extensive powers to conduct research, carry out consultations, investigate, undertake visits, encourage community participation, liaise with other organisations, gather evidence, invite advisers and experts to assist them and question Executive Members and (in some circumstances) Chief and senior officers about their decisions and performance.

5.1.9 As part of the scrutiny role Members have certain additional rights to documents set out in Appendix 7.

5.1.10 Decisions taken by Officers under delegated powers cannot be called-in. This does not however prevent a questioning of a Chief or Senior Officer as part of a wider scrutiny exercise.

5.1.11 Scrutiny arrangements are governed by the Scrutiny Procedure Rules in Appendix 5 of the Constitution.

5.2 Call-in

5.2.1 In monitoring the decisions of Executive or of individual Executive Members, a specified number of members who are not on the Executive can "call-in" a non-urgent decision which has been made but not yet implemented. The right of call-in should only be used in exceptional circumstances when there is evidence to suggest that the Executive or Executive Member has departed from the principles of decision-making set out in the Articles. It is not there to be used just because other members do not agree with the decision.

5.2.2 All members will receive an electronic link to the decisions of Executive within five working days (usually earlier) and, unless it is identified as urgent, the decision which the Executive has taken will not take effect until the sixth working day after the publication of the decision. During the intervening period:

5.2.3 No fewer than 3 Members of the Council

may “call-in” (with reasons) the Executive decision. It will then be referred to a meeting of the Corporate Scrutiny Committee which will decide on the most appropriate way of dealing with the call-in.

5.2.4 The called-in Executive decision is then not implemented until either:

- the Corporate Scrutiny Committee has accepted the decision (with or without comment), or
- the Corporate Scrutiny Committee has referred the decision back to the Executive for reconsideration, and it has been reconsidered by Executive.

5.2.5 The right of call-in is an important 'check and balance' in enabling members who are not Executive members to challenge Executive decisions before they are implemented. The procedure by which call-ins are considered is detailed at Appendix 5 of the constitution.

5.2.6 Reference to the Full Council would only be appropriate if the decision called-in is one which the Corporate Scrutiny Committee believes:

- the Executive cannot in law take, or
- is reserved to the full Council, or
- raises issues of such exceptional significance and public interest to justify reference to the full Council, although the final decision rests with the Executive, or
- is contrary to the policy framework or contrary or not wholly in accordance with the budget.

5.2.7 The operation of call-in is monitored and the Council may change the arrangements as part of its review of the constitution if the arrangements are being abused.

6. Other Committees etc.

6.1 Composition and Roles

6.1.1 Certain 'non-executive' matters cannot by law be dealt with by the Executive. Apart from those reserved to the Full Council, these are in the main planning and regulatory functions, though there are some others.

6.1.2 The Planning and Licensing Committees carry out the planning, and other licensing and regulatory functions which cannot be the responsibility of the Executive.

6.1.3 The Audit and Governance Committee's main role is to consider and approve the Council's annual statement of accounts, to assure the Council about the objectivity and fairness of the financial reporting and performance of the Council, the adequacy of the risk management framework and associated controls within the Council, and that any issues arising from the drawing up, auditing and certifying of the Council's accounts are properly dealt with.

6.1.4 The Council has a number of appeals committees to carry out various appellate functions.

6.1.5 The Joint Standards Committee is responsible for the ethical framework for members within the Council and for promoting and maintaining high standards of conduct by members and co-opted members. It can establish sub-committees to deal with complaints about alleged breaches by a member of the Code of Conduct. Nominated Parish Councillors are members of this committee under agreed joint arrangements and are able to vote.

6.1.6 Details relating to all the above Committees are contained within the relevant Articles in the constitution.

7. Members

7.1 Service on the Executive

7.1.1 Every member of the Council, except the Lord Mayor of York, is eligible to serve on the Executive.

7.2 Service on the Scrutiny Committees

7.2.1 Every member is eligible to serve on the Scrutiny Committees and Task Groups, except Executive Members.

7.2.2 Members also have the opportunity of questioning the Leader of the Council and Executive Members at meetings of the

Council.

7.3 Service on Other Committees, etc.

7.3.1 All members of the Council, save for the Lord Mayor of York, are eligible to serve on the Planning and Licensing Committees. However Executive Members and the Lord Mayor are not permitted to serve on the Audit and Governance Committee.

7.3.2. All members of the Council are eligible to serve on the Joint Standards Committee.

7.3.3 Members may be nominated to some outside or other bodies.

7.4 Substitution

7.4.1 There can be no substitution for members of the Executive.

7.4.2 Information about substitutes to the various committees is detailed at Article 7, Appendix 4 and Appendix 6 of the constitution.

7.5 Involvement in Budget and Policy Framework

7.5.1 Budget and Policy Framework Procedure Rules are set out in Appendix 9. These set out the procedure by which the Executive will draw up proposals for the budget and policy framework of the Council. It includes provision for situations in which the Council does not accept the proposals of the Executive.

7.6 Members' Allowances

7.6.1 Members may receive the allowances contained in the Members Allowances Scheme (Appendix 20 of the Constitution). These are set by Council having regard to any recommendations made by an Independent Remuneration Panel.

7.7 Ethical Framework

7.7.1 Appendix 14 sets out the Members' Code of Conduct. The Council also has a Member Planning Code of Conduct (Appendix 17) and Guidance to Councillors and Officers appointed to Outside Bodies (Appendix 18). The Council,

other members, Officers and the public are entitled to expect high standards of conduct from members.

7.7.2 The Officer Code of Conduct is included at Appendix 15, an Ethical Statement at Appendix 13 and a protocol for member/officer relationships is included at Appendix 16 of the Constitution.

7.8 Access to Information

7.8.1 The Constitution sets out in Appendix 7 (Access to Information Procedure Rules) arrangements for public access to information linked to the democratic process.

7.8.2 The Rules also prescribe other information available in connection with scrutiny arrangements and additional rights of access for members.

8. Officers

The Council has paid staff working for it ("Officers") to give advice, implement decisions taken by Councillors and manage and take operational or professional day to day decisions in the delivery of the Council's services.

8.1 Designations

8.1.1 Some Officers have, by law, a specific duty to ensure that the Council acts within the law and e.g. uses its resources wisely. The following Officers have been designated to hold four Statutory Officers:

- Head of Paid Service – Chief Operating Officer
- Monitoring Officer – Director of Governance
- S151 Officer - Chief Finance Officer
- Statutory Scrutiny Officer – Head of Democratic Services, Scrutiny and Civic Support.

8.1.2 Officers are organised into a number of Directorates, some of which are led by a Corporate Director reporting to the Chief Operating Officer.

- Corporate Services
- Corporate Director of Adults and Integration
- Corporate Director of Children and Education

8.1.3 The Chief Operating Officer, Corporate Directors, Directors and Assistant Directors are collectively known as Chief Officers at City of York Council and each has Officers to undertake the tasks of delivering the Council's services and supporting the corporate management of the Council.

8.2 Delegations

8.2.1 Chief Officers have delegated powers to take a range of decisions on behalf of the Executive and the other Committees etc. with decision-making powers. In turn Chief Officers can delegate to other officers. The Responsibility for Functions/Scheme of Delegation (Appendix 1) sets out the scheme of delegation to Officers; local schemes of sub-delegation will be held by Directorates.

8.2.2 The scheme sets out general delegations and responsibilities which all Chief Officers have, such as the need to act within the policies and budget of the Council, its constitution, the taking of decisions in connection with staff employment and establishment matters, the management of assets allocated to the respective service and the entering into of partnership or contractual arrangements. It also sets out functions and responsibilities specifically delegated to a particular Chief Officer.

8.2.3 It also contains restrictions on the way Officers carry out their functions and reminds Officers that whilst day to day operational decisions will mainly be taken without consultation with Members, there is a need in certain circumstances to consult with relevant Members before deciding whether to exercise delegated powers.

8.2.4 It is the duty of any Chief Officer or other Officer exercising delegated of powers to keep relevant Members including Ward Members properly informed of activity arising within the scope of delegated powers in accordance with the Constitution. Significant decisions which affect the public or a locality, made by an Officer, will normally be recorded and published on the website.

8.3 Financial Regulations

8.3.1 Financial Regulations are set out in Appendix 10 and 10A and establish a framework for the proper administration and control of the Council's financial affairs.

8.3.2 In essence, the Financial Regulations set out the frameworks for:

- Financial Administration
- Accounting Systems / Accounting Records
- Audit
- Budget Responsibilities
- Budget Preparation
- Procurement of Works, Goods, Materials and Services
- Payment for Works, Goods, Materials and Services
- Payments to Employees and Former Employees
- Income
- Banking
- Borrowings, Other Capital Financing and Investments
- Trustees, Receivers, Appointees and Agents
- Assets
- Insurance
- Ex Gratia Payments
- Preparation of Statutory Financial Statements
- Applications and Claims for Grant or Subsidy.

8.3.3 To supplement these framework provisions, the Chief Finance Officer will issue detailed Financial Procedures which must be complied with as if they were Financial Regulations.

8.4 Contract Procedure Rules

8.4.1 Appendix 11 includes the Council's Current Contract Procedure Rules which set the framework for the acquisition and disposal of goods, works and services.

8.5 Employment Procedures

8.5.1 Appendix 12 of the Constitution sets out the Officer Employment Procedure Rules.

8.5.2 In essence, all appointments other than:

- Chief Operating Officer
- Corporate Directors
- Directors and

- Assistant Directors

must be made by Officers and cannot be made by Members.

8.5.3 The power delegated to Directors to take decisions about staffing and personnel matters is set out in Appendix 1.

8.6 Employee Code of Conduct

8.6.1 The Council's Employee Code of Conduct is contained in Appendix 15.

9. Conclusion

9.1 This Guide seeks to simplify some of the complexities of the Constitution but is not a substitute - reference should be made to the Constitution for the detailed provisions applicable in any situation or circumstance under discussion or ask for advice from the Director of Governance and or Head of Legal Services and or Head of Democratic Governance. A printed copy of the Constitution is available at West Offices, and it is available on the Council's website.

9.2 The Director of Governance and their Officers will always try to assist on any point of interpretation of the Constitution, or on what is said in this Guide.

Bryn Roberts
Director of Governance & Monitoring Officer
2023 (Reviewed May 2025)

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ARTICLES OF THE CONSTITUTION

2023

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ARTICLE 1 - THE CONSTITUTION

1 Powers of the Council

1.1 The Council will exercise all its powers and duties in accordance with the law and this Constitution. This Constitution and all its Articles and Appendices as listed on the contents page is the Constitution of the City of York Council.

1.2 Any reference in this Constitution to particular statutory provisions, or legislation, shall also include any consequential updates to the referenced statutory provisions or legislations.

2 Purpose of the Constitution

2.1 The purpose of the Constitution is to provide a framework, which will:

a. enable the Council to provide clear leadership to the community in partnership with citizens and other stakeholders;

b. support the active involvement of citizens in the process of local authority decision-making;

c. help Councillors represent their constituents effectively;

d. enable decisions to be taken efficiently and effectively;

e. create a powerful and effective means of holding decision-makers to public account;

f. ensure that no one will review or scrutinise a decision in which they were directly involved;

g. ensure that those responsible for decision making are clearly identifiable to local people and that they give reasons for their decisions;

h. provide a means of improving the delivery of services to the community; and

i. ensure that the Council promotes the Council Plan by working in partnership with others to provide the best possible outcomes for the citizens of York.

3 Interpretation and Review of the Constitution

3.1 Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option which it thinks is closest to the purpose stated above.

3.2 The Council will monitor and evaluate the operation of the Constitution as set out in Article 24.

3.3 Where the provisions of this Constitution require interpretation, such interpretation will be undertaken by the Director of Governance and in their absence by the Head of Democratic Governance and or a nominated Deputy Monitoring Officer.

ARTICLE 2 - MEMBERS OF THE COUNCIL

1 Composition and Eligibility

1.1 The Council comprises 47 Members, otherwise called Councillors. Councillors are elected by the voters of each Ward. There is a mixture of three-Member, two-Member and one-Member Wards (electoral divisions) in York.

1.2 Only registered voters of York or those living or working in York will be eligible to hold the office of Councillor.

2 Election and Terms of Councillors

2.1 The regular election of all Councillors will be held on the first Thursday in May every four years. The term of office of Councillors will start on the fourth day after being elected and will finish on the fourth day after the date of the next regular election.

3 Roles and Functions of Councillors

3.1 Councillors will at all times in undertaking their roles and functions observe the Members' Code of Conduct, guidance issued by the Joint Standards Committee and the Protocols set out in the Appendices of this Constitution and maintain the highest standard of conduct and ethics.

4 Key Roles

4.1 All Councillors will:

a. represent their communities and bring the views of their communities into the Council's decision-making process;

b. deal with individual casework and act as an advocate for constituents in resolving particular concerns or grievances;

c. balance different interests identified within their Ward and represent the Ward as a whole;

d. represent the Council in the community;

e. at Full Council, set the Budget and Policy Framework for the Council;

f. participate in decision making through membership of Committees.

g. if they are a Member of the Executive, take or participate in Executive decisions; and if not a Member of the Executive, participate in the scrutiny of such decisions; and

h. be available to represent the Council on other bodies.

5 Rights, Duties and Entitlements

5.1 Councillors will have such rights of access to documents, information, facilities, land and buildings of the Council as are necessary for the proper discharge of their functions and in accordance with the law.

5.2 Councillors will not make public information which they know or ought reasonably to know is confidential or exempt without the consent of the Council, or divulge information given in confidence to anyone other than a Councillor or Officer entitled to know it.

5.3 For these purposes “confidential” and “exempt” information are defined in the Access to Information Rules in Appendix 7 of this Constitution.

5.4 Councillors will be entitled to receive allowances in accordance with the Members’ Allowance Scheme set out in Appendix 20 of this Constitution.

5.5 Councillors will in undertaking their roles have regard to the provisions of the UK GDPR and Data Protection Act 2018, the Freedom of Information Act 2000 and the Equality Act 2010 and any subsequent and related legislation and guidance.

ARTICLE 3 - CITIZENS AND THE COUNCIL

1 Citizens' Rights and Responsibilities

1.1 Citizens' rights are set out below. Rights to access information and participate in Council business are explained in more detail in the Access to Information Rules in Appendix 7 of this Constitution:

2 Voting and Petitions

2.1 Citizens on the electoral roll for the City of York have the right:

a) to vote at Council elections; and

b) to sign a petition to request a referendum for a different [elected mayor] form of Constitution.

3 Information

3.1 Citizens have the right to:

a) attend meetings of the Council, its Committees and the Executive, except where confidential information is likely to be disclosed, and the meeting, or relevant part, is therefore closed to the press and public;

b) find out from the forward plan what decisions will be taken by the Executive and when;

c) see reports and background papers (except where these contain confidential information), and any records of decisions made by the Council, the Executive and its Committees; and

d) inspect and object to the Council's accounts and make their views known to the external auditor.

4 Participation

4.1 Citizens have the right to speak at meetings of the Council, the Executive and Committees (including Scrutiny and Ward Committees) in accordance with the procedures for each of these bodies. The Public Participation Protocol is detailed at Appendix

8 of this constitution. Citizens may also respond to consultation exercises organised by the Council, or make their views known by speaking, writing to or emailing a Councillor or Officer. Citizens may also participate by the presentation of a petition in line with the Council's Petition Scheme (Appendix 2 of this Constitution).

5 Complaints, concerns, comments and compliments

5.1 Citizens have the right to comment on the Council's services and/or its performance. Good performance can be praised; constructive suggestions for improvement are always welcome.

5.2 Where citizens feel something has gone wrong they may complain to:

(a) the Council itself under its complaints procedure;

(b) the relevant Ombudsman e.g. Local Government and Social Care Ombudsman, Housing Ombudsman Service after using the Council's own complaints procedure

(c) the Monitoring Officer about a breach of the Member Code of Conduct.

5.3 Any citizen who is unsure how to go about making a complaint, concern, comment or compliment should contact the Corporate Governance Team at haveyoursay@york.gov.uk or phone 01904 554145 or write to Corporate Governance Team West Offices, Station Rise, York, YO1 6GA.

5.4 Citizens may raise any comments or suggestions in relation to this Constitution by contacting the Council's Monitoring Officer (the Director of Governance) at West Offices, Station Rise, York, YO1 6GA or with any Councillor.

5.5 Citizens' rights to information and to participate are explained in more detail in the Access to Information Rules in Appendix 7 of this Constitution.

6 Citizens' Responsibilities

6.1 The Council values its Officers and the work they do on behalf of its citizens. The Council asks that citizens remain polite and

patient and are encouraged to use the complaints procedure if upset or aggrieved. The Council will not tolerate violent, abusive or threatening behaviour towards Councillors or Officers and any such incidents may be reported to the Police, or legal action may be taken by the Council.

7 Equal Opportunities

7.1 The Council values the rich diversity of York's local community and it is committed, through effective dialogue with key interest groups promoting equal opportunities for all, regardless of social, ethnic or economic background and to ensure effective compliance with equal opportunity employment practices within the Council.

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ARTICLE 4 - THE FULL COUNCIL

1 General Role

1.1 There are certain functions, the responsibility for which and /or the exercise of which the Council must, by law, reserve to itself or has chosen to do so. These are contained in Appendix 1 which sets out the assignment of responsibility for the functions not only of the Council itself, but also for Executive functions, Overview and Scrutiny functions and other non-Executive functions.

1.2 All Councillors, acting together as Full Council, will have the following roles and responsibilities:

a) adopting the Constitution and any subsequent changes to it;

b) adopting the Member's Code of Conduct;

c) agreeing the Council's Policy Framework and Budget;

d) taking decisions in respect of functions which are the responsibility of the Executive which are not in accordance with the Budgetary and Policy Framework agreed by the Council;

e) taking decisions in respect of functions which are not the responsibility of the Executive and which have not been delegated by the Council to Committees, sub Committees or Officers;

f) making appointments to Committees and external bodies;

g) agreeing or amending the terms of reference for Committees, deciding on their composition and making appointments to them;

h) appointing the Executive Leader of the Council;

i) confirming the appointment of the Council's Chief Operating Officer and Head of Paid Service;

j) duty to appoint an Electoral Registration Officer;

k) duty to appoint Returning Officer for local elections;

l) adopting a Members Allowance Scheme under Appendix 20 of this Constitution;

m) making, amending and revoking re-enacting or adopting bye-laws and promoting or opposing the making of local legislation of personal bills;

n) power to change the name of the area and the name of the City;

o) power to change the name of a Parish;

p) power to fill vacancies in the event of insufficient nominations;

q) appointing Honorary Freemen of the City;

r) making standing orders and financial regulations;

s) debating issues which affect the Council, its citizens and/or its area;

t) all other matters which, by law, must be reserved to Council;

1.3 The extent and nature of these roles and responsibilities are set out in Appendices of this Constitution.

2 Council Meetings

2.1 There are four types of Council Meetings:

a) Annual Meeting;

b) Ordinary Meetings;

c) Budget Council;

d) Extraordinary or special Meetings.

2.2 All meetings will be conducted in accordance with the Council's Procedure Rules set out in Appendix 3 of this Constitution.

3 Executive and Non-Executive Functions

3.1 Appendix 1 of this Constitution describes in detail those functions, which are the responsibility of the Executive ("Executive functions") and those, which cannot be the responsibility of the Executive ("non-Executive functions"). Apart from determining the Budgetary and Policy Framework, Executive functions include everything which is not explicitly identified as a non–Executive function in the Local Government Act 2000 and subsidiary regulations.

3.2 Non-Executive functions include:

a) licensing and regulatory functions (Article 14);

b) granting planning permission and other operational development control functions (Article 13);

c) the appointment, disciplinary and terms and conditions of Officers (Article 22 and Appendix 12);

d) functions in relation to elections and civic appointments;

e) a range of functions relating to public rights of way.

4 Responsibility for Functions

4.1 The Council will keep up to date Appendix 1 of this Constitution setting out the allocation of responsibilities for the Council's functions.

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ARTICLE 5 - THE LORD MAYOR OF YORK, THE SHERIFF OF YORK AND CHAIRING THE COUNCIL

1 Role and Function of the Lord Mayor

1.1 The Lord Mayor will be elected by the Council at its Annual Meeting, from amongst serving Councillors. The Lord Mayor must have 4 years' service as a City of York elected Councillor and have been elected to serve a further term. Upon election, the Lord Mayor will have the following responsibilities:

1.2 To act as an ambassador for the City locally, nationally and internationally, as it's elected First Citizen, by;

a. upholding the historical and ceremonial traditions of the Office of Lord Mayor;

b. attending and supporting civic events and community activities which demonstrate the First Citizen's commitment to the Council Plan;

c. actively promoting and supporting local business and economic activity in the City;

d. actively promoting and supporting local tourism;

e. carry out any duties in support of the specific objectives set for the year of office;

f. becoming patron/president to local organisations;

g. being the ceremonial host to official visitors and dignitaries to the City;

h. representing the City at ceremonial events;

i. respecting the privilege of residency in the Mansion House and access to the civic collection, whilst holding office;

j. actively promoting and supporting the Mansion House as a cultural, business and community venue for the City;

k. representing the City on other occasions as determined by Council;

l. chairing and presiding over meetings of Full Council, upholding, promoting and interpreting the Constitution as necessary, in accordance with the Council Procedure Rules (Standing Orders) for Council meetings as detailed within this Constitution;

m. carrying out all duties in a manner appropriate to the status and traditions of the Office.

1.3 The Lord Mayor will cease to be Lord Mayor if they resign, is dismissed by a vote of Full Council, ceases to be a Member of the Council, or is unable to act as a Member of the Council. They will continue to act as Lord Mayor (whether or not remaining a Councillor) after an election until their successor has been appointed. If the Lord Mayor is no longer a Councillor they may not vote other than to exercise a casting vote.

2 Role and Function of the Sheriff of York

2.1 The Sheriff of York is a personal appointment of the Lord Mayor and the nominee does not have to be a City of York elected Councillor. The Sheriff of York will be elected by the Council at its Annual Meeting. If circumstances require it, the Sheriff may appoint a Deputy. The Sheriff of York will have the following responsibilities, acting as an ambassador for the City locally, nationally and internationally, supporting its elected First Citizen, the Lord Mayor;

a) to support the Lord Mayor in their duties and activities;

b) to undertake ceremonial activities as required;

c) to act as patron/president to local organisations with the agreement of the Lord Mayor;

d) to maintain the historical and ceremonial traditions of Sheriff;

e) to carry out other duties as deemed appropriate by the Council, consistent with the traditions of the office; and

f) to carry out all duties in a manner appropriate to the traditions and status of the Office.

3 Role and function of the Deputy Lord Mayor

3.1 The Deputy Lord Mayor will be elected by the Council at its Annual Meeting. The Deputy Lord Mayor is normally the outgoing Lord Mayor and fulfils the following duties, as required by the absence of the Lord Mayor or Sheriff, on occasion:

a) to support the Lord Mayor in attending civic functions when the Lord Mayor or Sheriff are unable to attend;

b) to chair Full Council meetings in the absence of the Lord Mayor;

c) to carry out all duties in a manner appropriate to the traditions and status of the Office.

3.2 More information on the operational duties of the Lord Mayor and Civic Party, based on these constitutional roles, is contained within the 'Civic Guide', given to the Civic Party every year.

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ARTICLE 6 - THE LEADER OF THE COUNCIL AND THE EXECUTIVE

1 Role

1.1 The Council has adopted the Leader and Executive (England) governance model for its executive (decision-making) arrangements. The Leader of the Council is responsible for the discharge of such functions which fall within the responsibility of the Executive of the Council i.e. all functions which, by law, must be the responsibility of the Executive, or which are not the responsibility of any other part of the Council, whether by law or under this Constitution ('executive functions'). The Leader may make such arrangements as the Leader thinks fit from time to time for the delegation and discharge of executive functions.

2 Form and Composition of the Executive

2.1 The Leader of the Council is responsible for the appointment of the Executive which will consist of the Leader and not less than 2 and no more than 9 other Councillors, as determined by the Leader. (The current City of York Council Executive consists of 9 Councillors).The Leader will allocate areas of political responsibility to members of the Executive as the determined by the Leader from time to time. The Leader may change the size of Executive (within the above parameters) and appointments to it at any time. Executive Member portfolios are set out in Appendix 1. The Leader's powers of removal and appointment shall be exercisable by the Leader giving written notice to the Monitoring Officer.

2.2 Only Councillors may be appointed to the Executive by the Leader as above and there may be no co-optees and no deputies nor substitutes for Executive Members on the Executive.

2.3 Neither the Lord Mayor of York nor the Sheriff of York will be appointed to the Executive. Members of the Executive will not serve on the Scrutiny Committees or exercise scrutiny functions.

2.4 The Executive is not a Committee of the Council. Its composition is not required to be in accordance with the political balance of the Council.

2.5 The Executive collectively, or individual members of the Executive, or Officers, or in accordance with joint arrangements, will be responsible for the discharge of such functions of the Executive as are allocated by the Leader of the Council from time to time set out in Appendix 1 of this Constitution.

3 The Leader of the Council

3.1 The Leader of the Council will be a Councillor elected to that position by Full Council for a term of four years or the balance of their current term of office as a Councillor. The Leader will hold office until the first meeting of the Council following the next regular election unless they:

a. resign from the Office of Leader; or
b. is disqualified from being or remaining a Councillor, or they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension); or
c. is no longer a Councillor for any reason; or
d. is removed from office by an ordinary resolution on notice by the Council at any time during the Leader's term of office (and in which case Council will elect a new Leader at that or a subsequent meeting) (see Council Procedure Rule 11); or
e. the time period for which they were appointed has elapsed.

4 The Deputy Leader

4.1 One of the members of the Executive will be designated by the Leader as Deputy Leader, to hold office until the end of the Leader's term of office, unless the Deputy Leader resigns, ceases to be a member, is disqualified, or is removed by the Leader at any time.

4.2 If for any reason the Leader is unable to act, or the office of Leader is vacant, the Deputy Leader must act in the Leader's place. If the Deputy Leader is unable to act or the office is vacant, the Executive must act in the Leader's place or arrange for a member of the Executive to do so.

5 Other Executive Members

5.1 An Executive Member shall hold office on the Executive until they:

a. resign from office;
b. are disqualified from being or remaining a Councillor, or they are suspended from being a Councillor under Part III of the Local Government Act 2000 (although they may resume office at the end of the period of suspension);
c. are no longer a Councillor for any reason; or
d. are removed from office by the Leader of the Council under paragraph 2.1 above.

5.2 If any Executive Member, including the Leader, fails for 6 months to attend any meeting of the Executive, or any committee of it, then unless the failure was due to some reason approved by or on behalf of the Council, they shall cease to be a member of the Council in accordance with the provisions of the Local Government Act 1972. [Note – any Councillor (including a member of the Executive) becomes disqualified if they fail for 6 months to attend any meeting of the Authority without prior approval as above].

6 Responsibility for Executive Functions

6.1 The Leader may exercise any Executive function.

6.2 The Leader will decide on the number, and extent of areas of responsibility of Executive Members and will decide on which

members of the Executive such areas of responsibility shall be allocated.

6.3 The Leader will decide the extent to which responsibility for formal decision-making for functions of the Executive is held collectively by the Executive, by individual members of the Executive or officers.

6.4 Appendix 1 sets out the functions assigned to the Executive and Officers.

6.5 Unless delegated to an individual Officer or Executive Member, the Leader may determine that the responsibility of the Executive for the exercise of an executive function and decision-making is collective.

6.6 The Leader may at any time delegate any responsibility of the Leader, or the Executive, for the exercise of an executive function to any Executive Member with responsibility or any other individual member of the Executive, or Officer.

6.7 The Leader or Executive, in relation to an executive function, may specify that a particular decision which would otherwise fall within a power delegated to an Officer, in accordance with the Scheme of Delegation to Officers, shall not be exercised by that Officer, but shall be reserved or referred to the Leader, Executive or an individual Executive Member for that decision to be made.

6.8 An Officer may decide not to exercise any executive function delegated to them and invite the Leader or Executive to take a particular decision in relation to that function.

7 Proceedings of the Executive

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

8 Committees of the Executive

8.1 The Executive shall have power to establish one or more Committees of the Executive and to delegate powers to any such Committees which will be detailed in Appendix 1 of this Constitution.

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ARTICLE 7 - DECISION MAKING

1 Responsibility for Decision-Making

1.1 The Council, with support from Democratic Services, will issue and keep an up to date record of what part of the Council or individual has responsibility for particular types of decisions or decisions relating to particular areas or functions which are not the responsibility of the Executive. The Leader, with support from Democratic Services, will do the same with respect to Executive functions. These records are collectively set out in Appendix 1 of this Constitution and includes the Scheme of Delegation and may change from time to time.

2 Principles of Decision Making

2.1 All decisions made by or on behalf of the Council will be made in accordance with the following principles:

a) respect for human rights and equality of opportunity;
b) presumption of openness, transparency and public accountability;
c) clarity of aims and desired outcomes;
d) decisions will be proportionate to the intended objective (i.e. the action must be proportionate to the desired outcome);
e) having regard to the relevant facts, legislation and relevant considerations and disregarding irrelevant considerations;
f) due consultation and taking professional advice from Officers;
g) explaining options considered and giving reasons;
h) lawfulness and financial propriety;
i) taking due account of Council policy and procedures;
j) consideration of relevant implications;
k) reasons being given for the decision, as appropriate.

3 Key Decisions

3.1 A key decision means a decision made in connection with the discharge of a function which is the responsibility of the Executive and which is likely to:

- have a financial impact of £500k or above;
  and / or
- has a significant impact on two or more electoral wards in York

3.2 For the purposes of 3.1 above, any issue which, in the opinion of the Leader of the Council, is likely to have a significant effect or impact any group(s) of people shall be regarded as significant in terms of impact on communities. In deciding whether an issue has a significant effect or impact on any group(s) of people the Leader shall have regard to:

a) whether the decision may incur a significant social, economic or environmental risk or benefit
b) the likely extent of the impact of the decision both within and outside the City
c) whether the decision is likely to be a matter of political or other controversy
d) the extent to which the decision is likely to result in or attract substantial public interest.

3.3 Expenditure in excess of the above levels will not constitute a key decision if such expenditure is made:

- as part of the implementation of a decision which itself was a key decision, e.g. the award of a contract;
  and / or
- where the expenditure is routine expenditure as described in the Contract Procedure Rules.

3.4 A decision maker may only make a key decision in accordance with the requirements of the Financial Procedure Rules, the Executive Procedure Rules and the Access to Information Procedure Rules set out in Appendices of this Constitution.

3.5 The decision of the Leader of the Council as to whether a decision is a Key Decision may be challenged by Call In.

3.6 The Chief Operating Officer will maintain a list of anticipated Executive decisions that may be Key Decisions.

4 The Forward Plan

4.1 Purpose of the Forward Plan

a) The Forward Plan gives advance notice of “key decisions” which are to be made by Executive. If the Leader or Chief Operating Officer intends to make a key decision (which is only permitted in a case of urgency) that decision must also be recorded in the Forward Plan before the decision is taken.

b) The Council also aims to include all “non-key decisions” to be made by Executive or by individual Executive Members in the Forward Plan.

c) Unless urgency rules (as detailed at Appendix 21 of this Constitution) apply a “key decision” cannot be taken unless the proposed decision has been included on a published Forward Plan for at least 28 clear days. That means calendar days but the date of publication and the date of the decision are not included.

d) The Council aims to give the same 28 days clear notice of non-key decisions. Exceptionally this may not be possible and, if a satisfactory reason is given, a non-key decision may be added to the Forward Plan at shorter notice but before the decision is taken, with the agreement of the Leader in consultation with the Chief Operating Officer and the Monitoring Officer.

4.2 Period of Forward Plan

a) The Forward Plan will be prepared by the Head of Democratic Governance to cover a period of four months. An updated plan will usually be published weekly but items may be added to the plan where the Head of Democratic Governance considers that to be appropriate.

4.3 Contents of the Forward Plan

The Forward Plan will:

a) describe the matter in respect of which a decision is to be made;

b) identify whether the Council considers that the decision to be made is a key or non-key decision;

c) where the decision maker is an individual, give that individual's name, and title if any, and where the decision maker is the Executive, include a list of its members;

d) include the date on which, or the period within which, the decision is to be made;

e) include a list of the documents submitted to the decision maker for consideration in relation to the matter in respect of which the key decision is to be made;

f) give the address from which copies of, or extracts from, any document listed is available. This is subject to any restrictions on releasing that information;

g) advise that other relevant documents may be submitted to the decision maker; and

h) state the procedure for requesting details of those documents (if any) as they become available.

5 Decision Making by Full Council

5.1 The Council meeting will follow the Council Procedure Rules set out in Appendix 3 of this Constitution when considering any matter.

6 Decision Making by the Executive

6.1 The Executive will follow the Executive Procedure Rules set out in Appendix 4 of this Constitution when considering any matter.

7 Decision Making by Scrutiny Committees

7.1 Scrutiny Committees will follow the Scrutiny procedures rules set out in Appendix 5 of this Constitution when considering any matter.

7.2 Scrutiny Committees have no Executive decision-making powers in relation to the functions within their scope, nor does any Scrutiny Working Group or Forum.

7.3 Scrutiny working Groups and Forums will follow those parts of the Scrutiny Procedure Rules set out in Appendix 5 of this Constitution as apply to them.

8 Decision Making by Other Committees and Sub-Committees established by the Council

8.1 Other Council Committees and sub-committees will follow those parts of the Council Procedure Rules set out in Appendix 3 of this Constitution as apply to them.

9 Decision Making by Individuals

9.1 Where decisions are delegated to individual Councillors or Officers under the Council's Scheme of Delegation they will

observe the procedure rules for such delegations as set out in Appendix 1 of this Constitution.

10 Urgent Decision making

10.1 Decisions which are deemed to be urgent will be made in accordance with the Urgent Decision Making Guidance as detailed at Appendix 21 of this Constitution.

11 Conflicts of Interest

11.1 No Councillor or Officer will take, or participate in a decision in which they have a prejudicial interest (as defined by the Members' Code of Conduct and/or the Employee Code of Conduct). Where an individual Executive Member has delegated power to make a decision but has a disclosable pecuniary interest or other registerable interest the matter will be referred to the Executive for a decision or to the Leader of the Council who may defer the matter to another Executive Member for determination.

12 Decision-making by Council bodies acting in a quasi-judicial or appellate capacity

12.1 The Council, Councillors a Councillor or an Officer acting as a tribunal or as an appellate body or in a quasi-judicial manner or determining/considering (other than for the purposes of giving advice) the civil rights and obligations or the criminal responsibility of any person will proceed in accordance with the requirements of natural justice and the Human Rights Act 1998 (and any other relevant and subsequent legislation).

13 Quoracy

13.1 Quoracy of Council, The Executive and its Committees is as follows:

- Full Council – 12 Members
- Executive – 3 Members
- All Scrutiny Committees – 3 Members
- Audit & Governance Committee – 3 Members
- Joint Standards Committee – 3 Members 1 of whom must be a Parish Councillor if Parish Council business is to be conducted
- Licensing Committee and Sub-Committees – at least 3 Members
- Planning Committee – at least 3 Members
- Any other Committee of the Council will not transact any business unless at least 3 Members are present unless any rules within this Constitution stipulate otherwise

13.2 In respect of quoracy, the principles of political proportionality will aim to be adhered to but shall not apply to the Executive, Joint Standards Committee and if necessary Licensing Sub Committees

14 Substitutes (see also Appendix 6 of this Constitution)

14.1 The Council may appoint named substitutes for Member bodies as follows:-

(a) For Planning Committee, up to four named substitutes shall be allowed for each of the political Groups. For other Member bodies up to three named substitutes shall be allowed for each political Group. Substitutes do not have to be appointed from within the same political group. Independent Councillors may also be appointed to act as named substitutes for other Independent Councillors within this rule.

(b) Any Member of the Executive may substitute for another Member of the Executive who is (either individually or as part of a Committee of the Executive) unavailable.

(c) Where no named substitute is available a political group may instruct the Chief Operating Officer or the Monitoring Officer to replace for the duration of a particular meeting, an existing Member with another substitute identified by the political group provided always that this provision will not apply to Licensing and Regulatory Committee or Joint Standards Committee or any Sub-Committees thereof.

(d) The Council may appoint a Member of the Executive as the Deputy Executive Leader who will act for the Executive Leader in their absence or unavailability.

14.2 If a meeting which is attended by a substitute is adjourned, then the substitute will have the right to attend on the adjourned date in place of the original Member. If the substitute is unable to attend, then the original Member or another named substitute may attend.

ARTICLE 8 – SCRUTINY

1 Role and Function of Scrutiny

1.1 Effective scrutiny offers non-executive members the opportunity to propose policy changes, suggest improvements, commend good practice, involve communities and take a leadership role on issues of significant concern in local areas.

1.2 The Council will appoint the following Scrutiny bodies to discharge the functions conferred by section 21 of the Local Government Act 2000:

- Corporate Scrutiny Committee (will act as the Council's statutory scrutiny committee)

1.3 Standing Scrutiny Committees:

- People Scrutiny Committee
- Place Scrutiny Committee

1.4 The Chairs and Vice Chairs of the Scrutiny Committees are appointed by Full Council.

1.5 The common functions and individual terms of reference for each of the Scrutiny Committees are set out below.

1.6 All Councillors, except Members of the Executive, may be members of a scrutiny committee. However, no Councillor may be involved in scrutinising a decision in which they have been directly involved.

1.7 Government Statutory Scrutiny Guidance (2019) promotes the four core principles for effective scrutiny originally proposed by The Centre for Governance and Scrutiny namely:

- Provide constructive 'critical friend' challenge;
- Amplify the voices and concerns of the public;
- Be led by independent people who take responsibility for their role;

- Drive improvement in public services.

1.8 Any efficiency reviews undertaken by a Scrutiny Committee should:

a) be outcome focused and reflect the Council's corporate priorities;

b) challenge assumptions about the Council's operational processes;

c) ensure all feasible options for the future delivery of services are explored and appraised;

d) encourage the involvement of interested parties and external partners;

e) make relevant recommendations to the Executive or Council

1.9 For further information on how scrutiny fits into the Council's committee structure see Article 8, Appendix 5 and Appendix 7 of this Constitution

2 General Role

2.1 Within their terms of reference, the Scrutiny Committees will:

a) review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;

b) make reports and/or recommendations to the full Council and/or the Executive and/or any policy, joint or area committee in connection with the discharge of any functions;

c) consider any matter affecting the area or its inhabitants; and

d) exercise the right to call-in, for reconsideration, decisions made but not yet implemented by the Executive. A call-in request received will be considered

by the Corporate Scrutiny Committee in accordance with the procedures at Appendix 5 of this Constitution

3 Specific Functions

3.1 Policy development and review.

3.2 The Scrutiny Committees may:

a) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;

b) conduct research, community and other consultation in the analysis of policy issues and possible options;

c) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;

d) question members of the Executive and committees and Senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects on the issues and proposals affecting the area; and

e) liaise with other external organisations operating in the area, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.

4 Scrutiny

4.1 The Scrutiny Committees may:

a) review and scrutinise the decisions made by and performance of the Executive and/or committees and Council officers both in relation to individual decisions and over time;

b) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;

c) question members of the Executive and or committees and Senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;

d) make recommendations to the Executive and/or appropriate committee and/or Council arising from the outcome of the scrutiny process;

i. review and scrutinise the performance of other public bodies in the area and invite reports from them by requesting them to address an Improvement and Scrutiny Committee and local people about their activities and performance; and

ii. question and gather evidence from any person (with their consent).

5 Best Value

5.1 To oversee specific Best Value reviews undertaken on the Council's functions; receive progress reports; and make recommendations for consideration by the Executive on measures to be implemented.

6 Annual Report

6.1 The Corporate Scrutiny Committee must report annually to full Council on their working and make recommendations for future work programmes and amended working methods if appropriate.

7 Proceedings of Scrutiny Committees

7.1 The Scrutiny Committees will conduct their proceedings in accordance with the Scrutiny Procedure Rules set out in Appendix 5 of this Constitution.

8 Impartiality

8.1 When considering any matter as a member of a Scrutiny body the party whip will not be exercised.

Note: the Party whip is defined as "any instruction given by or on behalf of a political group to any Councillor who is a Member of that group as to how that Councillor shall speak or vote on any matter before the Council and any committee or sub-committee or the application or threat to apply any sanction by the group in respect of that Councillor should they speak or vote in any particular manner."

9 Access to Information

9.1 Requests for access to information by a Member of a Scrutiny Committee will be considered in accordance with the Access to Information rules at Appendix 7 of this constitution.

10 Corporate Scrutiny Committee

10.1 To act as the Council's statutory scrutiny committee

10.2 To oversee and co-ordinate/support the work of the Scrutiny Committees in its capacity as the Council's statutory scrutiny committee.

10.2 This will include:

a) Allocating responsibility for issues which fall between more than one Scrutiny Committee;
b) Allocating, in consultation with the relevant Chair and Vice-Chair, urgent issues to be considered by an appropriate committee (including ad-hoc scrutiny committee), as may be necessary;
c) Reviewing progress against the work plans of the Scrutiny Committees, as may be necessary and receiving updates from Chairs of those scrutiny committees, as required;

d) Receiving periodical progress reports, as appropriate, on specific scrutiny reviews.

e) Considering and commenting on any final reports arising from completed reviews produced by the Scrutiny Committees, as required.

10.3 To provide an annual report to Full Council on the work of the overview and scrutiny function

10.4 To consider all post-decision Call-in for scrutiny in accordance with the Scrutiny Procedure Rules as set out in Appendix 5 of the Constitution and to question any Executive Member, as may be required

10.5 In consultation with the Monitoring Officer, to periodically review the scrutiny procedures to ensure that the function is operating effectively and recommend to Council any appropriate constitutional changes relating to the scrutiny structure or procedural rules.

10.6 To receive details of petitions received by the Council in line with the Council's published arrangements and responses or proposed responses to those petitions. To consider using its powers as a scrutiny committee to support the Council in responding appropriately to issues raised by such petitions and, in so doing, to promote public engagement.

10.7 To monitor progress and actions taken in response to motions approved by Full Council

10.8 Is responsible for monitoring performance of the following areas:

a) Legal Services
b) Corporate Governance Team
c) Civic & Democratic Services
d) Electoral Services
e) Corporate Finance and Procurement
f) Human Resources and Organisational Development
g) Customer, Resident and Exchequer Services
h) Digital and ICT
i) To monitor major capital projects
j) To have strategic oversight of the Council's 10 year strategies

k) Develop and maintain a closer working relationship with the council's Audit and Governance Committee

10.9 To have detailed oversight of the Council's Climate Change responsibilities and actions, specifically:

a) The production and delivery of the Climate Change Strategy and Climate Change Action Plan, which provides the framework for the council and city to be net zero carbon and climate ready.

b) Annual emissions reporting to monitor progress against our climate change ambition, reviewing the Council's practices, policies, and procedures to understand our impact and identify improvements.

c) The development of projects and programmes that contribute towards the Council's climate change ambition, including resilience measures to enable communities to address the consequences of climate change, and the identification of resources that can contribute towards delivery of actions

d) Collaboration with local and regional stakeholders, including the York Climate Commission, and engaging communities to understand their needs and deliver direct benefits for them,

10.10 As part of the committee's Climate Change responsibility

a) To review best practice across the UK and other international cities

b) To provide opportunities for the committee to contribute to reducing carbon emissions, in the context of environmental responsibility, economic prosperity, social equity and cultural vitality

11 Scrutiny Committees

11.1 The Council will establish Standing Scrutiny Committees whose overarching functions are:

11.2 To exercise the powers of a Scrutiny Committee under section 21 of the Local Government Act 2000 by:

a) Promoting a culture of continuous improvement across specific service plan areas

b) Challenging and reviewing the performance of those services

c) Assisting in the development of appropriate council policy in relation to those services

d) Maintain an annual work programme and ensure the efficient use of resources

11.3 In accordance with the powers of the Council, the Executive and Corporate Scrutiny Committee and subject to the Scrutiny Review Procedural Rules in Appendix 5 of this Constitution:

a) Review any issue that it considers appropriate or any matter referred to it by the Executive, Corporate Scrutiny Committee or Council and report back to the body which referred the matter.

b) Identify aspects of the Council's operation and delivery of services, and/or those of the Council's statutory partners, suitable for efficiency reviews.

c) Carry out efficiency reviews or set up a Task Group from within their membership to conduct a review on their behalf.

d) Scrutinise issues identified from the Executive's Forward Plan, prior to a decision being made subject to the Pre-Decision protocol at Appendix 5 of this Constitution.

e) Receive Executive Member reports relating to their portfolio, associated priorities & service performance when requested by the committee.

f) Scrutinise the services provided to residents of York by other service providers, as appropriate.

g) To make final or interim recommendations to the Executive and/or Council.

h) To report any final or interim recommendations to Corporate Scrutiny Committee, if so requested.

i) Monitor the Council's financial performance during the year.

j) Monitor progress on the relevant Council Priorities and advise on potential future priorities.

k) Initiate, develop and review relevant policies and advise the Executive about the proposed Policy Framework as it relates to their service plan areas

11.4 In carrying out their individual remit each Scrutiny Committee must ensure their work further promotes inclusiveness and sustainability.

12 Scrutiny Service Plan Responsibilities

12.1 Each Scrutiny Committee is responsible for the following service plan areas.

12.2 <u>People Scrutiny Committee:</u>

a) Develop & maintain close working with Corporate Parenting Board and York Schools & Academies Board and deliver complimentary agendas where appropriate;
b) Children's Social Care
c) The Virtual School for children in care
d) Early Years and childcare
e) School effectiveness and achievement, including school attendance and school safeguarding
f) School services: School place planning and capital maintenance; School transport; Admissions; The School governance service and SENDIASS; Behaviour and attendance; Elective home education; Children missing education
g) SEND services & Educational Psychology
h) Skills, including monitoring of York Skills Board; York Learning
i) Neighbourhood Working, Community Centres
j) People & Neighbourhoods Strategy & Policy

k) Community Safety including Safer York Partnership, Substance Misuse, Anti Social Behaviour
l) Youth Services
m) Voluntary Sector
n) Digital inclusion strategy
o) Develop & maintain close working with Health & Wellbeing Board in order to deliver complimentary agendas and avoid duplication; hold HWB board to account on HWB Strategy
p) Public Health
q) Maintain oversight of Health Services as appropriate to Scrutiny, including monitoring of the Integrated Care Strategy
r) Consider any substantial changes to Health service provision within the local authority area
s) Services for carers
t) Adult Safeguarding
u) Adult Social Care Provision
v) Adult Social Care Community Teams
w) Commissioning, Quality Improvement and Partnerships
x) Early Intervention and Prevention
y) Housing Revenue Account
z) Housing Services
aa) Housing - Building Services, Repairs and maintenance, Standards and Adaptations
bb) Older People's Accommodation Programme
cc) Landlord services
dd) Homelessness and rough sleeping

12.3 In addition to the general powers and delegated authorities of Scrutiny Committees of the Council, the People Scrutiny Committee is also responsible for:

a) the discharge of the health and scrutiny functions conferred on the Council by the Local Government Act 2000
b) undertaking all of the Council's statutory functions in accordance with section 7 of the Health and Social Care Act 2001, NHS Reformed & Health Care Professional Act 2002, and section 244 of the National Health Service Act 2006 and associated regulations, including appointing members, from within the membership of the Committee, to any joint scrutiny committees with other local authorities, as directed under the National Health Service Act 2006.

c) reviewing and scrutinising the impact of the services and policies of key partners on the health of the City's population
d) reviewing arrangements made by the Council and local NHS bodies for public health within the City
e) making reports and recommendations to the local NHS body or other local providers of services and to evaluate and review the effectiveness of its reports and recommendations
f) delegating functions of scrutiny of health to another Local Authority Committee
g) reporting to the Secretary of State of Health when:
    i. concerned that consultation on substantial variation or development of service has been inadequate
    ii. it considers that the proposals are not in the interests of the health service

12.4 Place Scrutiny Committee:

a) 10 Year Economic Strategy, Economic Growth & Inward Investment
b) 10 Year Transport Strategy
c) Local Transport Strategy
d) Accessibility in public areas including City Centre Access Strategy
e) Parking Services (including Digital ResPark)
f) Highways
g) Planning & Development Services
h) Strategic Housing Provision
i) Regeneration & Asset / Property Management
j) Public Realm
k) Waste Services
l) Fleet
m) Public Protection (Trading Standards, Environmental Health, Food Safety Licensing)
n) Client Management: Make it York, GLL
o) Client Management: YorWaste
p) Emergency Planning, Flood Risk
q) Monitor Emissions Impacts across the City
r) Consider MCA Joint Committee Decisions as relate to this Committee
s) Culture, including York Theatre Royal, Museums, Music Venues Network (& elements of MIY)

t) Libraries & Archives

13 Task Groups

13.1 Task groups will be formed to undertake a specific scrutiny review in accordance with the powers conferred by section 21 of the Local Government Act 2000 and will include at least one member of the initiating Scrutiny Committee. Where possible, task groups will be politically proportionate and aim to have a quoracy membership.

14 Executive / Scrutiny Protocol for City of York Council

14.1 Introduction

14.1.1 This Protocol applies to all members of scrutiny committees, any member who may be a member of a Task and Finish Group and all members of the Executive.

14.2 Policy development, pre-decision scrutiny and review of policy implementation

14.2.1 The importance of early input from Scrutiny into policy development is recognised. Executive Members and/or officers should bring to the attention of the relevant scrutiny committee any policy that is being developed or is due for review to ensure timely input.

14.2.2 Policy development will be carried out through discussion at the relevant scrutiny committee or through a Task and Finish Group overseen by the relevant scrutiny committee. The Executive and relevant officers will consider the views of scrutiny members in the development of the policy and provide a response to the recommendations of scrutiny. The detail of scrutiny's involvement shall also be included within the body of the Executive report. The Executive/Full Council will continue to be responsible for approving and adopting policy.

14.2.3 Executive Members may wish to request views from Scrutiny members on a decision before it is taken in order to be able to

consider different views and perspectives prior to a decision being taken.

14.2.4 Scrutiny members may wish to review the implementation of new or revised policies, with a view to identifying best practice or lessons learned.

14.3 Holding the Executive to account

14.3.1 A key role of scrutiny is in holding the Executive to account for decisions taken and the performance of services. In holding the Executive to account Scrutiny members will:

- Consider decisions taken by the Executive, individually and collectively and items on the Forward Plan;
- Review service performance and performance against policy and targets;
- Be prepared to ask searching questions that provide a constructive challenge;
- Be respectful in their interactions with Executive Members and officers;
- Represent the voice of the public;
- Listen to the responses provided and to assist the Executive in identifying areas for further consideration and improvement.

14.3.2 In return, Executive Members will:

- Be willing to be open, honest and engaged in providing a response to constructive challenge;
- Value the importance of scrutiny;
- Be supportive of the scrutiny process and invite and seek opinion from Scrutiny members on decisions to be taken, where appropriate;
- Provide a positive contribution to scrutiny meetings;
- Attend meetings when able to do so to answer questions and present information;

14.3.3 Where a decision is ‘called in’, it will be considered by the Corporate Scrutiny Committee in accordance with the procedures set out at Appendix 5 of the council constitution[5].

[5] https://democracy.york.gov.uk/documents/s184985/05%20-%20Appendix%205%20-%20Scrutiny%20Procedure%20Rules.pdf

14.4 Scrutiny work planning

14.4.1 Scrutiny sets its own work programme, with input from Executive Members, officers and residents and taking into account the council's Forward Plan. At the start of each Municipal Year, the scrutiny committees will hold a work planning workshop. As part of this workshop the views of the relevant Executive Members and officers will be sought with a view to ensuring that the Scrutiny function contributes towards effective policy formulation and decision-making.

14.4.2 The Chair and Vice Chair of the Corporate Scrutiny Committee will meet regularly with representatives of the Executive in order to ensure a positive working relationship between the two functions.

14.5 Scrutiny recommendations to the Executive

14.5.1 Scrutiny committees may make recommendations to the Executive on functions the Council is responsible for through formal scrutiny committee meetings and through Task and Finish Group reports.

14.5.2 Upon receipt of a recommendation from Scrutiny, Executive Members will:

- Give due consideration to any recommendations and accept these where they are minded to; and/or
- Provide an explanation for the reasons why recommendations made by scrutiny have or have not been accepted.

14.5.3 Recommendations from Scrutiny will be logged and tracked by Democratic Services and Scrutiny Committees will receive formal reports twice each year on the number of recommendations that have been accepted and incorporated through the decision-making process and the level of progress made against the recommendations.

14.6 Ensuring Compliance with the Protocol

14.6.1 The Head of Democratic Services and the Monitoring Officer will be responsible for overseeing compliance with the

Executive/Scrutiny Protocol which should be used by members to support the wider aim of supporting and promoting a culture of scrutiny. The success of the protocol will be determined by:

- Recognition of the value of scrutiny;
- A clear record of constructive challenge;
- Valuable scrutiny reviews that achieve outcomes;
- An open and accountable decision making process.

14.6.2 An Annual Report will be submitted to Full Council each year with the aim of demonstrating the impact of Scrutiny and effectiveness of the Protocol.

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ARTICLE 9 - THE AUDIT AND GOVERNANCE COMMITTEE

1 Composition

1.1 The Council will establish the Audit & Governance Committee composed on a proportionate basis.

1.2 The Chair and Vice Chair of the Audit & Governance Committee shall be appointed by Full Council.

1.3 The Membership of the Audit and Governance Committee will not include in its Membership any Member of the Executive or the Lord Mayor.

1.4 Two Independent Persons will be appointed to this Committee to support its work in respect of its governance function only. Once appointed, an Independent Person will serve a maximum of two 4 year periods of office from date of appointment. The Independent Person will not be entitled to vote.

1.5 Members of the Audit & Governance Committee will participate in a programme of training relevant to the functions and responsibilities of this Committee.

2 Role and Functions of the Audit and Governance Committee

2.1 The Committee is a key component of the Council's corporate Governance arrangements. It provides independent assurance on the Council's arrangements for governance, risk management and internal control and oversees the financial reporting and annual governance processes.

2.2 The Committee will oversee the Council's arrangements for internal and external audit and assists in ensuring that efficient and effective assurance arrangements are in place.

2.3 The Chair of the Audit & Governance Committee will provide an annual report to Full Council on the work of the Committee.

2.4 The Committee will be responsible for functions set out below:

Audit Functions:

a) Approving the Annual Audit Plan of the Council from both Internal Audit and External Audit;
b) Monitoring progress against the Annual Audit Plan;
c) Considering the Head of Internal Audit's annual report and opinion;
d) Contributing to the Quality Assurance and Improvement Programme, including the external assessment of internal audit;
e) Approving the Annual Statement of Accounts;
f) Considering the Annual Governance Statement and monitoring any necessary actions;
g) Reviewing the Strategic Risk Register and considering risk management arrangements;
h) Considering the Council's Treasury Management activities;
i) To consider the action plan arising from the Annual Letter of the External Auditor;
j) To commission work from Internal Audit Service and External Audit with regard to the resources available and existing scope and breadth of their respective work programmes and forward plan for the Committee.

Governance Functions:

a) Considering the Annual Review of the Council's Regulatory Framework (Code of Corporate Governance);
b) Receiving the Report of the Monitoring Officer;
c) Consider any relevant issues referred to it by the Chief Operating Officer, the S151 Officer, the Monitoring Officer; the Head of Internal Audit and any other council body;
d) Considering the external auditor's reports and letters addressed to those charged with governance;

e) Make payments or provide other benefits in cases of maladministration to the extent that such power is not delegated elsewhere in the Council's scheme of delegation;
f) Oversight of activity and compliance in respect of the Regulation of Investigatory Powers Act.

2.5 The Committee will make recommendations to the Council on the exercise of the following functions:

a) Recommendation that Full Council change the name of the City;
b) Recommendation that Full Council change the name of a Parish;
c) Recommendation that Full Council make, amend, revoke or re-enact byelaws to the extent that the power is not delegated to another Committee of Sub Committee;
d) Recommendation that Full Council promote or oppose local or personal bills;
e) Recommendation that Full Council fill vacancies in the event of insufficient nominations;
f) Recommendation that Full Council dissolve small Parish Councils;
g) Recommendation that Full Council make orders for grouping Parishes, dissolving groups and separating Parishes from groups.
h) Submit proposals to the Secretary of State for an Order under Section 10 of the Representation of the People Act 2000 (pilot schemes for local elections);
i) Divide electoral divisions into Polling Districts at local government elections;
j) Divide constituency into Polling Districts;
k) Exercise functions in relation to Parishes and Parish Councils under Part II of the Local Government and Rating Act 1997 and subordinate legislation under that Part.

2.6 The Committee will be responsible for the overview and effectiveness of the Confidential Reporting Code and Counter

Fraud arrangements and other associated policies and working protocols.

2.7 The Committee will be responsible for the overview and fitness for purpose annual review of the Council's policy and procedures in so far as they relate to settlement agreements.

2.8 The Committee will advise the Council on the monitoring, amendments to and overall operation of the Constitution including the Council's Contract Procedure Rules and the Financial Procedure Rules, working protocols and Codes of Conduct.

ARTICLE 10 - THE JOINT STANDARDS COMMITTEE

1 Composition

1.1 The Joint Standards Committee shall be a joint committee established pursuant to section 102 of the Local Government Act 1972 consisting of the City of York Council and Parish Councils within the boundary of York. In addition, three Independent Persons will be appointed to the Joint Standards Committee who will each serve no more than two consecutive 4 year terms of office.

1.2 The Chair and Vice Chair of the Joint Standards Committee will be appointed at the first meeting of this Committee in the municipal calendar.

1.3 The Chair should be appointed from City of York Councillors, and the Vice Chair from Parish Councillors.

1.4 The proportionality rules do not apply to the composition of this Committee.

1.5 Any reference to Parish Council within this Article shall include both Parish Councils and Town Councils.

1.6 There is no provision for substitutes to attend this Committee in the event that an appointed committee member is unable to attend a meeting.

2 Role and Functions of the Joint Standards Committee

2.1 The Joint Standards Committee will be responsible for the following functions:

a) The promotion of a culture of openness, accountability, probity and the maintenance of high standards of conduct by members and co-opted Members of the Councils and other Parish Councils for which the City Council is the principal authority;

b) To assist and support the Monitoring Officer by establishing arrangements for investigating and making decisions in respect of allegations that the code of conduct of either the

City Council or a Parish Council for which the City Council is the principal authority has been breached;

c) To undertake an annual review of the Council's Code of Conduct which responds to the annual review of the Model Code undertaken by the LGA;

d) To respond to consultation documents and raise awareness of proposed changes to the Code of Conduct but adoption and revisions to the Members Code of Conduct shall be reserved to Full Council;

e) To lead on the design and implementation and subsequent review of the Member Development programme, including the induction programme for City of York Councillors, and where necessary and appropriate work in conjunction/collaboration with the Audit and Governance Committee;

f) To oversee programmes of guidance, advice and training on ethics, standards and probity for Members and Officers on the Members Code of Conduct;

g) To be responsible for the Council's Register of Members Interests and to receive reports from the Monitoring Officer on the operation of the register from time to time;

h) To be responsible for written guidance and advice on the operation of the system of declarations of Members' Interests and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time;

i) To be responsible for written advice and guidance on the operation of gifts and hospitality for both Councillors and Officers and to receive reports from the Monitoring Officer on the operation of the system of declarations from time to time.

3 Membership of the Joint Standards Committee

3.1 The Joint Standards Committee shall consist of:

a) Five voting Members of the City Council (one from each of the properly constituted political groups and one representative of independent councillors. If there are more than five properly constituted political groups precedence shall be given in terms of group size);

b) Three voting Members representing Parish Councils;

c) Minimum of three non-voting Independent Persons.

3.2 A person who ceases to be a member of a constituent authority for any reason shall cease to be a member of the Joint Standards Committee.

4 Term of office and casual vacancies

4.1 An Elected member of the Joint Standards Committee will hold Office until one of the following occurs:

a) They resign by giving written notice to the Monitoring Officer of the Council that appointed them:

b) They are removed or replaced by the Council that appointed them;

c) They are disqualified from membership of the Joint Standards Committee;

d) They cease to be eligible for appointment to the Joint Standards Committee in the capacity in which they were appointed;

e) The Constituent Authority which appointed them ceases to participate in the Joint Standards Committee.

4.2 A casual vacancy (a vacancy which arises during the municipal year regardless of reason) shall be filled as soon as practicable by the relevant Council. A casual vacancy in the case of a Parish Councillor shall be reported to the Yorkshire Local Councils Association who will seek nominations from the Parish

Councils in York. A ballot will then be held, in order to fill the Parish Councillor vacancy on the Committee.

4.3 Three Independent Persons will be appointed to the Joint Standards Committee who will each serve no more than two consecutive 4 year terms of Office.

5 Sub Committees

5.1 The Joint Standards Committee may appoint a Sub Committee in the exercise of its functions, namely an Assessments Sub Committee and a Hearings Sub Committee.

5.2 Save for the purposes of considering complaints pursuant to the Code of Conduct, each person appointed as a member of a Sub Committee must be a voting Member of the Joint Standards Committee.

5.3 The Joint Standards Committee will determine the Membership and terms of reference of the Sub Committee, and the quorum for its Meetings.

5.4 If the Joint Standards Committee appoints more than one Sub Committee to exercise one or more of its functions then it shall ensure that the Monitoring Officer allocates particular matters to a Sub Committee first on the basis of the availability of the Members required to constitute the Sub Committee, and thereafter by rotation, and summonses Meetings accordingly.

6 Meetings and proceedings

6.1 All Joint Standards Committee meetings shall be conducted in accordance with the standing orders or rules of procedure of the City of York Council.

6.2 The Joint Standards Committee may determine procedure rules for its Sub Committees, in particular the Hearing Sub Committee.

7 Withdrawal from the Joint Standards Committee

7.1 A constituent authority may cease to participate in the Joint Standards Committee by resolution to that effect communicated in writing to the Monitoring Officer.

8 Expenses of the Joint Committee

8.1 The expenses of the Joint Standards Committee shall be met by the City Council.

9 Annual Report

9.1 The Chair of the Joint Standards Committee will provide an annual report of the work of the Committee to Full Council.

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ARTICLE 11 – STAFFING MATTERS AND URGENCY COMMITTEE

1. Composition

1.1 Staffing Matters & Urgency Committee is a Committee of Full Council and shall be proportionate in its composition.

1.2 The Chair and Vice Chair of the Committee will be appointed by Full Council.

1.3 The Committee shall comprise three Members and shall have a quorum of two Members.

2. Role

2.1 The Staffing Matters & Urgency Committee of Council may undertake all non-executive functions relating to Chief Officer staffing matters for the Chief Officers listed at paragraph 3.4 below, excluding disciplinary-related matters, and all non-executive functions in case of emergency.

3. Functions

3.1 Power to appoint the Chief Officers listed at paragraph 3.4 below, in accordance with the procedures at Appendix 12 of this Constitution, and to determine the terms and conditions on which they hold office (excluding procedures for their dismissal).

3.2 To be the committee of Council responsible for the strategic overview of workforce and employment matters to ensure the delivery of good quality services to the people of York.

3.3 To have strategic oversight of key strategies as the basis for people management within the Council, including pay strategy, learning and development strategy, workforce development strategy.

3.4 To arrange for the conduct of the recruitment and selection process in respect of the following Statutory Chief Officers:

a) The Head of Paid Service. (*NB: this appointment is subject to Full Council approval)*;
b) The Section 151 Officer;
c) The Monitoring Officer;
d) The Director of Children's Services;
e) The Director of Adult Social Services;
f) The Director of Public Health; and
g) Any other Corporate Director.

3.5 In conducting its recruitment functions the Committee may establish Chief Officer appointment sub-committees of no less than three elected Members including at least one Member of the Executive.

3.6 In respect of direct staffing issues, the Staffing Matters and Urgency Committee will have the following decision-making functions:

- In respect of the Chief Officers listed at paragraph 3.4 above only:

  a) Approval on the exercise of LGPS and discretionary compensation related discretions in accordance with the City of York's Local Government Pension Scheme 2021 Discretions Policy; and
  b) All non-routine pay-related issues.

- In respect of non-Chief Officers:

  a) To note redundancy, retirement, and settlement agreements.

4. Other staffing issues

4.1 To consider and note Workforce Demographics and any referrals arising from CCNC (Corporate Consultation Negotiation Committee).

5. Urgency

5.1 The committee is empowered to authorise all non-executive functions (other than those which must, by law, be exercised by Full Council), in circumstances of urgency, where it is necessary to obtain a decision on any matter without delay.

5.2 In relation to any urgent matter, which involves the exercise of Executive functions, the Committee shall act in an advisory capacity to the Leader or their substitute Executive Member, who shall have regard to the advice when exercising the relevant function. *[Subject to legal requirements for taking an urgent Executive decision].*

5.3 For the purposes of determining whether the Urgency Committee ought to exercise the above delegations a decision is regarded as urgent if it cannot reasonably be deferred to the next available Council, Executive or Committee for determination and any such delay is likely to seriously prejudice the Council's or the public's interests.

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ARTICLE 12 – SHAREHOLDER COMMITTEE

1 Purpose

1.1 The Shareholder Committee has been established by the Executive specifically to discharge the shareholder functions of the Council, in relation to those companies of which the Council is a shareholder.

1.2 The shareholder in this context is always the City of York Council, not the members of the Shareholder Committee themselves, or any Directors appointed to represented the Council on the boards of these companies.

1.3 The Shareholder Committee does not have day-to-day operational control over any of the companies of which the Council is a shareholder. The decisions that the Shareholder Committee is required to make in relation to a company are set out in the Shareholder Committee terms of reference, which is set out below and the Shareholder Agreement for each company.

1.4 All decisions regarding the day-to-day operation of each company are the responsibility of the Board of Directors of each company.

Each Board of Directors will include:

a) "**Council Directors**" who for the purposes of this Article 12 are the non-executive (i.e., non-salaried) directors appointed by the Shareholder Committee (in conjunction with the Council's Staffing Matters & Urgency Committee) in accordance with the Articles and/or Shareholder Agreement of the Company, to represent the Council on the Board. This category will often (but not always) include the Chair of the Board; and

b) "**Non-Council Directors**" who for the purposes of this Article 12 include the executive (i.e., salaried) directors and the independent non-executive directors appointed by the Board. This category will include the Managing Director of the company.

In addition, the day-to-day liaison with the companies will be between the relevant client service of the Council and the Managing Director of each company.

1.5 There are two classifications of companies, which the Shareholder Committee regularly deals with:

1.5.1 *"Teckal Companies"* – these are companies that meet all of the following three criteria:

a) There is no direct private capital participation in the company; in other words, either:

i. the Council is the sole shareholder in the company; or

ii. the shareholders are made up exclusively of public sector bodies, including the Council.

b) The Council (either acting as the sole shareholder, or together with the other public sector owners) exercises effective control over the company's affairs; in other words, the same as the relationship between the Council (and the other public sector owners where applicable), and one of their internal directorates.

c) The company must be inward not outward focussed; in other words, at least 80% of the activity of the company – that is, over 80% of its turnover – must be for the Council, and where applicable its other public sector owners.

1.5.2 *"Non-Teckal Companies"* – these are companies that fall outside the definition of a Teckal Company, as summarised above.

Due to their very nature, Teckal Companies require a much greater deal of oversight from the Shareholder Committee than their Non-Teckal counterparts do.

2 Meetings of the Shareholder Committee

2.1 The Shareholder Committee will hold the following Meetings each year, each for the following purpose:

Purpose of Meeting	Frequency of Meeting	Does this apply to Teckal Companies?	Does this apply to Non-Teckal Companies?
To receive annual reports and annual accounts from companies	Once per annum	Yes	Yes
Performance Monitoring (subject to any alternative monitoring requirements set out within any Shareholder Agreement or contracts for goods/services/ works with the company)	Twice per annum, as a minimum.	Yes	Yes (once per annum)

2.2 Any other Meetings of the Shareholder Committee will be called as and when required to deal with company business.

2.3 Minutes, Notices and Agenda of Shareholder Committee Meetings shall be sent to Shareholder Committee members at least 5 working days prior to the Meeting.

3 Composition of the Shareholder Committee

3.1 The Shareholder Committee is a Committee of the Executive, comprised of Executive Members appointed to it by the Executive. These individuals will be appointed to the Shareholder Committee

in accordance with the Council Procedure Rules set out within the Constitution. Only members of the Executive who are not already appointed as directors on the boards of any companies in which the Council is a shareholder or the sole shareholder will be eligible to sit on the Shareholder Committee.

3.2 Only members of the Executive may sit and vote on any business laid before the Shareholder Committee.

3.3 A Chair and Vice-Chair will be appointed in accordance with the Council Procedure Rules set out within the Constitution.

3.4 A quorum of two and a maximum number of two Executive Members will be appointed to the Shareholder Committee. For the avoidance of any doubt, only members of the Executive who are not already appointed as directors on the boards of any companies in which the Council is a shareholder or the sole shareholder will be eligible to sit on the Shareholder Committee.

3.5 Substitutes, who must also be Executive Members, may be permitted at the discretion of the Chair.

3.6 In line with the arrangements for Executive meetings, the Leaders of each of the opposition groups, or their nominated substitute, will be invited to attend Meetings and be given full rights to participate in Meetings, although they will not be entitled to vote on any business laid before the Shareholder Committee.

3.7 A co-opted independent person will also be allowed to attend in the same capacity as set out above for opposition group Leaders or the substitutes, they too will not be entitled to vote on any business laid before the Shareholder Committee. The role of the co-opted independent person will be purely to provide a wider range of commercial and governance expertise to the Shareholder Committee.

3.8 The Chief Operating Officer, the Section 151 Officer and the Monitoring Officer (or their Deputies) will be in attendance as and when necessary unless their attendance is in the capacity as a

Link Officer. A legal advisor from the Council's Legal Services team will attend as an advisor to the Shareholder Committee.

3.9 A CYC client officer ('Link Officer') will be nominated for each company and will undertake the activities set out in Annex 1. The Link Officer in relation to each company will attend meetings of the Shareholder Committee.

3.10 The Chair of the Shareholder Committee may from time-to-time ask other Officers to attend Meetings of the Shareholder Committee to present and provide expert advice on specific issues to the rest of the Committee. The Chair and/or those Officers may invite additional advisors for this purpose. Again, if any such officers and/or advisors are asked to attend a meeting of the Shareholder Committee, they shall not be entitled to vote on any business laid before the Shareholder Committee.

3.11 The Executive Procedure Rules as at Appendix 4 of this Constitution apply to procedures and decision taking at meetings of the Shareholder Committee.

4 Terms of Reference

4.1 Subject to any relevant overriding provisions contained in a company's Shareholder Agreement or within a company's Articles of Association, the Shareholder Committee is established to undertake all of the following functions of the Council as a shareholder under the Companies Act 2006 by:

	Function	Teckal Companies	Non-Teckal Companies
a)	acting as the owner or joint owner of the Council's companies;	✓	✓
b)	approving or making amendments to strategic or	✓	

	Function	Teckal Companies	Non-Teckal Companies
	business plans;		
c)	monitoring performance and financial delivery against strategic business plans;	✓	
d)	approving the acquisition of shares in another company;	✓	
e)	approving the establishment of subsidiary companies;	✓	
f)	approving the appointment or dismissal of any company Directors (including the Chair), which requires Shareholder consent under the Articles and/or Shareholder Agreement of the company;	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
g)	determining and approving all matters relating to terms and conditions of company Directors which require Shareholder consent under the Articles and/or Shareholder Agreement of the company;	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
h)	determining and approving all matters relating to the entering of any contracts with company Directors, other than as permitted under any service agreement the company may have with the Council;	✓	✓

	Function	Teckal Companies	Non-Teckal Companies
i)	determining and approving all matters relating to the employment of the senior management team of the company which require Shareholder consent under the Articles and/or Shareholder Agreement of the company;	✓	
j)	approving changes to share capital and the admission of additional shareholders;	✓	✓ In so far as that it relates to: • any instruction to the Directors to allot shares; • any increase in the authorised share capital of the company; • any reduction in the authorised share capital of the company; • any sub-division, consolidation, or re-denomination shares; • variation of class rights attached to shares;

	Function	Teckal Companies	Non-Teckal Companies
			• any purchase of shares by the company itself; • any alteration to the company's Articles of association relating to pre-emption rights, or relating to the shares of the company; or • any disapplication of pre-emption rights, or any other matter that requires a resolution of the Council and any other shareholders of the company by law or otherwise.
k)	approving disposals of assets valued under £500,000;	✓	✓ In so far as it relates to a Substantial Property Transaction (as defined in the Companies Act 2006) with one of the Directors (or a connected person of that Director), and therefore requires a

	Function	Teckal Companies	Non-Teckal Companies
			resolution of the Council and the other members of the company.
l)	approving borrowing up to £100,000;	✓	✓ In so far as the financial assistance being sought is: • by one of the Directors, or • by persons connected with one of the Directors, or • by the company to purchase its own shares, and therefore requires a resolution of the Council and any other shareholders of the company.
m)	approving and making grants or loans up to £500,000 other than by way of normal trade credit, subject to approval from the Council's Chief Financial Officer in line with the Council's Financial Regulations, and taking appropriate legal advice on any requirements under the UK	✓	✓ In so far as the financial assistance being sought is: • by one of the Directors, or

	Function	Teckal Companies	Non-Teckal Companies
	Subsidy Control Regime and necessary grant or loan terms and conditions, and the usual risk assessments;		• by persons connected with one of the Directors, or • by the company to purchase its own shares, and therefore requires a resolution of the Council and any other shareholders of the company.
n)	entering, amending or terminating any agreements which create a potential liability for the company in excess of £250,000 up to £500,000;	✓	
o)	making changes to the nature of the company's business;	✓	✓ In so far as that it relates to: • amendments to the company's Articles of Association or Shareholders Agreement; • re-registering the company from private to public (or vice versa) or limited to unlimited (or vice versa).

	Function	Teckal Companies	Non-Teckal Companies
p)	approving a decision which could otherwise be taken by a Council Director, but which would, if being taken by the Council, amount to a key decision;	✓	
q)	approving any dividends requiring Council consent;	✓	✓
r)	exercising any powers to issue instructions to company directors;	✓	✓ In so far as it requires a resolution of the Council and any other shareholders of the company.
s)	exercising decision making over reserved matters set out in a company's Shareholder Agreement;	✓	✓
t)	making recommendations to Executive for any investment in/asset transfers to or lending to companies;	✓	✓
u)	delegating specific functions to Officers of the Council to increase commercial flexibility.	✓	

Any advice required by Shareholder Committee Members in relation to the above Terms of Reference and the impact of any provisions within a company's Articles of Association or any

existing Shareholder Agreements must be sought from the Council's Legal Services Department.

5 Delegated powers

5.1 The Shareholder Committee has the power within its terms of reference to exercise all the Council's powers arising from the Council's role as the shareholder and owner of the company, other than the following decisions, which are reserved exclusively to the Executive:

a) changes to company governance e.g. including amending a company's Articles of Association or its Shareholder Agreement;

b) agreements to any amalgamation, merger, division, joint venture, take-over, profit sharing, re-registration from private to public (or vice-versa), re-registration from limited to unlimited (or vice versa), compromise arrangements, or similar arrangements, subject to consultation with the Council's Chief Finance Officer;

c) approval of any disposals of assets valued over £500,000, subject to the company's Articles of Association;

d) approval of any grants and/or loans in excess of £500,000;

e) approving borrowing in excess of £100,000;

f) entering, amending or terminating any agreements which create a potential liability for the company in excess of £500,000; and

g) approving steps to wind up a company.

5.2 The following decisions are reserved exclusively to the Staffing Matters and Urgency Committee:

a) approving the appointment or dismissal of Council Directors (including (where applicable) the Chair);

b) determining and approving all matters relating to terms and conditions of Council Directors that require Shareholder consent under the Articles and/or Shareholder Agreement of the company; and

c) determining and approving all matters relating to the entering of any contracts with Council Directors, other than as permitted under any service agreement the company may have with the Council.

For the avoidance of any doubt, the Shareholder Committee has delegated authority to exercise all the Council's powers arising from the Council's role as the Shareholder and owner of the company on all matters relating to either:

a) the appointment, dismissal, the terms and conditions, and entering into contracts with Non-Council Directors; and

b) determining and approving all matters relating to the senior management of the company,

insofar as such matters require Shareholder consent under the Articles and/or Shareholder Agreement of the company.

5.3 The following decisions may be taken under delegated powers of the Chief Operating Officer:

a) approving changes to the location in which the company works;

b) approving alterations to company's name or registered office;

c) matters relating to the employees or agents of the company other than its senior management team;

d) where required giving any further specific approval to a matter provided for within the approved business plan;

e) approving changes to accounting arrangements; and

f) entering, terminating or amending any agreements that create a potential liability for the company not exceeding £250,000.

ANNEX 1: Link Officers

1. Each company shall have a nominated CYC client officer ('Link Officer') who will engage monthly (or more frequently as required) with that company to ensure that Shareholder Committee is provided with:

    a) Updates in respect of company performance, market conditions and assurance
    b) Details of strategic plans, funding and other requirements
    c) Sufficient information to evaluate any new business proposals

2. The Link Officers will review reports from their nominated company before they are submitted to the Shareholder Committee, liaising with finance, legal or other colleagues as necessary maintain joint risk registers as required and ensure Shareholder Committee is provided with the level of detail and analysis required to fulfil its role.

3. Link Officers are required to:

    a) Actively communicate and collaborate with the company and CYC officers as required, including the Director of Governance, Chief Finance Officer and Chief Operating Officer or their nominated representatives.
    b) Build and maintain effective and transparent relationships with all parties.
    c) Actively work to promote and improve good working relationships between the Council and its companies.
    d) Take appropriate action to avoid conflicts of interest and, where a potential conflict is identified, to assist in managing any such conflict.
    e) Ensure that the company has the appropriate level of support and challenge, including support to deliver agreed objectives and challenge to minimise or mitigate any risk to the Council. The appropriate balance of challenge and support will depend on the company objectives, the nature of the relationship with the company (i.e. whether wholly or partly owned), performance and risks or opportunities.
    f) Manage and maintain effective relationships between shareholder representatives and the company.

g) Appropriately feedback any concerns of the Council to the company and vice versa.
h) Review board decisions and actions and identify any concerns in relation to directors potentially exceeding the remit of their powers.
i) Flag any issues and risks as quickly as possible.

ARTICLE 13 – PLANNING COMMITTEE

The Council will establish a Planning Committee to determine non-delegated planning applications.

1 Composition

1.1 The membership of the Committee will be established in accordance with the rules of proportionality.

1.2 The Chair and Vice Chair of the Committee shall be appointed by Full Council.

1.3 Executive Members can sit on the Committee.

2 Role of the Planning Committee

2.1 The role of the Planning Committee is to consider and determine applications for planning permission and other related consents, arising under the Town and Country Planning Act and associated legislation as set out in Part A of Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended, which have not been delegated to Officers.

3 Functions of the Planning Committee

3.1 To approve or refuse applications for planning permission and other related consents under the appropriate legislation in accordance with the following criteria:

a. Outline planning applications for 40 dwellings or more;
b. Full detailed applications for residential development of 40 dwellings or more;
c. All applications for development submitted by or on behalf of Councillors or Chief Officers;
d. All applications for development submitted by or on behalf of The Council, for its own major planning applications;
e. Any called-in applications accepted by the Chair in conjunction with the Vice Chair in accordance with the procedure set out at 4.1 below; and
f. Any application that is deemed necessary to be considered by the Committee by Director of Environmental and Regulatory Services, Chief Planner or Chair of Planning Committee.

3.2 To enter into, renew, modify or revoke agreements and undertakings under Section 106 of the Town and Country Planning Act 1990 (as amended) in respect of proposed developments which fall within the scope of the Planning Committee to determine unless, in the opinion of the Director of Environmental and Regulatory Services or Chief Planner, it is a minor modification.

4. Call-In Requests and Chief Planning Officer's Criteria and Guidance

4.1 Call-in requests:

a. must be submitted on the specified form, set out at Annex 1 to this Article;
b. must be received within the consultation period.
c. must indicate the grounds for the call-in, setting out the material planning consideration;
d. will be reviewed by the Chair, in conjunction with the Vice Chair, to consider the planning reasons for the call in along with the relevant planning policy and guidance and for the Chair to determine whether to accept the call-in request, in accordance with the criteria and guidance provided by the Chief Planning Officer/Appropriate Senior Planner.

4.2 The following items will not be considered for determination at Planning Committee even if a call-in is submitted:

a. Any call-in request made which matches the recommendation of the Officer (e.g., if a member seeks to call-in an application on the basis they would like the application refused, and the Officer recommendation is already to refuse, then the call-in would not be valid);
b. Applications for Certificates of Proposed or Existing Lawfulness;
c. Applications for Advertisement Consent;
d. Applications for Relevant Demolition in a Conservation Area;
e. Applications for Listed Building Consent and other heritage consents;
f. Applications made under the GPDO;
g. Applications for Non-material amendments;

h. Applications made under section 73 of the Town and Country Planning Act 1990 (unless the permission was originally granted by the Planning Committee);
i. Applications to discharge conditions; and
j. Tree Applications.

5. Public Participation

5.1 Given the administrative nature of the decisions to be taken by Planning Committee, public participation will be limited to comments on individual planning applications. There will be a maximum of three speakers (including experts) in favour of any application, and three speakers (including experts) against, together with ward members (should they wish).

5.2 All speakers must register to speak, and all registrations to speak must take place at least two working days before the meeting, by 5pm. Speakers will have no more than 3 minutes each to speak but may, at the Chair's discretion, pool (i.e., combine) their time on an application. The number of speakers will be limited by the number of applications to be considered at any committee meeting.

ANNEX 1 – Call-In Request Form

City of York Council – Planning and Development Services

Councillor Call-in Request Form

All call-in requests must be made within the first **21 days** of the public consultation period **or** during any further subsequent active public consultation period. Requests can only be made by the Ward Councillor(s) of the Ward within which the application is located. All received Call-in requests will be published to the online planning register.

Name:		Date of Request:	Click or tap to enter a date.
Ward:	Choose an item.		
Application Reference Number:			
Application Site Address:			

I wish to call in the following application for determination by the Planning Committee. My planning reasons for the call-in request are as follows:

(Please tick appropriate boxes)

Impact upon neighbouring properties	☐
Impact on character of streetscene or built environment	☐
Residential Amenity	☐
Parking	☐
Highways Issues	☐
Impacts upon trees and landscaping	☐
Impacts upon Listed Building or Conservation Area	☐
Other Reasons (specify below):	☐

One completed this form must be returned to Planning and Development Services via email to planning.comments@york.gov.uk AND to the Head of Planning and Development Services.

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ARTICLE 14 - THE COUNCIL'S LICENSING FUNCTIONS

1 The Council will establish the following regulatory/quasi-judicial Committees:

a) Licensing Committee

b) Licensing Sub Committee

c) Taxi Licensing Sub Committee

2 Composition

2.1 The composition of the Licensing Committees can only be amended with the approval of Full Council.

3 Role and Functions of Licensing Committee

3.1 The Licensing Committee will, within Council policies:

a) Take decisions relating to licensing and appeals functions that would fall within the definition of key decisions if these were Executive functions;

b) Approve and amend policies relating to these functions; and

c) Approve arrangements for meetings of Sub Committees and Panels, unless otherwise determined by Council. In relation to licences that cover alcohol, regulated entertainment, and other licences granted under the:

- Licensing Act 2003;
- Local Government (Miscellaneous Provisions) Act 1976 and 1982;
- Gambling Act 2005;
- Dangerous Wild Animals Act 1976;
- Scrap Metal Dealers Act 2013;
- Caravan Sites and Control of Development Act 1960;
- The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018;

- Zoo Licensing Act 1981;
- Town Police Clauses Act 1847.

4 Role and Functions of the Licensing Sub Committee

The Licensing Sub Committee will:

4.1 Carry out all statutory functions as the Licensing Authority, with regard to authorisations as stipulated under the Licensing Act 2003 and in accordance with the council's Statement of Licensing Policy:

a) Determine applications for a personal licence if there is a police objection;
b) Determine applications for a personal licence from persons with an unspent conviction;
c) Determine the revocation or suspension of a personal licence if the holder is convicted of a relevant offence;
d) Determine applications for a premises licence/club premises certificate if a relevant representation is made;
e) Determine applications for a provisional statement if a relevant representation is made;
f) Determine applications to vary a premises licence/club premises certificate if a relevant representation is made;
g) Determine applications to vary a designated personal licence holder if there is a police objection;
h) Determine applications for a transfer of premises licence if there is a police objection;
i) Determine applications for interim authorities if there is a police objection;
j) Determine applications to review a premises licence/club premises certificate;
k) Decide whether to object when the local authority is a consultee and not the lead authority;
l) Determine an objected to temporary event notice;
m) Determination of application to vary premises licence at community premises to include alternative licence conditions if there is a police objection.

4.2 Determine applications to vary a designated premises supervisor if there is a police objection. Carry out all statutory functions as the

Licensing Authority, with regard to the issue of authorisations as stipulated under the Gambling Act 2005 and the council's Gambling Act Statement of Licensing Policy:

a) Determine applications for premises licence if a relevant representation is made and not withdrawn;
b) Determine applications to vary a premises licence if a relevant representation is made and not withdrawn;
c) Determine applications for a transfer of premises licence if there is a representation from the Gambling Commission or responsible authority;
d) Determine applications for a provisional statement if a relevant representation is made and not withdrawn;
e) Determine applications to review a premises licence;
f) Determine applications for a club gaming or club machine permits if a relevant representation is made and not withdrawn;
g) Determine the cancellation of a club gaming or club machine permit; and
h) Determine to give a counter notice to a temporary use notice.

4.3 Determine matters as stipulated within the council's Sex Establishment Policy, in accordance with Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended.

5 Role and Functions of the Taxi Licensing Sub Committee

5.1 The Taxi Licensing Sub Committee will determine matters as stipulated within the council's Taxi Licensing Policy in relation to hackney carriages and private hire vehicles, their proprietors, operators and drivers:

a) Determine individual applications or matters referred to the Sub Committee by the Director of Transport, Environment and Planning unless within council policies it is an automatic ground of refusal;

b) Suspend or revoke licences or issue written warnings referred to the Sub Committee by the Director of Transport, Environment and Planning;

c) Determine appeals by applicants for advertising on hackney carriages who are aggrieved at a decision of the Director of Transport, Environment and Planning; and

d) Determining individual applications where there is relevant information supplied by a Chief Officer of Police.

ARTICLE 15A – CORPORATE APPEALS COMMITTEE

1 Composition

1.1 The Council will establish a Corporate Appeals Committee.

1.2 The Chair of the Committee shall be appointed at the commencement of the Meeting.

1.3 The Committee may convene a Panel of 3 Members drawn from its Membership to exercise its Appeals Committee functions. Nominated substitutes are permitted if a Member of the Committee is not able to attend. Appeals Committee Members and substitutes are appointed by Full Council.

1.4 All members of the Corporate Appeals Committee must have received appropriate training before sitting as a member of a Panel.

1.5 The Panel will not include any Member with a direct personal involvement in the complaint in question.

1.6 Where practicable every reasonable effort will be taken to ensure a gender mix of Members of the Panel.

2 Role and Functions

2.1 Corporate Appeals

2.1.1 The Appeals Committee will determine appeals in relation to the following matters:

a) To determine appeals made by Non-Statutory Chief Officers against action short of dismissal.

b) To determine appeals made by Non-Statutory Chief Officers against dismissal.

c) To determine appeals made by Non-Chief Officers against dismissal and actions short of dismissal.

2.1.2 Appendix 12, Officer Employment Procedure Rules, contains the procedures for recruitment, disciplinary and dismissal of Chief Officers.

2.2 Education Appeals

2.2.1 The Appeals Committee will determine appeals in relation to the following matters and to agree exceptions to Education policy in exceptional circumstances in relation to:

a) Home to School Transport;

b) Discretionary Awards;

c) Early Admission to Schools;

d) Nursery Admissions.

2.3 Housing Appeals

2.3.1 The Appeals Committee will determine appeals in relation to the following matters:

a) To determine appeals against decisions by Officers in respect of City of York Council Housing Policies.

b) To determine appeals against the decisions of Officers in respect of individual Housing cases.

c) To authorise the execution of a warrant for repossession of a property in the case of mortgage arrears.

3 Nature of Appeals Committee

3.1 Appeals are heard as a measure of good administration, they are not statutory. The Appeals Committee observes the rules of natural justice and to that end:

a) No Member of the Committee should have a vested interested in the outcome of the proceedings or any involvement in an earlier stage of the proceedings;

b) All parties should be given an equal opportunity to present their case without unreasonable interruption;

c) The decision of the Committee is based on the written evidence submitted and the evidence submitted at the Meeting;

d) All written evidence must have been seen by all parties. If a new issue arises during the proceedings, parties should be offered an opportunity to consider and comment on it;

e) Council policies are not applied in a blanket fashion. They are considered in relation to the circumstances of each Appeal.

4 Procedure

4.1 The following formal procedure will normally be observed:

a) The Appellant and/or their representative and the Officers appearing for the Council are invited into the Meeting;

b) The Chair of the Appeals Committee will confirm the nature of the appeal and ensure that the Appellant and/or their Representative are aware of the procedure to be followed;

c) The Appellant and / or their Representative will be invited to present their case;

d) The Committee will be invited to put questions to the Appellant and /or Representative;

e) The Council's Representative will be invited to put questions to the Appellant and / or Representative;

f) The Council's Representative will be invited to present the Council's case;

g) The Committee will be invited to put questions to the Council Representative;

h) The Appellant and / or Representative will be invited to put questions to the Council's Representative;

i) The Appellant and / or Representative will be invited to make a closing statement;

j) The Council's Representative will be invited to make a closing statement;

k) The Appellant and/or their Representative and the Council's Representative(s) will be asked to leave the Meeting while the Committee considers the evidence;

l) As soon as practicable, but no more than five working days after the Committee has made its decision, the Democracy Officer will notify in writing the parties of the Committee's decision. The notification should give the Committee's decision and reasons for that decision, which should be clear and easy to understand.

Members of the Committee may ask questions at any time during the Appeals Committee.

In the case of Corporate Appeals, Members will be advised by a HR professional and/or employment lawyer.

ARTICLE 15 B – INVESTIGATING AND DISCIPLINARY COMMITTEE & CHIEF OFFICER APPEALS COMMITTEE

Investigating and Disciplinary Committee (IDC)

1 Composition

1.1 The Investigating and Disciplinary Committee should:

a) Include no fewer than five elected Members;
b) Not include any Member with a direct personal involvement in the complaint in question;
c) Be politically proportionate;
d) Be gender balanced;
e) Include at least one Member of the Executive.

1.2 The Investigating and Disciplinary Committee members shall appoint a Chair by majority vote to oversee the function of the Committee.

1.3 The Investigating and Disciplinary Committee may have to:

a) Meet at short notice;
b) Ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Full Council

2 Roles and Responsibilities

2.1 The committee will:

a) Deal with all matters of discipline relating to Chief Officers employed by the Council under Joint Negotiating Committee (JNC) terms and conditions in accordance with the relevant procedures set out in Appendix 12 of this Constitution; and

b) Review and make recommendations to Council to amend the disciplinary procedures from time to time. However, in doing so, the committee is required to have regard to any changes to the model procedures, contained in the JNC Conditions of Service for Chief Executives and the JNC Conditions of Service for

Chief Officers respectively, which may be implemented from time to time.

Definition of Chief Officer

2.2 At City of York Council, a Chief Officer post is the Chief Operating Officer, all Corporate Directors, all Directors and all Assistant Directors. All other posts in the Council's structure are classed as non-chief officers.

Chief Officer Appeals Committee

3 Composition

3.1 The Council will be required to establish a Chief Officer Appeal Committee.

3.2 The purpose of the Chief Officer Appeals Committee is limited to:

a) Hear appeals against action taken short of dismissal; and
b) To take a decision either to confirm the action or to impose no sanction or a lesser sanction.

3.3 The Chief Officer Appeals Committee should:

a) Include no fewer than five elected Members;
b) Not include any Member with a direct personal involvement in the complaint;
c) Be politically proportionate;
d) Be gender balanced; and
e) Include at least one Member of the Executive Member.

3.4 The Chief Officer Appeals Committee members shall appoint a Chair by majority vote to oversee the function of the Committee.

3.5 The Chief Officer Appeals Committee may have to ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Full Council

4 Roles and Responsibilities

Chief Officers

4.1 The committee will deal with appeals from Chief Officers employed by the council under Joint Negotiating Committee (JNC) terms and conditions arising out of disciplinary action taken against them by the Council's Investigating and Disciplinary Committee, in accordance with the relevant procedures set out in Appendix 12 of this Constitution and which may be amended from time to time by the JNC handbook for Chief Executives and or the JNC Chief Officer Handbook.

4.2 Appeals from non-Chief Officers is dealt with under the Corporate Appeals Committee.

5 Nature of Chief Officer Appeals Committee

5.1 Appeals are heard as a measure of good administration, they are not statutory. The Chief Officer Appeals Committee observes the rules of natural justice and to that end:

a) No Member of the Committee should have a vested interested in the outcome of the proceedings or any involvement in an earlier stage of the proceedings;
b) All parties should be given an equal opportunity to present their case without unreasonable interruption;
c) The decision of the Committee is based on the written evidence submitted and the evidence submitted at the Meeting;
d) All written evidence must have been seen by all parties. If a new issue arises during the proceedings, parties should be offered an opportunity to consider and comment on it;
e) Council policies are not applied in a blanket fashion. They are considered in relation to the circumstances of each Appeal.

6 Procedure

6.1 The following formal procedure will normally be observed:

a) The Appellant and/or their representative and the Officers appearing for the Council are invited into the Meeting;

b) The Chair of the Appeals Committee will confirm the nature of the appeal and ensure that the Appellant and/or their Representative are aware of the procedure to be followed;
c) The Council's Representative(s) will be invited to present the Council's case;
d) The Committee will be invited to put questions to the Council's Representative;
e) The Appellant and/or their Representative will be invited to put questions to the Council's Representative(s);
f) The Appellant and/or their Representative will be invited to present their case;
g) The Committee will be invited to put questions to the Appellant and/or their Representative;
h) The Council's Representative(s) will be invited to put questions to the Appellant and/or their Representative;
i) The Council's Representative(s) will be invited to make a closing statement;
j) The Appellant and/or their Representative will be invited to make a closing statement;
k) The Appellant and/or their Representative and the Council's Representative(s) will be asked to leave the Meeting while the Committee considers the evidence;
l) As soon as practicable, but no more than five working days after the Committee has made its decision, the Democracy Officer will notify in writing the parties of the Committee's decision. The notification should give the Committee's decision and reasons for that decision, which should be clear and easy to understand.

6.2 The panel will be supported by HR and / or legal professionals. These representatives could be internal or external to the authority depending on the case. The representatives will be confirmed and communicated to all involved at the initial set up of the panels.

6.3 In line with the JNC Chief Executive Handbook, where an investigation has taken place, an Independent Investigator will be appointed and they will be expected to feedback into the IDC and statutory chief officer appeal committee where required.

ARTICLE 16 - YORK HEALTH AND WELLBEING BOARD

Terms of Reference

The York Health and Wellbeing Board is established under the Health and Social Care Act 2012 as a statutory committee of the City of York Council (the Council). However, it will operate as a multi-agency board of equal partners.

It has a key strategic role in setting a vision to reduce health inequalities in the city; carrying out assessments of the health and wellbeing needs of the people of York and in developing strategies to meet those needs. It also has a role in encouraging health and social care providers to work together to meet those needs.

1. Name

1.1 The Board will be known as the York Health and Wellbeing Board ('the Board')

2. Membership

2.1 The Council has appointed a Health and Wellbeing Board. Although it operates as a form of Committee, the Health and Wellbeing Board is unusual in that some of the membership is set out in law (including, uniquely, certain Officers), the Leader has the power to nominate to some positions and some positions are reserved to post holders who are not councillors.

2.2 Board members will be required to represent their organisation with sufficient seniority and influence for decision making. A list of Board members is at annex A to these Terms of Reference

3. Legal Status

3.1 The Health and Wellbeing Board is a committee of the Council and will adhere to the Constitutional requirements of the Council affecting committees unless alternative provision is made within these terms of reference or the law.

4. Disqualification from Membership

4.1 The following are disqualified from being a Board Member

a. Any person who is the subject of a bankruptcy restrictions order or interim order.

b. Any person who has within five years before the day of being appointed or since their appointment been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on them a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

5. Quorum

5.1 The quorum shall be 5 members including as a minimum a representative of the City of York Council and a representative of NHS Humber and North Yorkshire Integrated Care Board.

6. Chair and Vice-Chair

6.1 The Chair of the Board shall be the Leader of the Council or their nominated representative. The Vice-Chair of the Board shall be the York NHS Place Director, York Health and Care Partnership. In the absence of both, a Chair will be nominated from amongst those present for that particular meeting.

6.2 The Chair of the Health and Wellbeing Board will be required to hold a named substitute list for board representatives, including deputies for officer members on the Board.

7. Frequency of Meetings

7.1 The Board shall hold meetings at least four times a year.

8. Decision-making and voting

8.1 The Board will operate on a consensus basis. Where consensus cannot be achieved the matter will be put to a vote. Decisions will be made by simple majority: the Chair will have the casting vote.

All votes shall be taken by a show of hands unless decided otherwise by the Chair.

9. Delegation of Powers

9.1 The Board may establish sub committees, of no less than three members, to discharge any function of the Board or to advise the Board in respect of its functions, as determined by the Board.

9.2 The production and maintenance of an up to date Joint Strategic Needs Assessment (JSNA) will be delegated to the Population Health Hub; as a minimum the board will receive an annual report on the JSNA but may also receive other reports from the Hub throughout the year if requested.

9.3 If the Council delegates any of its public health functions to the Board in accordance with section 196(2) of the Health and Social Care Act 2012 then the Board may arrange for those functions to be discharged by an officer. Other functions of the Board may not be delegated to officers.

10. Functions of the Board

i. To produce and maintain a Joint Strategic Needs Assessment (JSNA)
ii. To produce and ensure the delivery of a Local Joint Health and Wellbeing Strategy
iii. To produce a Pharmaceutical Needs Assessment
iv. to review the extent to which the York Health and Care Partnership has contributed to the delivery of the Local Joint Health and Wellbeing Strategy
v. to provide an opinion to the York Health and Care Partnership on whether their Joint Forward Plan takes proper account of the Local Joint Health and Wellbeing Strategy
vi. To support joint planning and commissioning and encourage integrated working and pooled budget arrangements in relation to the provision of health, health related or social care services.
vii. To provide such assistance or other support as it thinks appropriate for the purpose of encouraging the making of arrangements under section 75 of the National Health Service Act 2006 between the Council and NHS bodies in relation to the

exercise of NHS functions or health related functions of the Council.

viii. To oversee the strategic direction of the Better Care Fund and the delivery of better integrated care, as part of its statutory duty to encourage integrated working. This will include approving the annual Better Care Fund submissions

ix. To lead cultural and behavioural change to support a joint approach to meeting local need

x. To receive and approve any other plans or strategies that are required or permitted by law to be exercised by the Board

xi. To work alongside local and regional strategic partnership arrangements to ensure the coordination of city-wide ambitions, all of which impact on the health and wellbeing of residents

10.1 To periodically review the York Health and Wellbeing Board Terms of Reference.

10.2 When acting as a member of the Board members will be bound by the same codes of conduct as Councillors.

11. Roles and Responsibilities of Health and Wellbeing Board Members

All members of the Health and Wellbeing Board will be expected to:

- **Ensure** that when acting as a member of the Health and Wellbeing Board they **adhere** to the same code of conduct as Councillors

- **Represent** and **speak** on behalf of their organisation or sector

- Be **accountable** to their organisation or sector when participating in the Health and Wellbeing Board

- Ensure their organisations/sector are kept informed of Health and Wellbeing Board business and that information from their organisation/sector is reported to the Health and Wellbeing Board

- **Support** the agreed majority view when speaking on behalf of the Health and Wellbeing Board to other parties

- **Attend** Health and Wellbeing Board meetings and workshops or ensure a named deputy is briefed when attending on their behalf

- **Declare** any conflicts of interest should they arise

- **Read** agenda papers prior to meetings so that they are ready to contribute and discuss Health and Wellbeing Board business

- **Provide** updates to the Health and Wellbeing Board on matters discussed and actions arising from previous meetings

- **Work collaboratively** with other board members in pursuit of Health and Wellbeing Board business

- **Ensure** that the Health and Wellbeing Board adheres to its agreed terms of reference responsibilities

- **Listen** and respect the views of fellow board members

- **Be willing** to take on special tasks or attend additional meetings or functions to represent the Health and Wellbeing Board

Annex A – York Health and Wellbeing Board Membership

No.	Representative/Organisation	Statutory?	Appointed/Nominated By
Councillors			
1	Portfolio Holder for Health, Wellbeing & Adult Social Care (Chair of the Board)	Yes	Leader's nominee
2	Portfolio Holder for Children, Young People and Education	No	Council
3	Opposition Political Group Representative	No	Council
4	Opposition Political Group Representative	No	Council
Local Authority Officers			
5	Director of Public Health	Yes	N/A
6	Corporate Director Adults and Integration, City of York Council	Yes	N/A
7	Corporate Director, Children's and Education, City of York Council	Yes	N/A
8	Representative of Economy and Place, City of York Council	No	CYC
York Health and Care Partnership			

No.	Representative/Organisation	Statutory?	Appointed/Nominated By
9	York NHS Place Director, York Health and Care Partnership (Vice-Chair of the Board)	Yes	York Health and Care Partnership
10	Manager of Healthwatch York	Yes	Healthwatch York
11	Chief Executive of York CVS	No	York CVS
12	Joint Chair of the York Health and Care Collaborative	No	Primary Care
13	Chief Executive of York & Scarborough Teaching Hospitals NHS Foundation Trust	No	York & Scarborough Teaching Hospitals NHS Foundation Trust
14	Managing Director, North Yorkshire & Selby, Tees, Esk & Wear Valleys NHS Foundation Trust (TEWV)	No	TEWV
15	Chair of the Independent Care Group (ICG)	No	ICG
16	Locality Director, NHS England (NE and Yorkshire)	Yes	NHS England
17	Representative of North Yorkshire Police	No	North Yorkshire Police
18	Representative of North Yorkshire Fire Service	No	North Yorkshire Fire Service

ARTICLE 17 - STANDING ADVISORY COUNCIL FOR RELIGIOUS EDUCATION

The Constitution of the Standing Advisory Council for Religious Education (SACRE)

1 Membership of SACRE:

1.1 The Education Act 1996, provides for two forms of membership on SACRE, namely those nominated by the appropriate sponsoring Groups and formally appointed by the local authority, and who fall within one of the 4 Groups below; and those co-opted by SACRE.

1.2 The 4 Groups are as follows:

Group A:

Such Christian denominations and other religious denominations as, in the opinion of the Authority, will approximately reflect the principal religious traditions in the area.

In respect of Group A, section 390(6) Education Act 1996 states:

> *The number of representative members appointed to any representative group under subsection (4)(a) [referred to as Group A] to represent each denomination or religion required to be represented shall, so far as consistent with the efficient discharge of the group's functions, reflect broadly the proportionate strength of that denomination or religion in the area.*

It is the responsibility of City of York Council to determine who should be included in Group A but this would ordinarily follow consultation with local faith communities and existing SACRE members before a decision is made. SACRE does not have a

legal right to veto the ultimate decision of the City of York Council however.

Membership of Group A (as at June 2021) is as follows:

- Bahai'i
- Humanist
- Jewish
- Methodist
- Muslim
- Hindu
- Sikh
- Religious Society of Friends/Quakers
- Catholic
- Salvation Army
- The Church of Jesus Christ for Latter Day Saints

Group B:

A groups of persons representing The Church of England.

Section 390(5) Education Act 1996 states:

> "Where a representative group is required by subsection (4)(b), *[referred to as Group B]* the representative group required by subsection (4)(a*) [referred to as Group A]* shall not include persons appointed to represent the Church of England."

Group C:

A group of persons to represent such associations representing teachers as, in the opinion of the authority, ought to be represented, having regard to the circumstances of the area.

Group D:

A group of persons representing the City of York Council. In this case of Elected Members appointment to this group should ensure political balance and state which political group they

represent. As an alternative, the Council may appoint representatives such as a governors association.

2 Term of Office

2.1 All Members of each Committee of SACRE shall sit for a 4 year term of office (unless they leave for the reasons as stated below) and will be subject to re-election by agreement of SACRE at its next meeting.

2.2 A member of the SACRE appointed by the City of York Council may be removed from membership by the Council if:

a) In the opinion of the Council, that person ceases to be representative of the denomination or association which they are appointed to represent or (as the case may be) of the Authority.
b) They are absent for a period of three consecutive meetings without reasonable grounds.

2.3 Any member of the SACRE may at any time resign their office by giving notice in writing to the Clerk of the SACRE.

2.4 Membership shall be continuous unless a member resigns by writing to the Clerk.

Note: Before appointing a person to represent any denomination or association as a member of SACRE, the City of York Council shall take all reasonable steps to assure themselves that a person so appointed is representative of the denomination or association in question.

3 Co-Opted Members of SACRE

3.1 SACRE shall have the right to co-opt to its non-voting membership such persons as it wishes; such co-options shall be for a period not exceeding three years.

4 Confirmation of Appointments by City of York Council

4.1 In accordance with the Council's Constitution, confirmation of appointments of SACRE Members shall be made by Full Council at its Annual Council meeting. Thereafter any changes or amendments to membership of SACRE will be considered by the Staffing Matters and Urgency Committee which has the appropriate council delegations for such matters.

5 Chair and Vice Chair

5.1 SACRE shall by election each year determine the Chair and Vice-Chair of the Committee from amongst its representative membership.

5.2 The posts shall be held for a maximum period of four years (unless their membership of SACRE ends earlier as per the reasons stated in the Terms of Office section above). The Vice-Chair shall be a member of a different Group from that of the Chair. The election shall take place at the autumn meeting.

5.3 The Vice Chair shall have the following responsibilities:

a) To preside over the meetings in the absence of the Chair;

b) To participate in the agenda setting for each meeting.

6 Voting

6.1 Where a vote is required, each Group will be allocated one vote. In order to facilitate this the Chair will consider a short adjournment in the proceedings to allow the members of each Group to meet, debate their views and propose how they wish to vote as the Group.

6.2 Voting will be held on any item of business where it is proposed and seconded that a vote shall take place.

6.3 Determinations will always be decided by vote; a majority decision will be carried.

6.4 Where possible, decisions shall be by consensus. Voting may be by a show of hands, committee by committee, or where requested by any member, by secret ballot.

6.5 Where voting is tied, a no-decision vote will be recorded. Where there is a no-decision vote, at the Chair's discretion, further discussion and a further vote, may be allowed.

6.6 On any question to be decided by the SACRE only the representative groups shall be entitled to vote and each group shall have a single vote.

6.7 When any member asks that a decision be taken through the committee structure, SACRE shall break into its groups and each group shall determine how its representative shall vote in SACRE.

7 Functions and Duties

7.1 The main function of SACRE is to advise the local authority on collective worship in community schools or foundation schools which do not have a religious character and on religious education, to be taught in accordance with York's agreed syllabus.

7.2 It is the duty of SACRE to:

a) Support the teaching of RE in accordance with the agreed syllabus through the provision of advice on, for example, methods of teaching, the choice of materials and the provision of training for teachers.

b) Such advice being made available to the head teachers of all schools in York.

c) Request a review of any agreed syllabus adopted by the authority through the convening of an Agreed Syllabus Conference.

d) Consider applications made by a head teacher that the requirement for collective worship in community schools and foundation schools which do not have a religious character

to be wholly or mainly of a broadly Christian character shall not apply to the collective worship provided for some or all of the pupils in that particular school and to review such determinations at the request of the head teacher or, not later than, a period of 5 years.

e) Monitor the provision of a daily act of collective worship in all community schools and foundation schools which do not have a religious character and advise on the action to be taken to improve such provision.

f) Report annually on the work of SACRE, a copy of the report being sent to Full Council. As well as the work undertaken, the report will also include details of:

- any matters in respect of which SACRE has given advice to the authority,
- broadly describe the nature of the advice given, and
- where any such matter was not referred to SACRE by the authority, give SACRE's reasons for offering advice on that matter.

8 Procedure

8.1 Conduct of Meetings

8.2 The procedures for the conduct of SACRE meetings are defined in the Standing Orders at Appendix of this Constitution. The Annual Meeting will be deemed to be the first meeting held in the autumn term.

9 Extraordinary Meetings

9.1 Extraordinary meetings will be arranged when requested by at least four individual members of SACRE. This request should be in writing and should give the reasons for holding such a meeting. At least seven days' notice will be given of any such meeting.

9.2 The Chair may also call an extraordinary meeting when required.

10 The Agreed Syllabus for Religious Education

10.1 In accordance with current legislation SACRE may request, and will ensure, that the process for the review of the agreed syllabus for Religious Education, which is required to take place every 5 years, should commence.

10.2 Membership of the Agreed Syllabus Conference, which is in itself a separate legal entity, will consist of four committees representing:

a) Christian denominations and other religions which reflect principal religious traditions in the area.
b) Church of England.
c) Teacher Associations as represented in York
d) City of York Council representatives

10.3 Any sub-committees appointed by the conference shall have at least one member from each committee constituting the Agreed Syllabus Conference.

10.4 SACRE will recommend to the Local Authority, and will oversee, the establishment, process and outcomes of the Agreed Syllabus Conference.

10.5 SACRE will monitor the Agreed Syllabus, provision and standards in RE. The outcomes of this process will help constitute the basis of revision of the Agreed Syllabus, which will be presented to the Agreed Syllabus Conference.

10.6 Any proposed modification of the Agreed Syllabus will require the reconstitution of the Agreed Syllabus Conference in accordance with 8.1 – 8.3 above.

11 Review of the Constitution and Code of Conduct

11.1 There will be an annual review of the SACRE constitution and code of conduct to ensure they remain fit for purpose.

APPENDIX 1

Standing Orders for Meetings of SACRE

1 Meetings

1.1 Meetings are held at least one per term with there being no less than 4 meetings per year.

1.2 A meeting of SACRE shall be quorate only when one member of each constituent group is present in addition to either the Chair or Vice-Chair. Members' attendance may be recorded in the annual report.

1.3 Meetings are held, and are open to members of the public, in accordance with The Religious Education (Meetings of local Conferences and Councils) Regulations 1994.

1.4 Dates of meetings will be agreed at the final meeting of the previous academic year.

1.5 The Clerk to SACRE will contact members giving at least seven days' notice of any meeting.

1.6 Public notice will be given at least three days before a meeting.

1.7 The minutes of the previous meeting, agenda and any other relevant papers will be provided for members, and for inspection by members of the public on request.

1.8 Committees; A, B, C, & D may hold committee meetings as and when required.

2 Order Of Business

2.1 Business will include the following:

a) Disclosure of interest
b) Apologies for absence / declarations of interest
c) Minutes of the previous meeting
d) Matters arising from the minutes

e) Reports
f) Correspondence items including complaints
g) Any other business
h) Dates & agenda items for future meetings

3 Agenda

3.1 The agenda will be prepared by the Clerk in consultation with the Chair and Vice Chair of SACRE and supporting Officers.

3.2 Members of SACRE may put forward items for inclusion on the agenda, with such request being made in writing, to the Clerk at least 14 days prior to the meeting.

3.3 The agenda for a SACRE meeting, accompanied by minutes of its previous meeting (if not already circulated) shall be sent so as to reach members not later than seven days before that meeting. The Agenda for each meeting shall be published on the City of York Council website at least five working days prior to the meeting taking place.

3.4 Matters for the agenda shall normally be sent to one of the SACRE's officers not later than fourteen days before that meeting.

3.5 Items for 'any other business' shall be sent in writing to officers or Chair not less than forty-eight hours before the meeting.

3.6 The minutes of the SACRE meeting shall be reported to the Local Authority.

4 Determinations

4.1 Determinations will be received from schools in sufficient time for them to be considered at the meeting prior to their commencement. For those seeking a quinquennial renewal, applications should be received for consideration at the meeting prior to their expiry. Such applications will only be accepted on the SACRE approved application form.

4.2 Determinations will be accepted or rejected on a majority decision of each constituent committee and by a majority vote by SACRE.

4.3 If SACRE requires modification to a determination the school will be informed in writing and the modified application will be considered at the next SACRE meeting. An interim ‘Chairs action’ can be taken.

APPENDIX 2

An introduction to City of York SACRE

Why is there a SACRE?

In 1944, Local Education Authorities were empowered by law to set up a Standing Advisory Council for Religious Education (SACRE). In 1988, the Education Reform Act made it a legal responsibility for them to do so. The Education Act 1996 governs the constitution for SACRE which includes membership and roles and responsibilities.

What are the duties of SACRE?

The SACRE must:

a) advise the LA on RE given in accordance with the agreed syllabus, collective worship, and on matters related to its functions, whether in response to a referral from the LA or as it sees fit
b) have regard to any circumstances relating to the faith backgrounds of the pupils which are relevant for deciding what character of collective worship is appropriate when a school makes application for a determination
c) publish an annual report on its work and on actions taken by its representative groups, specifying any matters on which it has advised the LA, broadly describe the nature of that advice, and set out reasons for offering advice on matters not referred to it by the LA
d) send a copy of the report to NASACRE (National Association of SACRE's)
e) meet in public unless confidential information is to be disclosed
f) make minutes of its meetings available for inspection at the LA's offices (so far as the minutes relate to the parts of meetings that were open to the public). There are also provisions about public access to the agenda and reports for meetings.

The SACRE should:

a) monitor the provision and quality of RE taught

according to its agreed syllabus, together with the overall effectiveness of the syllabus, and collective worship

b) provide advice and support on the effective teaching of RE in accordance with the locally agreed syllabus; provide advice to the LA and its schools on methods of teaching, the choice of teaching material and the provision of teacher training
c) in partnership with its LA, consider whether any changes need to be made in the agreed syllabus or in the support offered to schools in the implementation of the agreed syllabus, to improve the quality teaching and learning of RE
d) offer advice to the LA, and through the LA to schools, concerning how an existing agreed syllabus can be interpreted, and collective worship provided, so as to fit in with a broad, balanced and coherent curriculum.

The SACRE may:

a) require its LA to review the agreed syllabus and, if after discussion a vote is taken on this matter, the LA group on SACRE is not entitled to cast a vote. A majority decision by the three other committees is sufficient
b) decide to advise the LA on matters related to its functions to the LA – equally, an LA may decide to refer matters to its SACRE
c) co-opt members who are not members of any of the four groups – such co-opted members may provide educational expertise, young peoples' views or religious and non- religious views that reflect a diverse multi-cultural society.

Attendance at meetings

SACRE members are expected to attend all meetings where possible and send apologies to the clerk when they are unable to attend. A SACRE member who fails to attend three consecutive meetings and does not send apologies will be asked to stand down and an alternative representative will be sought.

Who sits on the SACRE?

The composition of the SACRE is defined by law. It is made up of four committees. Each local authority (LA) must establish a permanent body called a Standing Advisory Council on Religious Education (SACRE). It must appoint representatives to each of four committees, representing respectively:

a) Group A: Christian denominations and such other religious and religious denominations as, in the authority's opinion, will appropriately reflect the principal religious traditions in the area
b) Group B: The Church of England
c) Group C: Teacher Associations
d) Group D: The LA

Membership of each of the four groups which constitute the York SACRE are:

a) Group A: Baha'i, Humanist, Jewish, Methodist, Muslim, Hindu, Salvation Army, Sikh, Society of Friends/Quakers, Catholic, The Church of Jesus Christ for Latter Day Saints (single representative for each)
b) Group B: Representatives nominated by the Diocese of York.
c) Group C: Teachers for religious education
d) Group D: Four elected members of the LA.

What is the distinctive contribution of each committee?

Everyone shares the responsibility to put children's' learning before personal interest.[5]

Members of Groups A and B, each of whom represents a faith community within the locality: [6]

a) should present and foster a positive image of their religion, so that negative stereotyping is avoided. They must also make clear any grounds on which they may differ from each other,

[5] NASACRE Members Handbook
[6] NASACRE Members Handbook

whilst showing respect for each other's viewpoints, since such convictions and mutual understanding both lie at the heart of effective classroom RE;

b) can create opportunities within SACRE meetings to raise awareness of issues of sensitivity in the teaching of RE to the children of their faith community, and also in the presentation of their particular faith and religious tradition within school RE, always taking an educational approach;
c) should appreciate the difficulties schools are facing in the area, support their best endeavours, and act, where necessary, as a link between schools and the faith communities;
d) should be aware of other local minority faith communities not represented amongst their number. Some SACREs address this by co-opting representatives from these communities.

Members of Group C, representing teacher associations and education, should:[7]

a) have a real and positive interest in RE in primary, secondary or special schools;
b) ensure that the needs of schools and teachers are considered by the SACRE in their discussions;
c) provide the SACRE with information about the context in which RE is taught in the schools in the local authority;
d) ensure that the bodies they represent are informed about the work of the SACRE and about RE in local schools;
e) create opportunities for other teachers to learn more about the work of the SACRE and give them the opportunity to have their views expressed at SACRE meetings;
f) consult their colleagues on matters of particular importance to the work of the SACRE;
g) can bring 'public' dimensions to the debate about RE provision and support.

Members of Group D, representing the local authority: [8]

a) can bring to the meeting the breadth of educational issues and concerns which elected members are wrestling with, and place RE's role within it;

[7] NASACRE Handbook
[8] NASACRE Handbook

b) can be the supporters of RE within the various committees and structures of the local authority;
c) can give political support to enable locally determined RE to flourish within each LA, including advisory support etc.;
d) can appreciate the issues raised by a multi-faith, multi-cultural society for the education of children in RE, and reflect these issues in support of RE in the relevant council structures, including Scrutiny Committee, Executive, etc.;
e) can particularly support the efforts of the SACRE to be effective through publicising its work with fellow elected members and officers of the local authority, ensuring it is taken seriously and is appropriately funded and supported.

Voting

On any question to be decided by the SACRE, its constituent groups each have a single vote, but co-opted members do not have a vote.

Decisions within a group do not require unanimity.

Each group must regulate its own proceedings, including provision for resolving deadlock.

Election of chair and vice-chair

Members of groups A, B, C and D shall vote individually for the election of a chair and vice- chair from within their collective membership at the first SACRE meeting of a new school year.

How often must a SACRE meet?

SACRE should aim to meet on 4 occasions each year but meetings are usually held once a term. More meetings may be scheduled if the business is considered to be urgent or requiring more discussion time than is possible in the regular meeting/s.

It is important to attend because no decisions can be made unless there is at least one person present from each committee in order to cast that committee's single vote. Co-opted members do not have a vote.

How is the SACRE managed?

It is the LA's responsibility to set up a SACRE and this implies it also has a duty to fund it. Funding for SACRE's varies across the country, but in this authority there is no specified budget. The SACRE applies for funding as and when it identifies a need.

The SACRE is serviced by a clerk, provided by the City of York Council Democratic Services Team who is a contact within the authority for SACRE matters, takes minutes of the meetings and provides administrative support.

The LA can make the decision on how the chair of SACRE may be appointed or it may allow the SACRE to choose the chair from amongst their members.

This SACRE is serviced by a Local Authority adviser from City of York's Education Service and the City of York Council will seek specialist RE Advisor Support from the Diocese of York, who:

a) may advise the SACRE and LA
b) ensures that the decisions of the SACRE are moved forward
c) oversees the monitoring of RE and collective worship in schools
d) oversees the development of the Agreed Syllabus and its implementation
e) offers support and advice to teachers and schools though training and consultancy
f) writes the SACRE annual report.

What is an Agreed Syllabus Conference (ASC)?

An ASC is convened in order to produce an Agreed Syllabus for RE. It is a separate legal entity from a SACRE.

Although a review of the locally Agreed Syllabus is required within five years of the last review, if the majority of the committees (other than Committee D) ask the LA in writing to reconsider its Agreed Syllabus it must convene a conference for that purpose.

An ASC:

a) Is a separate legal entity in itself
b) Contains the same committees as the SACRE
c) Can be made up of SACRE members but need not do so
d) There is no provision for co-opted members
e) The chair of the ASC can be appointed by the LA or the LA may allow the ASC to choose its own Chair.

The LA's responsibility to convene the ASC implies a duty to provide funds for its work.

What other activities might the SACRE be involved in?

a) convene working parties of SACRE members and teachers
b) produce guidelines for schools, such as: schemes of work; programmes of study; assessment guidance; resource lists including visits and visitors; policy documents; teaching and learning strategies; RE and the early years; RE and post 16; RE and SEN; SMSC; recording and reporting
c) keep up to date with Ofsted reports; what is happening with SACREs in other areas (NASACRE and Analysis of SACRE reports)
d) monitor action plans
e) receive reports on local activities such as exam results; displays; exhibitions; 'special days';
f) acknowledge schools on their achievements and encourage those who need it through visits; certificates; letters; invitations to talk to SACRE; listening
g) visit schools to: experience an RE lesson or an act of worship;
h) presentations to SACRE by teachers
i) find out more about the faiths or non-faith stances of: members of SACRE; the faiths identified in the agreed syllabus
j) recognise and seize opportunities to raise the profile and status of RE
k) ensure schools are kept up to date with both local and national initiatives and information which will

support them in their situation

l) address the issue of schools' non-compliance with legal requirements
m) organise SACRE training days and lectures
n) ensure that the LA are fully aware of the duties and responsibilities of SACRE so that they may make informed decisions regarding policy and budget
o) ensure that SACRE is represented on national bodies and at national courses/conferences
p) write a development plan to ensure the SACRE 'moves forward' and is effective in carrying out its duties and tasks.

APPENDIX 3

City of York Standing Advisory Council for Religious Education (SACRE) code of conduct and roles and responsibilities

General principles[9]

York SACRE encourages all its members to:

a) attend all SACRE meetings and take a full and active part in its work
b) participate in and review the work of SACRE for the benefit of the whole community
c) listen with respect to the views of other members and where a situation of disagreement occurs, disagree respectfully
d) express views and opinions openly, honestly and sensitively, always recognising others may have views different to one's own
e) assume at all times that other members of SACRE are honourable and concerned with the best interests of SACRE
f) seek reasoned consensus where views diverge and never disrespect the views of other SACRE members or seek to convert them to a different belief stance
g) actively consult with, and report back to, the membership body which they represent so that debate is fully informed
h) actively challenge and resist stereotyping

Remember that the central aim for the SACRE is to improve the quality of provision in RE and collective worship for all pupils in York.

[9] NASACRE Code of Conduct

Visiting schools

From time to time, SACRE members may have the opportunity to visit schools. SACRE Members should remember that it is a privilege to visit a school. They are there as invited guests, not to make judgements about the school or to "inspect" RE and collective worship. Members should:

a) only visit a school when invited
b) inform the Clerk of SACRE and the SACRE's RE Professional of any invitation received and visits made
c) ensure that you do not say or do anything, which could be viewed as denigrating any religion or ethical belief system
d) avoid being critical of others or imposing their own views
e) any confidential information disclosed should not be passed on but along with any possible concerns or confusions about what may have been seen should be discussed with the LA Officer and RE Professional before being reported back to SACRE

Visiting schools as a representative of a faith community[10]

Some faith community representatives may be more regular visitors to schools and invited to support RE and/or collective worship. Visitors should be well-supported by the class teacher who should always be present, taking an active role in question and answer sessions, and ensuring visitors are well-briefed before a visit.

SACRE members visiting a school to share their beliefs, values and experiences should:

a) have a clear, mutually agreed understanding of the purpose of the visit before it takes place
b) appreciate that they are not there to convert or proselytise, avoiding being critical of others or imposing their own views
c) be familiar with the school's aims, ethos and policies in RE and collective worship
d) have an understanding of where the lesson will fit into the unit of work from the Agreed Syllabus and what the learning objectives are

[10] NASACRE Code of Conduct

e) use a variety of teaching and learning methods and approaches, but at no time touch pupils or behave favourably towards pupils of particular faiths, ethnic groups or genders
f) ensure that pupils understand that the visitor is representing a particular faith view and their own personal interpretation of it and therefore that others from the same faith may not always interpret ideas in exactly the same ways
g) ensure that they do not say or do anything, which could be viewed as denigrating
h) communicate at an appropriate level for the age group concerned

Teacher and teacher association representatives should:

a) provide information and expertise in relation to teaching and the school environment
b) if appropriate provide information and expertise in relation to the teaching of religious education and the carrying out of collective worship in schools
c) represent the interests and concerns of teachers, pupils and schools
d) consult with teaching colleagues and students
e) keep colleagues informed about the work of SACRE
f) ensure that the welfare and education of all the children in the City of York is the primary focus of SACRE

Council representatives should:

a) represent the wider public interest
b) provide information and expertise to SACRE in their capacity as an elected member of City of York Council
c) inform SACRE of concerns or issues known to City of York Council relating to education and in particular the provision for SMSC (spiritual, moral, social and cultural development), teaching of religious education and the carrying out of collective worship in schools
d) support the work of SACRE by representing its interests in City of York Council
e) endeavour to ensure that SACRE is adequately funded and supported

f) ensure that legal requirements for the conduct of SACRE are observed in particular in relation to the suitability and qualifications required to be a member of SACRE

Roles and responsibilities

The Chair of SACRE is required to fulfil the following key tasks:

Ensure that:

a) a clear timetable of meetings for the year is agreed and published
b) membership of the SACRE is efficiently maintained, i.e. that the four groups of SACRE have appropriate representation, with good attendance and participation
c) SACRE produces guidance to support the local authority and its schools with regard to religious education and collective worship
d) an annual report is produced each year and sent to the Secretary of State as required by statute
e) SACRE members have a programme of training, and when necessary induction
f) there is a Vice Chair if the Chair is unable to make a meeting
g) where there is an agreed a code of conduct it is adhered to by all SACRE member

In addition, the Chair of SACRE is required to undertake a number of other responsibilities which include:

a) Attend all SACRE meetings, helping to prepare Agendas and key papers;
b) Welcome new SACRE members and ensure they are fully briefed;
c) Chair SACRE meetings;
d) Represent City of York SACRE on national bodies and report back to SACRE on the outcomes of any meetings;
e) Send letters of thanks to schools who host meetings and to individuals who give presentations at SACRE meetings;

f) Send congratulation letters to schools where good practice has been identified, such as through the RE Quality Mark, through Ofsted Inspections or through visits by SACRE members;
g) Working with the LA Adviser, the clerk and other SACRE Officers, produce reports for the Council e.g. when changes to the SACRE constitution or membership are required.

RE Professional Advisor to SACRE (who is not a member of SACRE) has the following responsibilities:

a) Attend all SACRE (and ASC when appropriate) meetings, helping to prepare Agendas and key papers;
b) Advise SACRE (and ASC when appropriate) on issues relating to its work;
c) Ensure SACRE (and ASC when appropriate) is up to date with local, regional and national initiatives and issues related to RE, collective worship and syllabus developments, e.g. the work of the RE Council, the All Party Parliamentary Group for RE, DfE or charitable funded initiatives;
d) Relate SACRE's work to wider community issues, including partnerships with faith and belief communities ;
e) Lead on areas related to the Agreed Syllabus, RE and collective worship;
f) Manage and deliver the training of SACRE members and, where appropriate, teachers and other groups interested in RE;
g) Produce reports to meet the deadlines agreed for distribution of papers for the meetings;
h) Support SACRE members' development, including their ability to provide a bridge between their nominating body and SACRE;
i) With relevant administrative support and the SACRE clerk, manage and advise meetings of sub groups e.g. working par.es for particular initiatives;
j) With the SACRE clerk ensure that all SACRE publications are circulated to the relevant bodies;
k) Working with the Chair, the clerk and other SACRE Officers, produce reports to the Full Council, relevant Executive Member and to the People Scrutiny Committee e.g. when changes to the SACRE constitution or membership are required;
l) Draft and edit the SACRE Annual Report and all SACRE materials and publications;

m) With administrative support, update any relevant RE / ASC / SACRE website and SACRE's presence on the LA website;
n) Take the lead on the monitoring aspects of SACRE, especially agreed school visits and analysis of examination results in Religious Studies;

The Clerk to SACRE (who is not a member of SACRE) should:

a) Arrange, attend and clerk meetings of the SACRE and/or ASC;
b) Produce and circulate minutes and agendas of the SACRE and/or ASC in a timely manner in accordance with the LA's standard format;
c) Ensure that all papers from working parties or consultants are circulated to SACRE and/or ASC members in advance of meetings electronically and where necessary printed;
d) Advise on dates of meetings, particularly in relation to religious holidays or other Council meetings which may clash and effect quoracy;
e) Arrange venues for meetings of both the SACRE and ASC;
f) Liaise with the venue regarding any catering for a meeting with due sensitivity towards the religious requirements of a particular faith community or communities represented on SACRE;
g) Liaise with a venue for use of any necessary equipment (e.g. IT, digital projector) required for the meeting;
h) Remind and chase members/other attendees about reports for meetings and circulation deadlines;
i) Circulate additional papers or conference invitations e.g. from government departments, Council departments, the National Association of SACREs (NASACRE), the RE Council and Ofsted as appropriate;
j) Alert the Chair and RE Professional / Adviser to any communications from these and similar bodies;
k) Ensure that regular communications such as the NASACRE updates are circulated to members;
l) Working with the Chair, the local RE Advisor and other SACRE Officers, produce reports to Full Council, relevant Executive Member and to the People Scrutiny Committee when changes to the SACRE constitution or membership are required;
m) Work as a team member closely with the Chair, the local RE Professional and other SACRE Officers; this includes regular phone contact, email, sending meeting dates and up to 4 agenda planning / setting meetings per year;

n) Be the first point of contact for SACRE members, faith community members, members of the public and other bodies concerned with the work of SACREs, e.g. NASACRE;
o) Respond to queries, alerting the Chair and Advisor when necessary, for example FOI requests, this function is particularly crucial in LAs where the RE Professional is a contracted external consultant;
p) Maintain the SACRE membership list, keeping it up to date, chasing members whose attendance is poor and identifying any membership issues for the attention of the Chair, RE professional and LA Officers;
q) Contact nominating bodies represented on the SACRE when membership lapses to arrange for replacements and / or liaise with these bodies for any other issues as appropriate;
r) Contribute information, e.g. membership and attendance details for the Annual Report of SACRE;
s) Assist in the production and circulation of the Annual Report; issue Welcome / Induction Packs for new members and ensure that they have sufficient information to prepare them for their first meeting.
t) Maintain a filing system (electronic and sometimes paper) of relevant and up to date information;
u) Where possible liaise with the LA Officer, other Council departments, keeping the Chair, the RE Professional and other Officers informed of any Council initiatives which may be relevant to the work of the SACRE;
v) Ensure that all SACRE publications / advice are circulated to the relevant bodies;
w) Liaise with the Council's legal advisor in respect of governance issues;
x) Be responsible for the passing on for payment, invoices relating to SACRE work, e.g. payment for attendance at national conferences, payment for catering for meetings.

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ARTICLE 18 – CORPORATE PARENTING BOARD

1 Introduction

1.1 City of York Council looks after a number of children and young people who are unable to remain in the care of their parents. When a child comes into our care the tasks of their parents become the corporate responsibility of the Council. This is known as 'corporate parenting' and it is the collective responsibility of the Council to prioritise the needs of children in care and care leavers and seek for them the same outcomes any good parent would want for their own children.

2 Purpose of the Board

2.1 To actively listen to the views of our children and young people so that the Council is able to adapt its corporate parenting in line with their wishes, feeling and needs.

2.2 To act as a forum where our young people are able to hold Members and Officers to account as their parents.

2.3 To raise the awareness of the Council's Corporate Parenting responsibilities and knowledge among elected Members and officers.

2.4 To support and make recommendations to relevant Council bodies on matters related to corporate parenting.

3 York Vision for Children and Young People in Care and Care Leavers

3.1 We are committed to York being an effective, caring, and ambitious corporate parent and we will do everything we can to make sure that children in our care and care leavers receive the best possible care and support.

3.2 The overarching vision of City of York Council is "A better start for children and young people" and we look to achieve this

through our mission statement; “every conversation starts with the child.”

3.3 Through our practice, we have agreed to adhere to our values that ensure we can deliver positive outcomes:

a) Everyone feels safe
b) Risk is understood and managed well
c) Practice is consistently good

3.4 We want our children and young people to be happy and healthy, both physically and emotionally, to be safe and protected from harm and exploitation, to achieve their potential and to be supported each step of the way to adult life.

3.5 The council has strong engagement with children and young people in care and care leavers who tell us what more we should be doing to further improve their lives and future outcomes. The Council highly values their experiences and we are committed to acting on what they tell us and involving them in decisions that affect their lives.

3.6 Our Corporate Parenting and Children in Care Strategy sets out our ambition for our children and young people and care leavers and how we intend to fulfil our corporate parenting responsibilities and strategic priorities in a way which puts children and young people and care leavers at the centre of improvements in the planning, delivery and evaluation of our services.

4 Aims and objectives of the Board

4.1 To meet this purpose the Corporate Parenting Board will:

a) Provide leadership across the city to create a more effective and efficient health and wellbeing for children and young people in care and care leavers
b) Make sure that the whole council and relevant partner agencies commit to excellent standards of corporate parenting.

c) Set high expectations and stable relationships for all children and young people in care
d) Seek improved long term outcomes for children and young people in care and their families – for their happiness; well-being; educational success; and future prospects
e) Make sure that the voice of the child and young person in care influences both policy and the services that they receive, and that young people are engaged with any action intended to develop and improve services or to recruit key staff members
f) Oversee and monitor key performance indicators for the health, well-being and education of looked after children
g) Champion the provision of Council based work placements and apprenticeships for children and young people in care and care leavers.
h) Review and monitor progress on the actions identified in the Corporate Parenting and Children in Care Strategy
i) Monitor the delivery of York's Guarantee to children and young people in care and the Care Leavers Offer.
j) Consider the outcomes of regulatory visits and inspection reports on provision for children in care
k) Celebrate the achievements of children and young people in care and their carers
l) Determine ways in which the role of corporate parenting can be improved, using examples from other local authorities/organisations.

5 Membership of the Board

5.1 The Board will be chaired by The Executive Lead for Education Children's and Young People Services and a deputy chair will be sort through a representative of Show Me I Matter and I Still Matter (if they wish to take up this role)The deputy chair will chair the meeting in the absence of the chair

5.2 The deputy chair will be nominated at the first meeting of each year.

5.3 The Membership of the Board will consist of:

a) Up to 4representatives from Show Me I Matter and Still Matter
b) A maximum of 4 Elected Members drawn from:
    - The Executive Member for Children, Young People & Education (is also a member of Show Me that I Matter Panel).
    - The Executive Member for Health, Wellbeing & Adult Social Care in the capacity of being a member of Show Me that I Matter Panel
    - Main Opposition Group Shadow Lead Member for Children, Young People & Education
    - Main Opposition Group Shadow lead member for Health, Wellbeing & Adult Social Care

c) Corporate Director of Children & Education
d) Corporate Director of Adults and Integration
e) Director of Children's Services Safeguarding
f) Head of Service – Corporate Parenting

Corporate Parenting Advisors (Council Officers) will also attend and support the Corporate Parenting Board as and when required.

5.4 The Board will also have the power to co-opt non-voting Members to advise which will include the following:

a) Assistant Director - Education/Virtual School Head
b) Chief Nurse ICS place
c) Care experienced young people as recommended by Show Me That I Matter and I Still Matter
d) Up to two Foster Carers
e) Other significant agencies/services involved in corporate parenting as and when required i.e. Police
f) Representative of DWP
g) Housing Representative
h) CAMHS/Mental Health Representative

5.5 The Board can review its overall membership and can make changes to the co-opted representation at any time.

6 Meetings of the Board

6.1 This Board does not have decision making powers and is not a formal Board (Committee) of the Council, but will be able to provide recommendations for the Executive and the Corporate Management Team to consider.

6.2 The meetings of the Board will take place on a quarterly basis in private and therefore will not be live streamed.

7 Annual Report

7.1 The Board will prepare an Annual Report which will be presented to a meeting of Full Council to be presented by the young person appointed as co-chair (with contribution from the Elected Member chair if and when appropriate). The Annual Report will provide all Elected Members with the opportunity to be appraised of their corporate parenting responsibilities, the effectiveness of the Board and the work of the Council in using its services to best promote the support provided to children in care and care leavers.

7.2 The Annual Report will also be shared with the Chairs and Vice Chairs of the council's scrutiny committees.

7.3 The Annual Report and work of the Corporate Parenting Board must be meaningfully shared with children and young people.

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ARTICLE 19 - JOINT ARRANGEMENTS

1 Introduction

1.1 In order to promote the economic, social or environmental well being of its area, the Council under the provisions of Section 2 of the Local Government Act 2000, can:

a) enter into arrangements or agreements with any person or body;
b) co-operate with, or facilitate or co-ordinate the activities of, any person or body; and
c) exercise on behalf of that person or body any functions of that person or body

2 Forms and Exercise of Joint Arrangements

2.1 The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions, which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities and a Councillor may be appointed to such a joint Committee, except that a Member of the Executive may not be a Member of any joint Committee established to carry out the Council's scrutiny functions.

2.2 The Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint Committees with these other local authorities.

2.3 The Council may delegate non-Executive functions to another local authority or, in certain circumstances, the Executive of another local authority.

2.4 The Executive may delegate Executive functions to another local authority or the Executive of another local authority in certain circumstances.

2.5 The decision whether or not to accept such a delegation from another local authority shall be reserved to the meeting of Full Council.

3 Access to Information

3.1 The Access to Information rules in Appendix 7 of the Local Government Act 1972 will apply to joint Committees established under this Article.

ARTICLE 20 – INDEPENDENT REMUNERATION PANEL

1. The Independent Remuneration Panel plays a critical role in the setting of Members' Allowances. Allowances and expenses of politicians and public servants are subject to a great deal of public interest. All councils publish their Members' Allowances Scheme (see Appendix 20 of the Constitution), setting out the allowances Members are entitled to receive and what expenses they are able to claim for. The total amount of allowances claimed by each councillor is published annually by the Council and reported in the press. The Independent Remuneration Panel is responsible for reviewing the Members' Allowances Scheme and recommending change when necessary.

2. The Local Government Act 2000 and the Consolidated Members' Allowances Regulations 2003, enable the Panel to consider the following allowances:

    a) Basic allowance
    b) Special responsibility allowances
    c) Dependent carer's allowance
    d) Travel and subsistence allowances
    e) Co-optees' allowances
    f) Provision for suspension for allowances in certain circumstances
    g) Suitability of an index for allowances and what that index may be.

3. Full Council appoints independent members to the Panel. The Panel will be composed of at least three independent members. Panel members cannot be a Member of the Council or any of its committees, or an employee of the Council. They are appointed for a period of four years and no member may serve for more than two terms of office of four years.

4. The Panel's recommendations are published and considered by all Councillors and must be voted on by Full Council.

5. The Panel is advised and supported by the Director of Governance and Monitoring Officer and the Chief Finance Officer of City of York Council. Government guidance requires that all necessary evidence, guidance and information is made available to the Panel.

6. The recruitment of members to the Independent Remuneration Panel will be overseen by the Chief Operating Officer in consultation with the Head of Human Resources and will be undertaken in accordance with the Council's HR procedures.

City of York Council
Independent Remuneration Panel

Terms of Reference

The purpose of the Independent Remuneration Panel is as follows:

1. To make recommendations to the authority as to the amount of basic allowance that should be payable to its elected members

2. To make recommendations to the authority about the responsibilities or duties which should lead to the payment of a special responsibility allowance and as to the amount of such an allowance

3. To make recommendations to the authority about the duties for which a travelling and subsistence allowance can be paid and as to the amount of this allowance

4. To make recommendations as to the amount of co-optees' allowance

5. To make recommendations as to whether the authority's allowances scheme should include an allowance in respect of the expenses of arranging for the care of children and dependants and if it does make such a recommendation, the amount of this allowance and the means by which it is determined

6. To make recommendations on whether any allowance should be backdated to the beginning of a financial year in the event of the scheme being amended

7. To make recommendations as to whether annual adjustments of allowance levels may be made by reference to an index, and, if so,

for how long such a measure should run The IRP will make its recommendations in the form of a report to Full Council.

ARTICLE 21 – OFFICERS

1 General

1.1 The Council may engage/employ such Officers as it considers necessary to carry out its functions. All Officers (other than political assistants) will work on the basis of political neutrality in the delivery of the Council's services in accordance with Council policy. Employees who advise on and/or implement Council decisions, are known as Officers.

1.2 The Council designates the following posts as shown:

a) Head of Paid Service - Chief Operating Officer
b) Section 151 Officer - Chief Finance Officer
c) Monitoring Officer - Director of Governance
d) Head of Internal Audit – Chief Executive of Veritau – (a company part owned by the council)

Such posts will have the functions described in the section 'Structure' below.

1.3 The Council will provide the Monitoring Officer and Chief Finance Officer with such officers, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

2 Proper Officer Functions

2.1 Certain legislation requires the Council to designate a particular Officer as "Proper Officer" for the performance of certain functions. These designations are set out in Appendix 1 of this Constitution.

3 Structure

3.1 The Chief Operating Officer and Head of Paid Service will determine and publicise a description of the overall departmental structure of the Council showing the management structure and

deployment of officers. This is referred to in Appendix 25 of this Constitution.

3.2 Appointment of Officers below the Chief Officer level will be the responsibility of the Head of Paid Service but is delegated by them to other Chief Officers as set out in Appendix 1 of this Constitution.

3.3 The functions of the Head of Paid Service are:

(a) overall corporate management and operational responsibility including overall management responsibility for all Officers, and co-ordinating the work of the Council's Directorates. The Head of Paid Service is responsible for deploying the Council's resources in accordance with the strategic objectives as set by the Executive and Council.
(b) the provision of professional advice to all parties in the decision making process.
(c) together with the Monitoring Officer, responsibility for a system of record keeping for all decisions made by or on behalf of the Council.
(d) representing the Council on partnership and external bodies as required.
(e) the Head of Paid Service or other nominated Chief Officer will report to Full Council on the manner in which the discharge of the Council's functions is co-ordinated, the organisation of Officers and the number and grade of Officers required for the discharge of functions (other than minor restructuring and regrading)
(f) the Head of Paid Service may not be the Monitoring Officer but may hold the post of Chief Finance Officer if a qualified accountant.

4 Monitoring Officer

4.1 The powers and functions of the Monitoring Officer are:

(a) to maintain an up to date version of the Constitution and ensure that it is widely available for consultation by Members, Officers and the public.

(b) to report to Full Council (or to the Executive in relation to an Executive function) after consulting with the Head of Paid Service and Chief Finance Officer, if they consider that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will be sent to all Members of the Council and will have the effect of stopping the proposal or decision being implemented until the report has been considered.

(c) to contribute to the corporate management of the Council, in particular by providing professional legal advice on the scope of powers and authority to take decisions

(d) to contribute to the promotion and maintenance of high standards of conduct and ethics through provision of support to the Joint Standards Committee.

(e) to jointly advise with the Chief Finance Officer whether the decisions of the Executive are in accordance with the budget and policy framework.

(f) in conjunction, where necessary, with the Chief Finance Officer, to provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues.

(g) where necessary, in conjunction, with the Chief Finance Officer, to exercise powers of sanction and intervention where they consider that any proposal, decision or omission would give rise to unlawfulness or maladministration or otherwise contravene the corporate governance interests of the authority;

(h) to ensure that executive decisions are required under this constitution, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.

4.2 The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

5 Chief Finance Officer

5.1 The functions of the Chief Finance Officer are:

(a) to report to the Full Council (or to the Executive in relation to an Executive function) after consulting with the Head of Paid Service and the Monitoring Officer and send a copy of the report to all Members of the Council and to the Council's external auditor if they considers that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council (or the Executive) is about to enter an item of account unlawfully.

(b) to be responsible for the administration of the financial affairs of the Council. This involves providing effective financial management arrangements and systems, an effective internal audit function and internal controls arrangements, effective treasury management arrangements, safeguarding assets and probity.

(c) to contribute to the corporate management of the Council, in particular by providing professional financial advice.

(d) to provide advice to all Councillors on the scope of powers and authority to take decisions, maladministration in relation to financial matters, financial impropriety, probity and budget and policy framework issues and to support and advise Councillors and Officers in their respective roles (in liaison, as necessary, with the Monitoring Officer).

(e) where required by law or authorised by the Council, to provide financial information to the media, members of the public and the community.

(f) where necessary, and in conjunction with the Monitoring Officer as appropriate, to exercise powers of sanction and intervention when they consider that any proposal, decision, omission or course of action is likely to incur unlawful expenditure or otherwise contravene the corporate governance interests of the Council.

6 Head of Internal Audit

6.1 The functions and responsibilities of the Head of Internal Audit are:

(a) to undertake a programme of internal audit and to provide an opinion on the overall adequacy and effectiveness of the council's framework of governance, risk management and control;
(b) to provide advice on the council's internal control arrangements and management of risks;
(c) to help promote high ethical standards and good governance across the council;
(d) to keep the council's Audit Charter under review and to propose changes as required to comply with proper practice for internal audit;
(e) to report directly and independently to Members, the Chief Finance Officer, the Monitoring Officer and/or the Head of Paid Service on any matter that in their professional judgement must be reported outside normal line management and decision making arrangements;
(f) to investigate all instances of suspected fraud and corruption in which the council has an interest and to refer cases for further investigation by the Police or other law enforcement agencies as necessary;
(g) where fraud or corruption is identified, to make recommendations for prosecution to the Chief Finance Officer

And in doing so the Head of Internal Audit and members of their Officers will have rights of access to all information and assets held by the council and be able to obtain explanations from all council employees and Members at all reasonable times for the purposes of audit.

Applicable to all Officers

8 Conduct

8.1 Officers will comply with the Employee Code of Conduct referred to in Appendix 15 of this Constitution.

9 Employment

9.1 The recruitment, selection and dismissal of officers will comply with the policies of the Council and the Officer Employment Procedure Rules set out in Appendix 12 of this Constitution.

ARTICLE 22 – FINANCE, CONTRACTS AND LEGAL MATTERS

1 Financial Management

1.1 The management of the Council's financial affairs will be conducted in accordance with the Financial Procedure Rules set out in Appendix 10 and 10A of this Constitution.

2 Contracts

2.1 Every contract made by the Council will comply with the Contract Procedure Rules set out in Appendix 11 of this Constitution.

3 Legal Proceedings

3.1 The Director of Governance is authorised to institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Council, or in any case where the Director of Governance considers that such action is necessary to protect the Council's interests.

4 Authentication of documents

4.1 Where any document is necessary to any legal procedure or proceedings on behalf of the Council, it will be signed by the Director of Governance or other person authorised by them, unless any enactment otherwise authorises or requires, or the Council has given requisite authority to some other person. Any contract entered into on behalf of the local authority in the course of the discharge of an Executive function shall be made in writing.

4.2 A document shall have been properly signed in accordance with paragraph 4.1 whether it is physically signed in a hard copy format or it is signed electronically in an electronic format.

5 Common Seal of the Council

5.1 The Common Seal of the Council will be kept in a safe place in the custody of the Director of Governance. A decision of the Council, or of any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Director of Governance should be sealed. The affixing of the Common Seal will be attested by the Director of Governance or some other person authorised by the Director of Governance. An entry of every sealing of a document shall be made and consecutively numbered in a book or an electronic register provided for the purpose and signed by the person who was present at the sealing and attested the seal.

5.2 The Common Seal shall have been properly affixed in accordance with paragraph 5.1 whether it is physically affixed to a hard copy document or it is affixed electronically to an electronic document in accordance with the Electronic Communications Act 2000.

ARTICLE 23 - REVIEW AND REVISION OF THE CONSTITUTION

1 Duty to Monitor and Review the Constitution

1.1 The Monitoring Officer will monitor and review the operation of the Constitution to ensure that the aims and principles of the Constitution are given full effect. The Monitoring Officer will undertake a formal review of the whole Constitution (including the Executive arrangements) every six months and report to the Audit & Governance Committee for recommendation to Full Council as appropriate including any proposed revisions to the Constitution and the Executive arrangements. For the avoidance of doubt, the formal review of the Constitution will include a review of the Member Code of Conduct.

2 Changes to the Constitution

2.1 The Constitution may only be amended with the approval of Full Council, on the following basis:

Audit and Governance Committee

2.2 The Audit and Governance Committee may advise Full Council on proposed amendments to the Constitution in respect of any matter relating to the good governance of the Council and compliance with this Constitution in accordance with its terms of reference as set out in Article 9 of this Constitution or any amendments proposed by a Councillor as set out below.

Joint Standards Committee

2.3 The Joint Standards Committee may advise Full Council on any proposed amendments to the Constitution via prior consultation with Audit & Governance Committee in respect of any matter relating to Member ethics and code of conduct.

Councillors

2.4 Any Councillor who wishes to propose a change to the Constitution shall consult the Monitoring Officer, who may report

to the Audit and Governance Committee in relation to the proposed amendment.

Monitoring Officer

2.5 In addition, the Monitoring Officer may amend this Constitution in advance of Full Council approval in exceptional circumstances to:

(a) ensure that the Constitution and the Council's procedures meet all legal requirements;
(b) reflect changes to arrangements for the distribution of responsibilities and the delegation of powers in accordance with decisions taken by the person(s) or body with authority to take such action;
(c) give effect to changes explicitly approved by the Full Council; and
(d) ensure that any new or amended protocols are included in the Constitution once they have been approved by the person(s) or body with the authority to do so.

2.6 Any such amendments must be duly reported to Full Council for approval at the earliest opportunity.

2.7 The Monitoring Officer may also make the following amendments to the Constitution, in consultation with the Chief Operating Officer, without requiring the approval of Full Council:

(a) Minor drafting amendments
(b) Any other non contentious amendments in consultation with Group Leaders and the Chair of the Audit & Governance Committee.

Chief Finance Officer

2.8 In addition, the Chief Finance Officer may amend this Constitution in advance of Full Council approval in exceptional circumstances to:

(a) ensure that the Constitution and the Council's procedures meet all financial and procurement regulations and requirements;

(b) reflect changes to arrangements for the distribution of responsibilities and the delegation of powers in accordance with decisions taken by the person(s) or body with authority to take such action;

(c) give effect to changes explicitly approved by the Full Council; and

(d) ensure that any new or amended protocols are included in the Constitution once they have been approved by the person(s) or body with the authority to do so.

2.9 Any such changes made to the Constitution must be incorporated into an up to date version of the Constitution, which should be accessible via the Council's website.

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ARTICLE 24 - SUSPENSION, INTERPRETATION AND PUBLICATION OF THE CONSTITUTION

1 Suspension of the Constitution

1.1 The Articles of this Constitution may not be suspended.

1.2 The following appendices of this Constitution may not be suspended:

- Appendix 1 (Scheme of delegation & Responsibility for functions)
- Appendix 7 (Access to information)
- Appendix 10 and 10A (Financial Procedure Rules)
- Appendix 11 (Contract Procedure Rules)
- Appendix 12 (Officer Employment Procedure Rules)
- Appendix 14 (Member Code of Conduct)
- Appendix 15 (Officer Code of Conduct)
- Appendix 16 (Protocol on Officer Member Relations)
- Appendix 17 (Code of Good Practice for Councillors involved in the Planning Process)
- Appendix 18 (Outside Body Guidance)
- Appendix 19 (Protocol for use of ICT by Members)
- Appendix 20 (Members Allowances Scheme)
- Appendix 21 (Urgent Decision Making Guidance)

1.3 Procedure Rules in Appendix 3 of this Constitution may be suspended by Full Council or by the Executive (in relation to its own business) or by a Committee, but only to the extent permitted by law. The extent and duration of any suspension must be proportionate to the intended outcome.

1.4 A motion to suspend any Procedure Rules(s) will not be moved unless either:

a) the motion is included on the agenda for the meeting; or

b) the suspension is proposed in a written report which relates to an item on the agenda for the meeting; or

c) at least half of the number of Councillors entitled to be present at the meeting are present when the proposal is made.

2 Interpretation

2.1 The ruling of the Lord Mayor of the Council as to the construction or application of this Constitution or as to any proceedings of the Council shall not be challenged at any meeting of Full Council. Such interpretation will have regard to the purposes of this Constitution contained in Article 1.

2.2 The Monitoring Officer will determine all questions as to the interpretation, construction or application of this Constitution that do not fall within the jurisdiction of the Lord Mayor.

3 Publication

3.1 The Monitoring Officer will ensure that each Member of the authority has access to a copy of the Constitution upon delivery to them of that individual's declaration of acceptance of office on the Member first being elected to the Council.

3.2 The Monitoring Officer will ensure that copies are available for inspection at Council offices and other appropriate locations including on the Council's website, and can be purchased by Members of the local press and public on payment of a reasonable fee.

APPENDICES OF THE CONSTITUTION

2023

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Appendix 1 – Responsibility for Functions / Scheme of Delegation

Introduction

1. The Council has adopted the Leader and Executive (executive) (England) governance model. The Executive consists of the Leader of the Council (who is appointed by full Council and may be removed by it) and a minimum of 2 but no more than a maximum of 10 councillors appointed to the Executive from time to time by that Leader. The executive of City of York Council is described as 'the Executive'.

2. In accordance with the law, any function of the Council which is not otherwise specified in legislation is an 'executive function' and is the responsibility of the Leader and Executive. The Leader and Executive are responsible for all of the Council's functions (including local area functions), except those which are required by the law or this Council's Constitution, to be the responsibility of the Council itself, or any other non-Executive part of the Council. Executive functions are regarded as exercisable by the Executive (or officers or individual Executive Members) on behalf of the Council and may not be exercised by the Council.

3. Such Executive functions may be discharged in accordance with provisions made by, or under, this Constitution or the law, in particular the Local Government Act 2000, Public Involvement in Health Act 2007, Localism Act 2011 and associated Regulations.

4. Legislation specifies particular non-executive functions which cannot be the responsibility of the Executive, and also local choice functions which may be allocated to be the responsibility of the Executive, but do not need to be. All local choice functions which are not otherwise allocated under this Constitution are the responsibility of the Leader and Executive.

5. The Leader may personally discharge functions which are the responsibility of the Executive or arrange for their discharge by the

Executive, another member of the Executive, a committee of the Executive, a joint committee or by an officer. The Leader may change these arrangements from time to time. Unless the Leader otherwise directs, the Executive itself may also arrange for the discharge of any of its functions by a committee of itself, a joint committee, individual Executive Member or by an officer.

6. This scheme of delegation [hereafter referred to as “the scheme”] reflects the assignment of functions by either the Council (in respect of matters which are not executive functions) or by the Leader of the Council or Executive (in respect of matters which are the responsibility of the Executive) as appropriate to the particular function. In relation to delegation to officers, the scheme does not distinguish between the two sources of delegation.

7. Responsibility for the functions of the Council and Executive is delegated or assigned as set out in the following provisions of this scheme as updated from time to time, and such delegation/assignment includes the power to do anything which is calculated to facilitate or is conducive to the discharge of those functions.

8. The provisions of this scheme take account of the requirements of the Local Government Act 2000, the Local Government and Public Involvement in Health Act 2007, Localism Act 2011 and relevant legislation including Regulations in the assignment of functions to the Council itself, to the Leader/Executive, to other Committees or Panels. They take account of any prohibitions, restrictions or local choice in the assignment of these functions.

9. The Council, the Leader of the Council, Executive, individual Members, Committees or Panels to which functions are assigned, shall act in accordance with the law and the provisions of the Council’s Constitution, including any Standing Orders, Procedure Rules, Financial Regulations and protocols approved from time to time (except those joint committees or any other member bodies regulated by separate constitutions).

10. Those functions reserved to the full Council itself are not to be delegated or assigned except as permitted under the law or this Constitution.

11. Each body or person having decision-making powers (a 'Delegate') shall implement and act within the policies of the Council, having regard to the advice of the Director of Governance who is the council's Chief Legal Officer, and Chief Finance Officer as necessary.

12. Each Delegate shall have the power to delegate further to an officer all or any of the functions delegated to it. Subject to a written scheme of delegation recording this and being shared with the Monitoring Officer.

13. A Delegate may decide not to exercise any function in relation to a particular matter and invite the Council, Leader of the Council or Executive depending upon whether the function is the responsibility of the Executive or any other appropriate body as the case may be to do so instead.

14. The functions, powers and duties are delegated to Officers in accordance with the scheme of delegation to Officers.

15. Meanings:

    a) Executive (executive) functions shall mean those functions that by law must be the responsibility of the Executive.
    b) Non-Executive functions shall mean those functions that by law must not be the responsibility of the Executive.
    c) Local Choice functions shall mean those functions that the Council may decide to exercise itself or delegate to any part of the Council including the Executive.
    d) Responsibility of the Executive shall include those matters which are Executive (executive) functions, or local choice functions which have been delegated to the Executive.

Principles of Delegation

16. The principles guide the allocation of responsibility for decision-making at Executive Member and Chief Officer Level.

17. In respect of matters delegated from Executive to individual Executive Member, the focus is on policy issues within the budget and policy frameworks agreed by Council/Executive: -

    a) Policy matters, internal to the service, and required to provide guidance to officers to ensure significant policy decisions are implemented
    b) Details of policy matters delegated by Executive once principles have been agreed
    c) Expenditure items not specifically detailed within Service Plans but not sufficiently significant in scale to refer to Executive
    d) Responses to consultation documents not referred to Executive.

18. In respect of matters delegated from Executive to Chief Officers in consultation with Executive Members, the focus is on service management issues with policy or political implications (“no surprises principle”).

    a) Significant management decisions which could have an adverse or controversial impact on the delivery of services or achievement of agreed targets
    b) Development of Service Plans and Policy Statements for consideration by Executive

19. In respect of matters delegated from Executive to the Chief Operating Officer or Chief Officer these will relate solely to the management of services and resources covering:-

    a) Management of services within the framework of the Council Plan, Service Plans and Council policies and standards agreed by Members

b) Management of resources within the framework of the corporate strategies (i.e. Financial, Information & Communications Technology, Procurement, Human Resources and Asset Management) agreed by Members.

Scheme of Delegation

Aims

20. Democratic accountability should be the key aim of the Scheme of Delegation together with:

a) Member authority for policy/strategic decisions
b) Effective scrutiny of policy/strategic issues
c) Officer responsibility for service delivery
d) Effective monitoring of service performance.

Member Advantages

21. The Scheme of Delegation details below the decisions to be taken at the different levels. For Executive Members it will deliver the: -

a) Ability to control key/strategic decisions in Council and Executive
b) Opportunity to consider and shape policy within the Executive
c) Involvement in Council Plan/Budget formulation.

22. For individual Executive Members the advantages are: -

a) Enhanced authority and responsibility to implement policy within agreed frameworks
b) Increased ability to take speedier policy decisions
c) Greater involvement in shaping service delivery in line with policy
d) Improved information on service activities and executive decisions

e) Protection of personal positions and interests through collective responsibility in Council/Executive and support from Chief Officers.

Member-Officer Relationships

23. The Scheme of Delegation will only work effectively if there is mutual understanding and trust between Members and Officers. However, to support the Scheme of Delegation and particularly where matters are delegated from Executive to Executive Member and Chief Officers, it is suggested that:

a) 'Service Plans' should be of sufficient detail to provide an effective framework for decisions
b) Information on service delivery should be enhanced to ensure that members know what is going on without having to ask
c) Protocols, or sets of criteria, for the detailed implementation of specific policy or service areas should be agreed between the Executive Member and Chief Officers
d) The principle is reinforced that Chief Officers err on the side of caution in informing members of decisions that might have political implications, including any advice given to Members. Decisions delegated to officers within departments are dealt with in a structured way with proper records and audit trails so it is clear who is responsible and what the reasons were for the decisions.

Full Council

Meanings

1. *Policy Framework.* The policy framework means the following plans and strategies having regard to the recommendations of the Executive:-

   Partnership and Community Plans:

   a) 10 Year City Plan
   b) Health and Wellbeing Strategy
   c) Children and Young People's Plan
   d) Corporate Parenting Strategy
   e) Youth Justice Plan
   f) Community Safety Strategy
   g) Joint Waste Strategy
   h) Climate Change Strategy
   i) Annual Library Plan

   Council:

   a) Council Plan or its equivalent
   b) Local Plan documents
   c) Local Transport Plan
   d) Statement of Licensing Policy under Licensing Act 2003
   e) Gambling Act 2005 Licensing Policy
   f) Medium Term Financial Strategy
   g) Treasury Management Plan

   And any other Strategy, Plan or Agreement that requires the approval of full Council.

2. *Budget*. The budget includes the allocation of financial resources to different services and projects, proposed contingency funds, the council

tax base, setting the council tax and decisions relating to the control of the Council's borrowing requirement, the control of its capital expenditure and, if required, the setting of virement limits different to those in Financial Regulations.

Functions of Full Council

3. The functions reserved to Full Council are:

a) To approve, adopt amend, monitor and /or review the plans, strategies and policies which together make up the Council's Policy Framework

b) Determine and amend the Council's Revenue and Capital budgets, including the initial allocations of financial resources to different services and projects, proposed contingency funds, fees and charges, proposed precepts, setting the Council Tax and decisions relating to the Council's borrowing requirement and the control of its capital expenditure (subject to being referred back to Executive).

c) Approve the Treasury Management Strategy.

d) Approve expenditure that falls outside the Council's total annual budget.

e) Take any decision, which is contrary to the approved Policy Framework and/or the approved Budget.

f) Appoint and remove the Leader in accordance with Council Procedure Rule 11.

g) Decide the composition of Committees and sub-committees of Full Council and make appointments including co-opted members to them and other non-Executive bodies except in the case of ad hoc scrutiny sub-committees which will be determined by the Corporate Scrutiny Committee.

h) Appoint representatives to outside bodies unless the appointment is one that must by law be made by the Executive in relation to its functions or has been delegated by the Council.

i) Make and, subject to the provisions of Article 22 of this Constitution, amend Standing Orders, Financial Regulations and rules in relation to contracts.

j) Change the name of the City or of a Parish.

k) Elect a Lord Mayor, Deputy Lord Mayor and Sheriff and exercise related functions.

l) Confer the title of the Honorary Alderman, Honorary Recorder and Honorary Freeman and grant the Freedom of the City.

m) Promote or oppose local or personal bills.

n) Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.

o) Make, amend, revoke or re-enact Byelaws.

p) Make orders for grouping parishes, dissolving groups and separating parishes from groups.

q) Dissolve small parishes.

r) Fill Council or Parish Council vacancies in the event of insufficient nominations.

s) Submit proposals to the Secretary of State for an Order under Section 10 of the Representation of the People Act 2000 (pilot schemes for local elections).

t) Appoint the Chief Operating Officer (or equivalent) (Head of Paid Service) and designate officers as the Monitoring Officer, the Chief Finance Officer and Proper Officers under the relevant legislation, except to the extent that the power to designate

Proper Officers has been otherwise delegated in this Constitution.

u) Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council, its Committees, sub Committees and other bodies.

v) Take decisions and/or give advice on matters brought to the Council by the Executive and other bodies or persons.

w) Carry out any other functions reserved by law or by this Constitution to Full Council, including those “local choice” functions reserved to Full Council under this part of the Constitution

Council Meetings

4. There are four types of Council meeting: -

- the annual meeting;
- ordinary meetings;
- budget council;
- extraordinary meetings;

and they will be conducted in accordance with the Council Procedure Rules in Appendix 3 of this Constitution.

Executive

5. The Executive will be responsible for guiding the Council in the formulation of its corporate plan of objectives and key priorities. Within the policy framework, budgets and major plans approved by Full Council, the Executive will have executive responsibility for the implementation of the Council’s key goals and objectives.

6. It will operate within the Scheme of Delegation set out in this document.

7. The Leader of the Council chairs the Executive and appoints members as Executive Members and allocates cross-service Portfolio responsibilities to the Executive Members.

8. The Leader of the Council may exercise any Executive function and may determine whether such functions may be exercised by the Executive, a Committee of the Executive, an Executive Member, an Officer or a Joint Committee.

Matters for the Executive

9. The Local Government Act 2000 delegates most functions to the Executive, for example:

a) Policy formulation within and across services
b) Performance indicator and target setting
c) Recommending Corporate Plans to Council
d) Recommending Service Plans to Council
e) Agreeing variations to Service Plans
f) Monitoring Council Plan and Best Value targets
g) Monitoring Service Plan delivery
h) Preparing budget estimates
i) Monitoring revenue/capital budget spend
j) Reviewing progress on major capital schemes and other service developments
k) Agreeing major organisational changes
l) Agreeing virement between service areas
m) Agreeing externally funded initiatives not included in Service Plans
n) Agreeing detailed policy implementation criteria
o) Agreeing Best Value Review reports
p) Agreeing policy representations to Government

10. Plans, strategies and policies falling within the Policy Framework as defined above shall be considered by the Executive who shall make recommendations thereon to Full Council. It should be noted that in

respect of plans, strategies and policies falling within the Policy Framework it is for Full Council to:

a) Instruct the Executive to reconsider any draft plan, strategy or policy;
b) Amend any draft plan, strategy or policy submitted by the Executive;
c) Approve for formal public consultation proposals for alterations to, or the replacement of, the Local Plan following submission to government;
d) Approve any plan, strategy or policy for submission to government (where required);
e) Adopt any plan, strategy or policy with or without modifications.

11. The function of amending, modifying, varying or revoking any plan, strategy or policy falling within the Policy Framework shall be performed by the Executive only if it is:

a) required for giving effect to governmental requirement; or
b) was authorised by Full Council when approving or adopting the plan, strategy or policy.

12. The Executive is responsible for proposing the Revenue and Capital Budgets to Council including the initial allocation of financial resources to different services and projects, proposed contingency funds, proposed precepts, the amount of Council Tax and decisions relating the Council's borrowing requirement and the control of capital expenditure.

Executive Members

Executive Members' Roles and Responsibilities

13. The Executive Leader (hereafter referred to as Leader of the Council) and the other Executive Members are responsible to Full Council and to the citizens of York, for the performance of the Executive. The Council

demands that this duty is discharged to the highest standards of probity and integrity consistent with retaining public confidence in the Executive. In so doing the Leader of the Council will ensure that the Executive decision making arrangements are as clear and unambiguous as practicable and that the other Executive Members undertake their Executive responsibilities for the benefit of the City as a whole and do not give improper weight to their ward and its interests.

14. Executive Members have a collective responsibility to: -

a) represent and promote the Council and the interest of its community to the outside world;
b) lead the community planning process to translate the wishes of the local community into action;
c) propose to Council the annual budget of the Council and the major strategic goals which underpin it;
d) lead the preparation of the Policy Framework and other strategies, plans and policies to achieve those goals;
e) ensure effective delivery of the budget and the Policy Framework;
f) take in-year decisions on priorities and the use of resources associated with those programmes and promote value for money;
g) work in partnership with all sectors of the community and beyond it for the local public good;
h) manage the Council's Executive business, ensuring the effective use of resources across the organisation;
i) take action collectively as specified in this Constitution or as otherwise required by law.

15. Each Executive Member also has a duty to advise the Executive on strategic or other significant decisions relating to their Executive portfolio which would help the Executive to: -

a) develop proposals for the Council's Budget and Policy Framework and other strategies, plans and policies;
b) decide what the Executive will, and will not, do in implementing the Council's Budget and Policy Framework, and other strategies, plans and policies;

c) decide the level of resources that will be devoted to services and projects within the budgetary framework and decide which issues have priority over others;
d) decide what guidelines should govern the way the Council operates;
e) decide what indicators and measures will be used to set and assess performance standards;
f) review what is achieved in practice, to see if there is a need for change.

16. Individual Executive Members may make any decision relating to the functions within their portfolios with the exception of:

a) Key decisions as defined in the Council's Constitution;
b) Decisions which in the opinion of the Executive Member significantly cut across more than one portfolio, in which case the Leader of the Council determines how the decision is to be taken;
c) Other decisions which the Leader of the Council determines should be made collectively by the Executive.

17. The Leader of the Council may exercise any function delegated to another Executive Member if that Executive Member is unable or unwilling to act, for example due to a [potential] conflict of interest. The Leader of the Council may also exercise any function of the Executive where a decision cannot reasonably await the next meeting. This is subject to compliance with the urgency procedures laid out in the Constitution for key decisions, see appendix 7.

18. The Deputy Leader may exercise any function of the Leader if the Leader is unable to act.

<u>Executive Portfolios</u>

19. The current Executive Portfolios are:
a) Leader including Policy, Strategy and Partnerships
b) Deputy Leader and Economy & Culture
c) Children, Young People and Education

d) Health, Wellbeing and Adult Social Care
e) Environment and Climate Emergency
f) Finance, Performance, Major Projects, Human Rights, Equality and Inclusion
g) Housing, Planning and Safer Communities
h) Transport

Local Choice Functions

1. The responsibility for local choice functions is as detailed in the table below.

No	Function	Decision Making Body	Delegation of Functions and or lead Chief Officer for the function (see terms of reference or scheme of delegation)
1	Functions under a local Act (other than one specified or referred to in Regulation 2 or Schedule 1 of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 as amended)	The Executive	The relevant Chief Officer for the function concerned.
2	The determination of an appeal against decisions made by or on behalf of the Council	Appeals Committees The Executive Chief Operating Officer, or nominated Chief Officer in relation to decisions	To all the extent set out in the terms of reference of the Appeals Committees. Any appeal, which by law, must be considered by the Executive or a specified committee.

		taken in their Directorates	
3	The making of arrangements for reviews against the exclusion of pupils from schools.	Executive	The reviews themselves are heard by lay and non-lay independent panel members appointed by the Director of Governance.
4	The making of arrangements in relation to school admission appeals pursuant to the School Standards and Framework Act 1998	Executive	The appeals themselves are heard by lay and non-lay independent panel members appointed by the Director of Governance
5	The making of arrangements in relation to appeals by Governing Bodies pursuant to Section 95(2) of the School Standards and Framework Act 1998	Executive	The appeals themselves are heard by independent lay and non-lay Members appointed by the Director of Governance
6	The discharge of any function relating to the control of pollution or the management of air quality	Executive	Director of Environment, Transport and Planning.

7	The discharge of any function relating to contaminated land	The Executive	Director of Environment, Transport and Planning
8	The service of an abatement notices in respect of a statutory nuisance The inspection of the authority's area to detect any statutory nuisance. The investigation of any complaint as to the existence of a statutory nuisance	The Executive	Director of Environment, Transport and Planning
9	The passing of a resolution that Schedule 2 to the Noise and Statutory Nuisance Act 1993 should apply in the authority's area.	The Executive	Director of Environment, Transport and Planning
10	The obtaining of information under the section 330 of the Town and Country Planning	The Executive Planning Committee A and Planning Committee B	Director of Environment, Transport and Planning and Chief Planning Officer

	Act 1990 as to interests in land		
11	The obtaining of particulars of persons interested in land under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976	The Executive	Relevant Corporate Director depending on function, Director of Governance, Director of Finance
12	The making of agreements under Section 278 of the Highways Act 1980 for the execution of highway works	The Executive	Director of Environment, Transport and Planning
13	The appointment (and revocation of any such appointment) of any individual (a) to any office other than employment by the authority (b) to anybody (or Committee or sub – Committee of such a body) other than the authority itself or a Joint Committee of two or more authorities	Full Council	
14	Making agreements with other local authorities for the placing for staff at the disposal of those other authorities	The Executive (solely relating to functions which are the responsibility of Executive)	Chief Operating Officer, Corporate Directors, Directors and Chief Officer – HR & Support Services

		Full Council	
15	The arrangements for school transport appeals	Corporate Director of Children and Education in conjunction with Director of Governance	
16	Functions relating to health and safety at work (in so far as it relates to employees of the council)	The Executive	Chief Operating Officer, Corporate Directors, Directors and Chief Officer – HR & Support Services
17	All functions relating to the planning and delivery of Elections including all actions required in respect of the review and determination of polling places and location polling stations	Full Council	Chief Operating Officer in the capacity of Returning Officer Delegated to the Director of Governance in the capacity of Deputy Returning Officer (with full powers) in the absence of the Returning Officer
18	Functions relating to the name and status of areas and individuals	Full Council	Chief Operating Officer and Director of Governance
19	Power to make, amend, revoke or re-enact bye-laws pursuant to any provision of any enactment (including a local Act) whenever	Full Council	Director of Governance

	passed, and s14 Interpretation Act 1978		
20	Power to promote or oppose local or personal bills pursuant to s239 Local Government Act 1972	Full Council	Director of Governance
21	Powers to make, amend and or revoke standing orders	Full Council	Director of Governance
22	Dealing with findings of maladministration by either Local Government and Social Care Ombudsman, (LGSCO) Housing Ombudsman Service, (HOS) Parliamentary and Health Ombudsman (P&HO)	Audit & Governance Committee Full Council	Chief Operating Officer, in consultation with the Director of Governance/ Monitoring Officer and Director of Finance/s151 Officer
23	Dealing with Information Commissioner's Office (ICO) decision notices, enforcement action and monetary fine or criminal proceedings	Audit & Governance Committee Full Council	Corporate Directors dependent upon service area in consultation with the Director of Governance/ Monitoring Officer and Director of Finance/s251 Officer
24	Dealing with findings of fault or inspection by the Biometrics and	Audit & Governance Committee Full Council	Director of Governance/ Monitoring Officer

	Surveillance Camera Commissioner (BSCC)		
25	Dealing with findings of fault or inspection by the Investigatory Powers Commissioner's Office (IPCO)	Audit & Governance Committee Full Council	Director of Governance/ Monitoring Officer
26	Duty to make arrangements for the proper administration of financial affairs	Chief Finance Officer	Director of Finance/s151 Officer
27	Preparation of the Council's Statement of Accounts, Income and Expenditure and Balance Sheet including the preparation of the Annual Governance Statement	Audit & Governance Committee	In consultation with the Chief Finance Officer and the Director of Governance, the Head of Paid Service, Corporate Directors and the Head of Internal Audit
28	Appointments to outside bodies	Full Council	
29	Approval of the appointment to a post over £100,000 as required by the Localism Act 2011	Full Council	

Officer Scheme of Delegation

General Principles of Officer Delegations

1. The delegations set out below apply to both Executive functions and non-Executive functions.

2. Functions delegated to officers are to be exercised in compliance with other parts of the Constitution (including the restrictions on use of delegated powers set out in this Appendix of the Constitution) and in accordance with the budget and policy framework.

3. Functions delegated to officers shall also be exercised having full regard to:

    a) Any advice given by the Chief Operating Officer & Head of Paid Service;
    b) Any financial advice given by the Chief Finance Officer appointed under section 151 of the Local Government Act 1972;
    c) Any legal advice given by the Director of Governance & Monitoring Officer; and
    d) Any statutory codes or guidance, and any policies or protocols as may be approved by the Council and Executive.

4. “Function” is to be construed broadly and includes the doing of anything which is calculated to facilitate or is conducive or incidental to the discharge of any of the specified functions. Where functions are delegated, these should be taken to include all powers and duties necessary to carry out those functions under all present and future legislation and all incidental powers including power to serve statutory notices (after consultation with the Director of Governance & Monitoring Officer) where specified, and carry out works in default.

5. The Chief Operating Officer and Chief Officers are not required to exercise all delegations personally and may authorise officers of suitable experience and seniority to exercise delegated powers on their behalf. The Chief Operating Officer and Chief Officers must maintain an up-to-date list of all such authorisations, as part of a comprehensive Directorate Scheme of Delegation and a copy of which must be shared

with the Director of Governance & Monitoring Officer.

6. The fact that a function is delegated to the Chief Operating Officer and Chief Officers under this scheme does not preclude the Executive or an Executive Member (for Executive functions) or the Council or a Committee (for non- executive functions) from exercising the function in question.

7. The Chief Operating Officer and Chief Officers may refer any matter to Full Council, the Executive, an appropriate Committee of the Council or an Executive Member for decision at their discretion. The Chief Operating Officer and Chief Officers should exercise this discretion if in their opinion:

   a) the matter is of significant political impact where Members might be expected to be accountable to the electorate for the decision;

   b) it is a matter of substance relating to a key or significant project;

   c) where significant risks have been identified in proceeding with the issue;

   d) where there is a significant deviation from the original intention of a proposal previously reported to Members; or

   e) the decision could have significant consequences for another directorate.

8. The Chief Operating Officer and Chief Officers have responsibility to report to Council, Executive, the appropriate Committee or Committee Chair or appropriate Ward Members, matters that are of particular significance where that body or person is not required to make a decision but where it is proper for them to be aware of the position.

9. In the absence or the unavailability of an officer, any function delegated to that officer may be exercised by an Officer acting as their deputy either generally or in relation to a particular service area.

10. For the purposes of this Constitution, the reference to Chief Officer shall include the Chief Operating Officer, a Corporate Director, Director and Assistant Director only.

Restrictions on the use of Delegated Powers

11. All delegated decisions must be taken in compliance with the Constitution, the budget and policy framework, Financial Procedure Rules and Contract Procedure Rules. All decisions are recorded and published by Democratic Services.

12. The Chief Operating Officer and Chief Officers may, within the approved budget, therefore, exercise all matters of day-to-day administration and operational management of the services and functions for which they are responsible to the Council, the Executive or a committee which delegation shall include taking and implementing decisions including in particular any decision which is not a key decision and which is concerned with maintaining the operation or effectiveness of those services or with a matter incidental to the discharge of the Council's functions or which falls within the scope of a policy decision taken by the Council.

13. The scheme does not delegate to Chief Officers or any Officer any key decisions or delegate matters to individual Members of the Council's Executive. Key decisions are defined in Article 7 of this constitution.

14. All powers and duties that the Chief Operating Officer or any Officer is authorised to exercise or perform must be exercised or performed on behalf of and in the name of the Council and in accordance with the Constitution.

15. Where any matter involves professional or technical considerations not within the sphere of competence of the Chief Operating Officer and Chief Officers or other Officers they must consult the appropriate professional or technical Officer of the Council before authorising action.

16. Appointments to act as Authorised or Proper Officers must be made by the Director of Governance & Monitoring Officer unless specified later in

this Scheme.

17. The Director of Governance & Monitoring Officer is appointed to act as Authorised or Proper Officer for the purposes of any Act of Parliament or statutory instrument where qualified to do so and another Officer has not been appointed.

18. The Director of Governance & Monitoring Officer may appoint other Officers to act as Authorised or Proper Officers for the purposes of any Act of Parliament or statutory instrument and to appear on behalf of the Council in proceedings before the Magistrates or County Court.

19. The Leader of the Council, the relevant Executive Member and the Chief Operating Officer must be consulted about responses to consultation papers issued by Government Departments or National or Regional Bodies.

20. The appropriate Executive Member must be consulted about responses to long term or strategic plans of neighbouring planning authorities.

Financial thresholds

21. An Officer may not make a key decision unless specifically authorised to do so under this Constitution or by the Executive.

22. An Officer may not award a contract with a value exceeding £250,000 except where the contract is treated as a routine procurement in accordance with the Contract Procedure Rules contained within this Constitution.

Planning Powers

23. An Officer may not exercise a power in respect of a planning matter where the power to take the particular decision is specifically delegated under this Constitution to the Planning Committee A or Planning Committee B.

24. Unless where circumstances are urgent or require immediate action, an Officer may not authorise the issuing of a planning enforcement or stop notice without consultation with the Chair and Vice Chair of Planning Committee B.

25. The request to bring an application to Planning Committee B be made: -
    a) by a Ward Councillor for the site of the application, and
    b) in writing to the Chief Planning Officer, and
    c) within the consultation or re-consultation period, and
    d) include the planning reason(s) for the request. (For the avoidance of doubt matters such as the loss of a private view, loss in value of a property or 'to allow the matter to be heard in a public arena' would not constitute valid planning reasons.

26. An Officer may only exercise powers in relation to the designation of a neighbourhood area under the Localism Act 2011 where the Council is statutorily obliged to designate the area specified in the application.

Licensing functions

27. An Officer may not exercise a Council function in respect of a licensing matter where the function has been specifically reserved under this Constitution to Council, a Committee or a Sub Committee.

Executive functions

28. An Officer may not exercise an executive function where the relevant Executive Member or the Leader of the Council has reserved the power to themselves by giving written notice to the officer holding the delegated power or to the Chief Operating Officer.

Legal Action

29. An Officer may only commence legal proceedings in accordance with an approved enforcement policy and / or with the approval of the Director of Governance.

Delegated Powers in respect of Academy Conversions

30. The Corporate Director of Children and Education and the Director of Governance, in consultation with the Executive Member for Children, Young People and Education, have delegated powers to negotiate and conclude the Commercial Transfer Agreements and Land Leases in future academy conversions where there are no proposals to change the designation of land currently used for educational purposes.

31. The Executive has agreed to delegate the Private Finance Initiative (PFI) academy conversion process to officers, in consultation with the Executive Member for Children, Young People and Education.

Powers of the Corporate Directors and Directors

32. All Corporate Directors and Directors have the power to take decisions in relation to the discharge of the Council's and the Executive's functions within their area of responsibility and which have not been reserved to Council, the Executive and Executive Member or a Committee.

Note that this delegation is subject to the general provisions and limitations set out in this Constitution.

33. Each Corporate Director and Director shall have all the powers and duties delegated to other staff within their portfolio so far as is legally permissible and in accordance with the specified provisions contained within this constitution.

Powers of Officers

34. All Officers will have delegated authority required to: -

a) Effectively manage and promote the services for which they are responsible;
b) Exercise the functions delegated to Officers under the Financial Procedural Rules and the Contract Procedure Rules;
c) Exercise all functions delegated under the Officer Employment Procedure Rules and to manage all staff in accordance with any of the Council's Policy and Procedures.

SPECIFIC POWERS DELEGATED TO THE CHIEF OPERATING OFFICER, CORPORATE DIRECTORS, DIRECTORS AND ASSISTANT DIRECTORS IN THE DISCHARGE OF THE FUNCTIONS OF THE COUNCIL

Chief Operating Officer

Statutory Responsibilities

1. The Chief Operating Officer is the Head of Paid Service and has authority over all Chief Officers. This means that the Chief Operating Officer can exercise all of the powers delegated to any Corporate Director, Director or Assistant Director or other officer so far as the law allows. However, the Head of Paid Service cannot substitute for the Monitoring Officer, and can only substitute for the Chief Finance Officer if they are a fully qualified member of one of the six accountancy bodies that constitute the Consultative Council of Accountancy Bodies (CCAB).

2. As the designated Head of Paid Service, and where they consider it appropriate to do so, they will prepare a report to the council for approval by Elected Members, detailing any proposals relating to the tasks below in so far as they relate to the discharge of the council's functions and the staff required to undertake those functions

    a) The manner in which the authority discharges its functions and how the different functions are co-ordinated;
    b) The structure, number and grades of staff required by the authority for the discharge of their functions at a chief officer level to safely discharge the council's different functions.

3. As the designated Head of Paid Services, they will:

    a) Approve the Officer structure of the council below Chief Officer level; and
    b) Take responsibility for the appointment (excluding chief officers) and effective management of the authority's Officers.

4. To act as the Council's (Local) Returning Officer, (Acting) Returning Officer and Counting Officer for the purposes of elections and referendum.

5. To act as the Council's Electoral Registration Officer.

6. The Chief Operating Officer will have responsibility for all management, operational and decision making functions (other than in respect of those functions expressly delegated within this constitution).

7. To invoke powers under the Public Order Act 1986 to ensure the protection of the local authority's land and assets.

Areas of Responsibility

a) Acting as Head of the Paid Service, including providing clear, strong and motivational leadership for all officers, and being responsible for all related operational staffing matters;
b) Develop and lead the Council's Corporate Management Team that operates corporately, strategically and operationally;
c) Developing corporate strategies, policies and briefs for all service areas;
d) Take a lead strategic role in the development and implementation of the Council Plan
e) Having overall responsibility for promoting the Council's values, delivering its strategic aims and priorities and for promoting a positive culture across the organisation;
f) Giving directions and/or advice to other officers in the exercise of their powers and duties under this scheme;
g) Promoting high standards of governance (including ethical governance) and ensure that robust systems are in place for decision-making, budgeting, planning, performance management and risk management and that the organisation complies with all of its statutory responsibilities;
h) Delivering high quality, impartial policy advice and support to the Leader and all Elected Members and to promote high

standards of governance and strong and transparent, member/officer relationships and to develop and maintain effective working relationships with the Leader of the Council, the Executive and all Elected Members of the Council;

i) To determine the date of Full Council meetings, including the cancellation/amendment of published Full Council meetings where necessary;
j) To approve the inclusion of any other business within the agenda for Annual Council.
k) To determine any matters relating to civic or ceremonial activities that are not specifically considered elsewhere
l) Lead the management, development performance and continuous improvement of all services across the Council
m) Monitoring the achievement, impact and effectiveness of the council's corporate aims, priorities and policies;
n) Dealing with corporate personnel functions including reviews, policy and industrial relations, equalities and employee development;
o) Responsibility for the effective delivery of resolutions of Council, unless stipulated otherwise.
p) The following responsibilities linked with the Shareholder Committee:
    i. approving changes to the location in which the company works;
    ii. altering the company's name or registered office;
    iii. matters relating to the employees or agents of the company other than its senior management team;
    iv. where required giving any further specific approval to a matter provided for within the approved business plan;
    v. approving changes to accounting arrangements; and
    vi. entering, terminating or amending any agreements which create a potential liability for the company not exceeding £250,000.
q) Making decisions on behalf of the Council in cases of urgency as detailed within Appendix 21 in discharge of any nonexecutive functions of the council other than those which

are already delegated to an officer under this scheme or which by law can be discharged only by the Council.

r) In consultation with the Chief Finance Officer and the Director of Governance, authorising payments for Officers (excluding chief officers) in the case of early retirement, voluntary redundancy, compulsory redundancy and redeployment.
s) Granting extensions of sickness pay to officers (excluding chief officers).
t) Responsibility for the health, safety and wellbeing of the workforce and to take such actions which are necessary following consultation with the Head of HR.
u)

Deputy to the Chief Operating Officer

8. The Chief Operating Officer will designate one or more of the Corporate Directors or Directors as being able to exercise the powers of the Chief Operating Officer. Such designation shall carry with it the delegation to exercise all and any of the Chief Operating Officer's specific delegated functions, during any period where the Chief Operating Officer is absent in the sense that they are not in a position to exercise the powers of Chief Operating Officer, for example due to sickness, incapacity, or being out of contact in the case of emergency.

Chief Officer HR & Support Services

9. The functions of the Chief Officer HR & Support Services are set out below:

a) To develop review and monitor personnel policy and standards across the Council.
b) To advise on cases of voluntary redundancy, compulsory redundancy, dismissal and early retirement and other such employment related activities.
c) To establish and maintain effective consultation and negotiation arrangements with recognised Trade Unions.
d) To develop, review and monitor Employment Policy in relation to Equality of Opportunity.

e) To approve the implementation of grades resulting from the job evaluation process.
f) To approve changes to terms of conditions of employment where there is a cost of less than £120,000.
g) Preparation of the Annual Pay Policy including its implementation and any subsequent amendments required in line with national standards/guidance. Approval of any annual increase to the salary scales is in accordance with awards negotiated nationally by the respective National Joint Councils and applicable from 1st April annually. Progression through the salary scale for the Chief Operating Officer is dependent upon performance and approval by the Leader of the Council.
h) Health, Safety and Wellbeing of Workforce in consultation with the Chief Operating Officer, to take all steps necessary to promote the health, safety and wellbeing of the workforce.

Staffing Conditions

10. Following consultation with the Chief Operating Officer, the Corporate Directors, Directors and Assistant Directors (who report directly to the Chief Operating Officer) will be responsible for appointing, managing, disciplining and dismissing all employees (excluding chief officers) within their Departments subject to complying with:

    a) Corporate Employment Policies and Conditions of Service.
    b) Any appropriate schemes or arrangements laid down by the Council or the Executive.
    c) Any directions that may be issued from time to time by the Director of Governance & Monitoring Officer.
    d) The Officer Employment Procedure Rules at Appendix 12 of this Constitution.

11. The following matters must be dealt with in conjunction with the Chief Officer HR & Support Services:

    a) Departmental Monitoring of Equal Opportunities, attendance, ill health retirement etc.
    b) Implementation of Workforce Development Plans.

c) Temporary Secondments and similar arrangements in accordance with the Council's policies and procedures.
d) Appeals against discipline, grievance etc.
e) Ill health retirements within Policy.
f) Work experience placements.
g) Secondary employment.
h) Reviewing and authorising changes to departmental structures and establishments.
i) Authorising overtime payments for employees not otherwise entitled.
j) Authorising the creation of additional temporary posts where budgetary provision exists, following formal evaluation of posts.
k) Paying compensation to employees for pain and suffering incurred by them as a result of assault and or harassment and/attacked by animals whilst undertaking their duties and responsibilities.
l) Authorising the payment of injury allowances.
m) Allocating relocation allowances
n) Approval to appoint to higher the first point of the salary Grade; it should be noted that progression through the salary scale for Chief Officers is dependent upon performance and achievements of objectives, approved by the line manager.

Specific approvals for employee exit and special severance payment

Item	Authorisation by	Staffing Matters Urgency role	Information given to meeting
Standard compulsory redundancy	Directorate Management Team & Section 151 Officer	For noting	Copy of Business Case
Voluntary redundancy	Directorate Management Team & Section 151 Officer	For noting	Copy of Business Case
Compulsory redundancy after 55 and before	Directorate Management Team &	For noting	Copy of Business Case

normal pension age	Section 151 Officer		
Flexible retirement	For Chief Officers - Staffing Matters Urgency All other staff - Directorate Management Team & Section 151 Officer	Approval For noting	Copy of Business Case
Special Severance Payments (as per Exit Strategies: Guidance on the use of Settlement Agreements including Special Severance Payments)	For Head of Paid Service – Monitoring Officer & Section 151 Officer For Monitoring Officer - Section 151 Officer & Head of Paid Service For Section 151 Officer – Monitoring Officer & Head of Paid Service Chief Officers Other Chief Officers	Approval Approval Approval For Chief Officers – Approval	Copy of Business Case

	All other staff – Chief Officers and relevant Executive Member, Head of Paid Service, Section 151 Officer & Monitoring Officer	For all other staff – Noting	

Monitoring Officer and Chief Finance Officer

12. The functions of the Monitoring Officer and Chief Finance Officer are set out below. The Council will provide the Monitoring Officer and Chief Finance Officer with such offices, accommodation and other resources as are in their opinion sufficient to allow their duties to be performed.

13. The Monitoring Officer cannot be the Chief Finance Officer or the Head of Paid Service.

14. The Council has appointed the Director of Governance as the Monitoring Officer.

    Functions of the Director of Governance & Monitoring Officer

15. The powers and functions of the Monitoring Officer are:

    a) To be the Council's solicitor and Chief Legal Officer and in that capacity to take all necessary steps, including the obtaining of Counsel's advice in connection with any matter concerning the Council.

b) To be the Proper Officer for any purpose for which the Council has not designated another officer to be Proper Officer.
c) To maintain the Registers of:
    - The financial and other interests of Members and co-opted members of the Council as required by the Local Government Act 2000
    - Officers' declarations of interest in contracts and other pecuniary interests.
    - Any other matter relating to the interests of Members and co-opted members which the Council may from time to time establish.
d) To maintain an up to date version of the Constitution and ensure that it is widely available for consultation by Members, Officers and the public. This responsibility includes the power to make such amendments to the Constitution and related documents as may be necessary. Such changes should not include any changes of substance but is restricted to changes which the Monitoring Officer considers are required to reflect and take account of changes in legislation, guidance, Council policy. This includes decisions of the Council and the Executive or drafting changes and/or improvements;
e) To report to Full Council (or to the Executive in relation to an Executive function) after consulting with the Head of Paid Service and Chief Finance Officer, if they consider that any proposal, decision or omission would give rise to unlawfulness or to maladministration. Such a report will be sent to all Members of the Council and will have the effect of stopping the proposal or decision being implemented until the report has been considered;
f) To contribute to the corporate management of the Council, in particular by providing professional legal advice;
g) To contribute to the promotion and maintenance of high standards of conduct and ethics through provision of support to the Joint Standards Committee;
h) To jointly advise with the Chief Finance Officer whether the decisions of the Executive are in accordance with the budget and policy framework;

i) In conjunction, where necessary, with the Chief Finance Officer, to provide advice to all Members on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity and budget and policy framework issues;
j) Where necessary, in conjunction, with the Chief Finance Officer, to exercise powers of sanction and intervention where they consider that any proposal, decision or omission would give rise to unlawfulness or maladministration or otherwise contravene the corporate governance of the authority;
k) To ensure that Executive decisions as required under this Constitution, together with the reasons for those decisions and relevant Officer reports and background papers are made publicly available as soon as possible.
l) As solicitor to the Council the power to;
    - Take any action intended to give effect to a decision of the Council, the Executive, a Committee of the Council or an Officer.
    - Institute, defend, participate in, settle or withdraw from any legal or other proceedings or procedures in any case where such action is necessary to give effect to decisions of the Council, the Executive, a Committee of the Council or an Officer or in any case where they consider that such action is necessary to protect the Council's interests.
m) To authorise Officers of the Council as being authorised under Section 223 of the Local Government Act 1972 to institute, prosecute, defend or appear on the Council's behalf in proceedings before a Magistrates' Court and to conduct such proceedings notwithstanding that the officer concerned may not be a solicitor holding a current practising certificate.
n) To appoint, in writing, in pursuance of Section 60 of the County Courts Act 1984 (as amended) officers of the Council to address or appear before the District Judge in the County Court in proceedings which relate to the recovery of possession of a property belonging to the Council and for the recovery of rent, mesne profits, damages or other sums claimed by the Council in respect of the occupation by any person of such property.

o) To take any action remitted to them under corporate procedures, with the exception of those matters where this constitution has directed that the delegated authority should not be exercised and that the matter should be referred to Full Council, a Committee of the Council or to the Executive for consideration.
p) In consultation with the Chair of the Joint Standards Committee the power to grant dispensations allowing Members to participate in meetings where they have a disclosable pecuniary or prejudicial interest in the business being considered at the meeting.
q) To undertake any revisions or amendments to the Constitution required as a consequence of amendments or variations to legislation, or the implementation of new legislation. Such amendments to be retrospectively approved by Council.
r) To appoint an independent person of another authority's Standard Committee, where necessary because of a conflict of interest or non-availability, to serve a temporary member of the Joint Standards Committee.
s) To make arrangements for dealing with the following kinds of appeal under the Schools Standards and Framework Act 1998:
    - Admission Appeals
    - Appeals against exclusion
    - Appeals by Governing Bodies
    - And to make arrangements for appeals against School exclusion or admission decisions.
t) To maintain a central record of all delegations under this scheme and make this available for public inspection pursuant to Section 100G Local Government Act 1972.
u) To act as the Council's Senior Information Risk Officer (SIRO).
v) To act as the Senior Responsible Officer for the purposes of the Council's Regulation of Investigatory Powers Act (RIPA) activities;
w) To undertake the recruitment and selection, and to appoint Independent persons to the Audit & Governance Committee and the Joint Standards Committee in consultation with the Chair and Vice Chairs of the respective Committee
x) To act as the Deputy Returning Officer (with full powers) for the purposes of elections and referenda;

y) To act as the Deputy Electoral Registration Officer
z) Managing corporate consultation and communication policies and initiatives;
aa) Preparing and publicising the council's national performance indicators;
bb) Drawing up and implementing corporate policies on performance management.

Functions of the Chief Finance Officer & s151 Officer

16. The functions of the Chief Finance Officer are:

a) To be the Council's Chief Finance Officer under Section 151 of the Local Government Act 1972. This means that they are responsible for determining the way the Council administers its financial systems and processes.
b) To carry out all Treasury Management activities within the Treasury Management Policy Statement and Annual Treasury Management Strategy approved from time to time by the Executive and in accordance with CIPFA's Code of Practice for Treasury Management in Local Authorities and the raising of loans and the issuing of Council bills in the case of emergency.
c) To take and implement any decision which they are empowered to take in accordance with Financial Procedure Rules and the Contract Procedure Rules.
d) Reporting to the Full Council (or to the Executive in relation to an Executive function) after consulting with the Head of Paid Service and the Monitoring Officer and send a copy of the report to all Members of the Council and to the Council's external auditor if they consider that any proposal, decision or course of action will involve incurring unlawful expenditure or is unlawful and is likely to cause a loss or deficiency or if the Council (or the Executive) is about to enter an item of account unlawfully;
e) To be responsible for the administration of the financial affairs of the Council. This involves providing effective financial management arrangements and systems, an effective internal

audit function and internal controls arrangements, effective treasury managements, safeguarding assets and probity;

f) To contribute to the corporate management of the Council, in particular by providing professional financial advice;
g) To determine the commercial fees charged for use of council owned property by third parties as appropriate;
h) To provide advice to all Members on the scope of powers and authority to take decisions, maladministration in relation to financial matters, financial impropriety, probity and budget and policy framework issues and to support and advise Members and staff in their respective roles (in liaison, as necessary, with the Monitoring Officer);
i) Where required by law or authorised by the Council, to provide financial information to the media, members of the public and the community;
j) Where necessary, and in conjunction with the Monitoring Officer as appropriate, to exercise powers of sanction and intervention when they consider that any proposal, decision, omission or course of action is likely to incur unlawful expenditure or otherwise contravene the corporate governance interests of the Council;
k) To undertake any revisions or amendments to the Financial Procedure Rules including the Contract Procedure Rules as required as a consequence of amendments or variations to legislation, or the implementation of new legislation. Such amendments to be retrospectively approved by Council;
l) Establishing insurance arrangements as appropriate to safeguard the assets of, and services to, the council in consultation with the Director of Finance as to the valuation of interests in land and property.

Treasury management scheme of delegation

17. Executive / Full Council:

a) receiving and reviewing reports on treasury management policies, practices and activities
b) approval of annual strategy and annual outturn

18. Executive:

a) approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices
b) budget consideration and approval
c) approval of the division of responsibilities

19. Audit & Governance Committee:

a) receiving and reviewing reports on treasury management policies, practices and activities
b) reviewing the annual strategy, annual outturn and mid-year review.

20. Chief Finance Officer (section 151 officer):

a) reviewing the treasury management policy and procedures and making recommendations to the responsible body
b) all operational decisions are delegated by the council to the Chief Finance Officer, who operates within the framework set out in this strategy and through the treasury management policies and practices
c) Approving the selection of external service providers and agreeing terms of contract in accordance with the delegations in financial regulations.

21. The treasury management role of the section 151 officer:

a) recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance
b) all operational decisions delegated by the council to the Chief Finance Officer (s151 officer), who operates within the framework

set out in this strategy and through the treasury management policies and practices

c) submitting regular treasury management policy reports
d) submitting budgets and budget variations
e) receiving and reviewing management information reports
f) reviewing the performance of the treasury management function
g) ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function
h) ensuring the adequacy of internal audit, and liaising with external audit
i) recommending the appointment of external service providers.
j) preparation of a capital strategy to include capital expenditure, capital financing, non-financial investments and treasury management, with a long term timeframe
k) ensuring that the capital strategy is prudent, sustainable, affordable and prudent in the long term and provides value for money
l) ensuring that due diligence has been carried out on all treasury and non-financial investments and is in accordance with the risk appetite of the authority
m) ensure that the authority has appropriate legal powers to undertake expenditure on non-financial assets and their financing
n) ensuring the proportionality of all investments so that the authority does not undertake a level of investing which exposes the authority to an excessive level of risk compared to its financial resources
o) ensuring that an adequate governance process is in place for the approval, monitoring and ongoing risk management of all non-financial investments and long term liabilities
p) provision to members of a schedule of all non-treasury investments including material investments in subsidiaries, joint ventures, loans and financial guarantees
q) ensuring that members are adequately informed and understand the risk exposures taken on by an authority
r) ensuring that the authority has adequate expertise, either in house or externally provided, to carry out the above
s) creation of Treasury Management Practices which specifically deal with how non-treasury investments will be carried out and managed, to include the following*:* -

- Risk management, including investment and risk management criteria for any material non-treasury investment portfolios;
- Performance measurement and management, including methodology and criteria for assessing the performance and success of non-treasury investments;
- Decision making, governance and organisation, including a statement of the governance requirements for decision making in relation to non-treasury investments; and arrangements to ensure that appropriate professional due diligence is carried out to support decision making;
- Reporting and management information, including where and how often monitoring reports are taken;
- Training and qualifications, including how the relevant knowledge and skills in relation to non-treasury investments will be arranged.

Statutory Scrutiny Officer

22. The statutory scrutiny officer cannot be the Head of Paid Service, the Chief Finance Officer or the Monitoring Officer.

23. The Council has appointed the Head of Civic and Democratic and Scrutiny Services as the Statutory Scrutiny Officer.

24. The functions of the statutory scrutiny officer are:

a) to promote the role of the authority's scrutiny committee or committees;
b) to provide support to the authority's scrutiny committee or committees and the members of that committee or those committees;
c) to provide support and guidance to:
    - members of the authority,
    - members of the executive of the authority, and
    - officers of the authority,

in relation to the functions of the authority's scrutiny committee or committees.

Director of Housing and Communities

25. To be responsible, for the preparation, maintenance, monitoring, review and implementation of the Council's Information Technology Strategy, which embraces the Council's Information Security Policy.

26. To act as the Proper Officer for the Council's Registration Service, including:

    a) To approve premises for the solemnisation of marriages;
    b) To carry out the Council's duties under the Marriage Acts 1949 and 1994 (other than those relating to fees and final appeals)
    c) To set such fees as are appropriate for ensuring full costs recovery to the Council in respect of civil marriage ceremonies on local authority approved premises;
    d) To act as Proper Officer for the Council's Registration Service pursuant to the Registration Service Act 1953 (as amended by the Statistics and Registration Service Act 2007);
    e) Determination of a Deputy to become Interim Superintendent Registrar or Interim Registrar for births and deaths if the Superintendent Registrar or Registrar ceases to hold office;
    f) Appointment of Interim Superintendent registrar or Registrar of Births and Deaths if there is no Deputy;
    g) Powers conferred in relation to the Local Scheme of Organisation for Registration Service.

27. To undertake responsibility for the following statutory executive functions:

    a) To undertake all functions of the council in respect of Council Tax and national non-domestic rates, except where these are reserved to Council or the Executive;
    b) To undertake all necessary actions under the Housing and Council Tax benefit schemes;
    c) All executive functions of the council in relation to the Libraries & Archives service;

d) To undertake all necessary actions under the council's Equalities Policies.

28. Other areas of responsibility:

a) Managing Customer Service Channels;
b) Managing Bereavement Services and the Mansion House;
c) Commissioning and contracting of or with the following services: Explore York, the council's leisure facilities including York Community Stadium, York Museums Trust, York CVS, Citizen's Advice York, Welfare Benefits Unit, Make It York, other cultural organisations;
d) Delivery of the Business Support function including the payroll, pensions and creditors financial systems operating within related policies and statutory requirements;
e) Managing area and neighbourhood working, including:
    - ward schemes, committees and funding;
    - oversight of Armed Forces Covenant and Parish Charter;
    - community sport and health development;
    - family information & advice;
    - community centres, children's centres;
    - Local Area Coordination;
    - Community/Adult Learning.

Corporate Director of Place

29. The Corporate Director of Place is authorised to discharge, subject to the provisions of this constitution, functions which fall within the Place Directorate.

30. The Corporate Director of Place will be responsible as strategic lead for all aspects of the development and subsequent implementation of a Local Plan for York in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). This includes the provision of support to the Local Plan Working Group.

31. Where a Director from the Place Directorate is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, the Corporate Director of Place shall undertake, allocate or reallocate responsibility for exercising particular delegations to any officer of the council in the interests of effective corporate management as they think fit.

32. Where the Council has a material interest in a key, major development project within the City, for example as a landowner, potential investor or development partner, and there is a potential for a conflict to arise in relation to the roles undertaken by the separate arms of the Council, in particular in relation to Local Planning Authority and Highway Authority decision making, the Major Projects Conflicts Protocol at Appendix 30 shall be applied.

Director of Housing & Communities

33. To undertake all administrative duties under the legislation detailed in the list below including lawfully sharing and receiving information. Administrative duties include providing advice and assistance (for which a charge may be made).

34. The Director of Housing & Communities is responsible for appointing any members of staff to act as authorised or proper officers under the following acts insofar as the appointment relates to the functions listed below. The Director of Housing & Communities may also authorise anyone (subject to any required qualifications) from another authority or organisation to act as an authorised or proper officer, and authorise staff to work on behalf of other authorities or organisations in relation to the functions listed below.

35. To enforce, make applications and representations exclusively relating to housing related matters to a Court or Magistrate and authorise, institute and defend proceedings under any enactment or common law provision listed below in consultation with the Director of Governance.

This will also be applicable to City of York's support to National Trading Standards:

- Economic Development (including Economic Strategy) and Tourism activity under the following Acts:
  - Small Business, Enterprise and Employment Act 2015
- Business Engagement
- Regeneration including Major Projects delivery activity under the following Acts:
  - Health & Safety at Work etc. Act 1974
  - The Construction (Design and Management) Regulations 2015
- Property including asset management and facilities management and activity under the following Acts:
  - Landlord and Tenant Act 1985
  - Infrastructure Act 2015
  - Health & Safety at Work etc. Act 1974
  - Local Authorities (Land) Act 1963
  - Localism Act 2012
  - Office Shops and Railway Premises Act 1963
  - Party Wall etc. Act 1996 s10(8)
  - The Construction (Design and Management) Regulations 2015
- Housing related activity under the following Acts:
  - Anti-Social Behaviour Act 2003
  - Anti-Social Behaviour Crime and Policing Act 2014
  - Building Act 1984
  - Caravan Sites and Control of Development Act 1960
  - Caravan Sites Act 1968
  - Consumers, Estate Agents and Redress Act (CEARA) 2007 including Requirement to Belong

to a Scheme etc.) (England) Order 2014 made under this Act
- Consumer Rights Act 2015
- Crime and Disorder Act 1998
- Criminal Attempts Act 1981
- Criminal Justice Act 1988
- Criminal Justice and Police Act 2001
- Criminal Justice & Public Order Act 1994
- Commonhold and Leasehold Reform Act 2002
- The Construction (Design and Management) Regulations 2015
- Defective Premises Act 1972
- Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020
- Energy Conservation Act 1981
- Energy Acts 2011 and 2013
- The Enterprise and Regulatory Reform act 2013
- Environmental Protection Act 1990
- Estate Agents Act 1979
- European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty
- Health and Safety at Work etc Act 1974
- Home Energy Conservation Act 1995
- Homes (Fitness for Human Habitation Act) 2018)
- Housing Acts 1985, 1988, 1996, 2004
- Housing and Planning Act 2016
- Housing and Regeneration Act 2008
- Housing Grants, Construction and Regeneration Act 1996
- Homelessness Act 2002
- Homelessness Reduction Act 2017
- Land Compensation Act 1973 Section 39
- Land Drainage Act 1991

- Landlord and Tenant Act 1985
- Local Government and Housing Act 1989
- Mobile Homes Act 2013
- Local Government (Miscellaneous Provisions) Acts 1976 and 1982
- Local Government Act 2000
- Local Government Act 1972 and 2003

  Prevention of Damage by Pests Act 1949
- Proceeds Of Crime Act 2002
- Protection from Eviction Act 1977
- Tenant Fees Act 2019
- Public Health Acts 1936 and 1961
- Public Health (Control of Disease) Act 1984
- Public Health Acts Amendment Act 1907
- Refuse Disposal Act 1976

Together with:

- any Orders or Regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Union (Withdrawal Agreement) Act 2020any byelaws in relation to the foregoing;
- any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts; and
- any modification or re-enactment to the foregoing.

36. To discharge the Council's functions under section 17 of the Crime and Disorder Act 1998 to prevent crime and disorder.

37. To authorise the sharing of council information in accordance with section 115 of the Crime and Disorder Act.

Director of Environment, Transport & Planning

38. To undertake all powers, enforcement, administrative and, where necessary Proper Officer functions for council services which fall within the remit of this Department including those related to national trading standards issues.

39. The Director of Environment, Transport and Planning will provide administrative support and guidance to the Safety Advisory Group.

40. To undertake enforcement and administrative duties under the legislation detailed in the list below. The Director of Environment, Transport and Planning is responsible for appointing any members of staff to act as authorised or proper officers under the following acts insofar as the appointment relates to the functions listed:

    1. Agriculture Act 1970
    2. Agriculture (Miscellaneous Provisions) Act 1968
    3. Air Quality (Domestic Solid Fuels Standards) (England) Regulations 2020
    4. Air Quality (Taxis and Private Hire Vehicles Database) England Wales Regulations 2019
    5. Ammonium Nitrate Materials (High Nitrogen Content) Safety Regulations 2003
    6. Animals Act 1971
    7. Animal Boarding Establishments Act 1963
    8. Animal By-Products Order 1999
    9. Animal Feed (Composition, Marketing and Use) (England) Regulations 2015
    10. Animal Feed (Hygiene, Sampling etc and Enforcement) (England) Regulations 2015
    11. Animal Gatherings Order 2010
    12. Animal Health Act 1981
    13. Animal Welfare Act 2006
    14. Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018
    15. Anti-social Behaviour Act 2003

16. Anti-Social Behaviour, Crime and Policing Act 2014
17. Betting, Gaming and Lotteries Act 1963
18. Biocidal Products and Chemicals (Appointment of Authorities and Enforcement) Regulations 2013
19. Birmingham Commonwealth Games Act 2020
20. Botulinum Toxin and Cosmetic Fillers (Children) Act 2021
21. Breeding of Dogs Act 1921, Breeding of Dogs Act 1973, Breeding of Dogs Act 1991
22. Breeding and Sale of Dogs (Welfare) Act 1999
23. Brucellosis (England) Order 2015
24. Building Act 1984
25. Burials Act 1957
26. Cancer Act 1939
27. Cattle Identification Regulations 1998
28. Charities Act 2006
29. Chemicals (Hazard Information and Packaging for Supply) Regulations 2009
30. Children and Families Act 2014
31. Children and Young Persons Act 1933
32. Children and Young Persons (Protection from Tobacco) Act 1991
33. Christmas Day (Trading) Act 2004
34. Civil Contingencies Act 2004
35. Clean Air Act 1993
36. Clean Neighbourhoods and Environment Act 2005
37. Companies Act 2006
38. Consumer Credit Act 1974, Consumer Credit Act 2006
39. Consumers, Estate Agents and Redress Act (CEARA) 2007 including Requirement to Belong to a Scheme etc.) (England) Order 2014 made under this Act
40. Consumer Protection Act 1987
41. Consumer Rights Act 2015
42. Control of Dogs Order 1992
43. Control of Pollution Act 1974
44. Control of Pollution (Amendment) Act 1989
45. Copyright, Designs and Patents Act 1988
46. Cinema Act 1985

47. Crime and Disorder Act 1998
48. Criminal Attempts Act 1981
49. Criminal Justice Act 1988
50. Criminal Justice and Police Act 2001
51. Criminal Justice & Public Order Act 1994
52. Crossbows Act 1987
53. Customs & Excise Management Act 1979
54. Customs and Inland Revenue Act 1883
55. Dairy Products (Hygiene) Regulations 1995
56. Dangerous Dogs Act 1991
57. Dangerous Substances and Explosive Atmospheres Regulations 2002
58. Dangerous Wild Animals Act 1976
59. Deregulation Act 2015
60. Dogs Act 1871 and 1906
61. Dogs (Fouling of Land) Act 1996
62. Disability Discrimination Act 1995
63. Disabled Person Parking Badges Act 2013
64. Education Reform Act 1988
65. Egg Products Regulations 1993
66. Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015
67. Energy Information Regulations 2011
68. Energy Performance of Buildings (England and Wales) Regulations 2012
69. Enterprise Act 2002
70. Environment Act 1995 and 2021
71. Environmental Protection Act 1990
72. Environmental Protection (Microbeads)(England) Regulations 2017
73. Environmental Protection (Plastic Straws, Cotton Buds and Stirrers) (England) Regulations 2020
74. Estate Agents Act 1979
75. European Union (Withdrawal) Act 2018 as it continues to give effect to the following Regulations or Orders under which this local authority has an enforcement duty:
76. Advanced Television Services Regulations 2003

77. African Horse Sickness (England) Regulations 2012
78. Animals and Animal Products (Examination for Residues and Maximum Residue Limits) (England and Scotland) Regulations 2015
79. Animal By-Products (Enforcement)(England) Regulations 2013
80. Animal Feed (Basic Safety Standards) (England) Regulations 2019
81. Avian influenza (Preventative Measures) (England) Regulations 2006
82. Avian Influenza (Vaccination)(England) Regulations 2006
83. Beef and Veal Labelling Regulations 2010
84. Biofuel Labelling Regulations 2004
85. Bluetongue Regulations 2008
86. Business Protection from Misleading Marketing Regulations 2008
87. Cat and Dog Fur (Control of Import, Export and Placing on the Market) Regulations 2008
88. Cattle Identification Regulations 2007
89. Construction Products Regulations 2013
90. Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013
91. Consumer Protection from Unfair Trading Regulations 2008
92. Consumer Rights (Payment Surcharges) Regulations 2012
93. Cosmetic Products Enforcement Regulations 2013 and the EU Cosmetic Products Regulation 1223/2009
94. Country of Origin of Certain Meats (England) Regulations 2015
95. Crystal Glass (Descriptions) Regulations 1973
96. Detergents Regulations 2010
97. Diseases of Swine Regulations 2014
98. EC Fertilisers (England and Wales) Regulations 2006
99. Eggs and Chicks (England) Regulations 2009
100. Electrical Equipment (Safety) Regulations 2016
101. Electromagnetic Compatibility Regulations 2016
102. Energy Information Regulations 2011
103. Energy Performance of Buildings (England and Wales) Regulations 2012
104. Equine Identification (England) Regulations 2018

105. Financial Services (Distance Marketing) Regulations 2004
106. Fluorinated Greenhouse Gases Regulations 2015
107. Food for Specific Groups (Food for Special Medical Purposes for Infants, Infant Formula and Follow-on Formula) (Information and Compositional Requirements) (Amendment etc.) (England) Regulations 2020
108. Food for Specific Groups (Information and Compositional Requirements) (England) Regulations 2016
109. Food Information Regulations 2014
110. Food Safety and Hygiene (England) Regulations 2013
111. Foot-and-Mouth Disease (Control of Vaccination) (England) Regulations 2006
112. Footwear (Indication of Composition) Labelling Regulations 1995
113. Gas Appliances (Enforcement) and Miscellaneous Amendments Regulations 2018
114. General Product Safety Regulations 2005
115. Genetically Modified Organisms (Traceability and Labelling) (England) Regulations 2004
116. Official Controls (Animals, Feed and Food, Plant Health Fees etc.) Regulations 2019
117. Official Feed and Food Controls (England) Regulations 2009 *in so far as it relates to feed law*
118. Materials and Articles in Contact with Food (England) Regulations 2012
119. Measuring Container Bottles (EEC Requirements) Regulations 1977
120. Measuring Instruments Regulations 2016
121. Non-automatic Weighing Instruments Regulations 2016
122. Novel Foods (England) Regulations 2018
123. Official Feed and Food Controls (England) Regulations 2009 *in so far as it relates to food law*
124. Olive Oil (Marketing Standards) Regulations 2014
125. Organic Products Regulations 2009
126. Package Travel and Linked Travel Arrangements Regulations 2018
127. Packaging (Essential Requirements) Regulations 2015

128. Passenger Car (Fuel Consumption and CO2 Emissions Information) Regulations 2001
129. Personal Protective Equipment (Enforcement) Regulations 2018
130. Poultry meat (England) Regulations 2011
131. Pressure Equipment (Safety) Regulations 2016
132. Products of Animal Origin (Disease Control) (England) Regulations 2008
133. Pyrotechnic Articles (Safety) Regulations 2015
134. Quality Schemes (Agricultural Products and Foodstuffs) Regulations 2018
135. Quick-frozen Foodstuffs (England) Regulations 2007
136. Radio Equipment Regulations 2017
137. REACH Enforcement Regulations 2008
138. Recreational Craft Regulations 2017
139. Registration of Establishments (Laying Hens) (England) Regulations 2003
140. Rights of Passengers in Bus and Coach Transport (Exemptions and Enforcement) Regulations 2013
141. Scotch Whisky Regulations 2009
142. Simple Pressure Vessels (Safety) Regulations 2016
143. Specified Products from China (Restrictions on First Placing on the Market)
144. (England) Regulations 2008
145. Spirit Drinks Regulations 2008
146. Supply of Machinery (Safety) Regulations 2008
147. Textile Products (Labelling and Fibre Composition) Regulations 2012
148. Timeshare, Holiday Products, Resale and Exchange Contracts Regulations 2010
149. Tobacco and Related Products Regulations 2016
150. Toys (Safety) Regulations 2011
151. Trade in Animals and Related Products Regulations 2011
152. Transmissible Spongiform Encephalopathies (England) Regulations 2018
153. Veterinary Medicines Regulations 2013
154. Volatile Organic Compounds in Paints, Varnishes and Vehicle Refinishing Products Regulations 2012

155. Weights & Measures (Packaged Goods) Regulations 2006
156. Welfare of Animals at Time of Killing (England) Regulations 2015
157. Wine Regulations 2011
158. Zoonoses (Monitoring) (England) Regulations 2007
159. Explosives Act 1875 and 1925
160. Explosives (Age of Purchase etc) Act 1976
161. Explosives Regulations 2014
162. Equality Act 2010
163. Factories Act 1961
164. Farm and Garden Chemicals Act 1967
165. Food Act 1984
166. Food and Environment Protection Act 1985 [Note: Authorisation must be issued directly to the officer by the FSA.]
167. Food Premises (Registration) Regulations 1991
168. Food (Promotion and Placement) (England) Regulations 2021
169. Food Safety Act 1990
170. Food Safety (Fishery Products and Live Shellfish) (Hygiene) Regulations 1998.
171. Food Safety (General Food Hygiene) Regulations 1995
172. Forgery and Counterfeiting Act 1981
173. Firearms Act 1968
174. Fireworks Act 2003
175. Fire Precautions Act 1971
176. Fire Safety and Safety of Places of Sport Act 1987
177. Fraud Act 2006
178. Gambling Act 2005
179. Game Act 1831
180. Game Licensing Act 1860
181. Hallmarking Act 1973
182. Health Act 2006
183. Health and Safety at Work etc Act 1974
184. Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 as amended *(expected to be revoked on 24th March 2022)*
185. Highways Act 1980
186. House to House Collections Act 1939

187. Hypnotism Act 1952
188. Intoxicating Substances (Supply) Act 1985
189. Knives Act 1997
190. Land Drainage Act 1991
191. Late Night Refreshment Houses Act 1969
192. Legal Services Act 2007
193. Licensing Act 2003
194. Littering from Vehicles outside London (Keepers: Civil Penalties) Regulations 2018
195. Local Government Act 1874, 1972, 2000 and 2003
196. Local Government (Miscellaneous Provisions) Act 1976 and 1982
197. Lotteries and Amusements Act 1976
198. Magistrates Court Act 1980
199. Meat Products (Hygiene) Regulations 1994
200. Medicines and Medical Devices Act 2021
201. Minced Meat and Meat Preparations (Hygiene) Regulations 1995
202. Money Laundering Regulations 2007
203. Motor Cycle Noise Act 1987
204. National Assistance Act 1948
205. Noise Act 1996
206. Noise and Statutory Nuisance Act 1993
207. Nurses Agencies Act 1957
208. Offensive Weapons Act 2019
209. Office Shops and Railway Premises Act 1963
210. Olympic Symbol etc. (Protection) Act 1995
211. Ozone-Depleting Substances Regulations 2015
212. Pet Animals Act 1951
213. Petroleum (Consolidation) Act 1928
214. Petroleum (Consolidation) Regulations 2014
215. Petroleum (Transfer of Licences) Act 1936
216. Performing Animals (Regulation) Act 1925
217. Pigs (Records, Identification and Movement) Order 1995
218. Poisons Act 1972
219. Police, Factories etc. (Miscellaneous Provisions) Act 1916
220. Pollution Prevention and Control Act 1999

221. Prevention of Damage by Pests Act 1949
222. Prices Acts 1974 and 1975
223. Price Marking Order 2004
224. Proceeds of Crime Act 2002
225. Protection of Animals Act 1911, Protection of Animals (Amendment) Act 1954
226. Public Health Act 1875
227. Public Health Acts Amendment Act 1907
228. Public Health Acts 1936 and 1961
229. Public Health (Control of Disease) Act 1984
230. Psychoactive Substances Act 2016
231. Redress Schemes for Letting Agencies Work and Property Management Work (Requirement to Belong to a Scheme etc)(England) Order 2014
232. Registered Designs Act 1949
233. Refuse Disposal (Amenity) Act 1978
234. Regulatory Enforcement Sanctions Act 2008
235. Regulatory Reform (Fire Safety) Order 2005
236. Reservoirs Act 1975
237. Riding Establishments Acts 1964 and 1970
238. Road Traffic Acts 1988 and 1991
239. Road Traffic (Foreign Vehicles) Act 1972
240. Road Traffic (Vehicle Emission)(Fixed Penalty)(England) Regulations 2002
241. Safety of Sports Grounds Act 1975
242. Scotch Whisky Act 1988
243. Scrap Metal Act 2013
244. Single Use Carrier Bags Charges (England) Order 2015
245. Slaughterhouses Act 1974
246. Solicitors Act 1974
247. Sunbeds (Regulation) Act 2010
248. Sunday Trading Act 1994
249. Tenant Fees Act 2019 and the Housing and Planning Act 2016 as it relates to Client Money Protection Schemes
250. Telecommunications Act 1984
251. Theatres Act 1968
252. Theft Act 1968

253. Tobacco Advertising and Promotion Act 2002
254. Town Police Clauses Act 1847 and 1889
255. Town and County Planning Act 1990 (as amended)
256. Town and Country Planning (Churches and Places of Religious Worship and Burial Grounds) Regulations 1950
257. Trade Descriptions Act 1968
258. Trademarks Act 1994
259. Trading Representations (Disabled Persons) Act 1958
260. Traffic Management Act 2004
261. Transport Act 1985 and 1991
262. Unsolicited Goods and Services Acts 1971 and 1975
263. Video Recordings Act 1984 and 2010
264. Vehicles (Crime) Act 2001
265. Water Industry Act 1991
266. Weights and Measures Act 1985
267. Welfare of Animals (Transport) (England) Order 2006
268. Worship and Burial Grounds Regulations 1950
269. Zoo Licensing Act 1981

41. Together with:
    - any Orders or Regulations made thereunder or relating to any of the foregoing or having effect by virtue of the European Union (Withdrawal Agreement) Act 2020;
    - any byelaws in relation to the foregoing;
    - any offence under any legislation, or at common law, which is of a similar nature or related to the foregoing, including offences of aiding, abetting, counselling and procuring, incitement, conspiracy, perverting the course of justice and criminal attempts; and
    - any modification or re-enactment to the foregoing.

Chief Planning Officer

42. The Head of Planning and Development Control will be designated as the council's Chief Planning Officer.

43. The Chief Planning Officer is authorised (save where the Leader of the Council or relevant Portfolio Holder has directed or the Chief Officer considers that the matter should be referred to the Executive for consideration) to discharge the following functions in relation to the authority's role as Local Planning Authority including:

- Development Plan Functions including preparation, monitoring and review of the Development Plan (including the core strategy, site allocation plan, action plan and waste development plan)
- Planning policy and guidance functions including the preparation, monitoring, review and adoption of other planning policy and guidance notes (including supplementary planning documents)
- Neighbourhood Planning Functions
- Conservation Area Functions including designation and review of Conservation Area appraisals and management plans.

44. The Chief Planning Officer's delegations do not cover those functions delegated to the Director of Environment, Transport and Planning.

Corporate Director of Adult Social Care and Integration

45. The Corporate Director of Adult Social Care & Integration will hold the statutory designation of Director of Adults Social Services and will carry out the functions of the Council as an Adults Social Care in line with section 6 of the Local Authority Act 1970 and undertake the functions required by Section 18 of the Children Act 2004, as amended from time to time including sections 58 - 66 of the Care Act 2014 and The Care and Support (Children Carers) Regulations 2014 supporting transitions to adult social care SEND and young people on EHCPs preparing for

adulthood, but excluding those provisions which related directly to children and young people under the age of 18 years.

a) To exercise the functions of the Council with regard to, powers and duties of an Adult Services Authority under all relevant legislation including, but not limited to social services, safeguarding adults, Mental Health services including the deprivation of liberty and Health functions.
b) To ensure market oversight, management and commissioning of all age social care services in accordance to the duty imposed in section 4 Care Act 2014.
c) Lead on Multi-agency local adult safeguarding board (SAB) to prevent abuse, neglect and stop it when it happens in accordance with the legal safeguarding framework set out within the Care Act 2014 as well as the Safeguarding Vulnerable group's act 2006 and the Protection and Freedom Bill sexual offences Act 2003, ill treatment or wilful neglect under section 44 Mental capacity Act and Public Interest Disclosure Act 1998.
d) To exercise all the powers and duties of the Council in accordance with general policies from time to time laid down by the Executive for the administration of any arrangements made under relevant legislation with respect to services for adults including people with disabilities.
e) To undertake quality spot visits, to make permanent or temporary variations in the approved number of places at any Adult Social Care establishment in line with CQC 5 standards of care.
f) To support integration, co-operation and partnerships within section 15.2 section 3,6,7 of the Care Act 2014 including, Planning, Commissioning, assessment and information, delivery of care, Joint Needs assessment JSNA and Joint health and wellbeing strategies.
g) To carry out the functions of the Council which fall within this directorate remit under the NHS Health and Care Act 2012 and any other health legislation (as amended or replaced from time to time) to enter into arrangements with the NHS

or other bodies for the exercise of the NHS or health functions or health related Council functions so far as those functions relate to Adults).

h) As well as the legislation (which may be amended from time to time) listed below but not limited to:

- National Assistance Act 1948
- Mental Health Act 1983 (amended)
- Care Act 2014
- Equality Act 2010
- Health and Social Care Act 2012
- Mental Capacity Act 2005
- Carers Equal Opportunities Act 2004
- Community Care Delayed Discharges Act 2003
- Housing Act 1996
- Community Care Direct Payments Act 1996
- Local Government Act 2000
- Human Rights Act 1998
- SEND Code of Practice 0-25yrs 2014

46. Where litigation is conducted in Court with respect to those who are aged 18 and over, instructions are provided in the name of the Corporate Director of Adult Social Care & Integration.

47. To approve the utilisation of funds received under Section 106 of the Town and Country Planning Act 1990 to the project named in the relevant Section 106 agreement, up to a maximum value of £150,000 per Section 106 agreement. A schedule of such expenditure will be maintained and reported quarterly to the Executive Member for Health, Wellbeing & Adult Social Care.

48. Where a Director from the Adult Social Care & Integration Directorate is absent from the workplace for a period of time that requires others to exercise delegated authority in that officer's absence, the Corporate Director of Adult Social Care & Integration shall undertake, allocate or reallocate responsibility for exercising particular delegations to any officer

of the council in the interests of effective corporate management as they think fit.

Corporate Director of Children and Education

49. The Corporate Director of Children and Education will hold the statutory designation of Director of Children's Services and will carry out the functions of the Council as they relate to Children's Social Care and Education and undertake the functions required by section 18 Children Act 2004, as amended from time to time, but excluding those provisions which directly relate to Adults Social Care for persons over the age of 18 years.

a) To exercise the functions of the Council with regard to powers and duties of Children's' Services Authority and Local Education Authority, (or Local Authority in the context of children's social care matters and/or educational matters), under all relevant legislation.

b) To carry out the functions of the Council's Local Education Authority (or Local Authority in the context of educational matters) including the functions of the Council relating to education, child employment in the youth service but excluding functions relating to adult learning and further and higher education set out in Section 18 (3) of the Children Act 2004 (as amended from time to time).

c) To be responsible for the general duties under sections 13(1) and 13A of the Education Act 1996 (as amended from time to time). To carry out the functions of the Council as local education authority in relation to adult/family learning and further and higher education including the functions set out in section 18(3) of the Children Act 2004 (as amended from time to time).

d) To undertake all the powers and duties of the Council as an Adoption Agency having regard to the recommendations of

the adoption panel and to approve the charge for home study assessments for inter country adoptions in accordance with the policy agreed by Executive, and to appoint the members (except for the appointment of any members who are Councillors) of the adoption and permanence panels in accordance with the Adoption Regulations 2011 or as amended from time to time.

e) To carry out the functions of the Council under the NHS Act 2006 and any other health legislation (as amended or replaced from time to time) to enter into arrangements with the NHS or other bodies for the exercise of the NHS or health functions or health related Council functions so far as those functions relate to children).

f) To carry out the functions of the Council under Section 23(C) to 24(D) of the Children Act 1989 and the Children and Social Work Act 2017 (as amended from time to time) in relation to aftercare arrangements etc.

g) To carry out the functions of the Council under Sections 10 to 13 and 17(A) of the Children Act 2004 (as amended from time to time) in relation to arrangements to safeguard and promote the welfare of children and young person's plans.

h) To carry out the functions of the Council in relation to Early Help/Sure Start and the Childcare Act 2006.

i) To carry out the functions of the Council in relation to youth justice services.

j) To be responsible for the development of corporate parenting and supporting City of York Council's Commitment to Corporate Parenting as detailed within this constitution.

k) To ensure the sufficiency of the child protection service and to promote and participate fully within multi-agency

safeguarding arrangements to ensure that children within the Council's area are adequately safeguarded and protected.

l) To ensure the effectiveness of the Multi Agency Safeguarding Arrangements within the City of York in accordance with the Children and Social Work Act 2017 and Working Together to Safeguard Children 2018.'

m) To undertake statutory visits to children's homes and to make permanent or temporary variations in the approved number of places at any children services establishments.

n) To enforce, make applications and representations to a Court or Magistrate and authorise, institute and defend proceedings under any enactment which stand referred to the Executive, in consultation with the Director of Governance.

o) To grant licences and to approve bodies of persons to enable children to take part in public performances under Section 37 of the Children and Young Persons Act 1963.

p) To respond to alcohol licensing applications to highlight any concerns in relation to child safety.

q) To institute, intervene, or defend, on the Council's behalf, wardship proceedings and to appear on the Council's behalf on any wardship proceedings involving the Council in consultation with the Director of Governance

50. To approve the utilisation of funds received under Section 106 of the Town and Country Planning Act 1990 to the project named in the relevant Section 106 agreement, up to a maximum value of £150,000 per Section 106 agreement. A schedule of such expenditure will be maintained and reported quarterly to the Executive Member for Children, Young People and Education.

51. Where a Director from the Children and Education Directorate is absent from the workplace for a period of time that requires others to exercise delegated authority in that Officer's absence, the Corporate Director of Children & Education shall undertake, allocate or reallocate responsibility for exercising particular delegations to any officer of the council in the interests of effective corporate management as they think fit.

Director of Public Health

52. To undertake such statutory responsibilities as may be required by legislation or delegated to the authority or the Director by the Secretary of State from time to time.

53. To commission public health services on behalf of the Secretary of State in consultation with the relevant Executive Member and on behalf of the Council to address local Public Health challenges identified through the Public Health Outcomes Framework and tackle local priorities as set out in the joint Health and Wellbeing Strategy for City of York. The final decision rests with the Director of Public Health.

54. To provide public health and population healthcare advice to NHS Commissioners and Providers. Contribute to and influence the work of NHS commissioners, ensuring a whole system approach across the public sector.

55. To undertake the Council's statutory duties for health protection.

56. To authorise Consultants in Communicable Disease Control of Public Health England and/or their deputies to act on behalf of the Council as Proper Officer in the exercise of statutory functions relating to the control of infections and other disease and food poisoning.

57. To authorise allowances to persons excluded from work because of notifiable disease.

58. Lead the Council's development of the Local assessment of health and care needs. This to be done in partnership with local NHS Organisations and Clinical Commissioning Groups with a shared statutory duty to develop and deliver the JSNA for their defined population.

59. To be accountable for the use of the local authority Public Health ring fenced grant.

60. To be the Council's lead registered Caldicott Guardian with the responsibility for protecting the confidentiality of people's health and care information, and making sure such data is used properly including overseeing the use and sharing of clinical information. This is to be done with support from an additional registered Caldicott Guardian from Children's Services and Adult Care and Health.

61. To carry out functions in relation to the following legislation:

    a. Health and Social Care Act 2012
    b. Public Health (Control) of Disease Act 1984
    c. The Health Act 2006
    d. Public Health (Control of Disease) Act 1984
    e. Health Protection Regulations:
        - The Health Protection (Coronavirus, Restrictions) (England) (No. 3) Regulations 2020 as amended (expected to be revoked on 24th March 2022)
        - The Health Protection (Coronavirus, Restrictions) (Self Isolation) (England) Regulations 2021 as amended

Proper Officer Functions

Meaning of Proper Officer Functions

i. Certain legislation requires the Council to designate a particular Officer as "Proper Officer" for the performance of certain functions.

ii. The following officers are designated to perform the functions of Proper Officer in relation to the matters set out below in the following tables.

iii. The Director of Governance & Monitoring Officer will:

a) act as authorised or proper officer for the purposes of any Act of Parliament or Statutory Instrument where qualified to do so and no other Officer has been appointed.
b) appoint officers to act as authorised/proper Officers for the purposes of any Act of Parliament or Statutory Instrument.

Local Government Act 1972

No.	Section	Duties	Proper Officer
1	42	To receive notice in writing of a request for an election on casual vacancy occurring in the office of a Parish Councillor.	Chief Operating Officer
2	83 (1)	To receive the declaration of acceptance of office by the Lord Mayor, Deputy Lord Mayor, Sheriff or Councillor of the Council.	The Monitoring Officer or in their absence the Head of Democratic Governance.
3	83 (3)	To witness the declaration of acceptance of office by the Lord Mayor, Deputy Lord Mayor, Sheriff or Councillor of the Council.	The Monitoring Officer or in their absence the Head of Democratic Governance.

No.	Section	Duties	Proper Officer
4	84	To receive written notice of resignation from any person elected to an office under the Local Government Act 1972.	The Monitoring Officer or in their absence the Head of Democratic Governance.
5	88 (2)	To convene a meeting of the Council for the election of Lord Mayor of the Council on a casual vacancy occurring.	Chief Operating Officer or in their absence the Monitoring Officer
6	89 (1) (b)	To receive written notice of a casual vacancy in the office of a Councillor from two local government electors.	The Monitoring Officer or in their absence the Head of Democratic Governance.
	Section 100C (2)	Making (without disclosing exempt information) a written summary to provide members of the public with a reasonable, fair and coherent record of the whole or part of the proceedings where part of the minutes of the meeting are not open to the public because they disclose exempt information	The Monitoring Officer or in their absence the Head of Democratic Governance.

No.	Section	Duties	Proper Officer
	Section 100D	Compilation of lists of background papers and identification of background papers	Chief Operating Officer and Corporate Directors (each Corporate Director for their service reports), Directors
	Section 100D	Papers not open to inspection by Members	The Monitoring Officer and the Chief Operating Officer
7	146 (1)(a) (re: transfer of securities of a company in the name of a local authority)	To make statutory declarations as to the securities and the change of name and identity of an authority on the transfer of those securities into the new name of the authority	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.
8	146(1)(b) (re: transfer of securities of a company in the name of a local authority)	To give a certificate confirming that a local authority has become entitled to securities, dividends or interest standing in the name of the name of another local authority.	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.
9	151	Officer responsible for the proper administration of financial affairs.	Chief Finance Officer

No.	Section	Duties	Proper Officer
10	191 (2)	To receive applications concerning surveying under section 1 of the Ordnance Survey Act 1841.	Corporate Director of Place.
11	210 (6) and (7)	Duties relating to charities.	Chief Finance Officer
12	225 (1)	To receive and retain such documents deposited with the Local Authority pursuant to the Standing Orders of either House of Parliament	The Monitoring Officer
13	229 (5)	To give a certificate in legal proceedings that a document is a photographic copy of a document or any part of a document which is in the custody of, or has been destroyed while in the custody of a Local Authority.	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.
14	234 (1)	To sign on behalf of the Authority any notice, order or other document which the Authority is authorised or required to authorise or required to give, make or issue.	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.

No.	Section	Duties	Proper Officer
15	238	To sign a certificate endorsed on a printed copy of any byelaws (relating to the authenticity of the byelaws).	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.
16	Schedule 12 Para 4	To receive written notice from a Member that the summons to a meeting of the Council shall be sent to some other address other than their place of residence.	The Monitoring Officer or in their absence the Head of Democratic Governance.
17	Schedule 14	To certify resolutions of the Council under Public Health Acts 1875-1925.	The Monitoring Officer
18	Schedule16 (28)	To receive on deposit lists of buildings of special architectural or historic interest under section 54 (4) of the Town & Country Planning Act.	Corporate Director of Place

No.	Section	Duties	Proper Officer
19	Schedule 29 Para 41 (3)	Substitution of Proper Officer for Clerk of Council in section 9 (1) of Registration Services Act 1953- the determination of a Deputy to become Interim Superintendent Registrar or Interim Registrar of births and deaths if the latter ceases to hold office.	Director of Customer & Communities

No.	Section	Duties	Proper Officer
20	Schedule 29 Para 41 (4)	Substitution of Proper Officer for Clerk of Council. 1. In section 9 (2) of Registration Service Act 1953- appointment of Interim Superintendent Registrar or Registrar of births and death were no Deputy. 2. In section 13 (2) (h) details of running of service hours in business Superintendent Registrars. 3. In section 13 (3) (b) general supervisory powers over administration of Registration Service Act.	Director of Customer & Communities
21	Schedule 29 Para 41 (5)	Substitution of Proper Officer for Clerk of Council in section 20 (b) of Registration Service Act 1953- prescription of duties in regulation of Clerks of Council under Registration Acts.	Director of Customer & Communities

No.	Section	Duties	Proper Officer
22	Section 100 b (2)	Excluding from inspection by Members of the public, the whole or part of any report which in their opinion is likely to be excluded from consideration in public at a Council, Executive, Committee or sub Committee meeting.	The Monitoring Officer or in their absence the Head of Democratic Governance.
23	Section 100 B (7)	Deciding whether or not a newspaper should be supplied with copies of any documents supplied to a Member of the Council other than the agenda, report and statement, or particulars indicating the nature of the agenda items.	The Monitoring Officer or in their absence the Head of Democratic Governance.

The Highways Act 1980

No.	Section	Duties	Proper Officer
1	Section 205 (5) (re: private street works)	To certify a copy of the resolution of the Local Authority approving the specifications, estimates and apportionment and a copy of those documents	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.

		for keeping on deposit open to public inspection.	
2	Section 210 (2) (re: private street works)	To certify a document giving details of the amendment of any estimate and consequential amendment of any apportionment for keeping on deposit open to public inspection.	The Monitoring Officer or in their absence a solicitor nominated by the Monitoring Officer.

Statutory non-executive functions, regulatory and other non-executive functions

1. The following functions are either the responsibility of the responsible body named in the second column or the responsible officer named in the third column.

2. The responsible Officer will exercise the functions for all matters which fall outside of the Scheme of Delegations aforementioned in this constitution.

KEY

Responsible bodies

Planning Committee A and Planning Committee B (PC),
Licensing & Regulatory Committee and any related sub-committees (LRC),
Audit & Governance Committee (A&G),
Executive (EX)

Responsible officers

Chief Operating Officer (COO)
Corporate Director of Children & Education (CDCE)
Corporate Director of Adult Social Care & Integration (CDASCI)
Director of Governance (DG)
Director of Finance (DF)
Director Public Health (DPH)
Director of Environment, Transport and Planning (DETP)

Director of Housing & Communities (DHC)
Director of City Development (DCD)
Chief Officer – HR & Support Services (COHRSS)

NON EXECUTIVE FUNCTIONS

Planning and Development Control Functions

Ref	Function	Responsible body	Responsible officer
1	Power to determine application for planning permission	PC	DETP
2	Power to determine applications to develop land without compliance with conditions previously attached	PC	DETP
3	Power to grant planning permission for development already carried out	PC	DETP
4	Power to decline to determine application for planning permission	PC	DETP
5	Duties relating to the making of determinations of planning Applications	-	DETP
6	Power to determine applications for planning permission made by a local authority, alone or jointly with another	PC	DETP
7	Power to make determinations, give approvals and agree certain other matters relating to the exercise of permitted development rights	-	DETP
8	Power to enter into agreement regulating development or use of land	-	DETP following consultation with Chair and Vice Chair of PC
9	Power to issue a certificate of existing or proposed lawful use or development	-	DETP
9a	As per 9, but specifically in relation to existing use or redevelopment	-	DETP

Ref	Function	Responsible body	Responsible officer
10	Power to serve a completion notice		DETP following consultation with DG
11	Power to grant consent for display of advertisements	PC	DETP
12	Power to authorise entry on to land	-	DETP
13	Power to require discontinuance of land	PC	-
14	Power to serve a planning contravention notice, breach of condition notice or stop notice	-	DETP following consultation with DG
14a	Power to issue a temporary stop notice	PC	DETP
15	Power to issue an enforcement notice	-	DETP following consultation with DG
16	Power to apply for an injunction restraining a breach of planning control	-	DETP following consultation with DG
17	Power to determine applications for hazardous substances consent, and related powers	PC	DETP
18	Duty to determine conditions to which old mining permissions, relevant planning permissions relating to dormant sites or active Phase I or II sites or mineral permissions relating or mining sites, as the case may be, are to be subject	PC	DETP
19	Power to require proper maintenance of land	-	DETP
20	Power to determine application for listed building consent, and related powers	PC	DETP
21	Power to determine applications for conservation area consent	PC	DETP
22	Duties relating to applications for listed building consent and conservation area	-	DETP

	consent		
23	Power to serve a building preservation notice and related power	-	DETP following consultation with DG
24	Power to issue enforcement notice in relation to demolition of unlisted building in conservation area	-	DETP following consultation with DG
25	Power to acquire a listed building in need of repair and to serve a repairs notice	-	DETP following consultation with DG
26	Power to apply for an injunction in relation to a listed building	-	DETP following consultation with DG
27	Power to execute urgent works	-	DETP

Licensing and Registration Functions

Ref	Function	Responsible body	Responsible Officer
1	Power to issue licences authorising the use of land as a caravan site	LRC	DETP
2	Power to license the use of moveable dwellings and camping sites	LRC	DETP
3	Power to license Hackney Carriages and private hire vehicles	LRC	DETP
4	Power to license drivers of Hackney Carriages and private hire vehicles	LRC	DETP
5	Power to license operators of Hackney Carriages and private hire vehicles	LRC	DETP
7	Power to issue licenses in respect of premises where gambling takes place in accordance with the Gambling Act 2005	LRC	DETP following consultation with DPH

8	Power to issue permits in respect of premises where gambling takes place in accordance with the Gambling Act 2005	LRC	DETP following consultation with DPH
9	Power to issue licenses in respect of premises where activities take place in accordance with the Licensing Act 2003	LRC	DETP following consultation with DPH
10a	1) Functions relating to determining licensing policy and establishing licensing committees under sections 5 and 6 of the Licensing Act	Council	-
	2) Functions relating to the discharge of the council's licensing functions under section 7 of the Licensing Act 2003	LRC	DETP following consultation with DPH
	3) Functions relating to keeping a register of licensed premises under section 8 of the Licensing Act 2003	-	DETP following consultation with DPH
	4) Power to determine applications under the Minor Variations Procedure, Licensing Act 2003	-	DETP following consultation with DPH
10b	Power to resolve not to issue a casino premises licence	LRC	DETP following consultation with DPH
10c	Power to designate officer of a licensing authority as an authorised person for a purpose relating to premises under Section 304 of the Gambling Act 2005	-	DETP
10d	Power to institute criminal proceedings for offences under Section 342 of the Gambling Act 2005	-	DETP
10e	Power to exchange information in accordance with Section 350 of the Gambling Act 2005	-	DETP

10f	Function relating to the determination of fees for premises licences under the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007	LRC	DETP
11	Power to license sex shops and sex cinemas, other sex establishments and sexual entertainment venues	LRC	DETP
12	Power to license performances of hypnotism	LRC	DETP
13	Power to register premises for acupuncture, tattooing, cosmetic body piercing, electrolysis and semi-permanent skin colouring	LRC	DETP following consultation with DPH
14	Power to license pleasure boats and pleasure vessels	-	DETP
15	Power to issue consents for Street Trading	LRC	DETP
16	Power to license dealers in game and the killing and selling of game	LRC	DETP
17	Power to license and register premises for the preparation of food	LRC	DETP
18	Power to license scrap metal dealers	LRC	DETP
19	Power to issue, amend or replace safety certificates (whether general or special) for sports grounds	-	DETP following consultation with DPH
20	Power to issue, cancel, amend or replace safety certificates for regulated stands of sports grounds	-	DETP following consultation with DPH
21	Power to issue fire certificates	N/A	DETP
22	Power to license businesses involving animal licensable activities under the Animal Welfare Act 2006	-	DETP
23	Power to license zoos	LRC	DETP
24	Power to license dangerous wild animals	LRC	DETP
25	Power to license knackers yards	LRC	DETP
26	Power to license the employment of children	LRC	DETP in conjunction with CDCE
27	Power to approve premises for the	-	DETP

	solemnisation of marriages		
28	Power to register common land or town or village greens	PC	DETP
29	Power to register variations of rights of common	PC	DETP
30	Power to license persons to collect for charitable and other causes	LRC	DETP
31	Power to grant consent to use a loud speaker	-	DETP
32	Power to grant a street works licence	PC	DETP
33	Power to license agencies for the supply of nurses	N/A	DETP in conjunction with DPH
34	Power to issue license for the movement of pigs	LRC	DETP
35	Power to license the sale of pigs	LRC	DETP
36	Power to license collecting centres for the movement of pigs	LRC	DETP
37	Power to issue a license to move cattle from a market	LRC	DETP
38	Power to grant permission for provision of services, amenities, recreation and refreshment facilities on highway, and related powers	PC	DETP
39	Power to permit deposit of builder's skips on highways	-	DETP
40	Duty to publish notice in respect of proposal to grant permission under 115E of the Highways Act 1980	PC	DETP
41	Power to license planting, retention and maintenance of trees etc in part of the highway	PC	DETP
42	Power to authorise erection of stiles etc on footpaths or bridle ways	PC	DETP
43	Power to license works in relation to buildings etc which obstruct the highway	PC	DETP
44	Power to consent to temporary deposits or excavations in streets	PC	DETP

45	Power to dispense with obligation to erect hoarding or fencing	PC	DETP
46	Power to restrict the placing of rails, beams etc over the highway	PC	DETP
47	Power to consent to construction of cellars etc under streets	PC	DETP
48	Power to consent to the making of openings into cellars etc under streets, and pavement lights and ventilators	-	DETP
49	Power to issue licences to retail butchers carrying out commercial operations in relation to unwrapped raw meat and selling or supplying both raw meat and ready to eat Foods	-	DETP
50	Power to approve wholesale food businesses supplying food of animal origin	-	DETP
51	Duty to keep a register of food business premises	-	DETP
52	Power to register food business premises	-	DETP

Functions Relating to Health and Safety at Work

Ref	Function	Responsible Body	Responsible Officer
1	Functions under any of the relevant statutory provisions within the meaning of part 1 of the Health and Safety at Work Act 1974, other than those discharged in the council's capacity as an employer	-	COHRSS in conjunction with COO

Functions Relating to the Elections

Ref	Function	Responsible Body	Responsible Officer
1	Duty to appoint an electoral registration officer	Council	COO

2	Power to assign officers in relation to requisitions of the electoral registration officer	-	COO
3	Functions in relation to parishes and parish councils	Council	DG
4	Power to dissolve small parish councils	Council	DG
5	Power to make orders for grouping parishes, dissolving groups and separating parishes from groups	Council	DG
6	Duty to appoint returning officer for local elections	Council	DG
7	Duty to provide assistance at European elections	N/A	N/A
8	Duty to divide constituency into polling districts	Council	COO
9	Power to divide wards into polling districts at local government elections	Council	COO
10	Power to approve polling places for polling districts	-	COO
11	Powers in respect of holding elections (parish councils)	-	COO
12	Power to pay expenses properly incurred by electoral registration officers	-	COO
13	Power to fill temporary vacancies in the event of insufficient nominations (parish councils)	N/A	COO
14	Duty to declare vacancy in office in certain cases	-	DG
15	Duty to give public notice of casual vacancy	-	DG
16	Power to make temporary appointments to parish councils	N/A	DG
17	Power to determine fees and conditions for supply of copies of, or extracts from, elections documents	-	COO
18	Power to submit proposals to the Secretary of State for an order under Section 10 (Pilot Schemes for local elections in England and Wales, of the	Council	COO

	representation of the People Act 2000)		

Functions Relating to Name and Status of Areas and Individuals

Ref	Function	Responsible Body	Responsible Officer
1	Power to change the name of the city	Council	COO in conjunction with DG
2	Power to change the name of a parish	Council	DG
3	Power to confer title of honorary alderman or to admit to be an honorary freeman	Council	COO
4	Power to petition for a charter to confer borough status	N/A	N/A

Power to Make, Amend, Revoke, Re-enact or Enforce By Laws

Ref	Function	Responsible Body	Responsible Officer
1	Power to make, amend, revoke, re-enact or enforce by laws	Council	DG

Power to Promote or Oppose Local or Personal Bills

Ref	Function	Responsible Body	Responsible Officer
1	Power to promote or oppose local or personal bills	Council	DG

Functions Relating to Pensions

Ref	Function	Responsible Body	Responsible Officer
1	Functions relating to local government pensions etc and key employer decisions	N/A	COO in consultation with COHRSS
2	Functions under the fireman's pension scheme	N/A	N/A

Miscellaneous Functions

Ref	Function	Responsible Body	Responsible Officer
1	Power to create footpaths and bridleways by agreement	PC	DETP
2	Power to create footpaths and bridleways	PC	DETP
3	Duty to keep register of information with respect to maps, statements and declarations	-	DETP
4	Power to stop up footpaths and bridleways	PC	DETP
5	Power to determine application for public path extinguishments order at request of owner where land is used for agricultural purposes	PC	DETP
6	Power to make a rail crossing extinguishment order	-	DETP
7	Power to make a special extinguishment order to prevent crime	PC	DETP following consultation with DG
8	Power to divert footpaths and bridleways	PC	DETP
9	Power to make a public path diversion order	PC	DETP
10	Power to make a rail crossing diversion order	PC	DETP

11	Power to make a special diversion order to prevent crime	PC	DETP following consultation with DG
12	Power to require applicant for a special diversion order to enter into an agreement under section 119A of the Highways Act 1980	PC	DETP following consultation with DG
13	Power to make a SSSI diversion order	PC	DETP
14	Duty to keep register with respect to applications under sections 118Z, 118C, 119ZA and 119C of the Highways Act 1980	-	DETP
15	Power to decline to determine certain applications under section 121C of the Highways Act 1980	PC	DETP
16	Duty to assert and protect rights of the public for use and enjoyment of the highway	-	DETP
17	Duty to serve notice of proposed action in relation to an obstruction where a notice to remove the obstruction has been served on the council	-	DETP
18	Power to apply for variation of an order requiring the council to remove an obstruction under section 130B of the Highways Act 1980	-	DETP following consultation with DG
19	Power to authorise temporary disturbance on surface of footpath or bridleway	-	DETP
20	Power temporarily to divert footpath or bridleway	-	DETP
21	Functions relating to the making good of damage and the removal of obstructions	-	DETP
22	Powers related to the removal of things so deposited on the highways as to be a nuisance	-	DETP
23	Power to extinguish certain public rights of way in connection with the compulsory purchase of land	PC	DETP

24	Duty to keep a definitive map and statement under review	-	DETP
25	Power to include modifications in other orders	PC	DETP
26	Duty to keep register of prescribed information with respect to applications under section 53(5) of the Wildlife and Country side act 1981	-	DETP
27	Duty to reclassify roads used as public paths	-	DETP
28	Power to prepare map and statement by way of consolidation of definitive map and statement	-	DETP
29	Power to designate footpath as cycle path	PC	DETP
30	Power to extinguish public right of way over land acquired for clearance	PC	DETP
30a	Power to authorise stopping up of diversion on highway	-	DETP
31	Power to authorise stopping up or diversion of footpath or bridleway	PC	DETP
32	Power to extinguish public rights of way over land held for planning purposes	PC	DETP
33	Power to enter into agreements with respect to means of access	-	DETP
34	Power to provide access in absence of agreement	PC	DETP
35	Functions relating to sea fisheries	N/A	N/A
36	Power to make standing orders	Council	DG
37	Power to appoint staff, and to determine the terms and conditions on which they hold office (including procedures for their dismissal)	See relevant Articles and Appendices in this Constitution	
38	Power to make standing orders as to contracts	Council	DG
39	Duty to make arrangements for proper administration of financial affairs etc	A&G	DF
40	Power to appoint proper officers for particular purposes under section 270(3) of the Local Government Act 1972	-	DG

41	Power to make a limestone pavement order	PC	DETP
42	Power to make closing order with respect to take-away food shops	-	DETP
43	Duty to designate officer as Head of Paid Service, and carry out the functions in section 4(1) of the Local Government and Housing Act 1989,	Council	DG
44	Duty to designate officer to act as the Monitoring Officer, and to carry out the functions in section 5(1) of the Local Government and Housing Act 1989	Council	COO
44a	Duty to provide staff etc to person nominated as Monitoring Officer and S151 Officer	Council	COO
44b	Powers relating to scrutiny committees (voting rights of co-opted members)	Council	DG
45	Duty to approve the authority's accounts, income and expenditure and balance sheet, or record of payments and receipts (as the case may be)	A&G	DF
46	Powers relating to the protection of important hedgerows	PC	DETP
47	Powers relating to the preservation of trees	PC	DETP
47a	Power to deal with complaints arising from high hedges	PC	DETP
48	Power to make payments or provide other benefits in cases of maladministration etc	-	DG
49	Power to issue Deprivations of Liberty authorisations	-	CDASCI in consultation with DG
50	Appointment of an independent member of another authority's Standards Committee, where necessary, because of a conflict of interest or non-availability, to serve as a temporary member of the Standards Committee.	-	DG

51	Power to consult with North Yorkshire Police on closure orders (Anti-Social Behaviour Crime & Policing Act 2014)	-	DETP in consultation with DG
52	Power to consult with North Yorkshire Police for the application of an injunction (Section 1 Anti-Social Behaviour Crime & Policing Act 2014)	-	DETPin consultation with DG
53	Power to apply for a Drink Banning Order (Sections 1-5 and 9- 14 Violent Crime Reduction Act 2006)	-	DETP in consultation with DG
54	Power to consult with North Yorkshire Police on the application for a Public Places Protection Order (Anti-Social Behaviour Crime & Policing Act 2014)	-	DETP in consultation with DG
55	Power to authorise directed surveillance and the use of covert human intelligence sources as prescribed for the purposes of s30(1) of the Regulation of Investigatory Powers Act 2000.	-	DG

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Appendix 2 - Petitions Scheme

1 City of York Council is committed to involving local people in its decision making. For some years, it has been operating a public participation scheme enabling members of the public to attend meetings and speak on an issue. It has also responded to petitions from the public, received in an number of ways e.g. through a Ward Councillor submitting a petition on behalf of a constituent or by a resident submitting one direct to a council office by post/hand. As part of its approach to petitions, the Council has also introduced an ePetitions facility, providing another way in which a particular issue can be brought to the attention of Councillors.

2 Through this Petitions Scheme, the Council is making a commitment to:

- Enable anyone who lives, work or studies in the local authority area to organise and submit a petition either on paper or electronically
- Respond to the concerns raised within a petition
- Review its handling of a petition where a lead petitioner believes it has not been dealt with in accordance with this scheme.

3 To support the scheme, the Council has:

- Set a low threshold of ten signatures on the number of petitioners to enable as many valid local opinions to be heard as possible
- Provided an ePetitions facility to enable those who want to, to create their petition on line and allow others to sign it electronically

4 Petitions Not Covered By This Scheme

4.1 This scheme does not cover petitions which:

a) Relate to a planning or licensing application – in this case a petition will be referred to the relevant decision maker

b) Relate to matters where there is a legal right to seek a review or appeal

c) Respond to a public consultation organised by the Council – in this case a petition will be referred to the decision maker

d) Relate to matters which are of a defamatory or discriminatory nature, personal attacks on identifiable individuals or disclosure of confidential or personal information, particularly where appropriate the lead petitioner will be directed to the most appropriate route for raising such concerns with the Council.

e) The Council's Monitoring Officer, acting in consultation with the Chief Operating Officer, considers to be vexatious i.e. a petition with insufficient substance to merit action and the use effective use of public resource, abusive or otherwise inappropriate

4.2 In addition to these rules where a petition has resulted in a debate at a meeting of Full Council, the Council will not hold a further debate in response to a petition which the Lord Mayor considers to be substantially similar within a period of two years.

4.3 During the period leading up to a local or national election the Council may temporarily suspend the hosting of e-petitions or delay holding debates.

5 Submitting a Petition

Paper Petitions

5.1 Paper petitions can be submitted via a number of routes e.g. via a Ward Councillor, by post or hand delivered to the Council Offices.

5.2 Paper petitions handed in to a Ward Councillor are normally presented at Full Council and then passed to a senior officer within the relevant Directorate and referred to the Corporate Scrutiny Committee. Those that come directly into the Council Offices are also referred to the Corporate Scrutiny Committee.

5.3 Paper petitions should contain the details of the petition on the front of each sheet so that it is clear that each signatory has responded to identical wording.

6 ePetitions

6.1 All ePetitions submitted to the Council must:

a) Include a clear and concise statement covering the subject of the Petition.
b) State what action the petitioners wish the Council to take.

6.2 The ePetition organiser will need to provide us with their name, postal address including postcode, email address and contact telephone number. The name of the petition organiser (but no other contact details) will be published alongside details of the petition.

6.3 The ePetition organiser will also need to decide how long their petition will be open for signatures. Most ePetitions run for six months, but it can be a shorter or longer timeframe, up to a maximum of 12 months.

6.4 When an ePetition is created, it may take up to five working days before it is published online. This is because we have to check that the content of the ePetition meets the guidelines before it is made available for signature.

6.5 The relevant Executive Member will be advised of the publication of any e-petition relating to their service area.

6.6 If a petition does not follow the guidelines set out above, or if we need clarification on any issues raised within an ePetition, we will contact the ePetition organiser within 5 working days of receipt to explain.

6.7 We will also contact the ePetition organiser if we feel we cannot publish an ePetition for any reason, and where possible, we will offer assistance to change and resubmit it.

6.8 If the required clarification is not provided, or if an ePetition that we cannot publish is not re-submitted within 14 days, a summary of the ePetition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the Council's ePetitions facility.

7 How to 'sign' an ePetition

7.1 An individual wanting to sign an ePetition, will be asked to provide their name, address and postcode, plus a valid email address. They will then receive an email containing a link which they must click on in order to confirm their email address is valid. Once this step is completed their 'signature' will be added to the ePetition.

NB: Anyone viewing an e-petition will only be able to see the names of those who have signed - no contact details will be visible.

7.2 All ePetitions currently available for signature on the Council's website can be viewed at: http://democracy.york.gov.uk/mgePetitionListDisplay.aspx?bcr=1

8 How will the Council respond?

8.1 Within 5 days of a petition being received or of an ePetition being closed to signatories, we will send acknowledgement to the petition organiser, providing information on when they can expect to hear from us again and what process needs to be followed.

8.2 Our response will depend on what the petition/ePetition asks for and how many people have signed it but details of the petition will be referred to our Corporate Scrutiny Committee who may decide a range of potential actions, including:

a) Requesting a detailed report on the issues;
b) Noting receipt of the petition and proposed action;
c) Requiring the Executive Member or person taking any decisions on the matter to attend a meeting and answer questions;
d) Undertaking a detailed scrutiny review, gathering evidence, hearing from witnesses and making recommendations to the appropriate person or Member making the decisions;
e) Referring the matter to Full Council for debate according to the significance of the issues

8.3 The Corporate Scrutiny Committee will have the right to call for reports and undertake reviews in relation to petitions where it is concerned that they have not been dealt with properly.

8.4 The relevant Executive Member may also be required to consider the petition to agree appropriate actions, depending upon the issues raised.

8.5 If the petition relates to an operational Highways matter, for example a traffic regulation order or Respark, it will be referred directly to the relevant Executive Member and will not be considered by the Corporate Scrutiny Committee.

8.6 If the petition/ePetition is about something over which the council has no direct control e.g. the local railway or hospital, we may refer it to the Council's relevant partner organisation, and where appropriate, may work with them to respond to the petition.

9 Getting Involved When Your Petition Is Considered

9.1 A petitioner may choose to attend any meeting where their petition/ePetition is to be considered to listen to the debate, or register to speak at the meeting via the Council's Public Participation Scheme. This scheme enables participants to address Councillors before they debate the issues raised.

10 What happens next?

10.1 The petition/ePetition organiser will receive notification of the outcome of their petition. Where a petition/ePetition has been considered at a public meeting, information on the related decisions will be made available electronically via the meeting minutes published online. It will also be possible to track the implementation of any actions arising from them, via the online committee management system.

Appendix 3 – Full Council Procedure Rules

Introduction

1 Full Council

1.1 The Full Council ("Full Council") is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council's budget and Council Tax and approving a number of key plans and strategies ("The Policy Framework"). In law, all functions of the authority are deemed to be Executive functions unless reserved to the Full Council. It will carry out some functions itself, but others will be delegated to Committees or named Officers. Further details of the functions which Full Council has delegated are set out in Appendix 1 of this Constitution.

1.2 In addition to the legal functions referred to at paragraph 3.1 below, the Full Council may also carry out other business, including consideration of motions, receipt of petitions, and hear representations from individuals and businesses.

1.3 In this Annex, references to the Head of Paid Service shall be taken to include references to any Deputy Head of Paid Service, or (in the absence of the Head of Paid Service and any Deputy Head of Paid Service) shall include the Monitoring Officer.

2 The Policy Framework

2.1 The Policy Framework means the following plans and strategies:

Partnership and Community Plans:

a) 10 Year City Plan
b) Health and Wellbeing Strategy
c) Children and Young People's Plan
d) Corporate Parenting Strategy
e) Youth Justice Plan
f) Community Safety Strategy
g) Joint Waste Strategy
h) Climate Change Strategy
i) Annual Library Plan
j) Food Law Enforcement Service Plan

Full Council:

a) Council Plan or its equivalent
b) Local Plan documents
c) Local Transport Plan
d) Statement of Licensing Policy under Licensing Act 2003
e) Gambling Act Licensing policy
f) Medium Term Financial Strategy
g) Treasury Management Plan

3 Functions of the Full Council

3.1 The following functions can only be discharged by Full Council:

a) To approve, adopt amend, monitor and/or review the plans, strategies and policies which together make up the Council's Policy Framework

b) Determine and amend the Council's Revenue and Capital budgets, including the initial allocations of financial resources to different services and projects, proposed contingency funds, proposed precepts, setting the Council Tax and decisions relating to the Council's borrowing requirement and the control of its capital expenditure.

c) Approve the Treasury Management Strategy.

d) Approve expenditure that falls outside the Council's total annual budget.

e) Take any decision, which is contrary to the approved Policy Framework and/or the approved Budget.

f) Appoint and remove the Leader.

g) Decide the composition of Committees and sub-committees of Full Council and approve the allocation of places including co-opted members to them and other non-Executive bodies (except in the case of ad-hoc scrutiny Sub-Committees which will be determined by the Corporate Scrutiny Committee).

h) Appoint representatives to outside bodies, unless the appointment is one that must by law be made by the Executive in relation to its functions or has been delegated by Full Council.

i) Make and amend this Constitution, Standing Orders, Financial Regulations, and Contract Procedure Rules.

j) Change the name of the City or of a Parish.

k) Elect a Lord Mayor, Deputy Lord Mayor, and Sheriff, and exercise related functions.

l) Confer the title of the Honorary Alderman, Honorary Alderwoman, Honorary Recorder, and Honorary Freeman, Honorary Freewoman, and grant the Freedom of the City.

m) Promote or oppose local or personal bills.

n) Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.

o) Make, amend, revoke or re-enact Byelaws.

p) Make orders for grouping parishes, dissolving groups of parishes, and separating parishes from groups.

q) Dissolve small parishes.

r) Carry out functions in relation to parishes and Parish Councils under Part 11 of the Local Government and Rating Act 1997 and subordinate legislation under that Part.

s) Fill Council or Parish Council vacancies in the event of insufficient nominations.

t) Submit proposals to the Secretary of State for an Order under Section 10 of the Representation of the People Act 2000 (pilot schemes for local elections).

u) Appoint the Head of Paid Service, and designate officers or roles as the Monitoring Officer, the Chief Finance Officer, and Proper Officers under the relevant legislation, except to the extent that the power to designate Proper Officers has been otherwise delegated in this Constitution.

v) Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council, its Committees, Sub-Committees and other bodies.

w) Take decisions and/or give advice on matters brought to Full Council by the Executive and other bodies or persons.

x) Carry out any other functions reserved by law or by this Constitution to Full Council, including those "local choice" functions reserved to Full Council under this part of the Constitution.

4 Chairing the Full Council

4.1 The Lord Mayor will preside at meetings of the Full Council. In the absence of the Lord Mayor, the Deputy Lord Mayor will preside. In the absence of both, the Full Council will elect a Member to preside for that meeting. Any powers or duties of the Lord Mayor, as Chair, in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.

4.2 The Lord Mayor will cease to be Lord Mayor if they resign, are dismissed by a vote of Full Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They will continue to act as Lord Mayor (whether or not remaining a Councillor) after an election until their successor has been appointed.

4.3 The Lord Mayor shall:

a) uphold and promote the purpose of the Constitution, and interpret the Constitution when necessary, in consultation with the Monitoring Officer;

b) preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the local community;

c) ensure that Full Council meetings are a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the Executive and Committee Chairs to account;

d) promote public involvement in the Council's activities.

4.4 The ruling of the Lord Mayor, as to the construction or application of any of these Rules, will be final. In the event that a circumstance arises that is not covered by the Council Procedure Rules, the ruling of the Lord Mayor shall be final. In the event that circumstances arise outside the meeting which would ordinarily require a decision of, or action by, the Lord Mayor, the Lord Mayor is enabled to take such action as they consider appropriate.

5 Full Council Meetings

5.1 Meetings of Full Council are business meetings, where the Full Council transacts its essential business. Whilst there are three 'types' of Full Council meeting, this Constitution will list "Budget Council" as a fourth meeting type due to the different Procedure Rules to be followed:

a) The Annual Meeting;
b) The Budget Council;
c) Ordinary Meetings;
d) Extraordinary Meetings.

6 Rules of Procedure and Debate

6.1 These Council Procedure Rules will apply to all meetings of the Full Council unless expressly stated otherwise. All time limits for speeches are subject to any required reasonable adjustments, which shall be determined by the Lord Mayor upon request.

7 Notice of and Summons to Meetings

7.1 The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Appendix 7 of this Constitution.

7.2 At least five working days before a meeting, the Head of Paid Service will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8 Quorum

8.1 The quorum for all meetings of the Full Council is one half of the whole number of Members of the Council.

8.2 If at any time during the meeting of the Full Council, the Lord Mayor declares there is not a quorum present, the meeting stands adjourned. The consideration of any business not transacted will be deferred to a time fixed by the Lord Mayor at the time the meeting is adjourned, or if the Lord Mayor does not fix a time, to the next ordinary meeting of the Full Council.

9 Duration of Meetings

9.1 All Ordinary Meetings, Budget Council and Extraordinary Meetings will finish no later than 3 hours after the start time of the meeting, unless extended by agreement of the Council. The 3 hours will not include any periods of adjournment and/or breaks taken by the Lord Mayor. For clarity, this rule does not apply to Annual Council meetings.

9.2 The Lord Mayor will remind Council if 2 hours and 50 minutes have elapsed (“the guillotine warning”).

9.3 A motion to extend the meeting which has been duly proposed and seconded, before the allocated time has elapsed shall be put to the vote without debate, and if approved by Council the meeting shall continue for no more than 30 additional minutes.

9.4 Once the guillotine warning is reached, all outstanding items of business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

10 Public Participation

10.1 The Public Participation Protocol is set out at Appendix 8 of this Constitution.

10.2 The time spent on this item shall not, except at the discretion of the Lord Mayor, exceed 30 minutes.

10.3 The right to public participation applies to all meetings of Full Council except the Annual Meeting.

10.4 Any member of the public shall be entitled to make a statement to the Council or to question the Council's Leader, or any Executive Member, for up to 3 minutes.

10.5 In order to exercise this right prior notice must be given to the Head of Democratic Governance before 5:00 pm 2 working days before the meeting.

10.6 At an Ordinary Meeting any statement or question(s) from a member of the public may only be on any matter for which the council has a direct responsibility or which affect the city.

10.7 In the case of the Budget Council meeting, any public participants must address business on the agenda in so far as it may relate to the setting of the budget for the coming financial year, or any other item included on the agenda of the Budget Council meeting. In the case of an extraordinary meeting public participants must only address the business on the agenda.

10.8 No person may register to make a statement or ask a question at a meeting before the publication of the Agenda for that meeting, and no person may register to make more than one statement or ask more than one question at any meeting.

10.9 In making a statement or asking a question, a member of the public is entitled to express views, positive or negative, about the performance of the Council but must not:

a) Say anything which is defamatory or discriminatory;
b) Make any personal attack on any Officer and/or Member; or
c) Disclose confidential or exempt information including personal information.

10.10 Any questions shall be put and answered without discussion, either by a direct answer or, on questions which could not reasonably be dealt with at the meeting, by a written answer which will be passed on to Members to answer within ten working days.

10.11 The Lord Mayor shall determine the order of Public Participants for each meeting, following the closure of registrations for Public Particicpation. In the event that the Public Participation item at any given meeting is oversubscribed, the Lord Mayor shall have absolute discretion as to which ten Public Participants shall be permitted to make a statement or ask a question. Those persons who are consequently unable to participate shall be entitled to submit their comments or question(s) in writing, and these will be circulated to the Council after the meeting.

11 Election and Term of the Leader of the Council and Members of the Executive

11.1 The Leader of the Council will be elected by Council and will hold office until the next whole-Council elections unless they resign, are removed as Leader of their Group, or are removed under the provisions of this Constitution, by resolution of Council in the circumstances below.

11.2 Members of the Executive are appointed directly by the Leader of the Council and therefore their position as members of the Executive falls if the Leader is removed from Office by Council.

11.3 If Council resolves to remove the Leader of the Council, and in turn the members of the Executive, it shall elect a new Leader of the Council at the same Full Council meeting as its next item of business. If Council is, for any reason, unable to elect a new Leader of the Council, the Lord Mayor shall convene an Extraordinary Meeting of the Council for the purpose of electing a new Leader as soon as is practicable. In the interim, the Head of Paid Service shall be empowered to utilise their urgency powers as required.

11.4 If whole-Council elections give rise to a likely change in leadership, the Leader-elect shall be empowered to act as Leader pending the decision of Annual Council; if whole-Council elections do not give rise to a likely change in leadership, the existing Leader or, in the event of

their non-return, any successor appointed by their Group, shall be empowered to act as Leader pending the decision of Annual Council. In the event that, in the opinion of the Head of Paid Service, whole-Council elections result in no clear Leader, the Head of Paid Service shall be empowered to utilise their urgency powers as required until the Annual Council meeting.

12 Removing the Leader of the Council

Notice of Motion to remove the Leader of the Council

12.1 Notice of motion to remove the Leader of the Council shall be:

a) Given in writing; and
b) Signed by a proposer and a seconder who are both City of York Councillors; and
c) Received by the Head of Paid Service; and
d) State why the signatories consider that the Leader of the Council should be removed

12.2 If the Head of Paid Service receives the notice of motion less than 15 working days but not less than 6 clear working days, before the next scheduled Full Council meeting, the motion will be considered at that Council meeting. If notice is received less than 6 clear working days before the next scheduled Full Council meeting, an Extraordinary Meeting of Full Council will be convened to consider the motion.

12.3 If the notice of motion is received more than 15 clear working days before the next scheduled Full Council meeting, the Head of Paid Service shall within 5 working days of receipt, summon an Extraordinary Meeting of Council for the purposes of considering the motion. Unless required by law, no other business shall be conducted at that meeting, other than election of a new Leader of the Council, should the motion succeed. The Extraordinary meeting shall take place within 10 working days of the summons.

Duties of a newly Elected Leader of the Council

12.4 A new Leader of the Council elected under these provisions shall, within 5 working days of their election:

a) appoint a Deputy Leader;
b) ensure that areas of responsibility are allocated by the Executive to each member of the Executive; and

c) inform the Head of Paid Service of the names of the Deputy Leader and the areas of responsibility of Members of the Executive.

13 Budget Amendments

13.1 From time to time it may be considered necessary or desirable to amend the budget agreed at the Budget Council by way of a Budget Amendment. In the event of such an amendment, a report shall be prepared and submitted to an Ordinary Council meeting or an Extraordinary Council meeting by the Chief Finance Officer, setting out the details of the proposed Budget Amendment.

13.2 Once submitted to Council, the proposed Budget Amendment will be subject to amendment in accordance with the rules set out in Procedure Rule B12 below and shall be debated in accordance with the rules on debates for motions, set out in Procedure Rules B13 to B21 below, save that all votes on the budget amendment shall be carried out as named votes.

Procedure rules for Annual Meeting of the Council

A1 Annual Meeting of the Council.

1 The date and time of the Annual Meeting will be determined by the Head of Paid Service following consultation with the Lord Mayor Elect and the Leader of the Executive and Political Group Leaders.

2 In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April, or May.

A2 Agenda for the Annual Meeting

1 At the Annual Meeting of the Council, the order of business shall be as follows:

a) apologies for absence
b) declarations of interest;
c) to:
   i) elect the Lord Mayor for the ensuing municipal year;

ii) appoint a Deputy Lord Mayor for the ensuing municipal year; and
iii) appoint a Sheriff for the ensuing municipal year;

d) at the first Annual Meeting following local elections to appoint a Member as the Executive Leader;
e) to approve the number and size of the Council Committees, including any consequent changes to the Constitution;
f) to approve the allocation of places of the Council Committees in accordance with the political balance rules, to receive and note Group nominations for those places, and to elect Members to any spare places (where applicable);
g) to approve any new terms of reference for those committees;
h) to approve the allocation of Chairs of the Council's Committees for the ensuing municipal year;
i) to approve the allocation of places of Council appointments for representatives on outside bodies for the ensuing municipal year, to receive and note Group nominations for those places, and to receive and note nominations for places where the allocation is a function of the Executive or is delegated to another person or body under the Council's Constitution;
j) to agree a schedule for the allocation of motions for Ordinary Meetings during the forthcoming Municipal year; and
k) to consider any business brought before the Council by the Lord Mayor on grounds of urgency in accordance with Section 100B(4)(b) and paragraph 4 (5) of schedule 12 of the Local Government Act 1972.

A3 Rules for the conduct of the meeting

1 Unless otherwise directed by the Lord Mayor, the following rules for Ordinary Meetings of Council apply to Annual Council:

a) Points of order;
b) Personal explanation;
c) Voting;
d) Minutes;
e) Exclusion of the public;
f) Misconduct by Members;
g) Disturbance by the public; and
h) Filming and use of social media during meetings.

A4 Voting on Appointments

1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

2 In the event of a tie, the Lord Mayor would exercise a casting vote, unless they have ceased to be a Councillor.

Procedure rules for Ordinary Meetings of the Council

B1 Ordinary Meetings

1 The Council will hold Ordinary Meetings for the transaction of general business. The arrangements for these meetings, including the venue and time of such meetings, shall be determined by the Head of Paid Service, following consultation with the Leaders of Political Groups.

2 Ordinary Meetings of the Council will be held in an accessible venue. They will commence at 6.30 pm, unless suitable alternative arrangements have been made, in which case such arrangements will be notified to all Members ten clear days before the meeting.

B2 Duration of Meetings

1 All Ordinary Meetings will finish no later than 3 hours after the start time of the meeting, unless extended by agreement of the Council. The 3 hours will not include any periods of adjournment and/or breaks taken by the Lord Mayor.

2 The Lord Mayor will issue the guillotine warning to remind Council if 2 hours and 50 minutes has lapsed.

3 A motion without notice to extend the duration of the meeting, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.

4 Once the guillotine warning is reached, all outstanding items of business will be deemed to have been proposed and seconded and

will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

B3 Agenda for Ordinary Meetings

1 The order of business at every Ordinary Meeting of the Council shall include the following items:

a) to choose a person to preside if the Lord Mayor and Deputy Lord Mayor are absent;
b) to receive apologies for absence;
c) Public Participation;
d) declarations of interest;
e) to approve as a correct record and sign the minutes of the last meeting or meetings of the Council;
f) Lord Mayor's Business;
g) to receive without discussion petitions which Members wish to present to Full Council;
h) to receive and consider a written report from the Leader on the work of the Executive, and to ask questions in respect of any matter;
i) to debate such recommendations requiring Full Council approval as may have been made by the Executive;
j) alternately to receive and consider a written report from either the Chair of Corporate Scrutiny Committee, or from the Audit and Governance Committee, including such recommendations for approval as may have been made by that Committee under Rule B8;
k) to receive and consider and report on recommendations of other Scrutiny Bodies;
l) to receive and consider recommendations of Committees (other than Scrutiny Bodies) under Rule B8;
m) to consider any other business reports from Officers or the Executive set out in the notice convening the meeting;
n) to consider any business, brought before Full Council by the Lord Mayor on the grounds of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972; and
o) to consider motions on notice and urgent motions.

2 The order of business may be determined in advance by the Head of Paid Service; or may be varied at the Lord Mayor's discretion; or by resolution passed on a motion duly moved, seconded, and decided

without discussion.

B4 Public Participation

1 The Public Participation Protocol is contained in Appendix 8 of this Constitution, and the rules are set out at section 10 of the Introduction above.

B5 Lord Mayor's Business

1 The time for the presentation of the report of Lord Mayor's Business shall be no longer than five minutes.

B6 Petitions presented by Members

1 A Member may submit a petition for inclusion on the Full Council agenda by giving notice of the petition to the Head of Democratic Governance no later than midday on the eighth working day before the day of the Full Council meeting at which it is to be received. Members will be permitted to speak for up to one minute to present a petition.

2 Petitions will be formally received without discussion and will stand referred to the appropriate decision maker, and the Member submitting the petition will be informed of any meeting considering the petition.

B7 Report of the Leader and Executive

1 The Leader will present a written report on the work of the Executive. In the absence of the Leader, the Deputy Leader will present the report. In the absence of both the Leader and Deputy Leader, an Executive Member will present the report. The maximum time limits for this item are as follows:

a) The presentation of the Leader's report will not exceed 3 minutes; and

b) Leaders of Opposition groups on the Council will have up to 3 minutes each to respond;

B8 Questions and comments on the Leader and Executive's report

1 A maximum of 35 minutes will be permitted for questions and comments on the Leader and Executive's report and/or the work of the Executive.

2 A Member of the Council may ask any question or make any comments, together with one supplementary question or comment directly related to the work of the Executive.

3 A maximum of one other Member of the Council may ask one further supplementary question or make one supplementary comment. All supplementary questions or comments must arise from the response of the Leader or Executive Member.

3 The Leader or relevant Executive Member may respond directly to any question asked or comment made or may agree to submit a written answer to be circulated to all Members of the Council within five working days.

B9 Committees of Council

1 The Chair of a Committee will present any recommendations of that Committee requiring confirmation to Full Council and move that they be received and approved. In the absence of the Chair, the Vice Chair may move the recommendation, and only in the absence of both the Chair and Vice Chair may another Member of the Committee move the recommendation.

a) When the recommendations of a Committee requiring confirmation have been presented to Full Council and duly moved and seconded, they will be open to debate;
b) Any Member may without notice move references back of any item requiring confirmation by Full Council.

2 The Chair of the Committee has the final right of reply to any amendment or motion moved under this Rule.

B10 Motions on Notice

Scope

1 Motions must be about matters for which the council has a responsibility or which affect the City. For functions which can be only carried out by the Executive, Full Council cannot take decisions but can recommend a course of action for the Executive to consider.

2 Notice of every motion to be considered by Full Council, must be given in writing to the Head of Democratic Governance no later than midday on the eighth working day before the day of the Full Council meeting at which it is to be considered. This Rule does not apply to motions which may be moved without notice under Rule B11 or to recommendations brought before the Full Council by the Executive or a Committee.

3 No Council meeting will receive more than 3 Motions on notice at any single meeting.

4 Motions may only be submitted in accordance with the schedule for allocation of motions approved at Annual Council.

5 Motions will be considered in the order determined by the Lord Mayor based on an appropriate order for the effective conduct of business.

6 If notice is given of any original motion that, in the opinion of the Head of Paid Service (acting in the capacity as proper officer) is out of order, illegal, irregular or improper, the Head of Paid Service shall immediately submit such notice to the Lord Mayor, and it shall not be accepted or placed on the agenda without the Lord Mayor's sanction. In the event of non-acceptance, the Head of Paid Service shall inform the Member who submitted the notice.

7 A notice of motion would be deemed out of order if it required the Council to do something which it patently cannot.

8 A notice of motion would be deemed illegal if it sought action that was ultra vires.

9 A notice of motion would be deemed irregular or improper if for example it was offensive or defamatory.

10 In all of the above circumstances or in other such circumstance whereby a notice of motion is rejected, the Head of Paid Service will retain a formal record of the rejected notice.

Motion to rescind a previous decision

11 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council.

Motion similar to one previously rejected

12 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of the Members of Council. Once the motion or amendment is dealt with, no Member can propose a similar motion or amendment for six months.

B11 Motions without Notice

1 All motions and amendments not requiring prior notice must, if the Lord Mayor so requests, be put in writing and handed to the Lord Mayor, before they are discussed or put to the meeting.

2 The following motions may be moved without notice:

a) to appoint a Chair of the meeting at which the motion is moved;
b) in relation to the accuracy of the minutes;
c) to change the order of business in the agenda;
d) to refer something to an appropriate body or individual;
e) to appoint a committee or Member arising from an item on the summons for the meeting;
f) to receive reports or adopt recommendations of the Executive, committees or Officers and any resolutions following from them;
g) that leave be given to withdraw a motion;
h) to proceed to the next business (such a motion may only be moved by a Member who has not already participated in the debate);
i) to adjourn a meeting (such a motion may only be moved by a Member who has not already participated in the debate);

j) to exclude the public and press in accordance with the Access to Information Procedure Rules;
k) to not hear further a Member or to exclude them from the meeting;
l) to give the consent of Full Council where its consent is required by this Constitution;
m) to extend the duration of the meeting by 30 minutes, such a motion may only be moved once during any meeting, and must be moved and seconded before the Lord Mayor delivers the guillotine warning, and will have the effect of suspending the relevant standing order;
n) to extend any other time limit set out in these Rules; and
o) to suspend any other particular Council Procedure Rule, except Rule B21(3).

B12 Notice of amendments

1 Written notice of every amendment must be delivered to the Head of Democratic Governance no later than midday on the third working day before the day of Council meeting at which it is to be considered and must also contain an indication of the financial and legal impact of the amendment. Wherever possible the amendment will be circulated to all Members in advance of the Council meeting.

2 An amendment must be relevant to the motion and must propose leaving out words and/or inserting or adding others, and must not negate the effect of the original motion or otherwise fail to adhere to the rules governing the validity of motions.

3 In the event that an amendment fails to adhere to the above, the Head of Paid Service shall immediately inform the Lord Mayor and the Member who submitted the amendment, and the amendment shall not be accepted.

B13 Rules of Debate

General

1 The decision of the Lord Mayor, in consultation with the Monitoring Officer, is final on all matters of order or personal explanation.

2 If two or more Members indicate that they wish to speak, the Lord Mayor will call one and the other(s) will wait until called by the Lord Mayor.

3 Members may speak on the matter under discussion in the following circumstances:

a) to move an amendment;
b) to speak once on any amendment moved by another Member;
c) to speak once on the substantive motion;
d) as the mover of the substantive motion to exercise their right to reply at the end of the debate on the motion or any amendment before it is put to the vote;
e) as the seconder of a motion or amendment, having reserved (when seconding the motion or amendment) the right to speak until later in the debate;
f) to make a Point of Order (any point of order should, wherever possible, refer to the relevant Standing Order or statutory provision) or Personal Explanation.

B14 Content and Time Limits

1 Speeches must be directed to the question under discussion or to a Personal Explanation or Point of Order.

2 When moving a motion, a Member may speak for a maximum of 5 minutes.

3 No other speeches may take more than 3 minutes without the consent of the Council (which will be determined by a vote on a motion without discussion) unless otherwise provided in this Constitution.

B15 Withdrawal and Alteration of motions

1 A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council (indicated without discussion). No Member may speak after the mover has asked permission for its withdrawal, unless permission to withdraw the motion or amendment is refused.

2 With the consent of the Council, indicated without discussion, the mover may make minor alterations to a motion or amendment, such alteration to be provided in writing by the mover to ensure clarity, if

requested by the Lord Mayor. Only alterations which could be made as an amendment may be made.

B16 Order of debate

1 No speeches may be made after the mover has moved a proposal and explained the purpose of it, and until the motion has been seconded.

2 When seconding a motion or amendment, a Member may reserve their speech until later in the debate.

3 When a motion is under debate no other motion may be moved except:

a) to amend the motion;
b) to proceed to the next business (such a motion may only be moved by a Member who has not already participated in the debate);
c) that the question now be put (such a motion may only be moved by a Member who has not already participated in the debate);
d) that a Member be no longer heard;
e) that a Member leave the meeting;
f) to exclude the public and press from the meeting under the terms of the Local Government Act 1972;
g) to extend the time of the meeting or the time for the agenda item.

4 No Member may move more than one amendment to any motion or substantive question before Full Council unless the further amendment comprises new material which is not related to the subject of the previous amendment.

5 Only one amendment may be moved and discussed at a time unless the Lord Mayor rules otherwise, and no further amendment is to be moved until the Council has reached a decision on the amendment under discussion.

6 When the Council has reached a decision on a motion or amendment, the Lord Mayor will refuse to put at the same meeting any subsequent motion or amendment which, if carried, would substantially contradict, override, or repeat the former one.

7 If an amendment is lost, other amendments may be moved on the original motion.

8 If an amendment is carried, the amended motion replaces the original motion on which any further amendments are moved.

B17 Right of reply

1 The mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote. If an amendment has been moved, the mover of the original motion also has a right of reply at the close of the debate on the amendment but may not otherwise speak on the amendment. The mover of the amendment has no right of reply to the debate on their amendment.

B18 Closure motions

1 A Member who has not spoken on the substantive issue may move without comment at the end of another Member's speech one of the following:
   a) "That the Council proceed to the next business"
   b) "That the question be now put" or "Move to the vote"
   c) "That the Council now adjourn"

2 If the motion is seconded, the Lord Mayor may do one of the following:
   a) on a motion to proceed to the next business, unless in the Lord Mayor's opinion the matter has not been sufficiently discussed, they may put to the vote the motion to proceed to the next business. If that vote is carried the Lord Mayor shall give the mover of the original motion the right of reply before putting that motion to the vote;
   b) on a motion that the question be now put, unless in the Lord Mayor's opinion the matter has not been sufficiently discussed, they may put to the vote the motion that the question be now put. If that vote is carried, the Lord Mayor shall give the mover of the original motion the right of reply before putting that motion to the vote;
   c) on a motion to adjourn the meeting, the Lord Mayor may put the adjournment motion to the vote without giving the mover of the original motion their right of reply on that occasion.

B19 Points of Order

1 A member who believes that there is some irregularity in the interpretation of the Constitution or conduct of the meeting may rise on a Point of Order. Such irregularities may include:

a) discussion of a question not before the Council;
b) the use of improper or offensive language;
c) interjection of remarks while a Member is speaking;
d) that a quorum is not present; or
e) breach of any other Procedure Rule or law.

2 When a Member rises on a Point of Order, they must outline at the outset the rule or law which they consider to have been breached. The Member raising the Point of Order must then sit down immediately while the Lord Mayor gives a ruling.

3 A Member against whom a Point of Order is being raised must stop speaking until the Lord Mayor has ruled on the matter.

4 If the Lord Mayor rules that the language used by a Member is improper, it is the duty of the Member to withdraw it.

B20 Personal Explanation

1 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which appears to have been misunderstood or is being misquoted in the present debate. The ruling of the Lord Mayor on the admissibility of a personal explanation will be final.

B21 Voting

1 All matters will be determined by a show of hands, or use of the electronic voting system if available, unless at least three Members of the Council request that a named vote be conducted. In that event, the Monitoring Officer will ensure that the names and votes of the Members present are recorded and included in the Minutes of the meeting.

2 If there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.

3 Any Member is entitled to have their own vote recorded in the Minutes whether or not a full recorded vote is taken.

4 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

B22 Voting on Appointments

1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

2 In the event of a tie, the Lord Mayor would exercise a casting vote.

B23 Minutes

1 The Lord Mayor will sign the minutes of the proceedings at the next suitable Ordinary Meeting of the Council. The Lord Mayor will move that the minutes of the previous meeting be signed as a correct record. The only aspect of the minutes that can be discussed is their accuracy.

B24 Exclusion of Public

1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Appendix 7 of this Constitution or Rule B26 (Disturbance by Public).

2 If any question arises at any meeting of the Council relating to the appointment, dismissal, promotion, conduct, remuneration or conditions of service of any member of the Council's staff no discussion shall take place until the meeting has considered whether or not to exclude the public and press in accordance with the Access to Information Procedure Rules.

B25 Misconduct by Members

1 If any Member at a meeting of the Council disregards the authority of the Lord Mayor or is guilty of obstructive or offensive conduct the

meeting may, on a motion without notice being duly moved, seconded, and carried, resolve that the Member should not be heard and should leave the meeting. Such a motion need not be in writing and is put without discussion. If the motion is carried, the Member must leave the meeting immediately. If the Member refuses to leave the meeting, the Lord Mayor shall adjourn the meeting to allow for the removal of the Member, and may if necessary relocate the meeting to a suitable alternative venue.

B26 Disturbance by Public

1 If a member of the public interrupts the proceedings of any Council meeting, they will be warned by the Lord Mayor. If the disruption continues, the Lord Mayor may order them to leave the meeting. In the event of general disturbance in any part of the Council meeting, the Lord Mayor may order that part to be cleared.

2 In the event of general disturbance which in the opinion of the Lord Mayor makes the orderly conduct of business impossible, the Lord Mayor may suspend the meeting for as long as necessary, or may relocate the meeting to an alternative venue, or may abandon the meeting in which case all remaining business will be considered at a time and date fixed by the Lord Mayor. If they do not fix a date, the remaining business will be considered at the next Ordinary Meeting.

B27 Filming and Use of Social Media during Meetings

1 Filming and use of social media is permitted during meetings in accordance with a protocol approved by the Council so long as there is no disturbance to the conduct of the meeting.

B28 Suspension of Council Procedure Rules

1 All of these Council Rules of Procedure except B21 (3) (the right for an individual Member to have their vote recorded) may be suspended by motion on notice identifying the Procedure Rule which is to be suspended. Such a motion may only be moved without notice if at least 24 Councillors are present in the room at the time. Suspension can only be for the duration of the meeting.

Procedure rules for Budget Council

C1 Budget Council

1 The business to be conducted at Budget Council shall be:

a) to consider any business raised by the Lord Mayor;
b) to hear any public participants in accordance with paragraph 10 above and C3 (1) below;
c) to receive any petitions presented by Members in relation to business associated with setting the Council's budget for the coming financial year;
d) to consider and determine the Executive's recommendations on setting the following budgets;
    i) Revenue Budget (including fees and charges and Housing Revenue Account estimates) for the coming financial year; and
    ii) Capital Programme;
e) to agree a Council Tax resolution for the coming year based on the above agreed budget;
f) to consider and determine the Executive's recommendations in relation to the Treasury Management Statement and Prudential Indicators, as necessary;
g) to consider any other business set out in the notice convening the meeting; and
h) to consider any business, brought before the Council by the Lord Mayor on the grounds of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972.

C2 Duration of Meetings

1 All Budget Meetings will finish no later than 3 hours after the start time of the meeting, unless extended by agreement of the Council. The 3 hours will not include any periods of adjournment and / or breaks taken by the Lord Mayor.

2 The Lord Mayor will remind the Council if 2 hours and 50 minutes has lapsed.

3 A motion to extend the meeting which has been duly proposed and seconded, before the allocated time has elapsed shall be put to the vote without debate.

4 All outstanding items of business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

C3 Public Participation

1 The time spent on this item shall not, except at the discretion of the Lord Mayor, exceed 30 minutes. The Public Participation Protocol is contained in Appendix 8 of this Constitution, and the rules are set out at section 10 of the Introduction above.

C4 Petitions presented by Members

1 The rules of Petitions as detailed at B1 apply to Budget Council, but subject to the following amendment:

- petitions presented by Members must be in relation to business associated with setting the Council's budget.

C5 Content and Time Limits

1 The Leader of the Council and the Leaders of other Groups on the Council may speak when they are proposing a motion or an amendment at Budget Council, in relation to the setting of the budget, but each Leader's speech will not exceed 15 minutes in doing so.

2 No other speeches (including the moving of amendments and the right to reply) may take more than three minutes without the consent of the Council, which will be determined by a vote on a motion without discussion.

3 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

C6 Voting

1 All votes relating to the setting of the annual budget must be named votes and elected Members will be required to vote for, against or abstain.

2 Any votes not relating to the setting of the budget will be determined by a show of hands, or use of the electronic voting system if

available, unless three Members or more of the Council request that a named vote be conducted. In that event, the Monitoring Officer will ensure that the names and votes of the Members present are recorded and included in the Minutes of the meeting. Any Member is entitled to have their own vote recorded in the Minutes whether or not a full recorded vote is taken.

3 If there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.

4 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

C7 Rules for the conduct of the meeting

1 All of the rules relating to Ordinary Meetings shall apply to Budget Council unless otherwise directed by the Lord Mayor, subject to it addressing the business on the agenda. This includes application of the rules to suspend Council Procedure Rules as detailed at B28.

Procedure rules for Extraordinary meetings of the Council

D1 Extraordinary Meetings

1 Schedule 12 of the Local Government Act 1972 allows extraordinary meetings of the Council to be called by the Lord Mayor. In addition, any five Members of the Council may sign and present to the Lord Mayor a requisition calling for an extraordinary meeting. If the Lord Mayor refuses to call a meeting or does not call for one within seven days of being presented with the requisition, then any five Members of the Council may call an extraordinary meeting of the Council.

2 Extraordinary Meetings of the Council will only deal with the business for which the meeting has been called.

D2 Rules for the conduct of the meeting

1 All of the rules relating to Ordinary Meetings shall apply to Extraordinary Meetings unless otherwise directed by the Lord Mayor, subject to it addressing the business on the agenda.

D3 Duration of Meetings

1 All Extraordinary Meetings will finish no later than 3 hours after the start time of the meeting, unless extended by agreement of the Council. The 3 hours will not include any periods of adjournment and/or breaks taken by the Lord Mayor.

2 The Lord Mayor will issue the guillotine warning to remind the Council if 2 hours and 50 minutes has lapsed.

3 A motion without notice to extend the duration of the meeting by a maximum of 30 minutes, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.

4 Once the guillotine warning is reached, any remaining business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

Appendix 4 - Executive Procedure Rules

1 Executive Functions

1.1 Executive functions may be discharged by [as prescribed in Appendix 1 of this Constitution]:

a. the Leader of the Council

b. the Executive as a whole

c. a committee of the Executive

d. an individual member of the Executive

e. an officer

f. joint arrangements; or

g. another local authority.

2 Sub-delegation of Executive functions

2.1 Where the Leader of the Council or a committee of the Executive is responsible for an Executive function, they may delegate further to an executive member, a Ward Committee, joint arrangements or an officer.

2.2 Where Executive functions have been delegated, this does not prevent the discharge of delegated functions by the person or body who delegated it.

3 The Council's Scheme of Delegation and Executive functions *[Appendix 1 of this Constitution]*

3.1 In so far as it relates to executive functions, the Council's scheme of delegation will be determined by the Leader of the Council and may only be amended by the Leader of the Council. It will contain the details required in Article 6 and Appendix 1.

4 Conflicts of Interest

4.1 Where a member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Appendix 14 of this Constitution.

4.2 If every member of the Executive has a conflict of interest this should be dealt with as set out in the Council's Code of Conduct for Members in Appendix 14 of this Constitution.

4.3 If the exercise of an Executive function has been delegated to a committee of the Executive, an Executive Member or an officer, and should a conflict of interest arise, then the function will be exercised in the first instance by the person or body by whom the delegation was made and otherwise as set out in the Council's Code of Conduct for Members in Appendix 14 of this Constitution.

5 Meetings of the Executive

Frequency and Venue

5.1 The Executive will meet at least 12 times per year at times to be agreed by the Leader of the Council. The Executive shall meet at the Council's main offices or another location (or in accordance with Remote Meetings Guidance as set out at Appendix 23 of this Constitution,) and to be agreed by the Leader of the Council.

Public and private meetings of the Executive

5.2 Where the Executive or an Executive Member is taking a decision, they will meet in public (subject to the Access to Information rules at Appendix 7 of this Constitution). All public meetings of the Executive are live streamed regardless as to whether they are physical face to face meetings or a remote meeting.

5.3 The agenda for meetings will be divided as follows:

- Declarations of Interest;
- Exclusion of Press and Public – this section will highlight which extracts of the various reports for each agenda item which are classed as exempt or confidential and this cannot be debated in the public domain. A vote will be required at the commencement of the meeting to exclude the press and public from the meeting in respect the listed agenda item extracts;
- Minutes – these will be managed in accordance with the Protocol on the Production and ~Content of Minutes of Meetings at Appendix 28 of this Constitution;
- Public participation – this will be conducted in accordance with the Public Participation Protocol at Appendix 8 of this Constitution;
- Forward Plan;
- Reports to be debated will then be listed;
- Urgent Business – any other business which the Chair considers urgent under the Local Government Act 1972.

(Note: To be assured of transparency in its decision making, reports for the Executive will be listed the agenda for consideration. Where exempt (or confidential) information is required to assist in the decision making process, this will be highlighted where necessary).

Quorum

5.4 The quorum of the Executive that business will not be transacted unless at least three Members are present.

Substitutes

5.5 The Council may appoint named substitutes for Member bodies as follows:-

- Any Member of the Executive may substitute for another Member of the Executive who is (either individually or as part of a Committee of the Executive) unavailable.
- The Council may appoint a Member of the Executive as the Deputy Leader who will act for the Leader of the Council in their absence or unavailability.

Taking decisions

5.6 Executive decisions which have been delegated to the Executive or an Executive Member will be taken at a meeting convened in accordance with the Access to Information Rules in Appendix 7 of this Constitution.

5.7 Where Executive decisions are delegated to a committee of the Executive or an Executive Member, the rules applying to Executive decisions taken by them shall be the same as those applying to those taken by the Executive as a whole.

Chair

5.8 If the Leader is present they will chair the meeting. In their absence, the Deputy Leader will chair the meeting. If both are

absent, then a person appointed to do so by those present will chair the meeting.

Attendance

5.9 These details are set out in the Access to Information Rules in Appendix 7 of this Constitution.

5.10 If not a member of the Executive, the Leader (or a nominated substitute) of the main political opposition group will be invited to attend the meetings of the Executive, including the consideration of items containing exempt information, and to speak but not to vote.

Agenda

5.11 The agenda for each meeting of the Executive will be constructed as set out in paragraph 5.3 above. Where necessary and following a vote to exclude the press and public, relevant items of the reports will be debated in the confidential section of the meeting. This confidential section will not be live streamed.

5.12 The Minutes will contain the minute extract for any decisions made where the press and public were excluded from the meeting for a particular agenda item.

5.13 The agenda for each meeting of an individual member of the Executive will follow the same format as that for a meeting of the Executive including the same arrangements for items which require the exclusion of the press and public.

6 Publication of Agendas

6.1 Unless otherwise prescribed by this Constitution, all Agendas will be published in accordance with the legislative requirements and the Access to Information Rules at Appendix 7 of this Constitution.

7 Consultation

7.1 All reports to the Executive on proposals relating to the budget and policy framework must contain details of the nature and extent of consultation, and the outcome of that consultation.

7.2 Reports about other matters will set out the details and outcome of consultation as appropriate. The level of consultation required will be appropriate to the nature of the matter under consideration.

8 Items on the Executive agenda

Items from Officers

8.1 All reports presented to the Executive for a decision will be in the name of the relevant Chief Officer and the relevant Portfolio Holder.

8.2 All reports must contain relevant information and professional advice or opinion of appropriate officers including the statutory officers.

Items from the Leader of the Council

8.3 The Leader of the Council may place on the agenda, (following the published procedures contained within this constitution relating to publication, format of reports etc.) of any Executive meeting any matter which they wish, whether or not authority has been delegated to the Executive, a committee of it or any member or officer in respect of that matter.

8.4 The Chief Operating Officer will comply with the Leader's requests in this respect.

Items from Executive Members

8.5 Executive Members may place items on the agenda, with the consent of the Leader of the Council.

Items required by statutory officers

8.6 The Monitoring Officer and/or the Section 151 Officer may include an item for consideration on the agenda of an Executive Meeting and may require the Chief Operating Officer to call such a meeting in pursuance of their statutory duties.

8.7 If there is no meeting of the Executive soon enough to deal with the issue in question, then the person(s) entitled to include an item on the agenda may also require that a meeting be convened at which the matter will be considered.

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Appendix 5 - Scrutiny Procedure Rules

1 Quorum

1.1 The Corporate Scrutiny Committee and all other scrutiny committees will not transact any business unless at least three members are present.

2 The Party Whip

2.1 The party whip is defined as *"any instruction given by or on behalf of a political group to any Councillor who is a member of that group as to how that Councillor shall speak or vote on any matter before the Council and any committee or sub-committee or the application or threat to apply any sanction by the group in respect of that Councillor should they speak or vote in any particular manner."*

2.2 When considering any matter in respect of which a member of a scrutiny committee is subject to a party whip the member must declare the existence of the whip, and the nature of it before the commencement of the committee's deliberations on the matter. The declaration, and the detail of the whipping arrangements, shall be recorded in the minutes of the meeting.

3 Chairs of Scrutiny Committees

3.1 The Council will appoint the Chairs and Vice-Chairs of Scrutiny Committees.

3.2 Chairs and Vice-Chairs of Sub-Committees will be appointed by the Committee establishing them.

3.3 Where the Committee establishes a Sub-committee or Working Group, the Committee will appoint a Chair (and, if necessary, a Vice-Chair).

3.4 Membership of a Sub Committee or working Group will be from Members of the parent Scrutiny committee.

Proportionality

3.5 All Scrutiny committees and Sub-Committees will be established in accordance with the political proportionality principles. However any informal Working Groups will not be the subject of proportionality.

3.6 Government Statutory Scrutiny Guidance (2019) promotes the four core principles for effective scrutiny originally proposed by The Centre for Governance and Scrutiny namely:

a) Provide constructive 'critical friend' challenge;

b) Amplify the voices and concerns of the public;

c) Be led by independent people who take responsibility for their role;

d) Drive improvement in public services.

3.7 Each Committee within the existing structure will meet in public on a staggered, quarterly basis as a minimum. These quarterly meetings will principally be focused on the 'overview' function, e.g. receiving performance & monitor type reports and identifying areas for further work.

3.8 Informal Forum meetings will take place quarterly between public Committee meetings. The initial Forum meeting of each municipal year will be used as an opportunity for the Committee to meet with the relevant Executive Member to discuss the development of a work programme for the forthcoming year. Thereafter Forum meetings will be utilised for horizon-scanning and scoping work, as task groups to undertake work which informs future agenda topics or for other such uses which inform and contribute to the Committees' work programme.

3.9 There will be two additional slots every month for potential public Scrutiny meetings. One will be dedicated for a 'commissioned' policy development / pre-decision scrutiny and the second will be used for Corporate Scrutiny Committee Call-ins or a second 'commissioned' meeting. Call-in will continue to function in the usual way and must be requested using the call-in pro forma. The additional public Scrutiny meetings will be commissioned through Corporate Scrutiny Committee following discussion with Executive Members, Corporate Management Team (CMT) and Scrutiny Chairs.

3.10 A Scrutiny Chairs' and Vice Chairs Forum will meet bi-monthly to discuss work-plans after these have been agreed by the relevant Committee members, in conjunction with the Chair and Vice Chair of the Corporate Scrutiny Committee.

3.11 The Forums will be a place in which the members of the Corporate Management Team and Executive Members can speak about their plans longer term and identify potential areas for policy development and pre-decision Scrutiny. Forums will discuss and manage their Quarterly Committee's work plans and make recommendations for policy development and pre-decision input to Corporate Scrutiny Committee.

3.12 Scrutiny Chairs, in liaison with CMT and Executive will identify the most appropriate timescales to recommend pre-decision and policy development meetings on particular topics and Corporate Scrutiny Committee will then 'commission' a Scrutiny Committee to undertake a discreet piece of work which will either come back to Corporate Scrutiny Committee or make a recommendation to a meeting of the Executive or Executive Member Decision Session.

3.13 Executive Members, CMT and appropriate Officers will attend Forums and Committee meetings as required.

3.14 Reports will be published in advance of meetings wherever possible. Where this is not possible (e.g. due to short notice) this

will be with the agreement of the Chair / Vice Chair.

3.15 Reports and Information will be provided to Members in advance of Forum meetings wherever possible but this cannot be guaranteed.

4 Agreeing New Scrutiny Topics

4.1 In order for a scrutiny review to be carried out Councillors must complete a topic registration form outlining the reasons behind the need for the review. Councillors can do this in writing or online through their 'Work to Do' area on the Council intranet.

4.2 New topics are added to the scrutiny committees work plan for consideration at a Scrutiny Chairs Forum, which is coordinated and support by Corporate Scrutiny Committee.

4.3 For each topic the Scrutiny Chair's and Vice Chair's Forum may decide, with the coordination and support of Corporate Scrutiny Committee, to:

a) defer a decision until such time as further information is available which may influence that decision.

b) decide not to carry out a review of the registered topic. In which case, the reasons will be recorded in the minutes of the meeting to inform any decisions about topics registered in the future.

c) decide to proceed with a review. The new review will be added to the committee's work plan following consultation with the Chair and Vice Chair of the Corporate Scrutiny Committee.

5 Carrying Out a Scrutiny Review

5.1 Common Practice

5.2 All scrutiny committees can:

a) carry out a review or appoint a task group from within their membership, to carry out the review on their behalf. Alternatively a task group can be formed to examine specific aspects of a review and report back its findings to the Committee.

b) appoint non-voting co-optees for the duration of a review. Such co-optees will be chosen for their relevant professional knowledge, expertise and/or where their involvement will ensure that the views of local residents or interested parties are represented. All co-opting arrangements shall be subject to periodic review by the Corporate Scrutiny Committee.

c) seek the advice of an Expert Advisor (one who has previously been identified to support the work of the Scrutiny Committee based on their relevant academic knowledge), and may pay them expenses for doing so.

d) hold enquiries, go on site visits, conduct public surveys, hold public meetings, commission research and do all other things that they reasonably consider necessary to inform their deliberations, subject to budget availability.

e) ask any external consultants / witnesses to attend to address them on any matter under consideration and may pay them a reasonable fee and expenses for doing so - see Witness Charter in Annex 4.

f) require any Councillor (including Members of the Executive) or Officers to attend a meeting to explain about matters within their remit. It is the duty of those persons to attend if so required and they may be

required to answer questions relating to:

- any particular decisions or series of decisions;
- the extent to which the actions taken implement Council policy;
- their performance.

Note: *All attendees (Councillor or officer) must be informed of why they have been asked to attend, the date and time of the scheduled meeting, what they need to prepare i.e. produce a report or provide statistical information, and be given enough time in which to do so. All such Councillors and Officers will be treated fairly and considerately in accordance with the Witness Charter. Where, in exceptional circumstance, an attendee is unable to attend on the required date then the Scrutiny Officer in consultation with the Chair shall arrange an alternative date for attendance.*

6 Councillors Rights to Access Information

6.1 In addition to their rights as Councillors, members of scrutiny committees have additional right to documents and to notice of meetings if they can claim a 'need to know' basis in law – see the Access to Information Procedure Rules at Appendix 7 of this Constitution.

7 Co-opted Voting Members

7.1 The People Scrutiny Committee shall include in its membership such co-opted voting Members as are required by statute for scrutinising educational matters. These will include the following representatives:

a) one Church of England diocese representative

b) one Roman Catholic diocese representative

c) two parent governor representatives

7.2 These statutory co-optees will be invited to attend meetings of the People Scrutiny Committee whenever educational issues are being discussed and scrutinised. They will not be expected to attend meetings when the published agenda does not contain education related matters.

7.3 All co-opted voting Members are required to abide by the standards set out in the Council's Code of Conduct for elected Councillors, and appointments do not take effect until such an undertaking has been given.

8 Cycle of Meetings

8.1 On commencement of a scrutiny review, the committee will consider a scoping report. If required, the Committee may agree some additional formal public meeting dates in order to progress the ongoing review and these will be added to the Committee's workplan.

8.2 Councillors can also hold a number of Forum meetings to ensure the review remains on focus. These meetings are usually supported by a briefing note to update Members on the review's progress.

9 Producing Scrutiny Reports

9.1 A scrutiny committee may produce an interim report to update Corporate Scrutiny Committee during an ongoing review. Once the review has been completed and the recommendations have been formed, scrutiny committees must prepare a final report and submit it for consideration to the Executive and/or Council. If requested, it may also be presented to Corporate Scrutiny Committee for their consideration.

9.2 Where a scrutiny committee cannot agree on one single final report to Corporate Scrutiny Committee then the report with the

support of the greatest number of Members of the scrutiny body shall be the report of that.

9.3 The final report shall be added to the Executive Forward Plan for consideration by the Executive within one month of it being submitted (or at the earliest available meeting if there is not a meeting scheduled within one month).

10 Pre-Decision Scrutiny

10.1 The Council has established a Pre-Decision Scrutiny Protocol which is Annex 1 to these Rules.

11 Post-Decision Call-in

11.1 When a decision is made either by an Executive Member or the Executive it is published in a decision list online and circulated to all Councillors. In the case of an Officer key decision this is published online and all Councillors receive electronic notification.

11.2 Within two days of the decision being made, the decision lists and electronic notifications bear the date on which they are published and will specify that the decision will come into force, and may then be implemented on the expiry of 5 working days after the publication of the decision, unless it is called-in under these procedures.

11.3 Not fewer than 3 named Councillors must lodge a written notice using the Call-In Request Form at Annex 2 of these rules of their wish to call-in a decision with Democratic Services not later than 4pm five working days after the decision has been taken.

11.4 The Monitoring Officer will then consider the completed Call-In Request form and may take one of the following options:

a) Accept the Request for a Call-In as valid in which case arrangements will be made for a meeting of the Corporate Scrutiny Committee using the next available published Call-In meeting slot;
or
b) Reject the Call-In for one or more of the following reasons:
    i. The request is relating to a decision of a non-executive function;
    ii. The decision was a non-key decision taken by an Officer under delegated powers;
    iii. The decision was an urgent decision taken under the urgent decision procedures;
    iv. The issue has been the subject of a call-in within the last 6 months of the date of the decision being made;
    v. The issue was the subject of pre-decision scrutiny in accordance with the Pre-decision scrutiny Protocol
    vi. The decision relates to the formulation of a policy or budget matter that requires Full Council approval;
    vii. The decision was, or is a decision, requiring a decision of Full Council;
    viii. The request is vexatious in that there are no, or insufficiently detailed, reasonable grounds which could justify the call-in request being accepted;
    ix. The request for a call-in was received after the expiry of the five working days of the decision being made.

11.5 In the event that the Monitoring Officer is absent when a call-in request is received, the matter shall be referred to the Chief Operating Officer for consideration.

11.6 If, having considered the decision, the Corporate Scrutiny Committee is still concerned about it, then it may exercise the powers set out in the Local Government Act 2000 which will usually be by a referral to the Executive. If referred to the decision maker they shall then reconsider the decision, amending the decision or not, before adopting a final decision.

11.7 If, following an objection to the decision, the Corporate Scrutiny Committee does not meet in the period set out above, or does meet but does not refer the matter back to the decision-making person or body, the decision shall take effect on the date of the Corporate Scrutiny Committee meeting.

11.8 The call-in procedure shall not apply where the decision being taken is urgent. A decision will be considered urgent if any delay likely to be caused by the call-in process would, for example, seriously prejudice the Council's or the public's interests. The record of the decision, and notice by which it is made public shall state whether in the opinion of the decision-making person or body, the decision is an urgent one together with the reason for urgency, and therefore not subject to call-in.

11.9 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to Corporate Scrutiny Committee with proposals for review if necessary. This will be incorporated as part of the six monthly and annual review of the constitution.

11.10 There may be requirements for changes and/or additions to these procedures in the future. Any such changes are subject to the approval of Council for inclusion in or amendment of the constitution.

Procedure to be followed by the Corporate Scrutiny Committee when considering a Call-In request

12 Procedure to be Adopted When a Decision is Called-In

12.1 Democratic Services will check that the call-in notice [completed Call-In Request Form] is signed by at least three Members. The call-in notice must identify which principle(s) and give reasons. This requirement will be checked by the Monitoring Officer or the Chief Operating Officer.

12.2 If the Call-In Request has been accepted by the Monitoring Officer, Democratic Services will arrange a meeting of the Corporate Scrutiny Committee for the next published / scheduled call-in meeting in consultation with the Chair. This meeting will be scheduled within 14 working days of the Call-In request being received if an appropriate date has not already been diarised.

12.3 Democratic Services will acknowledge the call-in request and notify all Executive Members.

12.4 Democratic Services will invite all of the signatories to the call-in request, the relevant Executive Member(s) and the relevant Chief Officer to attend the call-in meeting. All of the call-in signatories and the relevant Executive Member or their nominee would be expected to attend. The relevant Chief Officer may nominate an officer to attend in their place. If none of the call-in signatories attend, the Committee will decide whether to proceed. If the Committee decides not to proceed, then the call-in will be determined on the basis that the Committee does not have any concerns it wishes to refer to the Executive, and the Executive will not be required to reconsider the decision.

12.5 Democratic Services will send copies of the completed Call-in Request Form, decision notice (or minute) of Executive and any associated reports to Members of the Committee with the agenda for the meeting, or to follow if the agenda has already been issued.

12.6 Democratic Services will liaise with the Chair and Vice Chair of Corporate Scrutiny Committee over any other appropriate

arrangements for the call-in, e.g. additional information, witnesses etc. If the Chair or Vice Chair(s) have signed the call-in notice, Democratic Services will liaise with another Member of the Committee nominated by the Chair or Vice Chair.

12.7 The aim of the Committee meeting when the call-in is considered should be inquisitorial not adversarial. The Meeting Procedure for a Call-in of an Executive decision will be adopted which is detailed within these Rules.

13 The role of the Chair

13.1 This Meeting Procedure for a call in shall be implemented at the meeting by the Chair and any deviation from this procedure will be at the discretion of the Chair. The Chair will advise attendees at a Call-in meeting of any reasonable intention to deviate from the procedure at the start of the meeting where possible.

13.2 In the absence of the Chair, the meeting will be led by the Vice-Chair. In the absence of both, the Monitoring Officer or their representative shall facilitate a vote of Members so that a Chair is appointed. The appointed Member will chair for the duration of the meeting or until the Chair or Vice-Chair is present.

13.3 Where the Chair is in attendance, the Vice-Chair shall be treated in the same way as every other Member of the Committee.

14 Role of signatories to the Call-in notice and the Executive Member

14.1 Signatories to the completed Call-in Request Form will be invited to provide evidence to the Corporate Scrutiny Committee, in terms of a presentation of their reasons supporting the call-in and by answering questions put to them

by the Committee. The Executive Member will be invited to respond to the call in and provide reasoning and evidence supporting the subject decision.

14.2 There is no provision for either the signatories to the Call-in or the Executive Member to question each other, either directly or through the Chair.

15 Role of Officers in attendance

15.1 Supporting Officers will be present from Democratic Services (providing advice to the Chair and Committee as required and recording decisions). The Monitoring Officer or their representative will also be present and may undertake any of these duties in addition to providing any legal advice if required.

15.2 Chief Officers and or Heads of Service may provide assistance to the Executive Member and contribute to the meeting as required by advising the Committee on the strategic, financial, legal, technical or operational basis of decisions taken or considerations given relevant to the Call-in, or by responding to technical or procedural questions referred by the Executive Member to them. Officers must not be drawn into offering opinion or answering questions of political judgment.

16 Procedure at the meeting

16.1 Public Participation as per the Public Participation Protocol at Appendix 8 of this constitution will be included as part of the agenda for a meeting of Corporate Scrutiny Committee solely focussed on considering a Call-In Request. Any contributions from members of the public are to be directed towards the topic of the call-in only.

16.2 The signatories will nominate a lead spokesperson and all three signatories to the Call-in notice will be invited to address

the Committee on the Call-in, and will be required to focus on justifying why they considered the core principles set out in the Call In Request Form have been breached as raised in the signed Call-in Notice lodged with the Monitoring Officer. Signatories shall limit their contributions to the reasons for the call-in. The time allowed for the signatories to state their case is limited to 10 minutes in total.

16.3 After all signatories have made their contributions, members of the Committee will be invited to put questions to the signatories and receive responses to those questions. As a guide it is anticipated that this should not exceed 20 minutes in total.

16.4 The Executive Member will then be invited to address the Committee on the Call-in by the Chair and will be required to respond to the assertions relating to the failure to meet the principles as set out in the Call-in notice. The time allowed for the Executive Member to respond to the call-in is limited to 10 minutes.

16.5 After the Executive Member has made their contribution, Members of the Committee will be invited to put questions to the Executive Member

16.6 By way of summing up, the nominated lead signatory shall be invited to make a further statement to the Committee, lasting no more than five minutes, summarising the signatories' case for the call in.

16.7 By way of summing up, the Executive Member shall be invited to make a further statement to the Committee, lasting no more than five minutes, responding to the Call-in.

16.8 There shall be no further contributions from signatories to the Call-in notice, Executive Member or Officers attending in support of the Executive Member.

17 Contributions by Members of the Committee

17.1 The Chair, following any observations they may have:

- in direct response to, and or
- to acknowledge any concessions made by the Executive Member and lead signatories during the meeting which have directly arisen during the debate in the call in meeting,

shall invite Members of the Committee to make any contributions they may wish prior to the vote being taken. Each Member of the Committee shall be permitted to make one speech lasting no more than five minutes.

18 Voting on whether core principles have or have not been breached

18.1 The Chair shall then ask each Member in turn to state whether they consider the core principles identified in the Call-in Request were, or, were not, breached giving reasons if they so wish. There is no requirement to seek a recommendation which is seconded to enable a vote to be taken.

18.2 The Chair may, at their discretion, state whether they believe the core principles identified in the Call-in Request were or were not breached, giving reasons if he or she so wishes.

18.3 The vote to be taken will be a single vote by a show of hands.

19 Finding of no breach

19.1 In the event that a majority of Members consider that there was not a breach, the Chair will state that the Committee has resolved that the Executive decision identified in the Call-in Request did not breach the core principles and immediately close the call-in aspect of the meeting. Members of the committee, without re-opening the debate, may then continue the meeting to suggest any areas they consider worthy of

future exploration via the scrutiny function. At the conclusion of this discussion, the meeting will formally end.

20 Finding of a breach

20.1 In the event that a majority of Members consider that there was a breach, the Chair will declare the outcome and the resultant resolution and close the meeting referring the decision in full back to the next appropriate meeting of the Executive.

21 Consideration of multiple Call-in notices in relation to one decision of Executive

21.1 In the event that more than one Call-in notice is received in relation to a single matter, the Chair will use their discretion to vary the procedure accordingly to afford signatories to all Call-in Requests equal opportunity to state their case.

Annex 1 - City of York Council Pre-decision scrutiny Protocol

1 The Leader and relevant Portfolio Holders attend the relevant Scrutiny Committee to outline their aims and objectives for the year and issues likely to be in the Forward Plan.

2 From this the Scrutiny Committee considers areas where Scrutiny may wish to contribute and via the Chair and Vice Chair of each Committee share their agreed preferences with the Chair and Vice Chair of the Corporate Scrutiny Committee for consideration of the Council's Scrutiny Annual Work Programme.

3 The Scrutiny Committee determines which items it would like scrutiny input into, based on strategic impact, relevance to the Committee's work programme, public interest and/or financial implications, and the Democratic Services Officer, on behalf of the Chair of Corporate Scrutiny Committee and Chair of the relevant scrutiny committee advises the relevant Corporate Director and or Chief Officer of the Scrutiny Committee's request for pre-decision Scrutiny. The Chief Officer discuss the request with the relevant Senior Officers and Executive Member(s), in particular in respect of timings and will then provide a response to the Chair of Corporate Scrutiny Committee and Chair of the relevant scrutiny committee via Democratic Services regarding the viability of the request. The Chair of Corporate Scrutiny Committee must give consideration to any such response when agreeing the future work plan of the Scrutiny Committees.

4 The Chief Officer and Portfolio Holder will attend the Committee meeting to discuss the issue and set out the nature of the matter under consideration, the key issues identified, any constraints, timescale for a decision, intended impact and a summary of progress to date.

5 The Scrutiny Committee discusses the issue and identifies any points, by way of recommendations, it would like addressed in the final report. These are minuted.

6 The report author drafts the final report for Executive, clearly identifying points/recommendations raised by the Scrutiny Committee and demonstrating how they have been addressed, or alternatively giving reasons as to why these recommendations were not able to be taken forward for example, legal, financial or technical issues. Where points or recommendations represent a political or judgment call, Officers will only make technical comment relevant to the decision and professional advice. This will clearly demonstrate how Scrutiny is contributing to better cross-party decision-making.

7 The Scrutiny Committee is not obliged to have an input at this stage, though early input in decision-making is encouraged, if practicable. Where no input has been provided, Members would retain the right to call-in the decision after it had been made on specific grounds (using the Council's call-in request form).

8 Where it was felt appropriate for the Scrutiny Committee to consider a draft final report for Executive, it must be approved for release by the relevant Corporate Director, the Leader or the relevant Portfolio Holder, before submission to the Scrutiny Committee. If the Scrutiny Committee consider a draft report, the item will not be subject to call-in procedures.

9 The final report is submitted to Executive with any relevant Minute and/or recommendation from the Scrutiny Committee formally recorded with the report as appropriate.

Annex 2 - Call-in Request Form

This form must be completed and signed by THREE City of York Councillors and MUST be returned to Democratic Services within 5 working days of the decision being published *(not including the day of publication)*.

Decision taker:	
Date of publication of decision:	
Title of Decision Called in:	
Date Decision Called in:	

	REASONS FOR CALL-IN		Tick which reason applies
1.	Decision contrary to the policy framework?		
2.	Decision contrary to or not wholly consistent with the budget?		
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.		
4.	Decision does not follow principles of good decision-making set out in Article 7 of the Council's Constitution.		
	If reason 4, please tick which specific element of Article 7 the decision maker has not followed:		
	(a)	respect for human rights and equality of opportunity	
	(b)	presumption of openness, transparency and public accountability	
	(c)	clarity of aims and desired outcomes	
	(d)	decisions will be proportionate to the intended objective (i.e. the action must be proportionate to the desired outcome)	

	(e)	having regard to the relevant facts, legislation and relevant considerations and disregarding irrelevant considerations	
	(f)	due consultation and taking professional advice from Officers	
	(g)	explaining options considered and giving reasons	
	(h)	lawfulness and financial propriety	
	(i)	taking due account of Council policy and procedures	
	(j)	consideration of relevant implications	
	(k)	reasons being given for the decision, as appropriate	

Detailed Reason(s) for Call-in.

Please explain below why one of the reasons for call-in applies (e.g. for number 1 - which major policy affected and how/why).

PLEASE NOTE: If you wish to produce and rely on significant supplementary, external evidence in support of your reasons for this call-in it must be provided to Democratic Services prior to the publication of the agenda. It will not be permissible to introduce and rely upon evidence at the meeting without it being subject to prior circulation unless by consent of the Chair.

	Name (please print)	Signature (*please note that signatures will not be published with the agenda. Electronic signature will be accepted)*	Date
1.			
2.			
3.			

For office use only:

Received on behalf of the Monitoring Officer by: (signature)

Name: Date: Time:

Validation Check:

Monitoring Officer / Chief Operating Officer

Valid: YES / NO

Reason:

Completed by: (signature)

Date: Time:

Annex 3 - Councillor Call for Action (CCfA)
Guidance for Councillors and Officers

Introduction	Ward Councillors play a central role in the life of a local authority, as a conduit for discussion between the Council and its residents and as a champion for local concerns. To strengthen Councillors' ability to carry out this second role the Government has enacted in the Local Government and Public Involvement in Health Act 2007, provisions for a "Councillor Call for Action" (CCfA). This provides Councillors with the opportunity to ask for discussions at Scrutiny Committees on issues where local problems have arisen and where other methods of resolution have been exhausted.
Background & context	For some time the Government has been pursuing the aim of giving more power to local people and local Ward Councillors. This aim has run through both 2006's 'Strong and Prosperous Communities' and 2008's 'Communities in Control' White Papers. Recent legislation has given more powers for scrutiny functions to work more closely with partners and across organisational boundaries. These include powers to scrutinise a wide range of national, regional and local bodies, some of which were not previously subject to local authority challenge. This means that scrutiny is in a stronger position to resolve a wide range of policy issues. CCfA needs to be viewed in this context.

Principles	The successful operation of CCfA relies on several broad principles being recognised and supported in local authorities. These principles are: • Transparency in decision making and the involvement of scrutiny in the decision making process at some level; • A willingness to identify mistakes and shortcomings and the recognition of the need to resolve problems through discussion; • An understanding (among senior Officers and Executive Members) of the role that scrutiny can play to help the Council improve its services; • An understanding and a wish to bolster and support the role that Ward Councillors play as champions and leaders of their communities.

How can CCfA be used?	CCfA is a tool that can be used by Councillors to tackle problems on a neighbourhood or ward specific basis that it has not been possible to resolve through the normal channels. A CCfA should represent genuine local community concerns and should focus on neighbourhood and ward issues, specifically the quality of public service provision, both by the Council and its partners. CCfA is a means of last resort when all other avenues have been exhausted and the Council has been unable to resolve the issue. It is important to recognise that CCfA is not guaranteed to solve a problem. What CCfA can provide is: • Recognition that an issue is significant enough for time, attention and resources to be spent in trying to resolve it; • A public forum for discussion of the issues; • An opportunity to discuss the issues in a neutral environment; • An opportunity to discuss a problem with the explicit and sole aim of solving it; A high profile process owner by the Ward Councillor.
What CCfA is not	CCfA should not be regarded as merely a scrutiny process. It is a whole council approach which can help councillors to resolve issues and problems on behalf of their residents. CCfA is not: • About a Councillor's everyday casework; • Appropriate for dealing with individual complaints; • To be used for dealing with issues that relate to individual quasi-judicial decisions (e.g. planning or licensing) or to council tax and non-domestic rates as these are subject to their own statutory appeals

	process. Any member can bring a CCfA on any issue they choose, however there are certain exceptions for example if a CCfA is: • Vexations, not reasonable and/or persistent – whether the request is likely to cause distress, disruption or irritation without any proper or justified cause; • Discriminatory – implying a group of people or an area receives better or worse services on account of that group's predominant religion, race, sex or other characteristic. It does not replace the corporate complaints procedure or petitions to Council.
What kind of issues can be tackled?	Issues should be genuine local community concerns which focus on the quality of public service provision at a local level. It can include any function of the authority which affects the Councillor's ward and constituents. It can also include issues relating to crime and anti social behaviour. Issues that can be tacked by CCfA are usually persistent and have remained unresolved for a long period of time. They may be issues that the Councillor is aware of from their work within their ward or they may decide to champion a request on behalf of the public.
What does championing a request mean?	Championing a request will mean taking the issue up on behalf of the resident(s) concerned and trying to resolve the problem by liaising with council services, the Executive and/or outside agencies.

What if a councillor doesn't want to champion a request from a member of the public?	If a Councillor decides not to champion a request, no further action will be taken under a CCfA. There is not a right of appeal by a member of the public.	
	Implications for Members	***Implications for Officers***
Who can raise a CCfA	The power to initiate a CCfA lies solely with a Councillor and it is up to them to determine which issues they want to take forward as a potential CCfA.	If a member of the public contacts an officer to say that they want to raise a CCfA, the officer should signpost them to their local Ward Councillor.
Initiating a CCfA	The first thing a Councillor should do is log a potential CCfA with the Scrutiny Team who will help them to decide if any issue is suitable for the CCfA process (see contact details below).	
If it is a CCfA, what next?	The Councillor will need to continue trying to resolve the concern themselves. They should keep the Scrutiny Team informed about the progress they have made, keeping them up to date with	As part of Councillors' attempts to resolve issues Officers may be asked to assist, for example by: • Support Councillors through the usual

	key developments. The scrutiny team will try to assist in resolving the concern by, for example: • Providing advice to Councillors in approaching partner agencies such as the PCT, Police or relevant partnerships; • Helping to formally raise an issue with services/partner agencies.	complaint or enquiry processes; • Attend meetings specifically set up to try and help Councillors resolve the issue.
If the issue remains unresolved	At this stage the councillor should inform the Scrutiny Team who will discuss the issue and actions to date in more detail with the Councillor. A scrutiny officer will then prepare a feasibility report to the relevant Scrutiny Committee which details the background and history of the issue. The Scrutiny Committee will then consider the request to carry out a CCfA review. The Councillor is welcome to participate at the meeting and a decision will be made to either: • Carry out the review; or • Identify possible courses of action that the Councillor has not thus far pursued; or	Officers may be asked to provide advice to the Scrutiny Team on action taken in relation to the issue. If the Councillor flags an issue as a potential CCfA, Officers might wish to consider more detailed recording of actions taken in case they are required to produce it for scrutiny purposes. Officers may also be asked to attend the relevant Scrutiny Committee meeting.

	• Request further information in order to make a decision; or • Determine that the issue is not suitable for the CCfA process and that no further action will be taken.	
The Scrutiny Committee has agreed to carry out a CCfA review – what happens now?	The CCfA will be added to the Scrutiny Committee's work plan. The Scrutiny Team will produce a scoping report and if appropriate the Councillor will be invited to participate in the review.	Officers may be required to provide technical support throughout the scrutiny review and/or to participate at relevant scrutiny meetings
What will happen after a CCfA review has been concluded?	A report will be produced together with a set of recommendations which will be presented to the Executive for consideration. Those recommendations approved by the Executive will be implemented and that implementation will be tracked by the Scrutiny Team and reported back to the Scrutiny Committee on a regular basis until completion.	Officers will be responsible for implementing agreed recommendations relevant to their service areas and providing update information as necessary to the Scrutiny Team.
Contact details	For further information and advice contact the Scrutiny Team on 01904	

	552054/4279.	
Partner organisations (examples)	North Yorkshire Fire & Rescue Service North Yorkshire Police Safer York Partnership Leeds and York Partnership NHS Foundation Trust Vale of York Clinical Commissioning Group York Teaching Hospital NHS Foundation Trust Council for Voluntary Service Higher York Partnership	

Annex 4 – Scrutiny Witness Charter

Attending a Scrutiny Committee meeting as a witness is voluntary and often a new experience for people. The City of York Council recognises the need to support witnesses. We will keep witnesses informed throughout the scrutiny process to try and ensure that the experience is as stress free as possible.

The Council will:

1 inform the witness of the time, date and place of the scrutiny meeting at which their evidence is to be taken.

2 inform the witnesses of the matters about which the scrutiny committee wish to ask them. Inform the witnesses of any documents that the scrutiny committee want the witness to produce or provide to them

3 provide reasonable notice of all of the requirements of the scrutiny committee to enable the witness to respond in full at the earliest opportunity.

4 provide copies of all relevant reports, papers and background information.

5 arrange for the Chair of the scrutiny meeting to introduce themselves to the witness prior to the proceedings.

6 ensure that all witnesses are treated with courtesy and respect and that all questions to witnesses are made in an orderly manner as directed by the Chair of the meeting.

7 ensure where appropriate that the witness is provided with information about claiming expenses.

8 following the proceedings, write to the witness and where appropriate, inform them of the outcome.

9 the Council's protocol on Officer/Member relations will apply to all internal witnesses.

Notes of Guidance for Witnesses

1 Who will be at the scrutiny meeting?

All formal scrutiny meetings are held in public and the press and media may be present. In practice, unless it is a high profile issue it is rare for there to be more than one journalist taking notes. Members of the public are always welcome, but are not usually present in large numbers. Members of the scrutiny committee will be elected Councillors and possibly one or two co-opted Members e.g. from the voluntary sector. A Scrutiny Officer will be present (usually the person you've had contact with about attending the meeting), and a Democracy Officer will minute the meeting. Other Officers with an interest in the scrutiny topic(s) on the agenda may also be present.

2 What happens when I arrive to attend a scrutiny meeting?

Upon arrival at the venue for the scrutiny meeting you will normally be met by someone from the Scrutiny team. The Scrutiny Officer will make contact with you prior to the meeting to confirm the arrangements, and where possible give you an indication of when your evidence is likely to be heard and explain the format for the meeting. If you have any particular anxieties or questions then you should not hesitate to raise these with the Scrutiny Officer. The Chair of the scrutiny meeting will also introduce themselves to you before the start of the meeting.

3 What happens when I give evidence?

Witnesses are welcome to attend the entire meeting or can wait at reception until needed. When you are called you will be shown to a seat at the table with the Members of the scrutiny committee. Members of the scrutiny committee will ask you questions in an orderly and respectful manner as directed by the Chair of the meeting. Remember:

- Take your time and speak slowly and clearly;
- Ask for questions to be repeated if you don't understand or cannot hear;
- If you are not sure of the answer then say so.

After you have finished giving your evidence you are free to leave if you wish to do so.

4 Can I claim expenses?

If you have incurred any "out of pocket" expenses when asked to attend a scrutiny committee, where possible obtain receipts for them. If you would like to claim for your expenses, please ask the Scrutiny Officer and they will provide a form for you to make your claim. The Council does not reimburse the expenses of witnesses employed by the City of York Council.

Appendix 6 - Other Committee Procedure Rules

1 Application

1.1 Unless specifically prescribed within this Constitution, these Committee Procedure Rules will apply to Committees, Sub-Committees and Boards, Task Groups and Meetings specified in this Constitution.

2 Powers and Duties

2.1 The powers and duties of the relevant Committee, Board, Sub-Committee, Task Group and Meeting are set out or referred to in the Council's Constitution.

3 Minutes

3.1 All Minutes will be produced in accordance with the Protocol on the Production and Content of Minutes of Meetings Appendix 28 of this Constitution.

3.2 All minutes of all bodies which require confirmation by Council will be recorded and reported to the next ordinary meeting of the Council.

3.3 Copies of the Minutes of all bodies requiring confirmation will be submitted to Members on the day on which the notice convening the meeting is sent to Members. In cases where the date of a meeting is so late in the cycle that the minutes are not available to be included in the published Council Summons, they will be sent to Members as soon as practicable. The meetings to which this applies will be specified on the notice convening the meeting.

4 Quorum

4.1 Except where it may legally be authorised or ordered by the Council or is specifically referenced within this Constitution the following will apply:

a) The Joint Standards Committee and any sub-committee of the Joint Standards Committee will not transact any business unless at least three and at least three Members are present respectively and, if Parish Council business is being transacted, a Parish Council Member is present.

b) The Licensing Committees, any Sub-Committees, and Working Groups specified in the Council's Constitution will not transact any business unless at least three Members are present.

c) Corporate Scrutiny Committee and Scrutiny Committees (including Ad-Hoc) will not transact any business unless at least three and three Members are present respectively.

d) Any other Committee of the Council, including Planning Committee will not transact any business unless at least three Members are present.

5 Special Meetings and Agenda Items

5.1 A special meeting of any of the Committee in question may be called at any time, either by the Chair or at the written request of at least one third of its membership. The conduct of business at a special meeting will be in accordance with Section 100 of the Local Government Act 1972.

6 Rules of Debate

The rules of debate for Council, as set out in in the Council Procedure for Ordinary Meetings at Rule B12, will apply with the following exceptions:

General

6.1 Members are not required to stand to speak.

Voting

6.2 Voting at a meeting will be by show of hands. Any Member may require their vote to be recorded in the minutes.

6.3 In the event of any vote being equally divided the Chair of any meeting of a committee will have a second or casting vote.

6.4 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

Motions and Amendments to Motions

6.5 Notice is not required of motions.

6.6 Motions must concern an item of business on the agenda.

6.7 In order to be admissible, motions and amendments to motions must be moved by one Member and seconded by another before they are discussed or put to the meeting.

Speaking Rights

6.8 At meetings the following speaking rights shall apply.

6.9 All public meetings will have a standing item on the agenda regarding public participation. Members of the public may register to speak on an item on the agenda or an issue within the meeting's remit, in accordance with the Public Participation protocol at Appendix 8 of this constitution. Speakers will have a maximum of 3 minutes to speak. There is no public right of reply following the decision of the meeting.

6.10 The promotion of public participation shall be publicised generally, in correspondence with applicants and the public, and on all relevant agendas.

Substitutes (see also Article 7 of this Constitution)

6.11 The Council may appoint named substitutes for Member bodies as follows:-

(a) For Planning Committee A and Planning Committee B up to four named substitutes shall be allowed for each of the political Groups. For other Member bodies up to three named substitutes shall be allowed for each political Group. Substitutes do not have to be appointed from within the same political group. Independent Councillors may also be appointed to act as named substitutes for other Independent Councillors within this rule.

(b) Any Member of the Executive may substitute for another Member of the Executive who is (either individually or as part of a Committee of the Executive) unavailable.

(c) Where no named substitute is available a political group may instruct the Chief Operating Officer or the Monitoring Officer to replace for the duration of a particular meeting, an existing Member with another substitute identified by the political group provided always that this provision will not apply to Licensing and Regulatory Committee or Joint Standards Committee or any Sub-Committees thereof.

(d) The Council may appoint a Member of the Executive as the Deputy Executive Leader who will act for the Executive Leader in their absence or unavailability.

6.12 If a meeting which is attended by a substitute is adjourned, then the substitute will have the right to attend on the adjourned date in place

of the original Member. If the substitute is unable to attend, then the original Member or another named substitute may attend.

7 Agenda Setting

7.1 Is it worth including here that “Unless otherwise prescribed by the constitution, Agenda Setting meetings will be established between the Chair and Vice Chair of the Meeting in question with the relevant supporting Chief Officer and Democratic Services Officer.

8 Publication of Agendas

8.1 Unless otherwise prescribed by this Constitution, all Agenda’s will be published in accordance with the legislative requirements and the Access to Information Rules at Appendix 7 of this Constitution.

9 Access to Information

9.1 The Access to Information Rules at Appendix 7 of this Constitution will apply to all Meetings prescribed by this Constitution.

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Appendix 7 - Access to Information Procedure Rules

1 Scope

1.1 These rules apply to all public meetings of the Council, the Executive, Scrutiny Committees, the Regulatory Committees and other Committees of the Council (together called meetings).

1.2 Where the Joint Standards Committee is convened to consider or review, as the case may be, an allegation that a Member has contravened the Council's Code of Conduct for Members, the provisions set out in the Council's procedure for considering complaints that Members have breached the Code of Conduct shall apply and the meeting and papers will not be open to the public.

2 Additional Rights to Information

2.1 These rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law nor do these rules limit or diminish the Council's duties to protect certain information, including personal information. This includes the rights and duties arising from the provisions of the Access to Information Legislation.

3 Rights to Attend Meetings

3.1 Members of the public may attend all meetings subject only to the exceptions in these rules.

4 Notice of Meetings

4.1 The Council will give at least five clear days' notice of any meeting by posting details of the meeting at West Offices, Station Rise, York and on its website at www.york.gov.uk.

5 Access to Agenda and Reports before the Meeting

5.1 The Council will make copies of the agenda and reports open to the public available for inspection at the designated office and on the website at least five clear days before the meeting. If an item is added to the agenda later, the revised agenda will be open to inspection from the time the item was added to the agenda (where reports are prepared after a summons has been sent out, the designated officer shall make each such report available to the public as soon as the report is completed and sent to Councillors).

6 Supply of Copies

6.1 The Council will supply copies of:

a. any agenda and reports which are open to public inspection;
b. any further statements or particulars necessary to indicate the nature of the items in the agenda; and
c. if the Director of Governance thinks fit, copies of any other documents supplied to Councillors in connection with an item.

6.2 The Council may require any person to make a payment in advance covering postage and costs connected to the supply of any papers supplied.

7 Access to Minutes after the Meeting

7.1 The Council will make available copies of the following for six years after a meeting but will retain them as archived documents in perpetuity:

a. the minutes of the meeting where minutes are required to be made, excluding any part of the minutes relating to the conduct of business when the public were not present or where exempt or confidential information would be disclosed;
b. the minutes of the meeting or records of decisions taken, together with reasons, for all meetings of the Executive excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information.
c. a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
d. the agenda for the meeting; and
e. reports relating to items when the meeting was open to the public.

8 Background Papers

<u>List of background papers</u>

8.1 The report author will set out in every report a list of those documents (called background papers) relating to the subject matter of the report which in their opinion:

a. disclose any facts or matters on which the report or any important part of the report is based; and
b. which have been relied on to a material extent in preparing the report

but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10) and in respect of Executive reports, the advice of a political adviser.

Public inspection of background papers

8.2 The Council will make available for public inspection for four years after the date of the meeting one copy of each of the documents on the list of background papers.

9 Summary of the Rights of the Public

9.1 A written summary of the rights of the public to attend meetings and to inspect and copy documents must be kept at and be available to the public at West Offices, Station Rise, York.

10 Exclusion of Access by the Public to Meetings

10.1 The public may only be excluded under 10.2 or 10.3 for the part or parts of the meeting during which it is likely that confidential or exempt information will be disclosed.

Confidential information – requirement to exclude public

10.2 The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.3 Exempt Information – discretion to exclude public. The public may be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the

proceedings that exempt information would be disclosed.

10.4 Where the meeting will determine any person's civil rights or obligations, or adversely affect their possessions, Article 6 of the Human Rights Act 1998 establishes a presumption that the meeting will be held in public unless a private hearing is necessary for one of the reasons specified in Article 6.

Meaning of confidential information

10.5 Confidential information means information given to the Council by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by Court Order.

Meaning of exempt information

10.6 Schedule 12A LGA 1972 defines exempt information as information falling within the following categories, subject to any condition set out below if, and so long as, in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information:

Category		Condition
1	Information relating to any individual	
2	Information which is likely to reveal the identity of an individual	
3	Information relating to the financial or business affairs of any particular person (including the authority holding that information)	Information is not exempt information if it is required to be registered under:

		(a) the Companies Acts; (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) The Co-operative and Community Benefits Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011. "Financial or business affairs" includes contemplated, as well as past or current, activities.
4	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office-holders under, the authority	"Labour relations matters" are any matters specified in paragraphs (a) to (g) of section 218(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 ie matters which may be the subject of a trade dispute or any dispute about any of those matters. For the purposes of this paragraph this shall apply to office-holders under the authority as it applies in relation to employees of the authority

5	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
6	Information which reveals that the authority proposes: (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make any order or direction under any enactment.	
7	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	

10.7 Information falling within any of paragraphs 1 to 7 is not exempt by virtue of that paragraph if it relates to proposed development for which the local planning authority can grant itself planning permission under Regulation 3 of the Town and County Planning General Regulations 1992.

10.8 In all cases the Director of Governance shall determine whether the public interest as set out above is satisfied.

11 Exclusion of Access by the Public to Reports

11.1 If the Director of Governance thinks fit, the Council may exclude access by the public to reports which in their opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public. Such reports will be marked “Not for publication” pursuant to Schedule 12A together with the category of information likely to be disclosed.

12 Application of Rules to the Executive

12.1 Rules 13-28 apply to the Executive and its committees. If the Executive or its committees meet to take a key decision then it must also comply with Rules 1-11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in paragraph 3 of Article 7 of the Constitution.

12.2 If the Executive or its committees meet to discuss a key decision to be taken collectively, within 28 days of the date according to the Notice of key decision by which it is to be decided, then it must also comply with Rules 1-11 unless Rule 14 (general exception) or Rule 15 (special urgency) apply. A key decision is as defined in paragraph 3 of Article 7 of the Constitution. This requirement does not include meetings whose sole purpose is for Officers to brief Members.

13 Procedure before taking Key Decisions

Notice of Key Decision

13.1 Subject to Rule 14 (general exception) and Rule 15 (special urgency), a key decision may not be taken unless:

a. a notice (called here a Notice of Key Decisions) has been published in connection with the matter in question;
b. at least 28 clear calendar days have elapsed since the publication of the Notice of Key Decision; and
c. where the decision is to be taken at a meeting of the Executive, its committees or sub-committees, notice of the meeting has been given in accordance with Rule 4 (notice of meetings).

Contents of Notice of Key Decision

13.2 The Notice of Key Decision will state that a key decision is to be made by the Executive, a Committee or sub-Committee, an individual Member of the Executive or under joint arrangements in the course of a discharge of a function. It will describe the following particulars:

a. the matter in respect of which the decision is to be made;
b. where the decision maker is an individual, that individual's name and title, if any, and, where the decision-maker is a decision-making body, the name of the body and a list of the Membership of the body making the decision;
c. the date on which, or the period within which, the decision is to be made;
d. a list of the documents submitted to the decision maker for consideration in relation to the matter;
e. the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
f. that other documents relevant to those matters may be submitted to the decision maker;
g. the procedure for requesting details of those documents (if any) as they become available.

13.3 Where in relation to any matter the public may be excluded from the meeting at which the matter is to be discussed or documents relating to the decision need not be disclosed to the public, the document referred to must contain particulars of the matters but may not contain any confidential, exempt information or particulars of the advice of a political adviser or assistant.

Publication of the Notice of Key Decision

13.4 The Notice of Key Decision must be made available for inspection by the public at West Offices, Station Rise, York and on the Council's website at least 28 clear calendar days before the decisions is made.

14 General Exception

14.1 Where the publication of the intention to make a key decision (the Notice of Key Decision) is impracticable, then subject to Rule 15 (special urgency), the decision may only be made if:

a. the Director of Governance has informed the Chair of Corporate Scrutiny Committee, or in their absence the Lord Mayor, in writing, or if there is no such person, each Member of that Committee in writing, by notice, of the matter to which the decision is to be made;
b. the Director of Governance has made copies of that notice available to the public at the offices of the Council and on the Council's website; and
c. at least 5 clear working days have elapsed since the Director of Governance complied with (a) and (b).

14.2 As soon as is reasonably practicable after the Director of Governance has complied with Rule 14 (a-c), they must make available at West Offices, Station Rise, York and publish on the Council's website a notice setting out the reasons why compliance with Rule 13 is impractical.

15 Special Urgency

15.1 If by virtue of the date by which a decision must be taken Rule 14 (general exception) cannot be followed, then the key decision can only be taken if the decision maker (if an individual) or the chair of the body making the decision, obtains the agreement of the Chair of Scrutiny Committee that the taking of the decision is urgent cannot be reasonably deferred. If there is no Chair of Corporate Scrutiny Committee, or the Chair of Corporate Scrutiny Committee is unable to act, then the agreement of the Lord Mayor will suffice.

15.2 As soon as is reasonably practicable after the decision maker has obtained agreement under Rule 15.1 they must make available at the Council's offices and publish on the website a notice setting out the reasons that the decision is urgent and cannot reasonably be deferred.

16 Report to Council

16.1 The Corporate Scrutiny Committee can require a report if it thinks that a key decision has been taken which was not:

a. the subject of a Notice of Key Decision; or
b. the subject of the general exception procedure under Rule 14; or
c. the subject of an agreement with the Corporate Scrutiny Committee Chair, or the Lord Mayor under Rule 15.

16.2 The committee may require the Executive to submit a report to the Council within such reasonable time as the committee specifies. The report must include details of the decision and the reasons for the decision, the decision-maker, and the

reasons for the Executive believing that the decision was a key decision. The power to require a report rests with the committee, but is also delegated to the Director of Governance who shall require such a report on behalf of the committee when so requested by the chair of the Corporate Scrutiny Committee or any 5 Members of the Scrutiny Committee. Alternatively the requirement may be raised by resolution passed at a meeting of the Corporate Scrutiny Committee.

Executive's report to Council

16.3 The Executive will prepare a report for submission to the next available meeting of the Council. However, if the next meeting of the Council is within 7 days of receipt of the written notice, or the resolution of the committee, then the report may be submitted to the meeting after that. The report to Council will set out the particulars of the decision, the individual or body making the decision, and if the Executive is of the opinion that it was not a key decision the reasons for that opinion.

Quarterly reports on special urgency decisions

16.4 In addition to 16.2 above, the Executive will submit quarterly reports to the Council on the Executive decisions taken in the circumstances set out in Rule 15 (special urgency) in the preceding three months. The report will include the number of decisions so taken and a summary of the matters in respect of which those decisions were taken.

17 Notice of Meeting of the Executive

17.1 Members of the Executive or its committees will be entitled to receive five clear working days' notice of a meeting to which

they are summoned, unless the meeting is convened at shorter notice as a matter of urgency.

18 Attendance at Meetings of the Executive

Executive Members

18.1 All Members of the Executive will be served notice of all (both those to be held in public and those to be held in private ie meetings held with the exclusion of the press and public) meetings of committees of the Executive, whether or not they are Members of that committee. All Members of the Executive are entitled to attend private meetings of the Executive and its committees. Members who are not a Member of the Executive or a Member of the Committee making the decision are not entitled to attend private meetings save for Leader of the Main Opposition Group.

Officers

18.2 The Head of Paid Service, the Chief Finance Officer and the Monitoring Officer, and their nominees are entitled to attend any meeting of the Executive and its committees. The Executive may not meet unless the Chief Operating Officer has been given reasonable notice that a meeting is to take place.

18.3 Corporate Directors, or their nominees, may attend meetings of the Executive or its committees to provide advice on relevant issues.

19 Meetings of the Executive to be Held in Public

19.1 Meetings of the Executive and its Committees will be held in public, unless it is likely that exempt or confidential information would be disclosed, or whenever a lawful power is used to exclude a Member or members of the public in order to maintain orderly conduct, or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information will be disclosed.

20 Notice of Private Meetings of the Executive

20.1 At least 28 clear working days before a private meeting of the Executive or any of its committees, the decision making body must make available at the designated offices a notice of its intention to hold the meeting in private (a Notice of Private Meeting) and publish that notice on the Council's website.

20.2 At least 5 clear working days before a private meeting, the decision making body must make available at the offices of the Council a further notice of its intention to hold the meeting in private and publish that notice on the Council's website.

20.3 A notice under paragraph 20.2 must include:-

a. a statement of the reasons for the meeting to be held in private;
b. details of any representations received by the decision making body about why the meeting should be open to the public; and
c. a statement of its response to any such representations.

21 General Exception

21.1 Where the date by which a meeting must be held makes compliance with Rule 20 impracticable, the meeting may only be held in private where the decision making body has obtained the agreement of the Chair of Corporate Scrutiny Committee that the taking of the decision cannot reasonably be deferred. If there is no Chair of Corporate Scrutiny Committee, or if the chair of Corporate Scrutiny Committee is unable to act, then the agreement of the Lord Mayor.

21.2 As soon as is reasonably practicable after the decision making body has obtained agreement to hold a private meeting under paragraph 21.1 above, it must make available at the office of the Council a notice setting out the reasons why the meeting is urgent and cannot reasonably be deferred and publish that notice on the Council's website.

22 Record of Decisions

22.1 After any meeting of the Executive or any of its committees, whether held in public or private, the Director of Governance or, where no Officer was present, the person presiding at the meeting, will produce a record of every decision taken at that meeting as soon as practicable. The record will include a record of the decision including the date that it was made, a statement of the reasons for each decision and any alternative options considered and rejected at that meeting, together with details of any conflict of interest relating to the matter decided which was declared by any Member of the decision making body which made the decision and in respect of any declared conflict of interest, a note of dispensation.

Record of Individual Decision

22.2 As soon as is reasonably practicable after an Executive decision has been taken by an individual Member of the Executive, they will prepare a report containing a record of the decision including the date it was made. The record will include a statement of the reasons for each decision and any alternative options considered and rejected by the Member when making the decision. The record will also include details of any conflict of interest declared by any Executive Member who is consulted by the Member which relates to the decision and in respect of any declared conflict of interest, the record will also contain a note of dispensation granted.

23 Inspection of Documents Following Executive Decisions

23.1 Subject to rule 29, after a meeting of a decision making body at which an Executive decision has been made, or after an individual Member of the Executive or an Officer has made an Executive decision the Director of Governance must ensure that a copy of any records prepared in accordance with Rule 22 (record of individual decision) and any report considered at the meeting or, as the case may be, considered by the individual Member relevant to a decision recorded in accordance with Rule 22 must be available for inspection by members of the public as soon as is reasonably practicable at the offices of the Council and on the Council's website. Where only part of the report is relevant to such a decision, that part must be available for inspection by members of the public as soon as is reasonably practicable at the offices of the Council and on the Council's website.

23.2 Where a request on behalf of a newspaper is made for a copy of any of the documents available for public inspection under Rule 6 (supply of copies), those documents must be supplied

for the benefit of the newspaper by the Council on payment by the newspaper to the Council of postage, copying or other necessary charge for transmission.

24 Inspection of Background Papers

24.1 Subject to rule 29 where a copy of the whole or part of a report for a meeting is made available for inspection by members of the public in accordance with Rule 5 (access to agenda and reports before the meeting) or 22 (record of decisions) at the same time, a copy of the list compiled by the author of the background papers to the report or part of the report, must be included in the report or, as the case may be, part of the report and at least one copy of each of the documents included in that list must be available for inspection by the public at the offices of the Council and on the Council's website.

25 Executive Meetings Relating To Matters Which Are Not Key Decisions

25.1 The Executive will decide whether meetings relating to matters which are not key decisions will be held in public or private. Meetings of the Executive and its committees will be held in public, unless it is likely that exempt or confidential information would be disclosed or whenever a lawful power is used to exclude a Member or members of the public in order to maintain orderly conduct or prevent misbehaviour at a meeting. The public may only be excluded for the part or parts of the meeting during which it is likely that exempt or confidential information would be disclosed.

26 Scrutiny Committee Access to Documents

Rights to Copies

26.1 Subject to Rule 26.2 below, Corporate Scrutiny Committee (including its sub-committees) will be entitled to copies of any document which is in the possession or control of the Executive or its committees, and which contains material relating to:

a. any business transacted at a meeting of the Executive or its committees; or
b. any decision taken by an individual Member of the Executive in accordance with Executive arrangements; or
c. any decision that has been made by an Officer of the Authority in accordance with Executive arrangements.

Limit on Rights

26.2 Corporate Scrutiny Committee (including its sub-committees) will not be entitled to:

a. any document that is in draft form;
b. any part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or any review contained in any work programme of a scrutiny committee or scrutiny sub-committee; or
c. of a document or part of a document containing advice of a political adviser or assistant.

27 Additional Rights of Access for Members

Material relating to business to be transacted at a Public Meeting

27.1 All Members will be entitled to inspect any document which is in the possession or under the control of the Executive or its committees (except those in draft form) and which contains material relating to any business previously transacted at a public meeting unless (a), (b) or (c) below applies:

a. it contains exempt information falling within paragraphs 1, 2,4,5 or 7 of the categories of exempt information; or
b. it contains exempt information falling within paragraph 3 of the categories of exempt information and that information relates to any terms proposed or to be proposed to the Council in the course of negotiations for a contract;
c. it contains the advice of a political adviser or assistant.

27.2 Any document which is required by Rule 27.1 to be available for inspection by any Member of the Council must be available for such inspection for at least five clear working days before the meeting except for:-

a. where a meeting is convened at shorter notice, such a document must be available for inspection when the meeting is convened; and
b. where an item is added to the agenda at short notice, a document that would be required to be available under Rule 27.1 in relation to that time, must be available for inspection when the item is added to the agenda.

Material relating to previous business

27.3 All Members will be entitled to inspect any document (except those only available in draft form) which is in the possession or control of the Executive or its committees and contains material relating to any business previously transacted at a private meeting or to any decision made by a Member in accordance with executive arrangements 27.1 (a), (b) or (c) applies.

27.4 Any documents required to be made available for inspection under 27.3 must be made available when the relevant meeting concludes or, where an Executive decision is made by an individual Member, immediately after the decision has been made, and in any event, within 24 hours of the conclusion of the meeting or the decision having been made as the case may be.

Material relating to key decisions

27.5 All Members of the Council will be entitled to inspect any document (except those available only in draft form) in the possession of, or under the control of, the Executive or its committees which relates to any key decisions unless it contains exempt information falling within the table at 10.5.

Nature of rights

27.6 These rights of a Member are additional to another right they may have.

28 Members Other Rights to Information

28.1 A Member of the Council may, for the purposes of their duty as a Member and no other, inspect any document that has been considered by a public meeting of the committee or the Council including background papers unless the Director of Governance considers that the exempt information is of a nature that

Members be required to demonstrate a need to know. Applications should be made to the Director of Governance and, if available, copies will be supplied upon request.

28.2 A Member shall not knowingly inspect or request a copy of any document relating to a matter in which he:-

a. is professionally interested; or
b. has a registerable or non-registerable personal interest within the meaning of the Code of Conduct for Members as set out in this Constitution.

28.3 This shall not preclude the Director of Governance from declining to allow inspection of any document which is or would be protected by privilege in the event of legal proceedings arising from the relationship of solicitor and client and should be exempt under access to information legislation.

28.4 Subject to 28.1 above, all reports, background papers to reports and minutes kept by any committee shall be open for the inspection of any Member of the Council, as soon as the committee has concluded action on the matter to which such reports or minutes relate.

29 Confidential Information, Exempt Information and Advice of a Political Adviser or Assistant

29.1 Nothing in these Rules is to be taken to authorise or require the disclosure of confidential information in breach of the obligation of confidence.

29.2 Nothing in these Rules:-

a. authorises or requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Director of Governance, that document or part of a document contains or may contain confidential information; or
b. requires the Council to disclose to the public or make available for public inspection any document or part of document if, in the opinion of the Director of Governance, that document or part of a document contains or is likely to contain exempt information or the advice of a political adviser or assistant.

29.3 Where a Member of the Executive makes an executive decision in accordance with executive arrangements, nothing in these Rules:-

a. authorises or requires documents relating to that decision to be disclosed to the public, or made available for public inspection where, the documents contain confidential information; or
b. requires documents relating to that decision to be disclosed to the public, or made available for public inspection where the disclosure of the documents would, in the opinion of the Member making the decision, give rise to the disclosure of exempt information or the advice of a political adviser or assistant.

Appendix 8 – Public Participation Protocol

PART A – Rules applying to all meetings

General

1. These rules apply to all physical, remote and hybrid meetings unless otherwise stated in this protocol. The Monitoring Officer and the Head of Democratic Governance will review this protocol every six months to ensure it remains fit for purpose. Any changes to this protocol will be reported to the Audit & Governance Committee and ultimately Full Council for the purposes of updating the Council's Constitution.

2. Residents are encouraged to participate in the Council's decision making process by sharing their views in a number of ways.

Making representations in response to the Forward Plan

3. You can find out about forthcoming Executive and Executive Member business by looking at the Council's Executive Forward Plan which is published on the Council's website. You can make representations on any forthcoming Executive business by sending your views in writing to the report author either by email or post up to 3 weeks before the decision is due to be taken – residents views received after that time may not be addressed in the report but may be addressed at the meeting. The public can contact the Council regarding this through HaveYourSay, or can contact the author of the report.

4. The report author's contact details can be found on each individual Forward Plan item.

Participating at a public meeting

5. All meetings are open to the public except when exempt or confidential information is being discussed. Agendas for meetings can be found on the Council's website, at least five working days before the meeting.

6. Dates, times and agendas for meetings are available via the calendar of council meetings on the Council website, at local libraries and on the West Offices notice board, usually five days before the meeting. You can also contact Democratic Services by emailing democratic.services@york.gov.uk or telephoning York (01904) 551088 to find out when a meeting is taking place or to request an agenda.

7. Physical Council meetings take place at West Offices, although meetings of the Full Council are held at The Guildhall unless alternative details are published in the notice of meeting.

8. Remote meetings take place on a video conferencing platform.

9. Meetings take place at West Offices (or Guildhall (or alternative venue detailed within the notice/summons) for Full Council) and on a video conferencing platform.

10. Council meetings are usually live webcast and retained on YouTube which you can find out more about at https://www.youtube.com/user/cityofyorkcouncil
In some instances the meeting will be recorded and not live webcast. In these circumstances, the recording of the meeting will be uploaded to the YouTube page as soon as practically possible after the meeting.

11. You can participate in a meeting by attending and listening to councillors debate and make decisions or by registering to speak.

How do I do this and what are the rules?

12. Any member of the public living or working in the City of York Council area, or any appointed representative of any organisation operating within the council's area, may participate or register to speak. Anyone wishing to speak should register no later than 5pm two working days before the meeting takes place. You can register on the Council's website at https://www.york.gov.uk/form/SpeakAtCouncilMeetings.

13. Only the Lord Mayor chairing Full Council, or the Councillor chairing the meeting, has the authority to accept a late registration to speak at a meeting.

14. With the exception of Licensing Sub Committee Hearings, and Planning Committee meetings (see Part B, paragraph 27), there is a maximum period of 30 minutes at each meeting to listen to public speakers. Each person registered to speak is allocated a maximum time of 3 minutes and there will be a maximum of 10 registered public speakers at each meeting, registered on a first come first served basis.

15. Councillors will listen to each speaker but will not usually make any comments or seek to debate any issues raised at this stage other than occasionally to ask questions of clarification.

16. A registered speaker at an Ordinary Council meeting may speak about an item on the published agenda for that meeting or issues which fall within the remit of that committee. A registered speaker at an Extraordinary Council meeting may only speak about the substantive item on the published agenda for that meeting. There will be no public participation rights in respect of Extraordinary Council Meetings dealing with staffing matters, and requests to speak at such meetings will be declined.

17. In exercising their public participation rights a member of the public is entitled to express views positive or negative about the Council but must not:

    - Say anything which is defamatory or discriminatory;
    - Make any personal attack on an Officer and / or Member;
    - Disclose confidential information or exempt information including personal information.

Written representations from Members of the Public and those registered to speak at meetings

18. The following rules apply to all meetings of the Council except for Licensing Sub Committee Hearings, and Planning Committee meetings which are set out in Part B.

19. If you are unable to be present or speak at the meeting at which you have registered to speak a written representation may be submitted for consideration at the meeting. The statement must be sent to Democratic Services using the contact details on the published agenda for the relevant officer or, alternatively by emailing democratic.services@york.gov.uk no later than 5pm two working days before the meeting at which it is to be raised takes place. Your name and address must be included along with the name of any group or organisation you are representing. Any written representations received will be published along with the agenda for the relevant meeting. If within the 2 day period of the meeting taking place you are unexpectedly unable to attend or speak at the meeting, you may submit your written representation to Democratic Services and the Chair will exercise their discretion as to whether to accept your representation.

20. Written representations shall be circulated to Members prior to the commencement of the meeting. No discussion shall be allowed upon written representations. Written representations may not be read out on your behalf.

21. If all or part of the written representation is defamatory, discriminatory or relates to confidential information or exempt information including personal information, the Chair, in consultation with the Monitoring Officer, shall have the right to redact those parts of the written representation prior to circulation to Members and publication with the agenda or rule the written representation out of order in which case it shall not be circulated to Members and shall not be published with the agenda.

City of York Councillors wish to speak at a meeting of which they are not a Member

22. City of York Councillors who wish to speak at a meeting of which they are not a Member may participate in meetings in any of the ways described in these rules. The rules in relation to public participation will apply to such City of York Councillors as they would to any member of the public.

PART B – Rules applying to specific meetings

General

23. The rules in Part A of this public participation protocol apply to all physical, remote and hybrid meetings other than for the specific exceptions set out in this Part B. Only exceptions to the rules in Part A are set out in Part B. For all other matters the rules remain the same as those in Part A.

Remote Meetings

24. Where public meetings are held remotely or in hybrid form, the provisions for Public Participation will be in accordance with the Council's Procedure Rules and Guidance for Remote Meetings contained in Appendix 23 of the Constitution. Anyone wishing to register to speak at a remote meeting will do so no later than 5pm two working days before the meeting takes place.

Meetings of Council chaired by the Lord Mayor

25. Public participation at all meetings of Full council will occur in accordance with the Council Procedure Rules at Appendix 3 of this constitution.

Planning Committee meetings

26. The public participation rules applicable to the Planning Committee are set out in Article 13 of this Constitution.

Licensing Committee meetings

27. The rules on public participation at Licensing Committee meetings are as set out in Part A.

General Licensing Sub-Committee and Taxi Licensing Sub-Committee hearings

28. The rules on public participation at General Licensing Sub-Committee and Taxi Licensing Sub-Committee hearings is set out in Annex 1 to this document.

ANNEX 1 – GENERAL LICENSING SUB – COMMITTEE AND TAXI LICESNING SUB COMMITTEE PROCEDURE FOR LICENSING HEARINGS

1. The procedure adopted at licensing hearings is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.

2. The Council's licensing hearings procedure is based on regulations made under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Sub-Committee Members have a duty to view all evidence presented before them impartially. No matter how strong local opinion may be, Sub-Committee Members can only make decisions in the context of the licensing objectives as set out in legislation as follows:

   - The prevention of crime and disorder
   - Public safety
   - The prevention of public nuisance
   - The protection of children from harm

3. The licensing hearing will be in public session and this involves the publication of all paperwork relevant to the hearing on the Council's website. This includes letters of representation either in support or objection. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted. The Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.

4. In view of the requirement to hold hearings within specified timescales (usually 20 working days from the last date for representations), the Council is unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Council will consider applications to hold hearings at a later date.

5. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination

or disposal of any Appeal. The live stream of the Hearing will be recorded and the recording placed on the Council's website.

Representations at Licensing Hearings

6. The Applicant is permitted to speak at the hearing. Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. The Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

7. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.

8. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.

9. The Sub-Committee may take into account any documentary evidence or other information in support of the application or representations either before the hearing or, with the consent of all other parties, at the hearing. For remote meetings the procedure set out in paragraphs 14 to 18 below will be followed.

10. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

11. The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the

application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.

12. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.

13. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

Procedure prior to the Hearing - remote and hybrid meetings

14. Where the meeting is held remotely or in hybrid form the Sub-Committee will use a video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee using a secure video-conferencing platform. This video-conferencing platform will also be used for decision making in private.

15. All paperwork relevant to the hearing will be published online on the Council's website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

16. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.

17. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.

18. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.

19. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

Procedure prior to the Hearing – Physical Meetings

20. The Members sitting on the Sub-Committee will have a briefing prior to the hearing, usually in the meeting room where the hearing is to take place. They will only be accompanied by the Democratic Services Officer and the Council's Legal Advisor. During the briefing, attention will only be drawn to the nature of the application and the premises or person to which it relates and any procedural matters.

21. At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until called into the meeting room. Please arrive 15 minutes before the advertised start time.

Procedure at the Hearing

22. The Chair introduces the Sub-Committee Members and Officers and welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.

23. The Chair will outline the procedure to be followed.

24. The Chair will proceed with the order of business on the agenda.

Licensing Officer

25. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.

26. The Chair will invite all parties (who have registered to speak) and/or their representative to ask questions of the Licensing Officer [maximum 5 minutes each party] in the following order:
    - Applicant
    - Police
    - Other Responsible Authority [each in turn]
    - Ward Councillors [each in turn]
    - Interested Parties [each in turn]
    - Sub-Committee Members [each in turn]

The Application

27. The Chair will invite the Applicant and/or their representative to address the Sub-Committee, present information in support of the application and call any witnesses to support their application, one witness at a time *[maximum 15 minutes]*.

28. The Chair will invite the Representors (who have registered to speak) and/or their representative to ask questions of the Applicant and/or their representative in the following order *[maximum 5 minutes each party]*

    (i) Police
    (ii) Other Responsible Authorities [each in turn]
    (iii) Ward Councillors [each in turn]
    (iv) Interested Parties [each in turn]
    (v) Sub-Committee Members [each in turn]

29. The Applicant and each of their witnesses may be questioned by:

- Members of the Sub-Committee;
- The Sub-Committee's legal adviser.

The Representations

30. The Chair will invite the Representors (who have registered to speak) and/or their representatives to address the Sub-Committee, present information and call any witnesses in support of their representation *[maximum 15 minutes each party]* in the following order:

    (i) Police
    (ii) Other Responsible Authorities [each in turn]
    (iii) Ward Councillors [each in turn]
    (iv) Interested Parties [each in turn]

31. After each presentation the Chair will invite questions from the Applicant and Representors (who have registered to speak) *[maximum 5 minutes per party]* in the following order:
    - Applicant
    - Police
    - Other Responsible Authority [each in turn]
    - Ward Councillors [each in turn]
    - Interested Parties [each in turn]
    - Sub-Committee Members [each in turn]

32. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Cross-examination

33. Cross-examination of another party is not normally permitted. However, the Sub-Committee will consider any application for permission to cross examine another party should any party wish to make such an application.

Summaries

34. The Chair will invite the Applicant and Representors (who have registered to speak) or their representative to summarise their case *[maximum 5 minutes each party]* in the following order:

    (i) Police
    (ii) Other Responsible Authorities [each in turn]
    (iii) Ward Councillors [each in turn]
    (iv) Interested Parties [each in turn]
    (v) Applicant

35. The Chair will provide the Sub-Committee members with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

36. The Sub-Committee's legal adviser may seek points of clarification from the Applicant, Representors or their representative.

Determination

37. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and the Sub-Committee will consider the evidence. Where the meeting is being held remotely or in hybrid form the Sub-Committee will withdraw to consider their decision in a separate private on line meeting.

38. The Legal Adviser and Democratic Services Officer will remain present during the decision making process. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

39. Unless expressly stated by the Sub-Committee in the hearing, the Sub-Committee will not invite the parties back into the committee room or return to the public online meeting to announce their decision. The Sub-Committee will provide an outline of their decision in writing to the Applicant and Representors on the day of the hearing concluding,

unless further time is required to deliberate. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.

40. In the event that the Sub-Committee do return to the public online meeting to announce their decision, the Sub-Committee will only announce an outline of their decision. There can be no further questions or statements from any party. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.

Appendix 9 - Approval of Budget and Policy Work

1 In this section:

a) “Executive” and “Executive Leader” have the same meaning as in Part II of the Local Government Act 2000; and

b) “plan or strategy” and “working day” have the same meaning as in the Local Authorities (Standing Orders) (England) Regulations 2001.

2 Where the Executive of the authority has submitted a draft plan or strategy to the authority for its consideration and, following consideration of that draft plan or strategy, the authority has any objections to it, the authority must take the action set out in paragraph 3 below.

3 Before the authority –

a) amends the draft plan or strategy;

b) approves, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft) of which any part is required to be so submitted; or

c) adopts (with or without modification) the plan or strategy,

it must inform the Executive Leader of any objections which it has to the draft plan or strategy and must give to them instructions requiring the Executive to reconsider, in the light of those objections, the draft plan or strategy submitted to it.

4 Where the authority gives instructions in accordance with paragraph 3, it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the

instructions on behalf of the Executive within which the Executive Leader may –

a) submit a revision of the draft plan or strategy as amended by the Executive (the "revised draft plan or strategy"), with the Executive's reasons for any amendments made to the draft plan or strategy, to the authority for the authority's consideration; or

b) inform the authority of any disagreement that the Executive has with any of the authority's objections and the Executive's reasons for any such disagreement.

5 When the period specified by the authority, referred to in paragraph 4, has expired, the authority must, when –

a) amending the draft plan or strategy or, if there is one, the revised draft plan or strategy;

b) approving, for the purpose of its submission to the Secretary of State or any Minister of the Crown for their approval, any plan or strategy (whether or not in the form of a draft or revised draft) of which any part is required to be so submitted; or

c) adopting (with or without modification) the plan or strategy,

take into account any amendments made to the draft plan or strategy that are included in any revised draft plan or strategy, the Executive's reasons for those amendments, any disagreement that the Executive has with any of the authority's objections and the Executive's reasons for that disagreement, which the Executive Leader submitted to the authority, or informed the authority of, within the period specified.

6 Subject to paragraph 10 below, where, before 8th February in any financial year, the authority's Executive submits to the authority for its consideration in relation to the following financial year –

a) estimates of the amounts to be aggregated in making a calculation (whether originally or by way of substitute) in accordance with any of sections 32 to 37 or 43 to 49, of the Local Government Finance Act 1992;

b) estimates of other amounts to be used for the purposes of such a calculation;

c) estimates of such a calculation; or

d) amounts required to be stated in a precept under Chapter IV or Part I of the Local Government Finance Act 1992

and following consideration of those estimates or amounts the authority has any objections to them, it must take the action set out in paragraph 7 below.

7 Before the authority makes a calculation (whether originally or by way of substitute) in accordance with any of the sections referred to in paragraph 4(a), or issues a precept under Chapter IV of Part I of the Local Government Finance Act 1992, it must inform the Executive Leader of any objections which it has to the Executive's estimates or amounts and must give to them instructions requiring the Executive to reconsider, in the light of those objections, those estimates and amounts in accordance with the authority's requirements.

8 Where the authority gives instructions in accordance with paragraph 7, it must specify a period of at least five working days beginning on the day after the date on which the Executive Leader receives the instructions on behalf of the Executive within which the Executive Leader may –

a) submit a revision of the estimates or amounts as amended by the Executive ("revised estimates or amounts"), which have been reconsidered in accordance with the authority's requirements, with the Executive's reasons for any

amendments made to the estimates or amounts, to the authority for the authority's consideration; or

b) inform the authority of any disagreement that the Executive has with any of the authority's objections and the Executive's reasons for any such disagreement.

9 When the period specified by the authority, referred to in paragraph 8, has expired, the authority must, when making calculations (whether originally or by way of substitute) in accordance with the sections referred to in paragraph 7, or issuing a precept under Chapter IV of Part I of the Local Government Finance Act 1992, take into account –

a) any amendments to the estimates or amounts that are included in any revised estimates or amounts;

b) the Executive's reasons for those amendments;

c) any disagreement that the Executive has with any of the authority's objections; and

d) the Executive's reasons for that disagreement,

which the Executive Leader submitted to the authority, or informed the authority of, within the period specified.

10 Paragraphs 6 to 9 shall not apply in relation to –

a) calculations or substitute calculations which an authority is required to make in accordance with section 51I, 52J, 52T or 52U of the Local Government Finance Act 1992; and

b) amounts stated in a precept issued to give effect to calculations or substitute calculations made in accordance with section 52J or 52U of that Act.

Appendix 10 - Financial Procedure Rules

1 Introduction

1.1 These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and to anyone acting on its behalf.

2 Observing these regulations

2.1 These Regulations apply across all parts of the whole organisation, including all Member fora and Directorate services, as well as all arms length organisations, agencies and partnerships with whom the Council does business and for whom the Council is the relevant accounting body. Where the Council is not the relevant accounting body, but is a responsible partner, officers must ensure that the accounting body has in place adequate Regulations and proper schemes of delegation. Schools are bound by these Regulations unless the School Standards and Framework Act 1988 (SSFA98) specifically exempts them from any particular provisions set out herein (e.g. financial thresholds, if the Framework provides differently).

2.2 All Council members and staff have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money (VFM) and achieves best value (notwithstanding the delegated authorities of any given committee or officer). In doing so, proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.

3 Maintaining these regulations

3.1 The Council operates a system of managerial and financial control whereby the Chief Finance Officer (CFO) has overall responsibility for the proper management of the finances of the Council as a whole and is responsible for issuing advice and guidance to underpin the Regulations that Members, Officers and others acting on behalf of the Council are required to follow.

The responsibility for the day-to-day financial control and administration in each Directorate is devolved to the Corporate Director. Corporate Directors are responsible for ensuring that all staff in their departments are aware of the existence and content of the Authority's financial regulations and that they comply with them.

3.2 The overall responsibilities of the CFO in respect of these regulations are therefore to:

a) maintain these Regulations and submit any additions or changes necessary to Full Council for approval in consultation with the Monitoring Officer (MO);

b) issue explanatory advice and guidance to underpin these Regulations as necessary. Where such advice and guidance is issued, members, officers and others acting on behalf of the Council are required to comply with it in accordance with the general provisions of these Regulations;

c) require any officer to take any action deemed necessary (as is proportionate and appropriate) to ensure proper compliance with these Regulations;

d) report, where appropriate, any breaches of these Regulations to Members;

3.3 These regulations have been drafted with a view to avoiding any uncertainty or ambiguity as to the principles, standards and procedures to be observed. Should any uncertainty or dispute arise pursuant to these Regulations, the matter must be referred to the CFO for interpretation and/or arbitration.

4 Sanctions & remedies for non-compliance

4.1 Compliance with these Regulations is mandatory. Those with responsibility for fulfilling their duties in line with the Regulations are required to maintain ongoing knowledge and awareness to ensure compliance. It will be the responsibility of officers to address non-compliance promptly and in the most appropriate way according to the circumstances. Concerns can also be raised anonymously in line with the Council's whistleblowing procedure. Failure to comply with any part of these Regulations may constitute misconduct and lead to formal disciplinary action.

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CITY OF YORK COUNCIL

Financial Regulations

Version 13 – January 2022

City of York council
Financial Regulations

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Status of Financial Procedure Rules

Introduction

1 These Financial Regulations (Regulations) provide the governance framework for managing the Council's financial affairs. They apply to every Member and Officer of the Council and to anyone acting on its behalf.

Observing these regulations

2 These Regulations apply across all parts of the whole organisation, including all Member fora and directorate services, as well as all arms length organisations, agencies and partnerships with whom the Council does business and for whom the Council is the relevant accounting body. Where the Council is not the relevant accounting body, but is a responsible partner, officers must ensure that the accounting body has in place adequate Regulations and proper schemes of delegation. Schools are bound by these Regulations unless the School Standards and Framework Act 1988 (SSFA98) specifically exempts them from any particular provisions set out herein (e.g. financial thresholds, if the Framework provides differently).

3 All Council Members and Officers have a general responsibility for taking reasonable action to provide for the security of the assets under their control and for ensuring that the use of these resources is legal, properly authorised, provides value for money (VFM) and achieves best value (notwithstanding the delegated authorities of any given committee or officer). In doing so, proper consideration must be given at all times to matters of probity and propriety in managing the assets, income and expenditure of the Council.

Maintaining these regulations

4 The Council operates a system of managerial and financial control whereby the Chief Finance Officer (CFO) has overall responsibility for the proper management of the finances of the Council as a whole but the responsibility for the day-to-day financial control and administration in each directorate is devolved to the Corporate Director.

5 The overall responsibilities of the CFO in respect of these regulations are therefore to:

a) maintain these Regulations and submit any additions or changes necessary to Full Council for approval in consultation with the Monitoring Officer (MO);

b) issue explanatory advice and guidance to underpin these Regulations as necessary. Where such advice and guidance is issued, Members, Officers and others acting on behalf of the Council are required to comply with it in accordance with the general provisions of these Regulations;

c) require any officer to take any action deemed necessary (as is proportionate and appropriate) to ensure proper compliance with these Regulations;

d) report, where appropriate, any breaches of these Regulations to Members;

6 These regulations have been drafted with a view to avoiding any uncertainty or ambiguity as to the principles, standards and procedures to be observed. Should any uncertainty or dispute arise pursuant to these Regulations, the matter must be referred to the CFO for interpretation and/or arbitration.

Sanctions & remedies for non-compliance

7 Failure to comply with any part of these Regulations may constitute misconduct and lead to formal disciplinary action.

Part A

Financial Management Standards

Introduction

1 This Part of the Regulations set out the overall framework of financial management responsibilities at the Council, including the accounting policies, standards, record keeping and financial statements the organisation is required to maintain in managing its finances and financial affairs.

2. All Members and Officer have a common duty to abide by the highest standards of probity and propriety when making decisions about the use of public monies. It is important for the way in which this is done to be transparent, properly accounted for in respect of the correct accounting year and reported in accordance with recognised accounting standards, conventions and policies

Member roles & responsibilities

3. Member responsibilities for the overall management of the Council's financial affairs are exercised through:

- **Full Council**, which is responsible for the Council's overall Policy Framework and for setting the Budget within which the Executive will operate (See Constitution Appendix 9).
- **The Executive**, which is responsible for proposing policy and the Budget to the Full Council.
- **The Audit & Governance Committee**, which is responsible for approving the statement of accounts.

The Chief Finance Officer (CFO)

4. The functions and responsibilities of the CFO are directed in the first instance by legislation that imposes statutory duties on the CFO for the proper management, financial administration and stewardship of Council assets and the fiduciary interests of local tax payers. These statutory responsibilities cannot be overridden and arise from:

- Section 151 of the Local Government Act 1972;
- The Local Government Acts 2000 & 2003;
- The Local Government Finance Act 1988;
- The Local Government and Housing Act 1989;
- The Accounts and Audit Regulations 2003, as amended by the Accounts & Audit (Amendment) (England) Regulation 2006

5. These responsibilities include:

a) the preparation of the Council's annual statement of accounts and the compilation and retention of all supporting accounting records and working papers, in accordance with the proper professional practices and set out in the format required by the Code of Practice on Local Authority Accounting in the United Kingdom: A Statement of Recommended Practice - the SORP (CIPFA/LASAAC). The financial year observed by the Council runs from 1 April to the following 31 March;

b) the proper administration of the Council's financial affairs, systems and procedures;

c) setting and monitoring compliance with financial management standards and controls;

d) ensuring proper professional practices are adhered to in acting as the head of profession in relation to the standards, performance and development of all finance Officers across the organisation;

e) providing advice on the key strategic controls necessary to secure sound financial management (including the operation of an effective internal audit function);

f) ensuring that financial information is available to enable accurate and timely monitoring and reporting;

g) determining the contents of all financial procedure manuals and ensuring compliance with the requirements of the Financial Regulations;

h) ensuring a Local Council Tax Support scheme is maintained;

i) in the event of a disaster or other civil emergency affecting the City then subject to overall council funding limits the CFO has the power to authorise all necessary expenditure required to support the Chief Operating Officer in exercising their lawful power. The CFO can also delegate this authority to any Chief Officer acting as their nominated deputy with a limit of £50K. The nominated deputy should at all times endeavour to seek

authorisation from the CFO where practical before committing expenditure.

6. The CFO can choose to delegate their day-to-day responsibilities in respect of their functions and responsibilities as defined by these Regulations in accordance with the Council's Schemes of Delegation. The CFO may delegate their responsibilities to an appropriate representative(s). Where this is the case the delegation and officer responsibilities must be clearly documented in the relevant scheme of delegation and be kept under regular review by the CFO further to these Regulations.

The Chief Internal Auditor (CIA)

7 The CIA is designated by the CFO as part of their Directorate Scheme of Delegation further to Appendix 1 of this Constitution and plays a key role in providing assurance to the Members, the CFO, the Head of Paid Service and Corporate Management Team about the practical deployment and effectiveness of financial management arrangements across the organisation.

8 The CIA has rights of access to information and data held by Officers or Members of the Council at all reasonable times and is responsible for the overall management and deployment of internal audit resources at the Council. They also have the right to report on any relevant matter of concern to senior management and Members of the Council outside normal line management arrangements should they deem this necessary in protecting the interests of the Council and/or local tax payers.

Corporate Directors

9 Whilst the CFO has overall responsibility for the finances of the Council, Corporate Directors and directors are responsible for the day-to-day management of their directorate's finances. Their responsibilities in relation to financial management include:

a) promoting and ensuring compliance with the financial management standards and practices set by the CFO in their directorates;

b) consulting with the CFO on any matter which is liable to materially affect the resources of the Council. This must be done before any commitment is incurred, or a report made to an Executive Member or to a committee for decision;

c) ensuring that Executive Members are advised of the financial implications of all proposals and that these have been agreed by the CFO or their nominated representative;

d) signing contracts on behalf of the Council in accordance with the contract procedure rules set out in Part D of these Regulations;

e) reporting suspected fraud and irregularities to the CIA for investigation and referral to the police as necessary;

f) ensuring that the common officer delegations relating to financial management and administration as set out in the Council's scheme of delegation within their directorates are exercised with due regard to the detailed requirements of these Regulations;

g) implementing the management recommendations of the internal audit provider and external auditors agreed with the Corporate Director and/or the relevant Chief Officers and heads of service.

Part B

Financial planning & budgeting

Introduction

1 The purpose of financial planning is to set out and communicate the organisations objectives, resource allocations and related performance targets and to provide an agreed basis for subsequent management control, accountability and reporting.

2 The Council's budget sets agreed parameters around the annual activities and functions of directorates and their services. The Council's Financial Strategy represents a financial plan to address those issues which have medium to long term financial implications for the organisation.

Budget Planning

3 The revenue budget must be constructed so as to ensure that it properly reflects the priorities of the Council and service plan considerations. Budgets are needed so that the Council can plan, authorise, monitor and control the way money is allocated and spent. It is illegal for the Council to budget for a deficit.

4 The budget process must ensure that resources are:

- required in accordance with the law and properly authorised;
- used only for the purpose intended to achieve approved policies, objectives and service priorities;
- held securely for use when required;
- used with the minimum level of waste, inefficiency or loss.

5 The CFO in consultation with each corporate director is responsible for:

a) ensuring that an annual revenue budget is prepared in the context of a medium term financial strategy for consideration by the Executive and its recommendation to Full Council.

b) maintaining a resource allocation process that properly reflects all due consideration of the Council's policy framework, ambitions and priorities;

c) advising the Executive on the format of the budget for approval by Full Council;

d) allocating central budgets for example inflation and superannuation;

e) providing advice and guidance to the Executive further to its responsibility for issuing guidance on budget preparation to take all due account of:

- legal requirements;
- medium term planning prospects and known issues;
- the Council Plan;
- available resources
- spending pressures;
- government initiatives and public policy requirements;
- internal policy directives;
- cross cutting issues and Council priorities.

f) determining the detailed form of revenue estimates consistent with the budget approved by Full Council after consultation with the Executive and corporate directors;

g) reporting to the Executive on the aggregate spending plans of directorates and on the resources available to fund them, identifying any implications for council tax levies;

h) advising on the medium term implications of spending decisions and funding options;

i) encouraging the best use of resources and value for money by working with corporate directors and other Chief Officers to identify opportunities to improve economy, efficiency and effectiveness and by encouraging good practice in conducting financial appraisals of growth or savings and developing the financial aspects of effective service planning;

j) where relevant and appropriate seeking to recover the cost of the service overheads when 'trading' with other organisations;

k) advising the Full Council on the Executive's budget proposals in accordance with their responsibilities under S151 of the Local Government Act.

6 Corporate directors and directors are responsible for ensuring:

a) budget estimates of income and expenditure are a realistic reflection of agreed corporate and service priorities, and that they are submitted to the Executive as part of the overall budget setting process. These estimates must be consistent with any relevant cash limits, the annual budget cycle and prepared in line with guidance issued by the Executive on the advice of the CFO. In drawing up draft budget plans corporate directors and directors must have regard to;

- spending patterns and pressures revealed through the budget monitoring process;

- legal requirements;
- policy requirements as defined by Full Council and set out in the policy framework;
- initiatives already under way.

b) effective budgetary control within their directorates, establishing detailed budgets for each service area in advance of the financial year and requiring such budgets to be properly managed by responsible named budget holders;

c) financial and budget plans are integrated into service planning.

d) If corporate directors or directors are unable to keep within their agreed budget limits they must consult with the CFO, who has a statutory duty to report any significant issues to Members.

Budget monitoring and control

7 The Council budget sets an annual cash limit. To ensure the Council does not exceed its budget, each service area is required to manage its own income and expenditure within the cash limited budgets allocated to them to be spent on agreed service activities and functions.

8 The CFO is responsible for establishing a robust framework of budgetary management and control that ensures that:

a) budget management is exercised within annual cash limits;

b) appropriate and timely financial information is available to Chief Officers and budget holders that

enables budgets to be monitored and controlled effectively;

c) expenditure is committed only against approved budget heads and associated structure of detailed cost centres;

d) all officers responsible for committing expenditure comply with these Regulations;

e) each cost centre is delegated to a named budget holder to be determined by the relevant Chief Officer (budget responsibilities should be aligned as closely as possible with those making day to day decisions to commit expenditure);

f) significant variances from budget are investigated and reported by budget holders on a regular basis.

9 The CFO must monitor and control the level of income and expenditure against budget allocations overall. They must ensure that monitoring reports are provided through the finance and performance monitoring framework for Members to consider on a regular basis throughout the financial year (to be determined and advised by the CFO) and a report after the year end setting out the revenue outturn. Budget monitoring reports must include:

a) explanations of all variations to service budgets where deemed appropriate by the CFO;

b) explanations of financial implications and material considerations such as:

- part and/or full year consequences of variances;
- one off and/or recurring costs and income;

- total scheme costs and sources of funding;
- asset rental costs or leasing effects;
- costs associated with staffing matters including the costs of redundancy and effects on the pension fund;
- service plan implications and impact on service delivery (both within the service plan area and across other services or portfolios as appropriate).

10 Reports containing budget monitoring information must be reviewed by the CFO, or by their nominated representative(s) (where not otherwise prepared by their nominated representative in directorates) at least 5 working days in advance of the relevant committee distribution date.

11 Any overspending on service estimates in total on budgets under the control of a director must be reported by the CFO to the Executive. Where overspending is such that it appears the overall budget will be exceeded, and there is a need for an additional call on the council reserves the CFO must report the issue to full council.

12 Schools' balances will be available for carry forward to support the necessary expenditure of the school concerned. Where an unplanned deficit occurs, the governing body shall prepare a detailed financial recovery plan for consideration by the corporate director for people and the Executive Member concerned in consultation with the CFO.

13 Schools must prepare a plan to recover the deficit within a defined period. In exceptional circumstances schools may seek to incur expenditure to be financed by anticipating future year budgets. Any such arrangement must be approved by the relevant Executive Member and proposals to do so accompanied by a detailed plan setting out how the arrangement is to be

accommodated as a first call on their future budget share.

14 The CFO is also responsible for:

a) reporting to the Executive and Full Council in consultation with the relevant Corporate Director if they are unable to balance expenditure and resources within their existing budgets and a supplementary estimate is required;

b) reporting to the Executive regarding virements which are in excess of £500,000 (either as individual items in-year or when taken in aggregate across the same category of budgeted income or expenditure in a particular service plan in any one financial year);

c) reporting regularly to the Executive (as determined and advised by the CFO) on the overall revenue budget position and the Council's available contingencies, balances and reserves.

15 It is the responsibility of Corporate Directors and Directors to:

a) ensure effective budgetary control arrangements exist and are observed within their own directorates in accordance with these Regulations;

b) ensure spending remains within the relevant cash limits by controlling income and expenditure within their directorate, monitoring performance and taking corrective action where significant variations from budget are forecast, taking account of any financial information and/or advice provided by the CFO or their nominated representative(s).

c) regularly report performance and variances within their own areas and take action to avoid

exceeding their budget allocation, alerting the CFO to any known or expected budget problems;

d) report to the Executive and Full Council as necessary the financial implications of any new in-year proposal or amendment that will:

- create financial commitments in future years;
- change existing policies, initiate new policies or result in existing policies ceasing to operate;
- materially extend or reduce the Council's services.

16 Further guidance is available in the Budget manager guidelines which form part of the supplementary guidance to these regulations:

Medium term financial planning

17 Medium term financial planning allows the Council to think beyond the constraints of any given financial year and annual budget and prepare for future events. The CFO is delegated as part of the final accounts process to make proper provision for known future commitments, and approve carry forward of budgets, which are consistent with agreed budgetary and/or policy framework.

18 The CFO is responsible for reporting a financial strategy to the Executive for recommendation to Full Council. This will set out the overall medium term financial issues facing the Council, and consider the actions the council may need to take.

Schemes of virement

19 The term virement refers to transfers of resources between or within approved cost centres for both revenue and capital purposes. A virement does not create additional budgetary liabilities. Instead the virement mechanism exists to enable the Executive, Chief Officers and their Officers to manage their budgets with a degree of flexibility within the overall policy framework and budget set by Full Council, thereby optimising the use of resources throughout the financial year. The virement schemes for revenue and capital do not exist as a means of remedying poor budgetary control or financial planning for known commitments and service priorities, or otherwise excuse Chief Officers and budget holders from the need to manage their budgets prudently and responsibly. Nor may virements be effected after the year end to retrospectively fund over or under spends unless approved in advance by the CFO.

20 It is important that the scheme is carefully controlled within guidelines established by Full Council and administered by the CFO. Any variation from those guidelines must be approved by Full Council. All virements must:

- not commit the Council to any on-going additional expenditure in future years unless virements are permanent redirections of resources;
- be notified in writing to the CFO or their nominated representative;
- be reported in budget monitoring reports to the Executive in accordance with the scheme of virement operated by the Council
- be recorded in the Council's financial systems.

21 The scheme of revenue virement and agreed thresholds for delegated decision making purposes is set out below. Further guidance is available for Finance Teams

within the Virement Policy which forms part of the supplementary guidance to the financial regulations.

Scheme of revenue virement delegations

Decision maker	Delegated powers & authority	Thresholds
The Executive	To approve virements between Service Plans in excess of £500k (either individually or in aggregate for the financial year)	Over £500k up to the cash limits set by the Budget
	To approve allocations of resources from approved contingencies and reserves	As set by the annual Budget
	To make recommendations to Full Council for the release of budget resources in excess of the approved contingencies and reserves	As set by the annual Budget
	To approve virements from within existing Service Plans or between Service Plans into new or otherwise unplanned functions and activities if savings are available to be re-directed into the new activity	Over £500k
Corporate Directors	To approve virements within or between Service Plans within their Directorates in excess of £100k and up to £500k (either individually or in aggregate for the financial year) in consultation with the relevant Executive Member. Any virement	Over £100k and up to £500k in consultation with the relevant

	that affects the council's policy framework will be referred to full council.	Executive Member
	To approve virements from within existing Service Plans or between Service Plans within their Directorates into new or otherwise unplanned functions and activities if savings are available to vire into the new activity. Any virement that affects the council's policy framework will be referred to full council.	Over £100K and Up to £500k in consultation with the relevant Executive Member
	CFO to approve virements between directorates in consultation with the relevant Chief Officers	Up to and including £500K in consultation with the relevant Executive Member
Other Chief Officers	To approve virements within their Service Plans up to £100k (either individually or in aggregate for the financial year)	Up to £100k

The Capital Programme

22 The capital programme is a plan that sets out the resource allocations to be made to capital schemes that have the approval of Full Council. Capital expenditure involves acquiring or enhancing fixed assets with a long term value to the organisation, such as land, buildings, major items of plant, equipment or vehicles

23 The Regulations and standards relating to budgetary management and control of the revenue budget apply equally to capital expenditure and any changes to revenue budgets arising out of changes to the capital programme must be dealt with accordingly. All capital expenditure is incurred or committed on a scheme by scheme basis. Capital expenditure must be reported gross of any funding and controlled at that level.

24 No expenditure may be incurred on a project unless it has been approved as part of the capital programme. Equally, no scheme requiring Government sanction or funding either in full or in part may begin until the sanction and/or funding has been officially confirmed. All credit agreements must be referred to the CFO for approval prior to schemes being included in the programme.

25 All capital expenditure must be incurred by 31 March of the financial year for which it is approved, although approvals can be slipped provided the position is reported to the Executive, unless there is an external requirement to spend within any given year. Where schemes are part of a rolling programme or span a number of years, approval is required for each year's expenditure when the scheme is approved for inclusion in the Programme.

26 As with the revenue budget, it is possible to vire between schemes within the approved capital programme where known funding shortages and/or underspends have arisen. The same rules and principles set out in paragraphs 19-21 above for revenue virement apply to the capital programme. If shortfalls in funding or overspends cannot be met by transferring resources between schemes within the agreed capital programme, requests of additional funding from reserves must be prepared by the relevant Corporate Director in consultation with the CFO for approval by the Executive. The scheme of capital virement and thresholds for delegated decision making purposes is set out in the table below.

Scheme of capital virement delegations

Decision maker	Delegated powers & authority	Thresholds
The Executive	To approve individual virements between schemes in excess of £500k	Over £500k
	To re-phase approved scheme expenditure between years in excess of £500k for each scheme	Over £500k
Corporate Directors	To approve individual virements between schemes in excess of £100K up to a maximum of £500k in consultation with the relevant Executive Member. Any virement that affects the council's policy framework will be referred to full council	Over £100K and Up to and including £500k
	To approve individual virements between schemes up to a maximum of £100k	Up to and including £100k

27 In relation to the capital programme the CFO is responsible for:

a) ensuring that an annual capital programme is prepared for consideration by the Executive for recommendation to Full Council;

b) reporting to the Executive on income, expenditure and resources compared with approved estimates;

c) issuing guidance on capital schemes and controls and defining what will be regarded as capital having proper regard to Government regulations and accounting conventions;

d) ensuring that all schemes relying on the use of prudential borrowing powers for funding purposes are properly appraised on the basis of a robust business case as part of the capital budget process.

e) managing the capital budget process;

f) maintaining a record of the current capital budget and expenditure on the Council's financial systems.

28 In relation to the capital programme Corporate Directors and directors are responsible for:

a) complying with the guidance issued by the CFO regarding capital schemes and controls;

b) ensuring that all capital schemes put forward for consideration in the CRAM process have been properly appraised and that each scheme and estimate includes a proper project plan, progress targets and sets out the sources of funding for the scheme including all associated revenue expenditure;

c) preparing regular reports reviewing the capital programme provisions for their services;

d) ensuring adequate records and audit trails are maintained in respect of all capital contracts;

e) monitoring capital expenditure and receipts against approved capital budgets on a scheme by scheme basis and reporting to the relevant Executive Member on a regular basis in accordance with the standard revenue budget monitoring arrangements set out above;
f) reporting to the Executive if proposed sources of funding are not secured (if planned funding from linked assets sales or external grants and contributions cannot be realised, corporate funding support must be sought).

Reserves & balances

29 Financial reserves and balances are maintained as a matter of prudence against unforeseen events and future contingencies. The CFO is responsible for advising the Executive and Full Council on prudent levels of reserves and balances for the Council as part of the annual budget setting process based on a reasoned assessment of risk.

30 The Council must decide the level of its general reserves in determining the level of council tax. The purpose, usage and basis of transactions must be clearly set out in respect of each of the reserves and balances held by the Council.

The Venture Fund

31 The Council maintains a venture fund as part of its reserves designed to provide some capacity to support one-off 'invest to save' type initiatives that might otherwise struggle to secure funding in the annual budget setting process.

32 Officers are able to bid for venture fund monies with a view to any advances from the venture fund being re-paid within a 7 year period at an internal borrowing rate fixed in relation to the councils consolidated rate of interest to be determined by the CFO. All bids to the Venture Fund must be made in the form of a business

case setting out the nature and purpose of the proposal, forecast income and expenditure and payback period.

33 CFO has delegated authority to approve bids up to £100,000 from the venture fund, in consultation with the leader. Delegated decisions will be advised to the Executive as part of the budget monitoring and reporting process. Bids in excess of £100,000 must be referred to the Executive for approval.

Prudential Borrowing

34 In addition to the venture fund, in accordance with Local Government Act 2003 and the Prudential Code, departments can put forward business cases for prudential borrowing. This is for schemes of a capital nature only and would normally be approved as part of the annual capital programme budget process. However, there will be opportunities that arise during the year where a capital scheme can be approved using prudential borrowing outside of this process.

35 All bids are referred to the Executive for approval. The required interest rate is the consolidated rate of interest of the loans portfolio. The length of the prudential borrowing will be supported by the business case, taking into consideration the life of the asset.

36 The CFO has delegated authority to approve the length of the repayment period for all borrowing to ensure that borrowing matches the asset life. This will ensure value for money allowing prudential borrowing repayment periods to alter as asset life changes.

Part C

Audit & Risk Management

Audit & inspection

1 Audit is a key management tool that Members and Chief Officers should rely on to provide an independent and objective assessment of the probity, legality and value for money of Council arrangements. It examines, evaluates and reports on the adequacy of internal systems of control in the proper, economic, efficient and effective use of resources. Legislation requires that the Council provides for the function of both internal and external audit services.

2 The statutory requirement for the Council to maintain *"an adequate and effective system of internal audit"* is set out in Regulation 5 of the Accounts and Audit Regulations Act 2003, as amended by the Accounts & Audit (Amendment) (England) Regulation 2006 and further to S151 of the Local Government Act 1972.

3 In summary, the service exists to:

a) provide assurance to Members, Chief Officers and the general public on the effective operation of governance arrangements and the internal control environment operating at the Council;

b) objectively examine, evaluate and report on the probity, legality and VFM of Council arrangements for managing all items of income, expenditure and safe-guarding assets;

c) review arrangements for ensuring proper accounting controls, systems and administration are maintained and make recommendations for action and improvement;

d) help to secure the effective operation of proper controls to minimise the risk of loss, the inefficient

use of resources and the potential for fraud and other wrongdoing;

e) act as a means of deterring all fraudulent activity, corruption and other wrongdoing, conducting investigations into any matter referred to it for investigation by management or officers and members of the public and reporting its findings to Corporate Directors and Members as appropriate for action;

f) undertake the prioritised investigation of all instances of alleged housing benefit fraud and prosecute those cases where fraud has been identified to protect the Council and fiduciary interests of the community and the public purse;

g) conduct investigations into suspected fraudulent activity and improper conduct as reported by Members, governors and employees referred to it further to the Council's whistle-blowing policy;

h) report all known breaches of these regulations and Council standing orders and any other action leading to expenditure incurred ultra vires, identifying any areas of poor financial probity and stewardship problems for action by Chief Officers and Members as appropriate;

i) advise the CFO and MO as to any necessary intervention in decision making if it is likely that any proposed action will lead to unbudgeted or unlawful expenditure or activity;

j) review the Council's arrangements for ensuring the income and expenditure of the organisation is properly and regularly monitored in line with the budget setting, monitoring and reporting requirements set out in these Regulations;

k) advise Officers and Members of value for money issues and/or the poor or inappropriate use of

Council resources and make recommendations for improvement;

l) review the optimisation of income generation opportunities from grants and subsidies monies available from Government;

m) advise the CFO of any appropriate action necessary to safeguard the fiduciary interests of the Council and current and future council tax payers.

4 The council's audit & fraud provider is a wholly local authority owned company (Veritau) in which the council has two director appointments (CFO & a member of the Executive).

5 The internal audit & fraud provider and the external auditors must be allowed to act independently and objectively in their planning and operation without undue influence by either Directors or Members.

6. The CIA is designated by the CFO. They, or their nominated representative(s), has rights of direct access and reporting to the CFO, the client officer for the audit & fraud provider (nominated by the CFO), all Corporate Directors and Members. CIA staff have rights of access to all Council buildings and properties, information and data at all reasonable times.

7. The Public Sector Audit Appointments Ltd (PSAA) is responsible for appointing external auditors to Councils, an appointing person under provisions of the Local Audit and Accountability Act 2014, which also sets out the duties of the external auditor. These variously include rights of access and the right to report publicly on their findings and recommendations. The external auditors must comply with the provisions of a Code of Audit Practice in planning and conducting their work. This includes the audit of the Council's financial statements, the financial aspects of corporate governance and performance management. The work

of the council's auditors is reported to the Executive and Full Council in their annual audit letter.

8. The Council may also be subject to audit, inspection or investigation by external bodies such as HM Revenues & Customs, and various other Inspectors of service at any time.

Preventing fraud & corruption

9. The Council will not tolerate fraud or corruption in the administration of its responsibilities, whether perpetrated by Members, Officers, customers of its services, third party organisations contracting with it to provide goods and/or services, or other agencies with which it has any business dealings. There is a basic expectation that Members and all Officers will act with integrity and with due regard to matters of probity and propriety, the requirement to act lawfully and comply with all rules, procedures and practices set out in legislation, the Constitution, the Council's policy framework and all relevant professional and other codes of practice. To that end the Council has adopted an anti-fraud and corruption strategy, fraud prosecution policy, anti-money laundering policy and whistle-blowing policy along with codes of conduct governing the behaviour of Members and Officers.

10. All Officers and Members of the Council must inform the CIA immediately if they suspect or know of any impropriety, financial irregularity, fraud or corrupt practice. The CIA is responsible for determining the nature of any investigation work required in respect of any allegation of wrong doing, and/or any other action required and may refer matters to the police or other appropriate external body as they see fit in consultation with the contract client officer (as nominated by the CFO)

11. The internal audit & fraud providers are required to investigate all referrals of fraud at the direction of the CIA and client manager and in doing so have:

a) rights of access to all Council premises and property, all data, records, documents, and correspondence relating to any financial matter or any other activity of the Council;

b) the right to require any Officer or Member to provide any information or explanation needed in the course of their investigations;

c) the right to prosecute cases of benefit related fraud in the courts;

d) the right to refer investigations to the police in consultation with the relevant Chief Officer(s), client manager and CFO.

12. In addition, the CIA should to:

a) refer cases directly to the police if they believe that normal consultation practices would compromise the integrity of the investigation against the interests of the Council or the general public;

b) notify the council's auditors of any matter that they would rightly expect to be informed of in order to support the function of an effective and robust external audit service;

c) require any Officer or Member to:

- make available such documents relating to the accounting and other records of the Council that are necessary for the purpose of the audit;

- supply any information or explanation considered necessary for that purpose.

Managing risk

13. Risk management is inherent to good management practice and essentially; it is concerned with identifying potential events (risks), establishing what could go wrong (threats) and the potential for success (opportunities) with the aim of trying to achieve the right balance between the two. The outcome from proper risk consideration ensures that managed controls are in place and the effective prioritisation and allocation of potentially scarce resources to the most appropriate area (high risk), to ensure service continuity and performance improvement.

14. It is essential that robust, integrated systems are developed and maintained for identifying, evaluating and managing all significant strategic, project and operational risks to the Council. This should include the proactive participation of all those associated with planning and delivering services

15. The CFO is responsible for preparing the Council's risk management policy & strategy and for promoting it throughout the Council.

16. It is the responsibility of Chief Officers to ensure there are regular reviews of risk within their areas of responsibility having regard to advice from the Council's risk management service and other specialist officers (e.g. health and safety).

31. Full details of the way that the Council manages its risks are set out in the risk management policy and strategy and form part of the supplementary guidance to these regulations.

Insurance

18. The Chief Finance Officer is responsible for:

- effecting all relevant insurances and dealing with all claims;

- operating an internal insurance account(s) for some risks or elements of risk not covered by external insurance policies and is authorised to charge the various Council service budgets with the cost of contributions to this account;

- reviewing, at least annually, all insurances.

19. It is the responsibility of Chief Officers to:

- advise the CFO of all new risks, properties, vehicles or potential liabilities for which insurance may be required; and of any changes affecting existing risks or insurance cover required;

- notify the CFO in writing without delay of any loss, liability or damage or any event likely to lead to a claim, and shall provide such information and explanations required by the CFO or the Council's insurers;

- ensure that employees, or anyone covered by the Council's insurances, do not admit liability or make any offer to pay compensation that may prejudice the assessment of liability in respect of any insurance claim.

Part D

Systems & procedures

Introduction

1 Good systems and procedures are essential to the effective management and administration of the Council's financial affairs. This section covers:

- Accounting systems
- Income
- Expenditure
- Banking arrangements
- Treasury management
- Taxation
- Stock & stores
- Trading accounts

Accounting systems

2 The Council relies on a variety of different financial and accounting systems in controlling and administering the finances of the organisation. It is vital that these systems ensure information is recorded accurately, completely and in a timely manner and that all necessary controls are in place to ensure that all transactions are properly processed and any errors detected promptly and rectified.

3 The CFO is responsible for:

- determining the Council's main accounting system for the preparation of the Council's accounts and for monitoring all income and expenditure. The main accounting and budgeting system used at the Council is known as the financial management system (FMS);

- determining any other key financial systems which may sit outside the FMS;

- ensuring that all financial systems are sound and properly integrated and interfaced;

- issuing advice, guidance and procedure notes on the use and maintenance of FMS and related financial systems and for ensuring that all finance Officers are trained and competent in the using of financial systems.

4 Corporate Directors have devolved responsibility for the finances of their directorates and must ensure that proper accounting and financial systems exist and incorporate adequate internal controls to safeguard against waste, loss or fraud. They must also ensure that officers in their Directorates are aware of and have access to copies of these Regulations and any supplementary advice and guidance issued by the CFO.

5 Further to this, Corporate Directors are specifically responsible for:

a) ensuring all accounting records are properly maintained and held securely, including any supporting vouchers, documents, contracts etc with financial implications;

b) ensuring FMS is used as the prime means of monitoring expenditure and income in their departments and for comparing spend against budgets, except and unless the CFO advises or agrees that alternative arrangements may be made;

c) ensuring that FMS is used to accurately record the financial transactions of their departments in accordance with the advice and guidance given by the CFO and in a way that ensures compliance with all legal requirements, proper accounting practice and enables returns to be made to central government, taxation authorities and other

relevant bodies and provides a complete audit trail;

d) the effective operation of financial systems within their own directorate to the extent that they are operated and controlled within their directorate;

e) ensuring regular reconciliations between other departmental systems of financial administration with the Council's financial management systems (FMS);

f) reporting systems failure to the CFO and consulting with them about any changes or new developments;

g) ensuring there is a documented and tested disaster recovery plan as part of an agreed business continuity strategy for financial administration;

h) ensuring that systems are documented and all Officers have been properly trained in their use.

Income

6 Income can be a vulnerable asset and effective income collection systems are necessary to ensure that all income due is identified, collected, receipted and banked properly. It is preferable to obtain income in advance of supplying goods or services as this improves the Council's cash flow in line with the Councils income policy that forms supplementary guidance to these regulations.

7 The council has moved away from accepting cash except where this is unavoidable any cash received must be acknowledged by the issue of an official receipt and all monies then accounted for and paid directly into an approved bank account. Details of all cash receipted on a local basis must be forwarded to the CFO for allocation to the correct accounts.

8 Income must never be used to directly fund expenditure (i.e. all transactions must be shown separately in the ledger, both income and expenditure). Officers are directly responsible for the safe custody of any money received until it has been paid into the bank or handed over to another officer. Receipts should be given and retained in such circumstances.

9. Procedures for writing off debts shall be as follows. Further guidance is available in the Corporate Debt Policy which forms part of the supplementary guidance to these regulations:

Decision maker	Delegated powers & authority	Thresholds
The Executive	Amounts exceeding £200,000 may only be written off on the authority of the Executive. The CFO shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.	Over £200k
Executive Member	Amounts over £100,000 and not exceeding £200,000 on the authority of the Executive Member (Corporate Services) in consultation with the CFO**.** The CFO shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery	Over £100k and up to and including £200K
CFO	Amounts up to and not exceeding £100,000 on the authority of the CFO The CFO shall maintain a record of all such write-offs showing	up to and including £100k

	attempted recovery action taken and the justification for non-recovery.	
Chief Officers	Amounts up to and not exceeding £5000 may be written off by any Chief Officer in consultation with the CFO, who shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.	up to and including £5k

10 The CFO has the power to award discretionary rate relief up to the subsidy control regime limit in consultation with Executive. In the case of urgency the decision can be made by the CFO in consultation with the relevant Executive Member. The fully Government funded business rate relief awards announced at regular intervals can be awarded by the CFO or their nominated officer.

11. The CFO is responsible for making arrangements for the collection of all income due to the Council and approving the procedures, systems and documentation used in its collection in line with the corporate debt management policy. Regularly reviewing all fees and charges levied by services and ensuring they are set with due regard to comparable market rates, the legal responsibilities of the organisation, the income policy and any relevant social or economic policy objectives set out in the Council's policy framework

12. Corporate Directors and Directors are responsible for:

a) collecting income for which there is budget provision within the budgets for which they are responsible;

b) using the systems for the collection and recording of cash and credit income provided by the CFO unless they have the approval of the CFO to make alternative arrangements;

c) the proper separation of duties between Officers raising accounts and those responsible for income collection;

d) collecting all income and initiating all appropriate recovery action for debts that are not paid promptly where local arrangements for doing so have been agreed with the CFO;

e) requiring at least two Officers to be present when post is opened to ensure any money received in that way is properly identified, recorded and safeguarded;

f) issuing official receipts as necessary and maintaining all other documentation for income collection purposes and ensuring controlled stationery is securely stored;

g) keeping all income received in secure storage and ensuring cash holdings do not exceed insurance limits;

h) ensuring all income is paid fully and promptly into approved bank accounts in the form in which it is received and that all details are properly recorded on paying in slips which are retained for audit trail purposes. Money collected and deposited must be reconciled to the bank account on a regular basis;

i) ensuring income is not used to cash personal cheques or used to make other payments;

j) supplying the CFO with all details relating to works done, services supplied or other amounts due to be raised through the corporate invoicing system;

k) using the councils charging policy for the supply of goods and services levied by their directorate's services and ensuring all fees and charges are set with due regard to income policy, the legal responsibilities of the organisation and any relevant social or economic policy objectives set out in the Council's policy framework;

l) assisting in the collection of debts originating from their directorates by providing information and taking any recovery action necessary on a local basis with the agreement of the CFO;

m) recommending to the CFO all debts to be written off and maintaining records of all sums written off. Once raised on the accounting system, no bona fide debt can be cancelled except by full payment or by being formally written off in the accounts. Credit notes can only be issued to correct a factual inaccuracy or administrative error in the calculation and/or billing of the original debt and must not be used for any other purpose;

n) notifying the CFO of any outstanding income due in relation to the previous financial year as soon as possible in line with the annual timetable for the closedown of the accounts determined by the CFO.

13. All officers are responsible for the safe custody of any money received until it has been paid into the bank or handed over to another officer.

14. Full details of the way that the Council manages its income is set out in the Income Policy which forms part of the supplementary guidance to these regulations.

Expenditure

15. Expenditure may be incurred provided there is funding available through normal ordering and invoicing processes, entering into a contract arrangement,

through the payment of salaries, wages and allowances, purchase cards or in exceptional circumstances through raising a payment requisition. Corporate Directors, or their nominated representatives, are authorised to incur expenditure on works, goods and services where there is an approved budget for which they are responsible, provided such expenditure is legally incurred and within the policy framework. All foreign travel to be approved by the CFO, except for: - where it is a director of the council (Chief Operating Officer to determine) or where it is the Chief Operating Officer (leader of the Council to determine). The decision should consider the total cost, including the extent of external funding where applicable, and the overall anticipated benefits from the trip. Expenditure must be shown separately to income and expenditure proposals that attract amounts of income must be shown gross in the accounts. The determination of any financial thresholds or bandings referred to by these Regulations must therefore be done with reference to the gross amount.

Ordering works, goods and services

16. Corporate Directors must use the FMS system except in the case of emergencies or if approval has been given by the CFO to an alternative arrangement.

17. Official purchase orders must be issued for all purchases including those under contract except:

- where the supplier is on the official list of suppliers exempt from using official purchase orders;
- purchases made through petty cash;
- those allowed under the councils Government Procurement Card (GPC) Policy;
- those made using a council prepaid card.

18. Official orders electronic or otherwise must be in an approved form as determined by the CFO. They may only be authorised by signatories up to the limits of their delegation as set out in the relevant directorate schemes of delegation. This record must be accurate, complete and kept up to date. If it is necessary for an oral order to be placed for any good reason, it must be followed up by an official order as soon as it is possible to do so. Orders must be clear and specific (i.e. they should state quantity, price, and nature of the goods or service etc. so that meaningful comparison between what was ordered and what has been received can be made and the invoice can be matched to the order). Official orders may not be raised for personal or private purchases. Schools have their own ordering procedures and must abide by the regulations set out in the local management of schools scheme.

Payments for works, goods and services

19. Payments for works, goods and services must only be made:

- on receipt of an invoice or contract certificate which satisfies VAT regulations, or;
- where the liability for payment is clearly established and evidenced;
- in accordance with contractual commitments;
- in accordance with the council's policy of "no purchase order, no payment".

20. All Corporate Directors must use the FMS system unless they have the approval of the CFO to make alternative arrangements. Officers must ensure payments for works, goods and services are not made unless:

- they are supplied in accordance with an official order, or contract, and the invoice amount/contract certificate is correct;

- payment is in respect of a periodic account or for a service regularly supplied and the amount invoiced is properly payable;

- a valid exception to the no purchase order no payment policy has been approved and quoted by the supplier.

21. Council purchase cards can be used for procuring goods, works and services when approved through the GPC policy. The individual transaction limit and aggregate spend limit must be approved by the CFO or their delegated representative. All transactions must be entered onto the councils FMS systems and proper separation of duties between officers ordering and/or procuring and those authorising must be maintained. The individual transaction limit must not exceed that set out under the financial scheme of delegation unless agreed by the CFO or their delegated representative.

22. Payments in advance must be avoided except where this is the accepted practice for the type of expenditure involved (e.g. leasing payments, training, travel or conference facility fees) or where use of a council purchase card has been authorised. Advance payments in excess of £5,000 can only be made with the approval of the CFO. All sums below this amount, which are not accepted practice, can be approved by the relevant director. Where interim or part payments form part of a contract, interim certificates or part invoices must be authorised for payment only after the value of the work done or goods or services received has been confirmed.

23. A proper separation of duties must be maintained between Officer responsible for requisitioning or creating contractual commitments for works, goods and services and those authorising the commitment. Officers that authorise a requisition through the councils

purchasing system (FMS) must not be responsible for receiving and checking works, services and goods (GRN) where this is required. Directors must agree alternative arrangements with the CFO if it is not practically possible to maintain an adequate separation of duties for any reason.

24. All invoices and receipts must be original documents which comply with VAT regulations (invoices and receipts scanned through the Councils EDRMS system are accepted as original documents). Invoice coding slips for use in exceptional circumstances must be properly completed detailing the correct VAT code, finance ledger codes, sufficient narrative description to allow invoices to be matched and properly described in the ledger and all necessary signatures electronic or otherwise for authorisation and payment.

25. The CFO must ensure that payments are made in an appropriate timescale that will not unduly disadvantage the Council's cash flow, result in the Council incurring late payment penalties or prejudice the financial position of those to whom the payment is to be made. The performance standard for the payment of invoices is 30 days. This is a local performance Indicator that is monitored by CMT and reported to Executive.

Contracting for works, goods and services

26. The contract procedure rules are issued as a supplementary guidance document to these regulations and set out the specific procurement rules and procedures to be observed in contracting for the provision of works, goods and services.

Payments of salaries, wages & allowances

27. Officer costs form the largest item of expenditure made by the Council. It is important that payments are accurate, complete, timely and made in accordance with what is due consistent with the individual conditions of employment and/or the terms of any Officer or Member

allowance scheme and that such payments are fully recorded and accounted for in the accounting system.

28. The CFO is responsible for providing a corporate payroll system for recording all payroll data and generating payments to employees and Members. The system must allow for the proper calculation of all pay and allowances, national insurance and pension contributions, Income Tax and all other deductions. Corporate Directors must use the corporate payroll system for all payments to employees and are responsible for ensuring that all information relating to an employee's entitlement to pay and/or the payment of allowances are forwarded to the payroll team within agreed timescales All supporting evidence of entitlement must be provided to payroll at the same time (i.e. signed timesheets, appointment forms, changes in pay scales, approval for responsibility payments etc). Schools are permitted to make their own payroll arrangements but if they choose to do so they must provide the CFO with all necessary information to provide assurance to the auditors that any alternative system is well controlled, managed and resulting in the correct payments being made to the correct Officer.

29. All posts that are designated in legislation as being officers of the council e.g. adoption panel Members **must** be paid through payroll as the council is legally liable for tax and national insurance contributions.

Petty cash and disbursements

30. The CFO will provide petty cash floats only in exceptional circumstances to a maximum amount agreed with Corporate Directors for the purpose of meeting minor expenses where there is no alternative method of payment. Corporate Directors are responsible for ensuring all petty cash monies are securely stored and are only used for the purposes intended. VAT receipts must be provided with requests for reimbursements. All receipts and vouchers must be retained and regular reconciliations carried out and

recorded by the Officer responsible for managing petty cash floats.

31. Full details of the way that the Council manages its petty cash, electronic card payments and other payments is set out in the petty cash and payments procedures, the processing electronic card payments security policy and the cash handling procedures which form part of the supplementary guidance to these regulations.

Banking arrangements

32. It is the responsibility of the Executive to approve the banking arrangements of the Council and for the CFO to manage the banking contract on a day to day basis. Council payments must be made by BACS or other instrument drawn on the Council's bank account by the CFO. Schools may operate local bank accounts. . Detailed advice on the use and operation of school bank accounts is given in the Council's “Local Management of Schools” finance manual.

33. The CFO is responsible for ensuring regular reconciliations are carried out on at least a quarterly basis for all the main bank accounts to the financial records of the Council. All withdrawals or transfers with an individual value in excess of £50,000 must be counter-signed by another authorised signatory to the bank account.

Treasury Management

34. The Council has adopted the recommendations set out in the CIPFA Code of Practice on Treasury Management (the Code) which have been observed in setting out the Council's Treasury Management Strategy and policy statements.

35. The CFO is responsible for:

a) preparing a treasury management strategy setting out the objectives, policies, working practices and

controls to be observed in the Council's treasury management activities for approval by the Executive;

b) ensuring the implementation of the strategy and its periodic review, reporting progress and any necessary changes to meetings with the Executive Member for Corporate Services on a regular basis;

c) ensuring that the Audit & Governance Committee scrutinise the treasury management strategy and monitoring reports;

d) all investment, borrowing and credit agreements entered into on behalf of the Council, credit cards, hire purchase arrangements and finance leases will not be approved for use except in very special circumstances;

e) approving the set up of any company, joint companies, joint ventures, partnerships or investments;

f) the custody of all financial securities which are the property of the Council, or are held in its name;

g) the registration of all Council owned stocks, bonds, mortgages and loans;

h) effecting all loans in the Council's name to meet its needs on the most economic terms available.

i) approving any loans or guarantees given to third parties and interests acquired in companies, joint ventures or other enterprises with the approval of Full Council following

j) arranging for all trust funds to be held in the name of the Council wherever possible and ensuring that trust funds operate within the law and the specific requirements for each trust. All officers acting as trustees by virtue of the position with the Council shall deposit securities relating to the trust

to the custody of the CFO unless the deeds specifically require otherwise;

k) arranging the secure administration of funds held on behalf of third parties and partnerships ensuring that the systems and controls for administering such funds are approved by the CFO and subject to regular audit.

Leasing

37. All contracts that contain a 'Right of Use' asset that the Council has entered into up to 31 March of the financial year for which they are approved, (such as contracts that have the formal status of a lease arrangement and service contracts that contain an asset that the Council has use and control of throughout the contractual period) need to be reported to the CFO. This is to enable a register of such assets to be maintained to ensure that the correct accounting treatment is applied. All 'Right of Use' assets will count towards the Council's Capital Financing Requirement (CFR) and have the same implications for the Council as the addition of capital assets financed by prudential borrowing.

38. Where contracts above the £10,000.00 capital limit are entered into that contain a 'Right of Use' asset, Officers and Budget Managers with delegated responsibility for signing such contracts will be required to report these to the CFO to gain approval before they are signed off and entered into.

Taxation

39. The CFO is responsible for ensuring:

a) the completion of all inland revenue returns regarding PAYE;

b) the completion of a monthly return of VAT inputs and outputs to HM Revenues & Customs;

c) the provision of details to the Inland Revenue regarding the construction industry tax deduction scheme;

d) the provision and maintenance of up to date guidance for Council employees on taxation issues in relevant accounting and taxation manuals and through advice provided by the corporate finance team.

e) the correct VAT liability is attached to all income due and that all VAT recoverable on purchases complies with HM Revenues & Customs;

f) where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry scheme (CIS) deduction requirements;

g) all persons employed by the Council are added to the Council's payroll and tax deducted from any payments made to them (with approved exceptions agreed by the CFO where the individuals concerned are bona fide self-employed or are employed by a recognised agency);

40. Corporate Directors are responsible for ensuring that:

a) all advice and guidance on taxation issued by the CFO is followed and adhered to by Officers in their own Directorates.

Stocks & stores

41. Directors may hold reasonable levels of stocks and stores of consumable items, materials, equipment and goods for resale. They are responsible for the receipt and custody of stock items and for writing off any items of stock. Directors must take VFM considerations into account in holding stocks and stores and ensure

unnecessarily high levels of stocks are not allowed to accumulate. The value of stocks and stores held at the year-end must be certified by and authorised officers and forwarded to the CFO.

42. Procedures for the disposal of redundant stocks and equipment are set out in the guide to the disposal of assets which forms supplementary guidance to these regulations.

Inventories & asset management

43. The Council holds tangible assets in the form of property, vehicles, equipment, furniture and other items worth many millions of pounds. It also makes use of other non-tangible assets such as intellectual property. It is essential to the financial health and wellbeing of the Council that these assets are safeguarded and used efficiently and effectively in supporting the delivery of Council services. All Officers are responsible for safeguarding the assets and information used in their day to day activities and must ensure they are aware of their responsibilities in respect of the Data Protection Act, software copyright legislation, and the security of the Council's information systems. These responsibilities are laid out fully in the IT regulations and E-communications policy that form part of the Constitution.

44. The CFO is responsible for:

a) ensuring that an asset register is maintained in accordance with good practice for all fixed assets valued in excess of £10,000 and that asset valuations are made in accordance with the CIPFA/LASAAC Code of Practice on Local Authority Accounting: A Statement of Recommended Practice (the SORP);

b) arranging for all insurances and requiring directors to ensure all assets are kept securely and used efficiently and effectively;

c) ensuring compliance with the rules in relation to contractual commitments for the acquisition and disposal of assets as follows:

   i) the disposal of surplus assets, land and buildings up to the value of £500,000 on behalf of the Council in consultation with, the relevant director(s) and executive member for corporate services, except where the disposal is not to the highest bidder or there is a significant discrepancy between the estimated sales value and the actual sales figure. All disposals must comply with the rules in relation to contractual commitments set out in the guide to managing financial risks. All disposals valued in excess of £500,000 must be referred to the Executive for decision;
   ii) the acquisition of all land and buildings on behalf of the Council having due regard to the provisions of the asset management strategy, capital programme, capital strategy and financial strategy subject to the appropriate budgetary provisions having already been agreed by the Council.

d) ensuring advice on the VAT implications of proposed land & building acquisitions and sales is sought at the planning stage;

e) ensuring that all asset acquisitions and disposals are properly recorded within asset records and comply with the disposal policy which forms supplementary guidance to these regulations.

f) maintaining up to date records of all land and buildings, including valuations in the form of a corporate asset register for the Council and these records must as a minimum be reviewed on an annual basis;

g) ensuring all rents, charges, fees etc due in respect of properties and land are raised and all income is collected and accounted for in the Council's accounting systems;

h) ensuring all lessees and other prospective occupiers of Council land and buildings are not allowed to take possession or enter the property until a lease or agreement in a form approved by the CFO has been made;

i) to act as custodian for all title deeds for the Council;

45. In addition, Corporate Directors are responsible for:

a) providing the CFO or their delegated deputy with information and all relevant documentation regarding all assets owned or used in relation to services provided by the directorate(s) for the purposes of maintaining an up to date and complete asset management register;

b) ensuring the proper security and safe custody of all assets under their day to day operational control and consult with the CFO or their delegated deputy in any case where security concerns exist or if it is considered that special security arrangements are required;

c) to record all disposals or part exchange of non-land and building assets, in line with the disposal policy which forms supplementary guidance to these regulations ;

d) to maintain local inventories recording adequate descriptions of all furniture, fittings, equipment, plant & machinery above £500 and record items of a lower value where the risk is considered to be significant;

e) reporting all assets that are lost, stolen or destroyed to the insurance manager for recording purposes and where necessary the CIA in compliance with the asset disposal policy;

f) making sure property is only used in the course of the Council's business, unless specific permission has been given by the Corporate Director to do otherwise.

46. Full details of the way that the Council manages its asset disposals is set out in the Asset Disposal Policy which forms part of the supplementary guidance to these regulations.

Part E

External arrangements

Introduction

1 The Council exercises an important community leadership role, helping to orchestrate the contributions of various stakeholders in discharging its statutory responsibilities for promoting and improving the economic, social and environmental well-being of the area.

Partnerships, joint working & grant funding

2. A grant can be defined as a contribution or subsidy (in cash or in kind) given by the Council to another organisation for a specified purpose. Grants must be conditional upon the delivery of specified standards or outputs and be subject to the production of regular monitoring reports and the delivery of agreed outcomes.

3 The CFO must satisfy themselves that the accounting arrangements for all partnerships and joint ventures are proper and appropriate, including all audit and inspection requirements. They must also consider overall corporate governance arrangements and any legal and taxation issues when partnerships are arranged with external bodies. They must ensure all known risks are appraised before entering into agreements with external bodies and seek to ensure VFM is obtained.

4 The CFO is also be responsible for advising on the funding and financing of a project including:

a) financial viability in current and future years;

b) risk appraisal and risk management arrangements;

c) resourcing and taxation;

d) audit, security and control requirements;

e) carry forward arrangements.

5 Corporate Directors are responsible for:

a) maintaining local registers of partnerships and entered into with external bodies in accordance with procedures specified by the CFO and providing information about those to the Head of Paid Service as required;

b) ensuring that a risk management assessment has been carried out before entering into agreements with external bodies;

c) ensuring that such agreements and arrangements do not impact adversely upon the services provided by the Council;

d) ensuring that all agreements and arrangements are properly documented;

e) providing appropriate information to the CFO to enable relevant entries to be made in the council's statement of accounts concerning material items;

f) ensuring that the appropriate approvals are obtained before any negotiations are concluded in relation to work with external bodies.

g) ensuring that for all instances of grant/loan funding there is:

i) proper consideration of the relevant interest rate payable agreed and approved by the CFO;

ii) an appropriate ‘state aid’ de minimis declaration made by the recipient organisation;

iii) in respect of loans a process of monitoring on at least a six monthly basis providing an update to the relevant lead officer (<=£100K), all loans above £100K will be reviewed as part of the finance monitoring reports to Executive, to ensure delivery of outcomes and value for money

iv) a service level agreement in place to protect the Council. (Separate guidance is available on the mandatory format, content and review of this service level agreement).

h) all grants/loans:

i) must have prior budgetary approval, typically through the budget process;

ii) over £100k must be approved by the Executive & CFO and must have a legally binding grant funding agreement (GFA) rather than an SLA;

iii) must be raised using the prescribed financial ledger codes;

iv) must use the relevant charge code and recovery route (in respect of loans);

v) below £100,000 must be notified to the CFO who will determine whether there is existing delegation that provides authority to award the grant, or if it requires Executive approval. Where the grant is an annual grant, approval as part of the budget process will be sufficient;

External funding

6 External funding can prove a very important source of additional income to an authority, but funding conditions

need to be carefully examined before entering into any agreement to ensure they are compatible with the aims and objectives of the Council. Councils are being encouraged to provide seamless service delivery by working closely with other agencies and service providers (both public and private). Funds from external agencies such as the National Lottery can provide additional resources for services. However, whilst the scope for funding has increased, it is usually linked to increasingly tight specifications and may not be flexible enough to meet the aims and objectives of the Council ambitions and plans.

7 The CFO is responsible for:

a) ensuring that all external funding is received and properly recorded in the Council's accounts;

b) match funding requirements are considered prior to entering into any agreement and that future revenue budgets reflect these requirements;

c) ensuring all audit requirements are met.

d) Provision of standard application documentation for discretionary grants.

8 Corporate Directors are responsible for ensuring that:

a) all claims for funds are made by the due date;

b) the project progresses in accordance with the agreed project plan and all expenditure is properly incurred and recorded.

9 Full details of the way that the Council manages its external funding and grants is set out in the external funding and grants policy which form part of the supplementary guidance to these regulations.

Work for third parties

10 Current legislation enables the Council to provide a range of services to other bodies. Such work may enable a unit to maintain economies of scale and existing expertise. Arrangements must be put in place to ensure that any risks associated with undertaking such work is minimised and that the work is done intra vires. All work should be properly costed in accordance with the advice and guidance of the CFO and done on the basis of a proper contract according to the contract procedure rules set out as supplementary guidance to these Regulations.

11 The relevant Executive Member(s) are responsible for approving the contractual arrangements for work undertaken on behalf of a third party or external bodies. The CFO is responsible for issuing guidance with regard to the financial aspects of any third party contracts and the maintenance of the contracts register. Corporate Directors are responsible for:

a) ensuring that appropriate insurance arrangements have been made;

b) ensuring that the Council is not put at risk from any bad debts;

e) ensuring that no contract will be subsidised by the Council;

f) ensuring that the service has the appropriate expertise to undertake the contract;

g) ensuring that such contracts do not impact adversely upon the services provided to the Council;

h) providing appropriate information to the CFO to allow entries to be made in the council's final statement of accounts.

i) ensuring that there is no conflict of interest with any third party provider

Annex A

Summary of Delegation & Reporting

Revenue Virements

Decision maker	Delegated powers & authority	Thresholds
The Executive	To approve virements between Service Plans* in excess of £500k (either individually or in aggregate for the financial year)	Over £500k up to the cash limits set by the Budget
	To approve allocations of resources from approved contingencies and reserves	As set by the annual Budget
	To make recommendations to Full Council for the release of budget resources in excess of the approved contingencies and reserves	As set by the annual Budget
	To approve virements from within existing Service Plans or between Service Plans into new or otherwise unplanned functions and activities if savings are available to be re-directed into the new activity	Over £500k
Corporate Directors	To approve virements within or between Service Plans within their Directorates in excess of £100k and up to £500k (either individually or in aggregate for the financial year) in consultation with the relevant Executive Member	Over £100k and up to £500k

	To approve virements from within existing Service Plans or between Service Plans within their Directorates into new or otherwise unplanned functions and activities if savings are available to vire into the new activity	Over £100K and Up to £500k in consultation with the relevant Executive Member
	To approve virements between directorates in consultation with the relevant directors	Up to and including £500K in consultation with the relevant Executive Member
Other Chief Officers	To approve virements within their Service Plans up to £100k (either individually or in aggregate for the financial year)	Up to £100k

*service plan refers to Director or Assistant Director responsibilities

Capital Virements

Decision maker	Delegated powers & authority	Thresholds
The Executive	To approve individual virements between schemes in excess of £500k	Over £500k

	To re-phase approved scheme expenditure between years in excess of £500k for each scheme	Over £500k
Corporate Directors	To approve individual virements between schemes in excess of £100K up to a maximum of £500k in consultation with the relevant Executive Member	Over £100K and Up to and including £500k
	To approve individual virements between schemes up to a maximum of £100k	Up to and including £100k

Venture Fund Bids

Up to and including £100K	CFO & Leader of Council
Over £100K	Executive

Payment in Advance

Up to and including £5K	Relevant Corporate Director
Over £5K	CFO

Disposal of Surplus Assets (Land & Buildings)

Up to and including £500K	CFO (Para 44)
Over £500K	Executive

Acquisition of Assets (Land & Buildings)

All acquisitions	Executive

Debt Write-Off

Decision maker	Delegated powers & authority	Thresholds
The Executive	Amounts exceeding £200,000 may only be written off on the authority of the Executive. The CFO shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.	Over £200k
Executive Member	Amounts over £100,000 and not exceeding £200,000 on the authority of the Executive Member (Corporate Services) in consultation with the CFO**.** The CFO shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery	Over £100k and up to and including £200K
CFO	Amounts up to and not exceeding £100,000 on the authority of the CFO). The CFO shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.	up to and including £100k
Chief Officers	Amounts up to and not exceeding £5000 may be written off by any Chief Officer in consultation with the CFO, who shall maintain a record of all such write-offs showing attempted recovery action taken and the justification for non-recovery.	up to and including £5k

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Annex B

List of Supplementary Guidance

Asset Disposal Policy
External Funding and Grants
Petty Cash and Payment Procedures
Risk Management Policy and Strategy
Income Policy
Contract Procedure Rules
Corporate Debt Policy
Budget Manager Guidelines
Cash handling Procedures
Anti-money laundering procedures
Processing electronic card payments security policy
Anti-fraud and corruption Strategy
Fraud Prosecution Strategy
Whistle blowing Policy
Virement Policy

Glossary of terms

Common terms

Budget	*A plan expressed in financial terms*
Cost centre	*A budgeting level which usually reflects a whole service area, or main sub-category of a service. It encompasses a number of standard 'subjective' coding areas such as those used for staffing related costs, supplies & services, income etc*
Capital	*The organisation's total assets less its liabilities*
Capital expenditure	*Expenditure to acquire fixed assets that will be of use for more than the year in which they are acquired and which adds to the Council's tangible assets rather than simply maintaining existing ones*
Revenue	*Income or expenditure, arising from or spent on, day to day activities and short lived commodities or consumables*
Service plan	*A plan setting out the priorities and service ambitions*

Virement	*A transfer of resources between or within approved cost centres for both revenue and capital purposes*

Acronyms

CFO	*The Chief Finance Officer*
CIA	*The Chief Internal Auditor*
CL	*Corporate Landlord*
FMS	*The principal budgeting and financial information management system used at the Council*
ITT	*Invitation to tender*
MEAT	*Most Economically Advantageous Tender*
MO	*The Monitoring Officer*
NI(C)	*National Insurance (contributions)*
PAYE	*Pay as you earn*
VFM	*Value for Money*
VAT	*Value Added Tax*

Organisations

CIPFA	*The Chartered Institute of Public Finance Accountancy*
SOLACE	*Society of Local Authority Chief Executives*
Public Sector Audit Appointments (PSAA)	*Non-governmental body responsible for the appointment of independent auditor for Local Government bodies who have opted into the scheme*

The External Auditor	*Independently appointed person responsible for the external audit of the Council. The council's auditors have various statutory powers and responsibilities for public reporting of the audit*

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CITY OF YORK COUNCIL

CONTRACT PROCEDURE RULES

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Contract Procedure Rules

These Contract Procedure Rules (**CPRs**) set out the key responsibilities and actions that Members, Officers and Directors must follow when undertaking procurements.

All procurements and contracting arrangements made by or on behalf of the Council must be carried out in accordance with these CPRs. Rule 25 sets out the only circumstances in which the other Rules are specifically excluded or may be waived. Appendix A contains a series of definitions. Any term which is defined is shown in the CPRs beginning with a capital letter.

Maintained Schools

Where Maintained Schools enter into Contracts, they do so as agents of the Council. Accordingly Maintained Schools must follow these CPRs in addition to the York Scheme for Financing Schools (the **Scheme**), except where specifically stated otherwise. Where any conflict exists between these CPRs and the Scheme, the rules of the Scheme shall prevail.

Specific governance thresholds for Maintained Schools are set out in Appendix B. These are to be used in place of the thresholds contained at Rule 7.

For the purposes of these CPRs, the Authorised Officer for a Maintained School shall be the Head Teacher and the Chief Officer and/or Director shall be the Governing Body.

1. Basic Principles and Compliance

All procurement procedures and every Contract entered into by the Council must:

1.1 realise value for money by achieving the optimum combination of whole life costs, and quality of outcome;

1.2 be consistent with the highest standards of integrity;

1.3 operate in a transparent and open manner;

1.4 ensure fairness in allocating public contracts;

1.5 comply with all legal requirements including the Procurement Regulations and any other applicable international treaty principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment;

1.6 comply with the Council's Constitution, these CPRs and the Council's Financial Regulations;

1.7 comply with the Council's strategic objectives and policies, including the Council's Procurement Strategy and the Council's Employee and Member Codes of Conduct; and

1.8 comply with the guidance set out in the Procurement Toolkit which should be read in conjunction with these CPRs;

These CPRs are applicable to the contracting activities of any Strategic Partnership for which the Council is the Accountable Body unless the Council expressly agrees otherwise.

2. Officer Responsibilities

2.1. Authorised Officers

2.1.1 Authorised Officers must comply with these CPRs, the Council's Constitution and all UK and applicable international legal requirements. Authorised Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply with these requirements.

2.1.2 Authorised Officers must:

(a) consult and seek advice from Commercial Procurement in relation to any proposed procurement prior to any work commencing;

(b) ensure, in relation to any proposed procurement, that the proposed procurement expenditure is contained in the Procurement Pipeline (https://data.yorkopendata.org/dataset/cyc-

procurement-pipeline)and contained within an approved budget secured prior to commencement of the procurement in accordance with the Financial Regulations;

(c) keep the records required by Rule 5 of these CPRs;

(d) take all necessary procurement, legal, risk & insurance, financial, data protection and professional advice, taking into account the requirements of these CPRs;

(e) prior to carrying out a procurement process or letting a Contract on behalf of the Council, check whether:

(i) the Council already has an appropriate Contract in place on the Contract Register; or

(ii) an appropriate national, regional or other collaborative contract is already in place.

Commercial Procurement and Legal Services must be consulted prior to any work commencing;

(f) if the Council already has an appropriate Contract in place, ensure that it is used, (unless it can be established that the Contract does not fully meet the Council's specific requirements (to be determined on a case-by case-basis)), following consultation with Commercial Procurement and Legal Services;

(g) ensure that if an appropriate national, regional or collaborative contract is available, consideration is given to using such contract, provided the contract offers Best Value. Authorised Officers must consult with Commercial Procurement to discuss;

(h) ensure that, where any employee (either of the Council or of a Supplier) may be affected by any transfer arrangement, consideration is given to any TUPE issues and legal and HR advice from within

the Council is obtained prior to any work on the procurement exercise commencing;

(i) consult with all relevant stakeholders, including trade unions and service users where TUPE may apply, to identify and assess all options to ensure the Council's required outcomes are achieved;

(j) in consultation with Commercial Procurement, establish a written specification and evaluation criteria (where competition is involved) and procurement methodology which must be formally approved at the relevant governance thresholds outlined in Rule 8 - Powers and Key Decisions (note the relevant decision-making body as identified in the governance thresholds may give Authorised Officers written delegated authority to define the specification and evaluation criteria themselves);

(k) consult and seek advice from Legal Services prior to beginning a procurement where:

(i) TUPE applies; and/or

(ii) the procurement exceeds £150,000 in aggregate for the whole contract period (including any extensions);

(l) consult and seek advice from the Information Governance team prior to beginning a procurement where the service to be procured involves personal data;

(m) inform Commercial Procurement of all completed procurements with a value of £5,000 or more so that Commercial Procurement can upload the relevant information on the Contract Register.

2.1.3 Failure to comply with any of the provisions of these CPRs, the Council's Constitution, UK law or other applicable international legal requirements will be brought to the attention of the Head of Procurement, Monitoring

Officer, Head of Internal Audit, or relevant Director as appropriate. Depending on the nature of the non-compliance, this may result in disciplinary action being taken.

2.2 Chief Officers

Chief Officers must:

2.2.1 ensure their service area fully complies with the requirements of these CPRs;

2.2.2 ensure contracts are recorded on the Contract Register, as held and maintained by Commercial Procurement;

2.2.3 work with Commercial Procurement to identify the total expenditure relating to a particular category of spend by developing a Category Plan;

2.2.4 ensure that their service area provides the requisite information to allow Commercial Procurement to maintain and update the Procurement Pipeline;

2.2.5 ensure all procurement activity is undertaken by suitably skilled and experienced staff;

2.2.6 ensure all contracts have a dedicated Contract Manager for the duration of the contract;

2.2.7 ensure all officers report through the Procurement Challenge Board gateway process (where applicable);

2.2.8 report any breaches of these CPRs to the Monitoring Officer and Head of Procurement.

3. Relevant Contracts

3.1 All Relevant Contracts must comply with these CPRs. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or the provision of supplies or services. These include arrangements for:

3.1.1 the supply or disposal of goods;

3.1.2 the carrying out of building or engineering works;

3.1.3 the hire, rental or lease of goods or equipment;

3.1.4 the delivery of services;

3.1.5 land and property transactions involving those elements set out in Rule 3.3 below; and

3.1.6 the delivery of shared services and/or collaboration arrangements between the Council and other public authorities and/or public bodies and/or related overarching arrangements.

3.2 The following will not be classed as Relevant Contracts:

3.2.1 contracts of employment which make an individual a direct employee of the authority (whether on a permanent or temporary basis) and/or secondment arrangements;

3.2.2 subject to Rule 3.3, agreements relating solely to the acquisition, disposal, or transfer of land (to which the Financial Regulations apply);

3.2.3 subject to Rule 4, the payment of grants to third parties; or

3.2.4 those contracts/arrangements which are specifically excluded in accordance with Rule 25 below.

3.3 Any acquisition, disposal, or transfer of land which involves elements requiring the supply of works, goods and/or services to or on behalf of the Council shall be treated as a Relevant Contract and these CPRs shall apply to all aspects of the procurement of those works, goods and/or services. Officers must consult with Legal Services and Property Services as appropriate to ensure compliance with this Rule 3.3.

4. Grants

Grants given by the Council

4.1 Where the Council is required to carry out works or deliver goods or services, the Council cannot elect to award a Grant where the sole purpose for doing so would be to avoid conducting a competitive tender process in accordance with these CPRs.

4.2 Taking into account Rule 4.1 above, when procuring the provision of services, supplies or works Directors shall consider whether a Grant would be a preferable means to achieving its objectives rather than following a competitive tender process. Directors shall consult with Commercial Procurement and Legal Services.

4.3 A Grant may only be awarded in circumstances where:

4.3.1 there is a legal power to make a Grant for the purpose envisaged; and

4.3.2 the making of the Grant does not contravene UK, EU or any other applicable international rules on state aid or subsidy control.

4.4 Where the value of a Grant is less than £500,000 over three (3) years, the Director shall have the discretion to conduct a competitive Grant application process for the award of that Grant if doing so demonstrates best value for the Council. If a Director is not conducting a competitive Grant application process, then the Best Value Grant Form must be completed to capture the rationale for the decision. Directors must consult with Legal Services regarding rules and advice on subsidy control prior to commencing.

4.5 Where the value of the Grant exceeds £500,000 over three (3) years but is less than the relevant Procurement Threshold a competitive Grant application process must be completed in consultation with Commercial Procurement. The opportunity must be advertised on the E-Sourcing System in consultation with Commercial Procurement.

4.6 Legal Services must be consulted in relation to drafting an appropriate Grant agreement. The Authorised Officer shall take all such steps as are appropriate to monitor and review the performance of the Grant agreement, having regard to its value,

nature, duration and subject matter. As part of the Grant monitoring and review process, the Authorised Officer shall maintain adequate records of performance and details of review meetings with the Grant recipient.

4.7 All Authorised Officers must complete the Best Value Grant form which is available from the Commercial Procurement team.

Grants received by the Council

4.8 Where a Grant is being received by the Council, Legal Services must be consulted at the application stage in relation to:

4.8.1 any Subsidy Control implications;

4.8.2 the Grant agreement.

4.9 The Authorised Officer shall take all such steps as are appropriate to monitor and review the performance of the Grant agreement to ensure the Council is fulfilling any obligations contained within it.

4.10 Where a procurement process is funded, in whole or part, by external funding which has been awarded to the Council by an external funding body, the Authorised Officer must consult with Commercial Procurement and Legal Services to ensure that any rules or conditions imposed by the funding body are adhered to in addition to the requirements of these CPRs.

4.11 Where there is any conflict between these CPRs and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

5. Records

5.1 The Procurement Regulations require Contracting Authorities to maintain the following comprehensive records of procurement activities:

5.1.1 contract details including value;

5.1.2 selection decision;

5.1.3 justification for use of the selected procedure;

5.1.4 names of bidding organisations, both successful and unsuccessful;

5.1.5 reasons for selection and rejection;

5.1.6 reasons for abandoning a procedure;

5.1.7 details of sub-contractors;

5.1.8 conflicts of interest identified and action taken.

5.2 The outcome of any competitive procurement process must be recorded in electronic format on the E-Sourcing System. Information from the E-Sourcing System will also be used for the tracking of procurement savings, sustainability benefits, and other data.

5.3 Commercial Procurement maintains the Contract Register which records key details of all Contracts (including contract reference numbers) with an aggregate value of £5,000 or more.

5.4 Full records of all contract documentation, quotations, estimates, tenders and any other correspondence pertinent to the award or acceptance of a Contract must be kept by Commercial Procurement for the duration of the Contract and a minimum of six (6) years after the Contract has expired or twelve years after the Contract has expired where it is executed under common seal as a deed.

5.5 It is the responsibility of Chief Officers to ensure that all Contracts are properly entered into, administered and controlled to safeguard the Council's interests, secure Best Value and minimise the risk of theft, fraud, collusion and corruption.

5.6 Officers must comply with any Council requirements to record decisions on the Officer Decision Log.

6. Advertising

6.1 Officers must liaise with Commercial Procurement to ensure that the minimum advertising requirements are met in line with the

Procurement Regulations when conducting any procurement process (including Framework Agreements, Dynamic Purchasing Systems or Dynamic Markets). Officers should refer to the further guidance in the Procurement Toolkit.

6.2 Where Contracts with a value of £30,000 (including VAT) and above are advertised **anywhere,** they must first be advertised on Contracts Finder.

6.3 Where Contracts have a value above the relevant Procurement Threshold they must be advertised on Find a Tender, the Central Digital Platform.

7. Powers and Key Decisions

7.1 This Rule 7 does not apply to Maintained Schools, who must consult the governance thresholds contained at Appendix B.

7.2 In consultation with the Monitoring Officer, Directors must ensure that the Council has the legal power to enter into any Contract.

7.3 Directors must ensure that they have delegated powers to enter into any Contract or to grant another Officer authority to do so.

7.4 No Contract will be entered into unless an adequate budget is in place.

7.5 Where a decision has already been made by Executive or an Executive Member and the budget is in place to permit a course of action then further approval is not required to award Contracts necessary to implement that decision.

7.6 Where schemes are included in the Capital Programme this has already been approved and further Executive approval is therefore not required. However, officers must follow the Procurement Challenge Board process to seek approval to procure and any other gateways deemed necessary. Approval to proceed on any scheme must be given by the Chief Finance Officer.

7.7 It is recommended that any approval sought includes a specific delegation to the Authorised Officer to award the Contract at the

conclusion of the procurement. In other circumstances the procedure set out in Rules 7.9 to 7.11 below must be followed.

7.8 Where the aggregate contract value (including any extension) is £250,000 or less, Directors may agree or authorise another Officer to enter a Contract under their delegated powers.

7.9 Where the aggregate contract value (including any extension) is between £250,000 and £500,000, the decision to enter the contract requires the approval of an Executive Member or the Executive unless the procurement is treated as Routine as defined in Rules 7.12 and 7.13 below.

7.10 Where the aggregate contract value (including any extension) exceeds £500,000 the decision will be regarded as a Key Decision unless the Chief Finance Officer acting in consultation with the Monitoring Officer has approved the procurement as Routine in accordance with Rules 7.12 to 7.13 below.

7.11 A Routine procurement is any arrangement that represents a low commercial and legal risk to the Council and involves the procurement of goods, services or works with a clearly defined specification that clearly relate to core administrative, infrastructure or business functions of the Council (a set list of such services is set out in Appendix C). A Routine Procurement request form must be completed alongside an Officer Decision Form.

7.12 A procurement which relates to the carrying out of a statutory function of the Council shall not be considered Routine.

7.13 Where Officers consider a procurement process may be Routine, they must complete the Routine Procurement request form and submit to the Head of Procurement. Authorisation to treat a procurement as Routine must be sought before the procurement process commences. Any requests received after the event, will be recorded as a breach.

7.14 A Director may enter into a Contract regardless of value where the procurement has been treated as Routine and an officer decision form must be completed and published.

7.15 A register of Routine procurements will be maintained and reported to the Executive Member for Finance, Performance, Major Projects & Equalities.

7.16 In relation to all Key Decisions, Authorised Officers must ensure that all authorisations are in place before the procurement process begins.

7.17 Notice of every Key Decision must be published on the Council's Forward Plan.

7.18 The Executive scheme of delegation requires that all Key Decisions are reserved to the Executive unless specifically delegated to an Executive Member or an Officer or where the Leader and Chief Operating Officer are acting in case of urgency.

7.19 This Rule 7 applies to all Relevant Contracts and all Call-Offs from Framework Agreements, Dynamic Purchasing Systems or Dynamic Markets.

8. Pre-Tender Market Testing, Consultation and Deciding on the appropriate Procurement Route

8.1 The Council may consult potential Suppliers by conducting a Pre Market Engagement Event following publication of the associated notice, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any other potential Supplier.

8.2 When engaging with potential Suppliers, the Council must not seek or accept technical advice from them on the preparation of an Invitation to Tender or Request for Quotation where this may prejudice the equal treatment of all potential Suppliers or otherwise distort competition.

8.3 In the case of the re-procurement of an existing Contract, sufficient care must be taken to ensure that the process is fair and is seen to be fair. The objective is to ensure a level playing field for all potential Suppliers whilst acknowledging that any incumbent Supplier has an inherent advantage due to having

previously worked for the Council. Advice must be sought from Commercial Procurement to ensure the specification is clear and unambiguous.

8.4 In undertaking any market testing activities or consultation with potential Suppliers, the Authorised Officer, in consultation with Commercial Procurement, must publish a Preliminary Market Engagement Notice on Find a Tender, the Central Digital Platform.

8.5 If a Preliminary Market Engagement Notice is not published on to Find a Tender, the Central Digital Platform, justification must be provided and published within the procurement tender notice.

9. Framework Agreements, Dynamic Purchasing Systems and Dynamic Markets

9.1 Call-off contracts or orders made under Framework Agreements, Dynamic Purchasing Systems or Dynamic Markets must be operated in accordance with these CPRs and/or the requirements of the Framework Agreement or Dynamic Purchasing System or Dynamic Market themselves. **Further advice must be sought from Commercial Procurement.**

9.2 Where a Framework Agreement with more than one supplier provides an option for a direct Call-Off to one Supplier, this can only be done if all the following conditions are met:

9.2.1 The Framework Agreement's process for doing so is followed;

9.2.2 A transparency notice is published on Find A Tender, the Central Digital Platform;

9.2.3 The aggregate Contract value (including VAT) and including any extension) is less than £500,000;

9.2.4 Where the aggregate Contract value (including any extension) exceeds £500,000, the relevant Chief Officer has approved the direct Call-Off method after advice from the Authorised Officer and Commercial Procurement; and

9.2.5 Conditions for Direct Award under Procurement Regulations are met

Establishment of Framework Agreements, Dynamic Purchasing Systems and Dynamic Markets

9.3 Authorised Officers (in conjunction with Commercial Procurement and Legal Services) may establish a Framework Agreement, Dynamic Purchasing System or Dynamic Market. The Head of Procurement must agree to the establishment of any Framework Agreement, Dynamic Purchasing System or Dynamic Market prior to any selection or procurement processes being undertaken. The Framework Agreement, Dynamic Purchasing System or Dynamic Market is otherwise treated as any other procurement and will follow the same levels and process as required by the value and object of the Framework Agreement, Dynamic Purchasing System or Dynamic Market. Note, there are additional requirements under the Procurement Regulations for the establishment and further use of a Framework Agreement, Dynamic Purchasing System or Dynamic Market, and advice must be sought from Commercial Procurement to ensure the Procurement Regulations are adhered to.

9.4 A Framework Agreement, Dynamic Purchasing System or Dynamic Market can be established jointly with other Contracting Authorities.

9.5 Any future Call-Off from the established Framework Agreement, Dynamic Purchasing System or Dynamic Market requires authorisation in accordance with the governance thresholds set out in Rules 7.9 to 7.11.

9.6 Any Call-Off or direct award under a Framework Agreement must adhere to the provisions set out within the Procurement Legislation

9.7 Where a Framework Agreement has been established by the Council, any extension or termination thereto shall be governed by Rules 19 and 20 below in addition to the Procurement Regulations.

10. Procurement Competition Requirements

10.1 Competition Requirements

10.1.1 The Authorised Officer must establish the total value of any Contract, including whole life costs, annual cost and incorporating any potential extension periods which may be awarded. The value of the Contract must be considered as the sum of all payments made to the Supplier during the whole life of the Contract, including extensions. The Authorised Officer must have particular regard to the rules relating to aggregation contained within the Procurement Regulations (further details on which can be found in the Procurement Toolkit).

10.1.2 Authorised Officers must ensure that values are not split in an attempt to avoid the applicability of these CPRs or the Procurement Regulations. This will result in a breach, and reported to Audit & Governance Committee.

10.2 Contract value up to and including £5,000 – Best Value

10.2.1 In relation to all Contracts with a value up to and including £5,000, it is the responsibility of the relevant Authorised Officer to check whether there is an Internal Service Provider, existing Contract, Framework Agreement, Dynamic Purchasing System or Dynamic Market which can be used.

10.2.2 Where no appropriate Internal Service Provider, existing Contract, Framework Agreement, Dynamic Purchasing System or Dynamic Market exists the invitation of quotations should be invited where appropriate.

10.2.3 If the Authorised Officer believes that it represents Best Value for the Council to make a direct appointment without the need for competition, they may do so providing a written record of the decision (including reasons) is kept by them.

10.3 Contract value over £5,000 and up to £30,000 – Three Quotations

10.3.1 In relation to all Contracts with a value between £5,000 up to £30,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract, Framework Agreement, Dynamic Purchasing System or Dynamic Market which can be used.

10.3.2 Where no appropriate Internal Service Provider, existing Contract or approved Framework Agreement, Dynamic Purchasing System or Dynamic Market exists, a minimum of three written quotations must be invited from suitable potential Suppliers. Efforts should be made to ensure that a diverse group of Suppliers are asked to quote using the following principles:

(a) Where possible, ensuring SMEs are invited to quote;

(b) Where possible, ensuring local Suppliers are invited to quote;

(c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;

(d) Where possible, looking for novel or new Suppliers.

10.3.3 The written quotations must be obtained and documented in accordance with proper record keeping set out in Rule 5 and in accordance with the requirements of Rule 11. The Procurement three quote form must be completed and returned to Commercial Procurement so details can be published onto the Contract Register,

10.3.4 All potential Suppliers invited to submit quotations will be provided in all instances with identical information and instructions.

10.3.5 The evaluation of the quotations will be carried out by Authorised Officers.

10.3.6 If costs received exceed the threshold stated in Rule 10.3, the procurement must be abandoned and a formal process conducted through the E-sourcing system.

10.3.7 All associated procurement tender notices must be published on Contracts Finder and, where applicable, on Find a Tender, the Central Digital Platform before, during and after the procurement exercise.

10.4 Contract value over £30,000 and up to £100,000 – Three Quotations via the E-tendering portal

10.4.1 In relation to all Contracts with a value between £30,000 up to £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract, Framework Agreement, Dynamic Purchasing System or Dynamic Market which can be used.

10.4.2 Where no appropriate Internal Service Provider, existing Contract or approved Framework Agreement, Dynamic Purchasing System or Dynamic Market exists, a minimum of three written quotations must be invited from suitable potential Suppliers via the E-tendering system. Efforts should be made to ensure that a diverse group of Suppliers are asked to quote using the following principles:

(a) Where possible, ensuring SMEs are invited to quote;

(b) Where possible, ensuring local Suppliers are invited to quote;

(c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;

(d) Where possible, looking for novel or new Suppliers.

10.4.3 The written quotations must be obtained and documented in accordance with proper record keeping set out in Rule 5 and in accordance with the requirements of Rule 12.

10.4.4 All potential Suppliers invited to submit quotations will be provided in all instances with identical information and instructions.

10.4.5 The evaluation of the quotations will be carried out by Authorised Officers.

10.4.6 All associated procurement tender notices must be published on Contracts Finder and where applicable, on Find a Tender, the Central Digital Platform before, during and after the procurement exercise.

10.5 Contract value over £100,000 – Invitation to Tender

10.5.1 In relation to all Contracts with a value in excess of £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract or Framework Agreement, Dynamic Purchasing System or Dynamic Market which can be used.

10.5.2 Where no appropriate Internal Service Provider, existing Contract, approved Framework Agreement, Dynamic Purchasing System or Dynamic Market exists, at least four written tenders must be invited from potential Suppliers. Efforts should be made to ensure that a diverse group of potential Suppliers are asked to tender using the following principles:

(a) Where possible, ensuring SMEs are invited to quote;

(b) Where possible, ensuring local Suppliers are invited to quote;

(c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;

(d) Where possible, looking for novel or new Suppliers.

10.5.3 Where it has not been possible to identify four potential Suppliers, or less than four responses to the invitation to

tender have been received, approval to continue with the procurement must be sought from the Head of Procurement.

10.5.4 The tendering process must be conducted in accordance with the Council's detailed procedure rules set out in the Procurement Toolkit. Authorised Officers must consult with Commercial Procurement to establish the most appropriate tendering process/procurement route which will be determined on a case by case basis (depending on a number of factors including but not limited to the scope, value and technical requirements of the procurement).

10.6 Contract value over the Procurement Threshold

10.6.1 Where the estimated Contract value reaches the relevant Procurement Threshold, Officers are required to procure the Contract in accordance with the Procurement Regulations and these CPRs. In all such circumstances appropriate advice must be sought from Commercial Procurement.

10.6.2 The current Procurement Thresholds are available from Commercial Procurement.

10.7 Assets for Disposal

Assets for disposal must be dealt with in accordance with the Financial Regulations.

10.8 Concession Contracts

10.8.1 Concession Contracts may be established by Authorised Officers in conjunction with Commercial Procurement. Generally, Concession Contracts will result in an income to the Council. The thresholds set out in Rule 7 will also apply to Concession Contracts.

10.8.2 For the purposes of Rule 7, the value of a Concession Contract is defined in the Procurement Regulations. Such value shall be the total turnover of the concessionaire

generated over the duration of the Contract, net of Value Added Tax, as estimated by the Council, in consideration for the works and/or services which are the object of the Concession Contract and for the supplies incidental to such works and services.

10.8.3 Contracts below the relevant thresholds defined in the Procurement Regulations may be let using a three quotation process as outlined in Rule 10.3. Contracts above the relevant thresholds must be let in accordance with the process outlined in the Procurement Regulations. Commercial Procurement will advise on the appropriate route and process to follow when letting Concession Contracts.

10.8.4 All associated procurement tender notices must be published on Find a Tender, the Central Digital Platform before, during and after the procurement exercise.

11. Evaluation Criteria and Standards

11.1 Evaluation Criteria

11.1.1 In any procurement exercise (regardless of overall Contract value) the successful tender must be the one which offers either:

(a) the most advantageous tender based on “price or cost” using a cost effectiveness approach, such as, life cycle costing; or

(b) the most advantageous tender balanced between quality and price.

In the latter case, the Council will use criteria linked to the subject matter of the Contract to determine that an offer is the most advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental & sustainability characteristics, social value (including but not limited to compliance with wider Council obligations such as membership of the Living Wage Foundation and sourcing fair trade where

appropriate), running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion.

11.1.2 The price element of an evaluation shall be 40% or greater, unless:

(a) the relevant contract is being procured using a Framework Agreement, Dynamic Purchasing System or Dynamic Market which provides for an alternative weighting system; or

(b) the Authorised Officer has, in consultation with the Head of Procurement and Finance, determined that an alternative weighting system would be more appropriate due to either the size, value and/or available budget, risk-profile and/or nature of the procurement. The Authorised Officer must submit reasonings supported by Commercial Procurement to the Head of Procurement and Finance for approval prior to the procurement exercise being advertised.

11.1.3 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate tenders provided that such criteria relate to the subject matter of the Contract and is objectively quantifiable and non-discriminatory. The criteria can include, for example, sustainability considerations, support for the local economy or the use of sub-contractors. The potential Suppliers' approaches to continuous improvement and setting targets for service improvement or future savings could also be included.

11.1.4 The procurement documentation must clearly explain the basis of the evaluation decision to potential Suppliers, making it clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

11.1.5 Once the tender documentation has been issued to the market, changes to the evaluation criteria shall only be permitted in exceptional circumstances following approval by the Head of Procurement. There is no scope to change the evaluation criteria once quotations or tenders have been received. If quotations or tenders received mean the original evaluation criteria are no longer able to achieve the most advantageous tender, then the procurement process must be abandoned and treated as market engagement before a new procurement exercise is established with new evaluation criteria. In such a case, no award will be made from the original procurement exercise and Commercial Procurement must be consulted.

11.1.6 A procurement termination notice must be published on Find a Tender, the Central Digital Platform.

11.2 Standards

Relevant British, EU and International standards which apply to the subject matter of the Contract, and which are necessary to properly describe the required quality must be included within the procurement documentation, the specification, and the Contract.

12. Invitation to Tender / Request for Quotation

12.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these CPRs and where applicable, Procurement Regulations.

12.2 All procurement documentation must be issued electronically. All procurements with a value over £30,000 must be conducted through an E-Sourcing System.

12.3 Where the E-Sourcing System is used, all communications with Suppliers must be undertaken exclusively through the E-Sourcing System. This includes any clarification questions asked by the potential Suppliers and responses provided by the Council.

12.4 In exceptional cases, where specific circumstances mean that a procurement process cannot be carried out electronically or, for example, where there is a failure of the E-Sourcing System, permission to conduct a procurement process by alternative means must be obtained from the Head of Procurement.

13. Submission, Receipt and Opening of Tenders / Quotations

13.1 Opening of Tenders and Quotations

13.1.1 Tenders and Quotations, except those which have been approved as exempt from electronic tendering in accordance with Rule 12.4, must be submitted electronically via the E-Sourcing System. Tenders submitted by any other means must not be accepted.

13.2 Hard Copy Arrangements

13.2.1 If approval to conduct a tender process outside the E-Sourcing System has been obtained in accordance with Rule 12.4 and “hard copy” tenders are to be accepted, these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Head of Procurement without any mark revealing the bidding organisation’s identity.

13.2.2 All hard copy tenders will be held by the Head of Procurement until the tender opening date/time has been reached.

13.2.3 All hard copy tenders for the same Contract will be opened at the same time by the Head of Procurement and Legal Services. A register of tenders received will be kept by Commercial Procurement and will be initialled on each occasion by the Authorised Officers who are present at the opening of the tenders.

13.2.4 If approval to conduct a quotation process outside the E-Sourcing System has been obtained in accordance with Rule 12.4 and hard copy quotations are to be accepted these must be submitted in a plain envelope marked

"Quotation for ..." followed by a description of the goods, works or services being procured.

13.2.5 All hard copy quotations must be opened together once the official return date/time has been passed.

14. E-auctions

14.1 Where a tender is to be carried out by way of a collaborative e-auction process the following procedures will apply:

14.1.1 approval for this approach must be sought in advance of the auction from the Head of Procurement;

14.1.2 the auction must be provided through a recognised managed service provider approved by the Head of Procurement;

14.1.3 the process for selecting potential Suppliers must be agreed in advance with the Head of Procurement;

14.1.4 the tender evaluation process must be agreed in advance with the Head of Procurement;

14.1.5 the time limit for the auction must be set in advance, clearly notified and be appropriate to the nature of the auction;

14.1.6 a minimum of two Authorised Officers must be in attendance at the managed service provider's viewing room to ensure the process is conducted fairly and in accordance with the Procurement Regulations. One of the Authorised Officers must be an independent observer and have had no involvement with the exercise. They should not leave the room during the auction.

14.1.7 prior to start of the auction, Officers attending must satisfy themselves that the correct quality weightings (if applicable) have been loaded into the software and that the software is working correctly;

14.1.8 the final scoring of all the bidders must be documented and counter signed by each Officer immediately after the close of the auction;

14.1.9 the e-auction summary report which is normally produced by the e-auction provider (within a week of the auction) must be cross referenced to the Officers own records and both must be kept on file;

14.1.10 a signed copy of both of these records must be passed to Head of Procurement; and

14.1.11 if the lowest price bidder is not successful, approval for the award of a Contract must be sought in line with these CPRs.

14.2 The application of these e-auction procedures exempts the tender from the opening rules set out at Rule 13. It does not exclude compliance with any other regulations as set out elsewhere in these CPRs.

14.3 The Council will arrange for award notices to be sent to the successful Supplier (following an 8 working day Standstill Period) and brief the unsuccessful Providers. A copy of the award notice must be kept on file.

14.4 The Council must ensure that a discrete Contract complying with the Council's standard terms and conditions is put in place with each successful Supplier prior to any work or services commencing.

15. Clarification Procedures

15.1 The Council can ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must:

15.1.1 not involve changes to the basic features of the bidding organisation's submission; and

15.1.2 be issued and responded to by Commercial Procurement through the E-Sourcing System.

15.2 When requesting clarification, the Authorised Officer must follow any guidance provided by Commercial Procurement. The request for, or provision of, any clarification must not be used to negotiate or re-negotiate Contract terms. Authorised Officers are required to take all necessary procurement and/or other relevant professional advice if they are in any way unsure of what may or may not constitute a 'clarification' under the Procurement Regulations.

15.3 All clarification questions raised by bidding organisations must be considered and responded to by Commercial Procurement.

15.4 If any amendments are required to the tender documentation or contract terms and conditions as a result of clarifications these must be approved by Commercial Procurement and/or Legal Services as appropriate and changes made must take place during the tender period.

16. Evaluation, Financial Appraisal, Award of Contract and Debriefing of Organisations

16.1 Evaluation

The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the relevant procurement documents (see Rule 11 above) provided to bidding organisations, and in line with any guidance detailed in the Procurement Toolkit. The evaluation must consist of a minimum of three (3) Officers and all records of evaluations must be taken. Assessment summaries must be provided to all bidders in relation to the contract.

16.2 Financial Appraisals and Credit Reports

Credit Reports must be completed in respect of all third parties submitting bids for Contracts in excess of £100,000. The credit reports will be produced by Commercial Procurement and issued to the relevant Finance Manager to take necessary steps to check all financial information available. It is the responsibility of the Authorised Officer in consultation with the relevant Finance Manager to take all steps reasonably necessary (having regard to the subject matter, value and duration of the Contract and any

other relevant factors) to conduct an assessment and confirm financial stability.

16.3 Award of Contract

16.3.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.

16.3.2 Where mandated by the procurement process used, a Standstill Period must be included in the procurement timetable and observed before the Contract can be awarded.

16.3.3 Authorised Officers must consult with Commercial Procurement in relation to the Standstill Period requirements and associated documentation to be issued to bidders.

16.3.4 Where a Standstill Period applies, successful and unsuccessful bidders will be sent a Contract award letter containing all the debrief information required under the Procurement Regulations. A copy of each Contract award letter must be kept on file.

16.3.5 Following successful completion of the Standstill Period, the successful bidder(s) will be issued with their Contract to sign.

16.3.6 Provided the winning bid:

(a) is the most advantageous;

(b) is within the financial budget made for it;

(c) complies with the Council's proposed terms and conditions; and

(d) meets the Contract specification,

it may be accepted by the relevant Authorised Officer.

16.3.7 Where a tender is not:

(a) the most advantageous (if payment is to be made by the Council); or

(b) the highest tender (if payment is to be received by the Council),

the award of the Contract must be passed to the Chief Finance Officer for decision clearly setting out the reasons why this is required.

16.3.8 Once approved, all proposed Contract awards over £100,000 must be recorded in the Officer decision log on the mod.gov system.

16.3.9 The approval of the relevant Executive Member and Chief Finance Officer must be given if a tender received as part of a capital scheme results in the scheme or project exceeding the approved financial budget by 10% or £50,000 (whichever is the lower) and this cannot be accommodated within the original financial budget.

16.3.10 For Contracts with a value of £5,000,000 and above, a redacted version of the Contract must be published on Find a Tender, the Central Digital Platform within ninety (90) days of the Contract being entered into.

16.4 Debriefing

The Authorised Officer must consult and work with Commercial Procurement to create assessment summaries for all tenderers who submitted a bid. Such assessment summaries shall outline the characteristics and relative advantages of the successful bid(s). All assessment summaries must be issued through the e-tendering portal where appropriate and records kept. This will usually include:

16.4.1 how the award criteria were applied;

16.4.2 the prices or ranges of prices submitted, but not in either case correlated to the tenderers

Authorised Officers must consult with Commercial Procurement prior to issuing any feedback to bidders.

17. Post Tender Negotiation

17.1 Post tender negotiations must not be undertaken where the value of the Contract exceeds the relevant Procurement Threshold.

17.2 If the value of the Contract is below the relevant Procurement Threshold, post tender negotiations with selected Suppliers may be carried out where:

17.2.1 permitted by law; and

17.2.2 the procurement strategy and route allowed for negotiations; and

17.2.3 the relevant Chief Officer in consultation with Commercial Procurement and Legal Services considers that added value may be obtained; and

17.2.4 the post tender negotiations are conducted by a team of suitably experienced officers approved by the relevant Chief Officer and who have been trained in post tender negotiations. Commercial Procurement and Legal Services must be invited to attend any negotiation; and

17.2.5 a comprehensive, written record of the negotiations is kept by the Council; and

17.2.6 a clear record of the added value to be obtained as a result of the post tender negotiations is incorporated into the Contract with the successful Supplier.

18. Contract Documents

18.1 Form of Procurement Documents

The Council's standard procurement documents (accompanying the contract documents) must be used wherever possible and appropriate. Where there is any deviation from the standard procurement documents, the documents to be used must be reviewed by Commercial Procurement before being issued.

These standard procurement documents are available from Commercial Procurement.

18.2 Form of Contract

18.2.1 Contractual commitments can only be made by Officers who are formally authorised to do so in the relevant directorate scheme of delegated authority. An up-to-date record of delegated authorities across the Council is kept by Finance.

18.2.2 Should the Council be utilising a particular Framework Agreement, Dynamic Purchasing System or Dynamic Market for the first time, Legal Services must be engaged to approve the form of Call-Off Contract or Order Form, the Call-Off terms and conditions, and any other associated documents.

18.2.3 Unless subsequent Call-Offs require further amendment in accordance with the Procurement Regulations, they can proceed without additional approval from Legal Services.

18.2.4 For clarity, if any Call-Off terms require any amendment at any stage of a Procurement (as part of a mini-competition or otherwise), approval must be sought from Legal Services and Commercial Procurement.

18.2.5 If the Council intends to make a direct award under a Framework Agreement, Dynamic Purchasing System or Dynamic Market no amendments are permitted to the Call-Off terms and conditions. The Council will not accept Suppliers' terms and conditions without Legal Services confirming that they are acceptable, and/or without any amendments required by Legal Services. In the event that a Supplier requests to use their own terms and conditions, a copy of such terms and conditions must be sent to Legal Services for review and approval.

18.2.6 Every Contract must be made in writing by either:

(a) the issue of a purchase order and accompanying standard terms and conditions for the purchase or supply of goods, services and/or works with an aggregate Contract value (including any extensions) of not more than £100,000; or

(b) the preparation of formal written contracts for the purchase or supply of goods, services and/or works with an aggregate Contract value (including any extensions) of £100,000 and above or lower where the nature of the Contract requires a formal written contract.

18.2.7 With regard to:

(a) Rule 18.2.6(a) above, no amendments requested by any Supplier to the purchase order standard terms and conditions will be accepted without the prior approval of Legal Services; and

(b) Rule 18.2.6(b), any formal contracts must be drafted using either a template form of Contract previously approved and/or drafted by Legal Services, or a new bespoke document created by Legal Services. A Supplier's standard terms and conditions must not be accepted except in accordance with Rule 18.2.6 above.

18.3 Deeds

18.3.1 All Contracts:

(i) in excess of £500,000; or

(ii) where the subject matter warrants an extended period of twelve years' protection; or

(iii) for nil consideration; or

(iv) where there is a legal requirement for the Contract to be executed as a deed;

must be executed as a deed under common seal by Legal Services in accordance with Article 22: Finance, Contracts and Legal Matters, unless agreed otherwise by the Monitoring Officer or except where indicated in Appendix B.

18.3.2 Contracts to novate, assign, vary or extend an existing contract:

(a) must be executed as a deed where the original contract terms do not expressly permit such novation, assignment, variation or extension; or

(b) are not required to be executed as a deed where the original contract terms expressly permit such novation, assignment, variation or extension.

18.4 Contract Signature/Sealing

18.4.1 Contracts must:

(a) where the Contract is in the form of a deed, be made under the Council's seal or electronic seal and attested by Legal Services as required by the Constitution; or

(b) where the Contract is to be signed underhand as a simple contract, be signed (either by hand or by electronic signature) by:

(i) an Authorised Officer with the appropriate level of delegated authority as set out in the relevant directorate's scheme of delegation; or

(ii) Legal Services.

18.4.2 When submitted to Legal Services for signing or sealing, all Contracts must be accompanied by an Authorisation to Sign or Seal Form setting out the decision-making process and authority. This form can be obtained from Legal Services.

18.5 Legal Services Review of Contracts

18.5.1 To ensure the integrity of the procurement process:

(a) where Officers intend to deviate from the Council's standard terms and conditions, all Contracts must be reviewed by Legal Services; and

(b) any proposed Contracts via an Open or Competitive Flexible Procedure process, which are deemed to be of medium or high risk, must be reviewed by Legal Services.

18.6 Bonds, Parent Company Guarantees and Liquidated & Ascertained Damages

18.6.1 Chief Officers (in consultation with Commercial Procurement and Legal Services) will consider whether to include provision for payment of liquidated & ascertained damages by a Supplier for delay or breach of contract where appropriate, taking into account the subject matter and risk associated with the Contract. Such consideration will be recorded in writing.

18.6.2 Where considered appropriate by a Chief Officer, the Supplier will be required to provide a performance bond to secure the performance of the Contract. Such performance bond(s) should provide for a sum of not less than 10% of the total value of the Contract or such other sum as the Authorised Officer (in consultation with a Finance Manager) considers appropriate.

18.6.3 Where considered appropriate by a Chief Officer, the Supplier will be required to provide a parent company guarantee in a form acceptable to the Council prior to entering into the Contract.

19. Contract Extension and Variation

19.1 Extensions

19.1.1 Commercial Procurement and Legal Services must be consulted in relation to any proposed Contract extension.

19.1.2 Contract extensions shall only be permitted if:

(a) the proposed extension is in accordance with the Contract terms; and

(b) the relevant notice has been given to the Supplier; and

(c) the proposed extension is put in place before the Contract's original expiry date.

19.1.3 Where the terms of a Contract expressly permit extensions, Commercial Procurement will support Officers to complete the required paperwork to give notice to the Supplier and document the extension in the agreed form in writing.

19.1.4 Where the terms of a Contract do not expressly permit an extension, Commercial Procurement and Legal Services shall advise whether it is possible to otherwise agree an extension by way of variation to the Contract. Any variations shall be carried out in accordance with Rules 18.3.2 and 19.2.

19.1.5 Approval for the extension must be given by an Officer with the appropriate level of delegated authority. This process must be recorded in writing.

19.1.6 Prior to seeking approval from the relevant Chief Officer for a contract extension, the Authorised Officer must establish whether the extension will deliver Best Value.

19.1.7 Before extending a Contract, the Authorised Officer must check the original spending authorisation decision (obtained in accordance with Rule 7) to confirm that the

authorisation to extend the Contract is in place. Where the original decision does not contain authorisation for an extension of the Contract, further authorisation may be sought under Rule 7. The value of the decision used to determine the authorisation requirement shall be the original Contract value plus the value of the proposed extension.

19.1.8 All extensions to any Council contracts must be in writing and reported to the Head of Procurement to ensure that the E-Sourcing System can be updated.

19.2. Variations

19.2.1 Variations will be dealt with in accordance with these CPRs and the Procurement Regulations. Further guidance must be sought from Commercial Procurement and Legal Services.

19.2.2 All Contract variations must be carried out:

(a) within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not permitted; and

(b) following consideration as part of the Category planning process.

19.2.3 All Contract variations must be in writing (in the form specified by the Contract where applicable) and signed or sealed by both the Council (in accordance with Rule 18.3.2 and 18.4.1) and the Supplier.

19.2.4 A Variation form must be completed and submitted to the Head of Procurement for approval, and a modification notice must be published on Find a Tender, the Central Digital Platform.

19.2.5 Where appropriate (taking into account any change in contract value, contract term, range of services provided etc), Contract variations must be reported to the Head of

Procurement to ensure that the E-Sourcing System can be updated.

19.2.6 A new procurement will be required in the case of a material change where one or more of the following conditions are met:

(a) the variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of Suppliers other than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional Participants in the procurement procedure;

(b) the variation increases the value of the Contract or the Framework Agreement substantially in favour of the Supplier in a manner which was not provided for in the original Contract or Framework Agreement;

(c) the variation extends the scope of the Contract or Framework Agreement considerably.

Further guidance must be sought from Legal Services where the Chief Officer considers there is any possibility that the proposed variation might fall under this Rule x

20. Termination of Contract

20.1 **Prior to terminating any Contract, Officers must consult Commercial Procurement and Legal Services.** Contracts may only be terminated early where provided for within the Contract and if authorised by the relevant Chief Officer through a Delegated Decision. A Termination Form for termination of any Contract exceeding £100,000 in aggregate for the entire contract period (including any extensions) must be sent to the Head of Procurement for monitoring purposes. All termination

letters under this Rule 20.1 must be drafted and issued via Legal Services in conjunction with the Authorised Officer.

20.2 In the event a Contract is terminated, a contract termination notice must be published within 30 days of the contract being terminated on Find a Tender.

21. Prevention of Corruption

21.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Financial Regulations and must be adhered to at all times.

22. Declaration of Conflicts of Interests

22.1 To ensure that persons involved in the procurement process are aware of and adhere to the principles of impartiality and professional standards when dealing with and completing commercial undertakings, a Conflict of Interest Assessment must be completed by all Officers involved in the procurement process and submitted to the Head of Procurement prior to commencement of the procurement process. These forms are available from Commercial Procurement.

22.2 If an actual or potential conflict of interest arises during the procurement process, a new Conflict of Interest Assessment must be immediately completed and submitted to the Head of Procurement.

22.3 If it comes to the attention of a Member, Authorised Officer or other Officer that a Contract in which they have an interest (determined in accordance with the Members' and/or Employee Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer and the Head of Procurement.

23. Contract Management / Monitoring

23.1 All Contracts must have an appointed contract manager for the entirety of the Contract. The responsible Chief Officer must ensure a Contract Manager is designated prior to contract award.

23.2 Contract management, monitoring, evaluation and review must be conducted by the appropriate Contract Manager.

24. Contracts valued £5,000,000 and over

24.1 All Contracts with a value of £5,000,000 and over must:

24.1.2 contain details of **at least** three (3) KPI's which must be published within the Contract and tender documentation. The details of these KPI's must then be published on Find a Tender, the Central Digital Platform;

24.1.3 be monitored during the term of the Contract, against those KPIs by the Contract Manager who must publish a Contract Performance Notice every twelve (12) months (per annum of the Contract) on Find a Tender, the Central Digital Platform;

24.1.4 be published in a redacted format on Find a Tender, the Central Digital Platform within ninety (90) days of the Contract being entered into.

24.2 In the event that a Contract with a value of £5,000,000 or over is varied:

24.2.2 a Contract Change Notice must be published on Find a Tender, the Central Digital Platform within ninety (90) days of the modification being made;

24.2.3 a redacted copy of the modification made must be published on Find a Tender, the Central Digital Platform within ninety (90) days of the modification being entered into;

24.2.4 the responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process, the responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the

Supplier. Such records and details shall be made in any relevant gateway process report as may be required by the Procurement Challenge Board.

25. Waiver and Exemptions

Waivers

25.1 Except where the Procurement Regulations apply, these CPRs may be waived in certain circumstances, as approved by the Head of Procurement and Monitoring Officer, where one or more of the following criteria apply:

25.1.1 for supplies purchased or sold in a public market or auction;

25.1.2 for works, supplies and/or services which, after the testing the market, are found to be only available from one organisation that are not available on a framework (either due to their highly specialised nature, the use of innovative technology or service models, or any exclusive proprietary rights belonging to the relevant supplier), provided that:

(a) this can be properly evidenced by the Authorised Officer (including confirmation that no other viable alternative works, supplies and/or services are available, whether or not located in the relevant area), and

(b) Commercial Procurement are satisfied that the Council has not artificially narrowed its requirements to avoid conducting a competitive tender process in accordance with these CPRs;

25.1.3 circumstances involving such extreme urgency that it would not be possible to comply with the competitive procurement procedures and timescales set out within these CPRs. For clarity, this ground will **not** apply where said extreme urgency has come about due to circumstances attributable to any action, inaction and/or delay on the part of the Council;

25.1.4 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;

25.1.5 in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;

25.1.6 in relation to external grant funding that has been awarded on the condition that a specific Supplier be appointed by the Council;

25.1.7 where relevant UK or other applicable international legislation not otherwise referred to in these CPRs allows another procurement process to be undertaken;

25.1.8 where officers from Finance, Commercial Procurement and Legal are satisfied that there is:

(a) a significant risk to the statutory functions of the Council, or to its governance, audit or finances; or

(b) a significant safeguarding risk; or

(c) a significant risk of failure in the case of an immediate statutory inspection,

if the Supplier is not engaged (such confirmation in all cases to be confirmed in writing by the relevant Chief Officer).

25.2 If a waiver of these CPRs is required, the Authorised Officer will complete and submit a waiver form, using a template document obtained from Commercial Procurement. The waiver form must set out the detail of the specific Rule(s) being waived and confirmation of the Rule within 25.2 under which the waiver is being sought, along with the financial, legal, risk and equality implications of the waiver sought.

25.3 The process to be followed in respect of waivers is available on Colin, the Council's internal web pages.

25.4 In relation to Maintained Schools, the Governing Body shall have the power to waive any requirement of these CPRs where the Head Teacher has submitted a waiver form in accordance with Rule 25.3 confirming that any of the criteria listed at Rule 25.1 apply.

25.5 If the waiver is approved the Authorised Officer may proceed with the waiver of the relevant CPR(s). Officers are only authorised to incur expenditure up to the amount included in the final agreed waiver. Should any additional expenditure or further service be required, a new waiver must be requested.

25.6 With the exception of those relating to Maintained Schools, every waiver form will be recorded on a master register maintained by Commercial Procurement. Each Maintained School must maintain their own master register of waiver forms.

25.7 Where a waiver is being requested, Authorised Officers are required to seek the necessary waivers at the outset of any procurement process or, where relevant, at such time during a procurement process where it becomes apparent that it is not possible to comply in full with the competition procedures outlined in Rules 10.3 and 10.4. A Contract resulting from a waiver request **shall not** be entered into without a waiver authorisation. If such Contracts are entered into, these must be terminated, with advice from Commercial Procurement and Legal Services.

25.8 Authorised Officers are not required to seek waivers in the case of an Emergency or as a result of an Emergency where there is danger to the safety of persons or serious risk of loss or damage to the Council's assets or interests, or the interests of another party. In such circumstances, the Authorised Officer may enter into such Contracts as necessary by means that are reasonable under the circumstances and inform the Head of Procurement and Monitoring Officer.

Exemptions

25.9 These CPRs do not apply to Contracts:

25.9.1 for the execution of mandatory works by statutory undertakers (i.e., companies and agencies which have been given general licence to carry out certain development and highways works, such as utilities and telecoms companies or nationalised companies such as Network Rail);

25.9.2 for legal services in respect of specific matters which are in contemplation of:

(a) arbitration conciliation;

(b) Judicial proceedings before the courts;

25.9.3 for the provision of legal advice given in preparation for any of the proceedings referred to in Rule 25.9.2(a) or (b) above, or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings.

25.9.4 which have been procured on the Council's behalf:

(a) through collaboration with other local authorities or other public bodies, where a competitive process which complies with the CPRs of the leading organisation has been carried out; or

(b) by a national or regional contracting authority where the process followed is in line with the Procurement Regulations;

25.9.5 to cover urgent special educational needs, urgent social care needs or urgent operational needs, if in the opinion of the relevant Director (in consultation with the Head of Procurement) the exemption is considered to be in the Council's interests or necessary to meet the authority's obligations under relevant legislation. Use of this exemption by the relevant Director must be preceded by a written report under Rules 25.2 and 25.3 using the

waiver form to set out the reason for such urgency, how it complies with the Procurement Regulations and any other relevant legislation, and represents Best Value. This ground will **not** apply where, in the opinion of the Head of Procurement (with advice from Legal Services where necessary), said urgency has come about due to circumstances that can be attributed to any action, inaction and/or delay on the part of the Council.

26. Breaches of CPRs

26.1 Breaches of the CPRs are extremely serious matters and will be fully investigated and reported on following referral or discovery. All Directors are responsible for reporting all known or discovered breaches of these CPRs to the Head of Procurement as soon as they become aware of it in practice. Any Director can be called to Audit & Governance Committee to explain any breach.

26.2 Breaches identified are reported to the Head of Procurement and recorded. Training needs will be identified and provided to officers across the Council. Should repeated breaches be made, an investigation to remove an Officer's delegated authority will commence.

26.3 Breaches are reported to Governance, Risk & Assurance Group to identify where improvements need to be made and to ensure training is provided where necessary.

27. Data Protection

27.1 Where a Contract involves data processing by the Supplier, either as both joint or independent controllers or as processor on behalf of the Council, sufficient due diligence must be undertaken to ensure the Council only uses Suppliers who provide guarantees to implement appropriate technical and organisational measures in such a manner as to meet the requirements of the UK GDPR and Data Protection Act 2018 and any other relevant UK data protection and privacy legislation, to protect the rights of individuals.

27.2 Every written Contract that involves the processing of personal data, special categories of personal data and/or criminal offence data by a Supplier, either as both joint or independent controllers or as processor on behalf of the Council, must set out the relevant data protection clauses to reflect the data protection relationship between the Council and Supplier including where required:

(a) the subject matter and duration of the processing, the nature and purpose of the processing;
(b) the types of data and categories of data subjects;
(c) plan for the return or destruction of the data; and
(d) obligations and rights of the controller(s).

In particular, the Contract must contain clauses that meet the requirements of Article 28(3) of the General Data Protection Regulations. Where the Contract being used is not on the Council's standard terms and conditions Authorised Officers must consult with Legal Services as per Rule 18.5.1 (a).

27.3 Authorised Officers should consult with the Information Governance team at the outset of a procurement process to:

(a) discuss the data protection implications and obligations set out in Rule 27.2 above and as much information as possible should be included in the Contract prior to the publication of tender documentation;

(b) establish whether a Data Protection Impact Assessment is required in relation to any proposed Contract involving the processing of personal data.

APPENDIX A - DEFINITIONS

Accountable Body	means where the Council is held accountable by the Government for a particular sum of money which actually may not be managed by, or be in the control of, Council Officers;
Authorised Officer	means a person authorised by the relevant Chief Officer to act on the Council's behalf;
Best Value	means the optimum combination of whole life costs, quality and benefits to meet the customer's requirement;
Call-Off	means a Contract that is awarded under a Framework Agreement;
Category	means each category identified in the category overview table which is set out in the Council's Procurement Strategy;
Category Plan	means strategic planning of the category, at a category or sub-category level, including review of the current position, constraints and opportunities, desired outcomes, options and actions. The template plan should be used in all cases except where an alternative approach (having the same effect) forms part of external funding or joint procurement requirements;
Chief Finance Officer	means the Council's section 151 Officer currently the Chief Finance Officer or their nominated deputy;

Chief Officer	means the head of the procuring directorate and includes the Chief Operating Officer, Corporate Directors, Directors, Assistant Directors and officers with appropriate delegations and sub-delegations;
City of York Scheme for Financing Schools	means the scheme which sets out the financial relationship between the Council and Maintained Schools;
Commercial Procurement	means the Council's Commercial Procurement team;
Concession Contract	has the meaning given in the Procurement Regulations
Constitution	the Council's constitution which is available on the internet and sets out the rules that the Council and all Council employees and Members must follow;
Contract(s)	means an agreement between the Council and a Supplier made by formal agreement or by issue of a letter of acceptance or official order for goods, services and/or works;
Contract Manager	means the officer responsible and accountable for overseeing the entire lifecycle of a contract within the Council
Contract Register	means the register of all Contracts maintained by Commercial Procurement;
Contracting Authorities	has the meaning given in the Procurement Regulations;
Council	means City of York Council;

CPRs	means these Contract Procedure Rules;
Delegated Decision	means a formal decision taken in accordance with the Council's Constitution and sub-delegation schemes. It is for the Officer seeking the Delegated Decision to decide which type of decision is required in accordance with the Constitution;
Director	means an Officer of the Council designated as a director;
Dynamic Purchasing System or DPS	means a completely electronic process for making commonly used purchases that meet the requirements of a Contracting Authority, which is limited in duration and open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification and requirements of the relevant Contracting Authority;
Dynamic Market	means a completely electronic process for making commonly used purchases that meet the requirements of a Contracting Authority, which is limited in duration and open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification and requirements of the relevant Contracting Authority;

Emergency	means an urgent situation or crisis created as a result of a natural disaster (such as flooding or an earthquake) or tragedy (such as an explosion or plane crash);
E-Sourcing System	means the Council's chosen E-sourcing system (currently YORtender), an e-sourcing mandated for access to a specific framework or an approved alternative;
Executive	has the meaning given in the Council's Constitution;
Executive Member	has the meaning given in the Council's Constitution;
Financial Appraisals	means checking the financial status including the credit rating of a Supplier;
Finance Manager	means a manager from the Council's internal finance team;
Financial Regulations	means the governance rules and regulations relating to the management of the Council's financial affairs, set out in Appendix 10a of the Constitution;
Find a Tender, the Central Digital Platform	means the web-based portal provided for the purposes of the Procurement Regulations, for above Procurement Threshold processes, by or on behalf of the Cabinet Office;

Framework Agreement	means a framework agreement with one or more Contracting Authorities and one or more Suppliers which establishes an arrangement for: i. Multiple orders to be placed with one economic operator (a single supplier framework); or ii. A framework of multiple economic operators to engage in further competitions or direct awards (a multiple supplier framework); that has been set up either by the Council or an organisation other than the Council and has been authorised by Commercial Procurement for use in Council procurements;
Governing Body	has the meaning given in the City of York Scheme for Financing Schools;
Grant	means funding awarded to a third party organisation for the purpose of helping deliver community cohesion or providing complementary activities to those carried out by the Council;
Head of Procurement	means the Officer who is responsible for the procurement function on behalf of the Council;
Internal Service Provider	means any internal service area for example Building Services, Yorkcraft, Commercial

	Procurement, or Legal Services etc;
Invitation to Tender	means an invitation by the Council to a potential Supplier to tender for the provision of goods, services and/or works;
Key Decision	has the meaning set out in Rule 7.11 of the CPRs;
Leader	means the Leader of the Council;
Legal Services	means the Council's internal legal team;
Maintained Schools	means the schools maintained by the Council as set out in the City of York Scheme for Financing Schools;
Member(s)	means elected member(s) of the Council;
Monitoring Officer	means the Council's principal solicitor currently the Director of Governance;
Officer(s)	means employee(s) of the Council;
Officer Decision Log	means the section of the Council's website where decisions made by senior officers are recorded;
Participants	means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract;
Procurement Challenge Board	means the Procurement Challenge Board gateway process officers must go through

	on all procurements over £100,000
Procurement Notices	means all associated notices required to be published under Procurement Regulations as set out in Appendix D.
Procurement Pipeline	means practical planning of the procurement, or group of similar procurements, including approach, resourcing and timetable. This involves identifying major projects within each category of spend to be maintained by the relevant Chief Officer. It also provides a basis for information for Commercial Procurement to meet the Council's reporting obligations. The Procurement Pipeline will be in such format as prescribed by the Head of Procurement except where an alternative approach (having the same effect) forms part of external funding or joint procurement requirements;
Procurement Regulations	means the Procurement Act 2023 and any successor, amending or enabling legislation implemented to govern the award of public contracts;
Procurement Strategy	means the Council's published procurement strategy setting out its ambition for procurement and confirming a category management and whole lifecycle approach to procurement;
Procurement Threshold	means the designated threshold above which the Procurement

	Regulations shall apply to a Contract;
Procurement Toolkit	means the manual that accompanies these CPRs which provides detailed guidance on procurement techniques, considerations and the effect of these CPRs;
Relevant Contract	has the meaning set out in Rule 3 of these CPRs;
Request for Quotation	means a request by the Council to a potential Supplier for a quotation for the provision of goods, services and/or works;
Routine	has the meaning set out in Rules 7.11 and 7.12;
Rule(s)	means any rule contained in these CPRs;
SMEs	means small and medium-sized enterprises, as defined in the Procurement Regulations;
Standstill Period	means an eight (8) working day standstill period before a Contract can be awarded to the successful bidder to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award;
Strategic Partnership	means a partnership with an organisation that the Council has a long term arrangement with for the provision of goods, works and/or services;
Supplier(s)	means the person or entity with whom the Council has a Contract;

TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any successor, amending or enabling legislation;

APPENDIX B - ARRANGEMENTS FOR SCHOOLS

Maintained Schools must use the following governance thresholds instead of those found in Rule 7.

Contract Value	**Authorisation Required By**
£500,000 and above	Council Executive (decision)
£250,000 up to £499,999.99	Governing Body (minute or decision)
£50,000 up to £249,999.99	Chair of Governing Body or relevant governing committee (written instruction)
£1 up to £49,999.99	Head-teacher OR The Governing Body in conjunction with the Head-teacher may decide upon a scheme of delegation appropriate to each school and staffing arrangements.

APPENDIX C – ROUTINE PROCUREMENTS

The below table sets out the types of goods and services that may be considered Routine. This is included as a reference guide only and whether or not a procurement is Routine shall be determined on a case-by-case basis by the Head of Procurement in accordance with Rule 7.13.

Example of Routine Procurement	**Approval Required**
ICT hardware, software and / or services to maintain the security, integrity and statutory function of core or business systems	Head of Procurement
Utilities	Head of Procurement
Statutory subscription items such a TV licences	Head of Procurement
Stationery, postal services, and staff travel,	Head of Procurement
General financial services (banking, merchant processing or other comparable services) excluding audit	Head of Procurement

APPENDIX D – PROCUREMENT NOTICES

Notice	Notice Reference
Pipeline Notice	UK1
Preliminary Market Engagement Notice	UK2
Planned Procurement Notice	UK3
Transparency Notice	UK5
Tender Notice, Below Threshold	UK4
Tender Notice, Above Threshold	UK4
Contract Award Notice	UK6
Contract Details Notice	UK7
Procurement Termination Notice	UK12
Dynamic Market Intention Notice	UK13
Dynamic Market Establishment Notice	UK14
Contract Performance Notice	UK9
Contract Change Notice	UK10
Contract Termination Notice	UK11
Dynamic Market Modification Notice	UK15
Dynamic Market Cessation Notice	UK16
Payments Compliance Notice	UK17

Appendix 12 – Officer Employment Procedure Rules

To note: all staffing issues are a non-executive function and arrangements or any committees required must be done so by Council and not the Executive and or Leader of the Council.

1 Recruitment and Appointment of Officers

Declarations

1.1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are related to any Councillor or Council Officer or if they have a substantial relationship with any Councillor or Council Officer. Such a relationship would include parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of a Councillor or an Officer of the Council; or of the partner of such persons. No candidate related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

Seeking support for appointment

1.2 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. No Councillor will seek support for any person for any appointment with the Council.

1.3 This does not preclude a Councillor from giving a reference for a candidate for submission with an application for appointment.

Appointments

1.4 Subject to the paragraphs below and the exceptions detailed therein, the appointment of Officers is the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme of Delegations at Appendix 1, and such appointments must not be

made by Councillors. This provision does not apply to the appointment of the Chief Officers listed at paragraph 3.4 of Article 11 of this Constitution, or Assistants to Political Groups.

2 Appointment of Assistants to Political Groups

2.1 A Group qualifies for an Assistant if:

a. The Membership of that Group comprises of at least one tenth of the membership of the Council;

b. No more than 2 other groups on the Council are larger, or if more than 2 Groups are larger or the same size as the Group, the Council have decided that a post should be allocated to the Group; and

c. At least two Groups are seeking an Assistant, one of which is the majority Group on the Council.

2.2 No appointment to a post of Assistant to a Political Group on the Council will be made until such posts have been allocated to each Group which qualifies. No more than 3 such posts shall be created. No Group shall be allocated more than 1 such post and no such post shall be allocated to a Group which does not qualify for one.

2.3 An Assistant to a Political Group may not have delegated to them any of the powers of the Council or of the Executive.

2.4 Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

2.5 The appointment of Assistants to Political Groups is a fixed term appointment up to the Annual Meeting following an election.

3 Appointment of the Director of Public Health

3.1 A Panel comprising the following will appoint the Director of Public Health:

a. A Councillor as determined by the Head of HR;

b. the Chief Operating Officer or an Officer nominated by them;

c. an externally facilitated assessor appointed following consultation with the Faculty of Public Health and agreed by Public Health England;

d. The Regional Director of Public Health or their nominated deputy;

e. A senior NHS representative to be determined by the Corporate Director of People.

3.2 An offer of employment regarding the Director of Public Health appointment shall only be made where no well-founded objection from any Member of the Executive has been received.

4 Recruitment and Appointment of Head of Paid Service

4.1 Where the Council proposes to appoint a Head of Paid Service, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:

a. the duties of the Officer concerned; and

b. any qualifications or qualities to be sought in the person to be appointed

4.2 The Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and will make arrangements for a copy of the statement set out above to be sent to any person on request.

4.3 This procedure at para 4.1 and 4.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.

4.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.

4.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.

4.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

Offer of Appointment and Procedure for seeking objections

4.7 Any proposal to appoint the Head of Paid Service shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:

a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be made by the Leader, on behalf of Executive, to the Head of HR; and;
d. Either:
    - The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
    - The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;

- The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

4.8 Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by The Chief Officer Appointments Sub Committee.

5 Recruitment and Appointment of other Chief Officers set out at paragraph 3.4 of Article 11

5.1 Where the Council proposes to appoint to a Chief Officer as defined at paragraph 3.4 of Article 11 of the Constitution, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:

a. the duties of the Officer concerned; and

b. any qualifications or qualities to be sought in the person to be appointed.

5.2 The Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and will make arrangements for a copy of the statement set out above to be sent to any person on request.

5.3 This procedure at para 5.1 and 5.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.

5.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.

5.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.

5.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

Offer of Appointment and Procedure for seeking objections

5.7 Any proposal to appoint a Chief Officer as defined at paragraph 3.4 of Article 11 of the Constitution shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:

a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be made by the Leader, on behalf of Executive, to the Head of HR; and;
d. Either:
    - The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
    - The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;
    - The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

5.8 The appointment of Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution will be reported to Full council for

noting only. The approval of Full council is not required other than for the post of Head of Paid Service.

5.9 Where the Head of HR is unable to act, the Head of Paid Service will nominate another Chief Officer to act in their place.

6 Disciplinary Action and Dismissal

6.1 Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

7 Action against other Officers (other than Assistants to Political Groups)

7.1 Any action against Officers (other than those Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution, or Assistants to Political Groups) shall be the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme of Delegations at Appendix 1, and decisions regarding action against these Officers may not be made by Councillors.

8 Action of the Director of Public Health

8.1 In considering any disciplinary or dismissal action against the Director of Public Health, the Council will have regard to the provisions of Health and Social Care legislation and any associated guidance issued by the Secretary of State.

8.2 Before terminating the appointment of a Director of Public Health, the Council will consult with the Secretary of State.

9 Statutory Chief Officers

9.1 Annex 1 sets out the procedure relating to disciplinary action to be taken against the Head of Paid Service, the Monitoring Officer, and the Chief Finance Officer (S151 Officer).

10 Other Chief Officers

10.1 Annex 2 sets out the procedure relating to all other Chief Officers, which includes Deputy Chief Officers. The definition of all of these Officers can be found in Section 2 of the Local Government and Housing Act 1989.

Annex 1

Disciplinary Procedure for the Head of Paid Service (Chief Operating Officer), the Monitoring Officer, and Chief Finance (s151) Officer

1 Scope of Procedure

1.1 This disciplinary procedure is based on that set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook (the JNC Handbook) as updated on 13 October 2016. It applies to the Head of Paid Service, Monitoring Officer, and Chief Finance Officer (S151 Officer), jointly referred to as the "Statutory Chief Officers".

1.2 This procedure has been adopted by the Council for the purposes of dealing with disciplinary, capability and other substantial issues in relation to the Statutory Chief Officers. For the avoidance of doubt, this procedure also applies to a breakdown in trust and confidence between the Statutory Chief Officers and the Council.

1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

1.4 The objective of this procedure is to:

a. Encourage Officers to achieve and maintain acceptable standards of behaviour;
b. Provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
c. Minimise disagreements about disciplinary matters; and
d. Reduce the need for disciplinary action and dismissals.

1.5 Save where alternative arrangements have been agreed in advance between the Council and the Statutory Chief Officer, the steps set out in this procedure must be followed. The parties recognize that it may be necessary to depart from the procedure, from time to time, according to the particular circumstances of a case. In such

circumstances, both parties agree to give fair consideration to reasonable proposals to modify the procedure accordingly.

1.6 This procedure does not form part of a Statutory Chief Officer's contract of employment, and it may be amended at any time, subject to compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).

1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2 Initial Filter Stage

2.1 If an allegation of potential misconduct against a Statutory Chief Officer is made, the Head of HR, in conjunction with the Head of Paid Service (or the Monitoring Officer and the Leader if the allegation is against the Head of Paid Service), will conduct a filter process of the allegations.

2.2 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial, can be dealt with informally or can best be dealt with under some other procedure.

2.3 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) shall also consider whether early informal resolution of the issues with the Statutory Chief Officer is appropriate, and any final decision as to early resolution of the issues will be made by the Head of Paid Service in conjunction with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service).

2.4 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will conduct an initial review of the

allegation, which includes speaking with the Statutory Officer about whom the allegation is made.

2.5 This review will be considered by the Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service), where this can be resolved informally a meeting will be held with the statutory officer to agree the resolution.

2.6 Where an informal resolution is not appropriate, the draft filter report will be shared with the Head of HR and the Chair of the Investigating and Disciplinary Committee (IDC) for comment. The Head of Paid Service (or Monitoring Officer if the complaint is against the Head of Paid Service) will finalise the filter report and will take into consideration the views of the Head of HR and the Chair of the IDC, however, the filter decision is an officer decision for the Head of Paid Service (or the Monitoring Officer where it is against the Head of Paid Service) to determine.

2.7 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the Statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.

2.8 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be progressed, the filter report and evidence considered should be finalised and presented to the IDC.

3 Informal resolution

3.1 In accordance with recommendations in the JNC Handbook, the Council and the Statutory Chief Officer should seek an informal resolution before formal disciplinary proceedings are commenced. The Head of HR will be responsible for seeking an informal resolution with the Statutory Chief Officer. If informal resolution is not possible, the Head of Paid Service (or the Monitoring Officer if it is about the Head of Paid Service) with Head of HR will inform the Chair of the

IDC of the complaint/allegation made against the Statutory Chief Officer and the failure to achieve an informal resolution.

4 Formal Resolution

4.1 At all stages of the disciplinary process, the Council will refer the JNC Handbook for Chief Executives for procedural guidance.

5 Roles and Responsibilities

5.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Statutory Chief Officer, the matter will be referred to an Investigating and Disciplinary Committee for consideration at the earliest opportunity.

6 Investigating and Disciplinary Committee (IDC)

6.1 The Investigating and Disciplinary Committee shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 7 below.

6.2 The Investigating and Disciplinary Committee should:

a. Include no fewer than five elected Members;
b. Not include any Member with a direct personal involvement in the complaint;
c. Be politically balanced; and
d. Include at least one Member of the Executive Member.

6.3 The Investigating and Disciplinary Committee shall appoint a Chair to oversee the function of the Committee.

6.4 The Investigating and Disciplinary Committee may have to:

a. Meet at short notice; and
b. Ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Council.

7 Appeals Committee

7.1 The Council will be required to establish and Appeal Committee.

7.2 The purpose of the Appeals Committee is limited to:

a. Hear appeals against action taken short of dismissal; and
b. To take a decision either to confirm the action or to impose no sanction or a lesser sanction.

7.3 The Appeals Committee should:

a. Include no fewer than five elected Members;
b. Not include any Member with a direct personal involvement in the complaint;
c. Be politically balanced;
d. Include at least one Member of the Executive Member.

8 Independent Panel

8.1 The council will appoint at least two Independent Persons who have been appointed by the Council or by another council for the purposes of the Council's Code of Conduct procedures pursuant to the Localism Act 2011. Membership of the Panel is in the following priority order:

a. An independent person who has been appointed by the Council and who is a local government elector in York;
b. Any other independent person who has been appointed by the Council; and
c. An independent person who has been appointed by another council(s)

8.2 The Council will provide appropriate training for Independent panel members.

NOTE: For the purposes of investigation of the statutory Chief Officers, Independent Persons will be referred to as Independent Investigators and appointments will be sought from the approved panel held centrally by the JNC Joint Secretaries

9 Timescale

9.1 The procedure does not generally incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. Where time

limits do apply, they are included within the relevant section of this procedure. However, it is implicit that all stages of the procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

10 Suspension

10.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where it is envisaged that the Statutory Chief Officer's continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Council's functions.

10.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.

10.3 The decision to suspend a Statutory Chief Officer will rest with the Investigating and Disciplinary Committee. Urgent or exceptional cases will include where the continuing presence of the Statutory Chief Officer could be a serious danger to the health and safety of others, or a serious risk to the resources, information, or reputation of the Council. In these cases, the Chair of the IDC can suspend.

10.4 Save in urgent or exceptional cases, prior to imposing suspension in any case, the Investigating and Disciplinary Committee shall inform the Statutory Chief Officer, in writing, of the reason for the proposed suspension and the Statutory Chief Officer shall have the opportunity to make representations before a decision is taken.

10.5 In urgent or exceptional cases, the Statutory Chief Officer shall be informed of such reasons in writing and may make representations to the Chair of the IDC.

10.6 The necessity for the Statutory Chief Officer to remain suspended should be reviewed at regular intervals and, where possible, lengthy periods of suspension should be avoided. Further, specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Statutory Chief Officer's suspension, whilst avoiding any

prejudice to the investigation or to the efficient exercise of the Council's functions.

10.7 Absence from duty during any period of suspension shall be on full pay.

10.8 Any suspension should not last longer than 2 months from the day on which it takes effect, and only continued following consultation with the Independent Investigator after taking into account any representations made by the Head of Paid Service (or the Monitoring Officer if the complaint relates to the Head of Paid Service).

11 Preliminary Investigation

11.1 The Investigatory and Disciplinary Committee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration.

11.2 As soon as practicable, the Chair of the Investigating and Disciplinary Committee will inform the statutory Chief Officer in writing of the allegations and or issues under investigation and provide any evidence the Committee is to consider and of their right to present oral evidence.

11.3 The statutory Chief Officer will be invited to submit written representations and any evidence, including witness evidence, which he or she wishes the committee to consider. It is not anticipated that witnesses will be required at an initial hearing, however the discretion to call witnesses lies solely with the Investigating and Disciplinary Committee.

11.4 Following very careful consideration of all of the material both relating to the allegations and the submissions by the statutory Chief Officer, the Committee will decide whether:

a. The issue requires no further formal action under this procedure; OR

b. If the matter is not serious but there is some minor fault or error on the part of the statutory Chief Officer, then the Committee can issue an informal unrecorded warning; OR
c. The issue should be referred to an Independent Investigator.

11.5 The statutory Chief Officer will be informed of the decision without delay.

12 Appointment of an Independent Investigator

12.1 The Investigating and Disciplinary Committee will be responsible for the appointment of an Independent Investigator and will be appointed from the list held centrally by the JNC Joint Secretaries.

12.2 The Independent Investigator will be provided with all necessary facilities, provision of all information and also be responsible for remuneration of the Independent person.

12.3 The Statutory Chief Officer has up to 14 days to agree to the appointment of a selected Independent person. If the Statutory Chief Officer fails to respond within the 14 day period, the Committee can go ahead with the selection of an Independent person.

12.4 The Investigating and Disciplinary Committee has responsibility for providing the Independent Investigator with
a. Terms of reference for the investigation;
b. Details of the precise allegations and or issues to be investigated;
c. Provision of access to sources of information and people identified as relevant to the case;
d. Clarity as to timescales and any other known factors which may hinder the investigation e.g., availability or not of individuals.

13 The Independent Investigation

13.1 Once appointed the Independent Investigator has full responsibility for the conduct of the investigation and will ultimately prepare a detailed report stating whether in their opinion:

a. Whether, and if so the extent to which, the evidence obtained supports any allegation of misconduct or incapability or supports a need for action under this procedure for some other substantial reason; and
b. Recommending any disciplinary action (if any is appropriate) OR
c. Recommending a range of actions which appear to be appropriate for the authority to take against the Statutory Chief Officer.

14 Receipt and Consideration of the Independent Investigators Report by the Investigating and Disciplinary committee

14.1 The Investigating and Disciplinary Committee will receive the report and has authority from the council to take a decision on the outcome.

14.2 Unless the Statutory Chief Officer is fully exonerated by the report, he or she will be given an opportunity to state their case before the Investigating and Disciplinary Committee makes a decision. There will also be the opportunity to question witnesses where relevant.

14.3 Having considered all of the material before it and the potential of any new evidence which may arise, the Investigating and Disciplinary Committee may:
a. Take no further action;
b. Recommend informal resolution or other appropriate procedures;
c. Refer back to the Independent Investigator for further investigation and report;
d. Take disciplinary action against the Statutory Chief Officer short of dismissal; or
e. Propose dismissal of the Statutory Chief Officer

14.4 The Statutory Chief Officer has a right of appeal against the decision of the Investigating and Disciplinary Committee.

15 Circumstances where dismissal of the statutory Chief Officer is proposed

15.1 Where the Investigatory and Disciplinary Committee has determined that dismissal (whether summary or on notice) is the appropriate

action in the circumstances, the Council must approve that dismissal before notice of dismissal is given and notice of dismissal must not be issued until an opportunity has been given to Members of the Executive to object to the dismissal.

15.2 The Investigating and Disciplinary Committee will notify the Head of HR that it is proposing to the Council that the Statutory Chief Officer be dismissed and that the Executive objections procedure should commence in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001.

15.3 The Head of HR will notify all Members of the Executive of:

a. The fact that the Investigating and Disciplinary Committee is proposing to the Council that it dismisses the Statutory Chief Officer;
b. Any other particulars relevant to the dismissal; and
c. The period by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Head of HR.

15.4 At the end of the period of notification, the Head of HR will inform the Sub Committee that either:

a. The Leader has notified that neither they nor any Member of the Executive has any objection to the dismissal;
b. No objections have been received from the Leader in the period; or
c. An objection or objections have been received and provide details of the objections.

15.5 The Investigating and Disciplinary Committee shall consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are well founded, the Investigating and Disciplinary Committee will act accordingly which may include consideration of the impact of the Executive objections on the Investigation Report and relevance to the sanction or the commissioning of further investigation by the Independent Investigator.

15.6 Once the Investigating and Disciplinary Committee is satisfied that there are no material and well-founded objections to the proposal to dismiss, it will inform the Statutory Chief Officer of the decision and put that proposal to the Independent Panel along with the Independent Investigators report and any other necessary material or documentation it considers appropriate.

16 Appointment and role of the Independent Panel

16.1 The Independent Panel must be appointed at least 20 days before the meeting of Council at which the recommendation for dismissal is to be considered.

16.2 The role of the Panel is to offer any advice, views or recommendations it may have to Council on the proposal for dismissal.

16.3 The Panel will receive all necessary material including the Independent Investigators report and the representations of the Statutory Chief Officer and the Panel may ask the Independent Investigator and the Statutory Chief Officer questions if required.

16.4 The Panel will then formulate advice, views and recommendations it wishes to present to Council. If the Panel is recommending an alternative course of action to dismissal then it should provide clear reasons.

17 Role of Full Council

17.1 Council is required to approve the dismissal before a notice of dismissal is issued.

17.2 The Statutory Chief Officer may attend council to put forward their views and may also be represented.

17.3 The Council is at liberty to reject the proposal to dismiss and may substitute a lesser sanction and in some circumstances may refer the matter back to the Investigating and Disciplinary Committee to determine the sanction.

18 Appeals against dismissal

18.1 Where the Investigating and Disciplinary Committee makes a proposal to dismiss a Statutory Chief Officer, the hearing by Council will fulfil the appeal function.

19 Appeals against action short of dismissal

19.1 The Statutory Chief Officer shall have the right to appeal the Investigating and Disciplinary Committee's decision to the Appeal Committee. The Statutory Officer Appeals Committee will consider the report of the Independent Investigator and any other relevant information considered by the Investigating and Disciplinary Committee.

19.2 The process for appeal will be conducted in accordance with the Council's existing policies relating generally to all employees.

a. The Statutory Officer Appeal Committee will give careful consideration to all of the material before it, including the views of the Statutory Chief Officer, and may conduct any further investigation it considers necessary to reach a decision.

b. The decision of the Statutory Officer Appeals Committee is final.

Annex 2

Disciplinary Procedure for Non Statutory Chief Officers

1 Scope of Procedure

1.1 For all formal disciplinary related matters in respect of a non-Statutory Chief Officer, the Council's existing HR policies and procedures will apply.

2 Initial Filter Stage

2.1 If an allegation of potential misconduct against a non-statutory Chief Officer is made, the Head of Paid Service (or as delegated to their Chief Officer), in conjunction with the Head of HR, will conduct a filter process of the allegations.

2.2 The Head of Paid Service (or as delegated to their Chief Officer), will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial or can best be dealt with under some other procedure.

2.3 The Head of Paid Service (or as delegated to their Chief Officer shall also consider whether early informal resolution of the issues with the non-Statutory Chief Officer is appropriate, any final decision as to early resolution of the issues will be made by the Head of HR.

2.4 If an informal resolution is not appropriate, the Head of Paid Service (or as delegated to their Chief Officer) will consider the evidence and, unless the matters are clearly unfounded or trivial, the Head of Paid Service (or as delegated to their Chief Officer) may contact the non-Statutory Chief Officer informing him or her of the allegations and asking for their representations. A meeting may be arranged by the Head of Paid Service (or as delegated to their Chief Officer) with the non-Statutory Chief Officer to discuss the allegations.

2.5 Having discussed the non-Statutory Chief Officer's views and evidence available, the Head of Paid Service (or as delegated to

their Chief Officer) will draft an initial filter report.

2.6 The draft filter report will be shared with the Head of HR for comment. The Head of Paid Service (or as delegated to their Chief Officer) will finalise the filter report and will take into consideration the views of the Head of HR.

2.7 If the Head of Paid Service (or as delegated to their Chief Officer) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the non-statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.

2.8 If the Head of Paid Service (or as delegated to their Chief Officer) decides that the allegations should be progressed, the filter report and evidence should be finalised. This should include comments from Head of HR, and Head of Paid Service if this has been delegated to Chief Officers.

2.9 In the event that there is a case to answer, the procedures as detailed within the Council's existing HR policies will commence.

Appendix 13 - Ethics Statement

1 City of York Council works with private, public and non-profit sectors to provide a range of services to the community. Accordingly, organisations, service providers, small businesses and individuals can expect high standards of ethical behaviour from Officers. Underpinning these expectations are our organisational values. They drive our behaviour and reflect how we conduct ourselves in our business.

2 This Statement provides guidance regarding the standards of ethical behaviour that organisations, service providers, small businesses and individuals can expect from Officers and that are expected of them, in their dealings with Council. Our values guide our actions in conducting business in a socially responsible and ethical manner.

3 As an organisation, and as individuals, we respect, apply and comply with the law, support human rights and equal opportunity, protect the environment, achieve operational excellence and work for the benefit of our communities. Officers will, at all times, act with honesty and integrity in an open and transparent manner, performing their roles efficiently, effectively and fairly, thereby attracting the highest level of confidence from our community.

4 The Council's Code of Conduct for Officers sets the requirements of conduct in carrying out their functions. The Code of Conduct has been developed to assist Officers to:

a) Understand the standards of conduct that are expected of them;
b) Enable them to fulfil their duty to act honestly and exercise a reasonable degree of care and diligence; and

c) Act in a way that enhances public confidence in the integrity of local government.

5 Key Principles

5.1 This statement is based on a number of key principles and sets out standards of conduct that meet these principles and statutory provisions applicable to local government activities.

5.2 The key principles are:

a) Integrity
We must not place ourselves under any financial or other obligation to any individual or organisation that might reasonably be thought to influence us in the performance of our duties.

b) Leadership
We have a duty to promote and support the leadership of the Council in order to maintain and strengthen the public's trust and confidence in the integrity of the Council. By doing so we promote public duty to others in the Council and outside, by our own ethical behaviour.

c) Selflessness
We have a duty to make decisions in the public interest and not act in order to gain financial or other benefits for ourselves, our family, friends or business interests. This means making decisions because they benefit the public, not because they benefit the decision maker or someone associated with the decision maker.

d) Impartiality
We should make decisions on merit and in accordance with our statutory obligations when carrying out public business. This includes the

making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all, impartial assessment, merit selection in recruitment and in purchase and sale of Council's resources, considering only relevant matters.

e) Accountability
We are accountable to the public for our decisions and actions and should consider issues on their merits, taking into account the views of others. This means recording reasons for decisions, submitting to scrutiny, keeping proper records, establishing audit trails and conducting audits.

f) Openness
We have a duty to be as open as possible about our decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. This means recording, giving and revealing reasons for decisions, revealing other avenues available to the client or business, when authorised, offering all information, communicating clearly.

g) Honesty
We have a duty to act honestly. We must declare any private interests relating to our duties and take steps to resolve any conflicts arising in such a way that protects the public interest. This means obeying the law, following the letter and spirit of policies and procedures, observing the Council's Code of Conduct for Employees and exercising any delegated authority strictly for the purpose for which the authority was delegated.

h) Respect
We must treat others with respect at all times. This means not using derogatory terms towards others,

observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

5.3 In making our business decisions, we strive to obtain the best value for money. Depending on the circumstances, our decision-making takes into account many things including upfront costs, on-going costs, suitability, quality, reliability, availability, experience, reputation, safety, legal compliance, social value and environmental sustainability. While we strive to obtain the best price for goods and services, we do not necessarily buy at the cheapest price, nor sell at the highest price.

5.4 The Council is required to balance all relevant factors, including initial cost, whole-of-life costs, quality, reliability and timeliness in determining true value for money.

5.5 Although Council business dealings must be transparent and open to public scrutiny, there will be times when information on the Council's relationships with private sector suppliers of goods and services, cannot be made publicly available. However we will always act fairly in our decision-making. That means we are objective, reasonable and even-handed. It does not mean that we can satisfy everyone all of the time. We will publicly support our decisions unless we have to maintain confidentiality or protect privacy.

6 Reporting Unethical Behaviour

6.1 The Council is committed to promoting ethical behaviour. Allegations of unethical behaviour can be made to the Council's Monitoring Officer.

Appendix 14 - Member Code of Conduct

Based on LGA Model Councillor Code of Conduct 2020

Introduction

The Local Government Association (LGA) has developed this Model Councillor Code of Conduct, in association with key partners and after extensive consultation with the sector, as part of its work on supporting all tiers of local government to continue to aspire to high standards of leadership and performance. It is a template for councils to adopt in whole and/or with local amendments.

All councils are required to have a local Councillor Code of Conduct.

The LGA will undertake an annual review of this Code to ensure it continues to be fit- for-purpose, incorporating advances in technology, social media and changes in legislation. The LGA can also offer support, training and mediation to councils and Councillors on the application of the Code and the National Association of Local Councils (NALC) and the county associations of local councils can offer advice and support to town and parish councils.

Definitions

For the purposes of this Code of Conduct, a “Councillor” means a member or co- opted member of a local authority or a directly elected mayor. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who:

a) is a member of any committee or sub-committee of the authority, or;
b) is a member of, and represents the authority on, any joint committee or joint sub-committee of the authority;

and who is entitled to vote on any question that falls to be decided at any meeting of that committee or sub-committee”.

For the purposes of this Code of Conduct, “local authority”

includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

Purpose of the Code of Conduct

The purpose of this Code of Conduct is to assist you, as a Councillor, in modelling the behaviour that is expected of you, to provide a personal check and balance, and to set out the type of conduct that could lead to action being taken against you. It is also to protect you, the public, fellow Councillors, local authority officers and the reputation of local government. It sets out general principles of conduct expected of all Councillors and your specific obligations in relation to standards of conduct. The LGA encourages the use of support, training and mediation prior to action being taken using the Code. The fundamental aim of the Code is to create and maintain public confidence in the role of Councillor and local government.

General principles of Councillor Conduct

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, Councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of Councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of Councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority's requirements and in the public interest.

Application of the Code of Conduct

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Councillor or attend your first meeting as a co-opted member and continues to apply to you until you cease to be a Councillor.

This Code of Conduct applies to you when you are acting in your capacity as a Councillor which may include when:

- you misuse your position as a Councillor
- Your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a Councillor.

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments.

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a Councillor.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are

encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct. Town and parish Councillors are encouraged to seek advice from their Clerk, who may refer matters to the Monitoring Officer.

Standards of Councillor conduct

This section sets out your obligations, which are the minimum standards of conduct required of you as a Councillor. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

Guidance is included to help explain the reasons for the obligations and how they should be followed.

General Conduct

1. Respect

As a Councillor:

a. I treat other Councillors and members of the public with respect.

b. I treat local authority employees, employees and representatives of partner organisations and those volunteering for the local authority with respect and respect the role they play.

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a Councillor, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in Councillors.
In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the local

authority, the relevant social media provider or the police. This also applies to fellow Councillors, where action could then be taken under the Councillor Code of Conduct, and local authority employees, where concerns should be raised in line with the local authority's Councillor-officer protocol.

2. Bullying, harassment and discrimination as a Councillor:

a. I do not bully any person.
b. I do not harass any person.

c. I promote equalities and do not discriminate unlawfully against any person.

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Councillors have a central role to play in ensuring that equality issues are integral to the local authority's performance and

strategic aims, and that there is a strong vision and public commitment to equality across public services.

3. Impartiality of officers of the council

As a Councillor:

a. I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the local authority.

Officers work for the local authority as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers in order to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

4. Confidentiality and access to information

As a Councillor:

a. I do not disclose information:

    a. given to me in confidence by anyone
    b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless:
        i. I have received the consent of a person authorised to give it;
        ii. I am required by law to do so;
        iii. the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or
        iv. the disclosure is:
            1. reasonable and in the public interest; and
            2. made in good faith and in

compliance with the reasonable requirements of the local authority; and

3. I have consulted the Monitoring Officer prior to its release.

b. I do not improperly use knowledge gained solely as a result of my role as a Councillor for the advancement of myself, my friends, my family members, my employer or my business interests.

c. I do not prevent anyone from getting information that they are entitled to by law.

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the local authority must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

5. Disrepute as a Councillor:

a. I do not bring my role or local authority into disrepute.

As a Councillor, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other Councillors and/or your local authority and may lower the public's confidence in your or your local authority's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring your local authority into disrepute.

You are able to hold the local authority and fellow Councillors to account and are able to constructively challenge and express concern about decisions and processes undertaken by the council whilst continuing to adhere to other aspects of this Code of Conduct.

6. Use of position

As a Councillor:

a. I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.

Your position as a member of the local authority provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

7. Use of local authority resources and facilities As a Councillor:

a. I do not misuse council resources.

b. I will, when using the resources of the local authority or authorising their use by others:

i. act in accordance with the local authority's requirements; and
ii. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate, or be conducive to, the discharge of the functions of the local authority or of the office to which I have been elected or appointed.

You may be provided with resources and facilities by the local authority to assist you in carrying out your duties as a Councillor.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of local authority buildings and rooms.

These are given to you to help you carry out your role as a Councillor more effectively and are not to be used for business

or personal gain. They should be used in accordance with the purpose for which they have been provided and the local authority's own policies regarding their use.

8. Complying with the Code of Conduct as a Councillor:

a. I undertake Code of Conduct training provided by my local authority.

b. I cooperate with any Code of Conduct investigation and/or determination.

c. I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.

d. I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.

It is extremely important for you as a Councillor to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the local authority or its governance. If you do not understand or are concerned about the local authority's processes in handling a complaint you should raise this with your Monitoring Officer.

Protecting your reputation and the reputation of the local authority

9. Interests

As a Councillor:

a. I register and disclose my interests.

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, local authority employees and fellow Councillors know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are

personally responsible for deciding whether or not you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other Councillors when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011.

Appendix B sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

10. Gifts and hospitality

As a Councillor:

a. I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the local authority or from persons who may apply to the local authority for any permission, licence or other significant advantage.

b. I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £25 within 28 days of its receipt.

c. I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept. If I decline such a gift or hospitality, I will provide the details to the Monitoring Officer who will maintain an informal register.

In order to protect your position and the reputation of the local authority, you should exercise caution in accepting any gifts

or hospitality which are (or which you reasonably believe to be) offered to you because you are a Councillor. The presumption should always be not to accept significant gifts or hospitality.

However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a Councillor, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a Councillor. If you are unsure, do contact your Monitoring Officer for guidance.

Appendix A – The Seven Principles of Public Life

The principles are:

Selflessness

Holders of public office should act solely in terms of the public interest.

Integrity

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

Objectivity

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability

Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness

Holders of public office should act and take decisions in an open and transparent manner.
Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty

Holders of public office should be truthful.

Leadership

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour

wherever it occurs.

Appendix B Registering interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1** (**Disclosable Pecuniary Interests**) which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2** (**Other Registerable Interests**).

"**Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

"Partner" means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.

2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the Councillor, or a person connected with the Councillor, being subject to violence or intimidation.

3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

Non participation in case of disclosable pecuniary interest

4. Where a matter arises at a meeting which directly relates to one of your Disclosable Pecuniary Interests as set out in **Table 1**, you must disclose the interest, not participate in

any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

5. Where you have a disclosable pecuniary interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Disclosure of Other Registerable Interests

6. Where a matter arises at a meeting which ***directly relates*** to the financial interest or wellbeing of one of your Other Registerable Interests (as set out in **Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

Disclosure of Non-Registerable Interests

7. Where a matter arises at a meeting which ***directly relates*** to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

8. Where a matter arises at a meeting which ***affects*** –

    a. your own financial interest or well-being;
    b. a financial interest or well-being of a relative or close associate; or
    c. a financial interest or wellbeing of a body included under Other Registrable Interests as set out in **Table 2**

    you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied

9. Where a matter (referred to in paragraph 8 above*)* ***affects*** the financial interest or well- being:

    a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
    b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

    You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

    If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

10. Where you have an Other Registerable Interest or Non-Registerable Interest on a matter to be considered or is being considered by you as an Executive member in exercise of your executive function, you must notify the Monitoring Officer of the interest and must not take any steps or further steps in the matter apart from arranging for someone else to deal with it.

Table 1: Disclosable Pecuniary Interests

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the council) made to the councillor during the previous 12-month period for expenses incurred by them in carrying out their duties as a councillor, or towards their election expenses. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract made between the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners (or a firm in which such person is a partner, or an incorporated body of which such person is a director* or a body that such person has a beneficial interest in the securities of*) and the council: (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.

Land and Property	Any beneficial interest in land which is within the area of the council. 'Land' excludes an easement, servitude, interest or right in or over land which does not give the councillor or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners (alone or jointly with another) a right to occupy or to receive income.
Licenses	Any licence (alone or jointly with others) to occupy land in the area of the council for a month or longer
Corporate tenancies	Any tenancy where (to the councillor's knowledge): (a) the landlord is the council; and (b) the tenant is a body that the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/ civil partners is a partner of or a director* of or has a beneficial interest in the securities* of.

Securities	Any beneficial interest in securities* of a body where: (a) that body (to the councillor's knowledge) has a place of business or land in the area of the council; and (b) either: (i) the total nominal value of the securities* exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the councillor, or their spouse or civil partner or the person with whom the councillor is living as if they were spouses/civil partners have a beneficial interest exceeds one hundredth of the total issued share capital of that class.

* 'director' includes a member of the committee of management of an industrial and provident society.

* 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests

You must register as an Other Registerable Interest:

a) any unpaid directorships
b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority

c) any body:
(i) exercising functions of a public nature
(ii) directed to charitable purposes or
(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union)

of which you are a member or in a position of general control or management

Appendix C – the Committee on Standards in Public Life

The LGA has undertaken this review whilst the Government continues to consider the recommendations made by the Committee on Standards in Public Life in their report on Local Government Ethical Standards. If the Government chooses to implement any of the recommendations, this could require a change to this Code.

The recommendations cover:

- Recommendations for changes to the Localism Act 2011 to clarify in law when the Code of Conduct applies
- The introduction of sanctions
- An appeals process through the Local Government Ombudsman
- Changes to the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012
- Updates to the Local Government Transparency Code
- Changes to the role and responsibilities of the Independent Person
- That the criminal offences in the Localism Act 2011 relating to Disclosable Pecuniary Interests should be abolished

The Local Government Ethical Standards report also includes Best Practice recommendations.

These are:

Best practice 1: Local authorities should include prohibitions on bullying and harassment in codes of conduct. These should include a definition of bullying and harassment, supplemented with a list of examples of the sort of behaviour covered by such a definition.

Best practice 2: Councils should include provisions in their code of conduct requiring Councillors to comply with any formal standards investigation and prohibiting trivial or malicious allegations by Councillors.

Best practice 3: Principal authorities should review their code of conduct each year and regularly seek, where possible, the views of the public, community organisations and neighbouring authorities.

Best practice 4: An authority's code should be readily accessible to both Councillors and the public, in a prominent position on a council's website and available in council premises.

Best practice 5: Local authorities should update their gifts and hospitality register at least once per quarter, and publish it

in an accessible format, such as CSV.

Best practice 6: Councils should publish a clear and straightforward public interest test against which allegations are filtered.

Best practice 7: Local authorities should have access to at least two Independent Persons.

Best practice 8: An Independent Person should be consulted as to whether to undertake a formal investigation on an allegation, and should be given the option to review and comment on allegations which the responsible officer is minded to dismiss as being without merit, vexatious, or trivial.

Best practice 9: Where a local authority makes a decision on an allegation of misconduct following a formal investigation, a decision notice should be published as soon as possible on its website, including a brief statement of facts, the provisions of the code engaged by the allegations, the view of the Independent Person, the reasoning of the decision-maker, and any sanction applied.

Best practice 10: A local authority should have straightforward and accessible guidance on its website on how to make a complaint under the code of conduct, the process for handling complaints, and estimated timescales for investigations and outcomes.

Best practice 11: Formal standards complaints about the conduct of a parish Councillor towards a clerk should be made by the chair or by the parish council, rather than the clerk in all but exceptional circumstances.

Best practice 12: Monitoring Officers' roles should include providing advice, support and management of investigations and adjudications on alleged breaches to parish councils within the remit of the principal authority. They should be provided with adequate training, corporate support and resources to undertake this work.

Best practice 13: A local authority should have procedures in place to address any conflicts of interest when

undertaking a standards investigation. Possible steps should include asking the Monitoring Officer from a different authority to undertake the investigation.

Best practice 14: Councils should report on separate bodies they have set up or which they own as part of their annual governance statement and give a full picture of their relationship with those bodies. Separate bodies created by local authorities should abide by the Nolan principle of openness and publish their board agendas and minutes and annual reports in an accessible place.

Best practice 15: Senior officers should meet regularly with political group leaders or group whips to discuss standards issues.

The LGA has committed to reviewing the Code on an annual basis to ensure it is still fit for purpose.

Appendix 15 – Employee Code of Conduct

PURPOSE

1. **The purpose of having a Code of Conduct is to:**

- make a clear statement about the standards of conduct expected of employees of City of York Council;
- ensure the highest standards of conduct by identifying corporate standards which sit alongside professional codes and guidelines;
- help all employees to act in a way which upholds the Council's standards and at the same time, protect them from criticism, misunderstanding or complaint; and
- help build trust between the Council and the people who come into contact with those working for it.

SCOPE

2. **This Code of Conduct applies to:**

- All employees of the Council except teachers and those employed in schools under the control of Governing Bodies.
- Individuals providing services for the Council e.g. contractors, agencies, self- employed, agency workers and those working for the Council / shared services with the Council.

3. A Breach and / or acting in contravention of this Code, may result in disciplinary action being taken. A copy of this Code of Conduct can be found on the intranet or from your manager. All employees will be obliged to undertake and pass the MyLo [online learning] module in respect of the Code of Conduct.

STANDARDS AND ATTITUDE

4. All employees of the Council are expected to deliver services to the best of their abilities to the public, Councillors and fellow employees and, where it is part of their duties, to provide appropriate advice to Councillors and fellow employees with impartiality.

5. Employees should abide by the agreed Values of the Council as well as the expected behaviours as defined in the Behavioural Standards Framework document available on the intranet

6. Your attitude in dealing with people reflects on the Council so it is important that you are helpful, polite and courteous. Our residents and customer's impression of the Council is strongly influenced by the views of the people who work for it. Whether or not you are aware of it, the comments you make will be accepted by others. You therefore, need to consider carefully the effect of what you say.

7. All employees are expected to report to their manager or appropriate senior officer any belief they have that this code or other Council policies and procedures are breached.

8. In all cases, public perceptions are very important and employees should at all times avoid any appearance of improper conduct which may give rise to suspicion.

9. There are a number of principles that exemplify the standards that are required. They are set out below. A number of these aspects are dealt with in more detail within this Code.

THE PRINCIPLES

10. The Code of Conduct embraces the seven principles of public life which were drawn up by the Nolan Committee and are endorsed by Parliament.

11. The key principles are:

    a) Integrity
    We must not place ourselves under any financial or other obligation to any individual or organisation that might reasonably be thought

to influence us in the performance of our duties.

b) Leadership
We have a duty to promote and support the leadership of the Council in order to maintain and strengthen the public's trust and confidence in the integrity of the Council. By doing so we promote public duty to others in the Council and outside, by our own ethical behaviour.

c) Selflessness
We have a duty to make decisions in the public interest and not act in order to gain financial or other benefits for ourselves, our family, friends or business interests. This means making decisions because they benefit the public, not because they benefit the decision maker or someone associated with the decision maker.

d) Impartiality
We should make decisions on merit and in accordance with our statutory obligations when carrying out public business. This includes the making of appointments, awarding of contracts or recommending individuals for rewards or benefits. This means fairness to all, impartial assessment, merit selection in recruitment and in purchase and sale of Council's resources, considering only relevant matters.

e) Accountability
We are accountable to the public for our decisions and actions and should consider issues on their merits, taking into account the views of others. This means recording reasons for decisions, submitting to scrutiny, keeping proper records, establishing audit trails and conducting audits.

f) Openness
We have a duty to be as open as possible about our decisions and actions, giving reasons for decisions and restricting information only when the wider public interest clearly demands. This means recording, giving and revealing reasons for decisions, revealing other avenues available to the client or business, when authorised, offering all information, communicating clearly.

g) Honesty
We have a duty to act honestly. We must declare any private interests relating to our duties and take steps to resolve any conflicts arising in such a way that protects the public interest. This means obeying the law, following the letter and spirit of policies and procedures, observing the Council's Code of Conduct for Employees and exercising any delegated authority strictly for the purpose for which the authority was delegated.

h) Respect
We must treat others with respect at all times. This means not using derogatory terms towards others, observing the rights of other people, treating people with courtesy and recognising the different roles others play in local government decision-making.

CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

12. The Council recognises the importance of an open, transparent culture with clear communication and public accountability. It is the Council's aim to be as open as possible about all its activities. The law requires that certain types of information must be available to Councillors, auditors, government departments, service users and the public. Different rules apply in different situations. The Freedom of Information Act requires for example, disclosure of information in response to written requests in circumstances set out in the Act, and the Data Protection Act requires that the Council complies with statute in relation to the handling and processing of personal data. If you are in any doubt as to whether you can release any particular information, always check with your manager first. Where appropriate you should seek advice from relevant officers including Information Governance Officers and Legal Services.

13. All information received in the course of your duties should be respected and must never be used for personal or political gain. You should not knowingly pass information on to others who might use it in such a way, if you do so, this may result in disciplinary action. If you believe that information should be disclosed in the public interest, you should refer to the Council's Whistleblowing Policy before doing so.

14. You should not communicate confidential information or documents to others who do not have a legitimate right to know. Furthermore, information which is stored whether on computer systems or manually must only be disclosed in accordance with the requirements of the General Data Protection Regulations and related legislation. During the course of duties many staff regularly deal with private and confidential information relating to companies, other organisations and individuals.

15. You must:

    - not supply confidential information to anyone who is not entitled to see it;
    - take appropriate action to protect against accidental disclosure or discovery of information and to ensure that unauthorised people do not gain access to Council information systems;
    - read and follow the Council's Data Protection Policy Statement, Information Governance Policies and Information and the Electronic Communications Policy and any service specific procedures that have been prepared. Deliberate or negligent breaches of confidentiality and the terms of these policies are deemed a serious disciplinary matter.

16. Information you give in the course of your duties should be accurate and fair and never designed to mislead.

17. Any particular information received by an employee from a Councillor which is personal to that Councillor and does not belong to the Council should not be divulged by the employee without the prior approval of that Councillor, except where such disclosure is required or allowed by law.

18. Only employees authorised by their Chief Officer to do so may talk to the Media or otherwise make public statements on behalf of their directorate. An employee contacted by the Media should refer the matter to the Council's Communications Team who will deal with it as appropriate.

19. Reference should also be made to the Council's Social Media Policy. When promoting or commenting on Council business on your personal social media account, think how you present yourself.

Care needs to be taken to ensure that where you reference that you work for the Council or there is a linkage to any council business or council colleagues; personal profiles should be up to date and professional. The line between public and private, personal and professional may be blurred on social media. Whether you identify yourself as a Council employee or not you should take care to ensure that, your posts do not bring the Council into disrepute.

20. Social networking sites are not appropriate forums to express frustrations or concerns related to work or Council services and any such issues should be addressed via the appropriate procedures

21. Employees should make it clear on your personal social media accounts that you are writing in a personal capacity (for example, add a line to your biography stating 'all views are my own') if you are commenting about or a connection to the Council.

WHISTLEBLOWING POLICY

22. Employees are often the first to realise that there may be something seriously wrong within the Council. However, they may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Council. They may also fear harassment or victimisation. In these circumstances it may be easier to ignore the concern rather than report what may just be a suspicion of malpractice.

23. The Council is committed to the highest possible standards of openness, probity and accountability. In line with that commitment we expect employees, and others that we deal with, who have serious concerns about any aspect of the Council's work to come forward and voice those concerns. The Council will want to proceed with understanding all serious concerns and recognises that most cases will have to proceed on a confidential basis.

24. In order to ensure that this can happen the Council has developed a Whistleblowing Policy which can be found on the intranet or a copy can be requested from your manager or HR.

25. The Whistleblowing Policy is intended to encourage and enable employees to raise serious concerns within the Council rather than

overlooking a problem or ‘blowing the whistle’ outside.

26. The policy applies to all employees and those contractors working for the Council on Council premises, for example, agency staff, builders and drivers. It also covers suppliers and those providing services under a contract with the Council in their own premises.

27. The policy is in addition to the Council’s complaints procedures and other statutory reporting procedures applying to some departments. You are responsible for making service users aware of the existence of these procedures should they wish to make a complaint regarding a Council service or individual.

28. The policy has been discussed with the relevant trade unions and has their support.

PERSONAL APPEARANCE

29. In your appearance as well as in your behaviour, you should regard yourself as an ambassador for the Council and dress in clothing that is appropriate for your duties. Your Service may have a code of dress where it is important to project a favourable image of the Council and its employees, and you must follow any such code that applies to you. All employees are required to be neat and tidy in appearance. If you have direct contact with customers or members of the public you must be appropriately dressed.

30. Those officers who work online and appear on video conferencing platforms, should ensure that their appearance on camera is appropriate for the audience. Employees should be camera ready representing the Council and respectfully presented to fellow colleagues. If a back drop is applied to video conferencing screens this should be not cause offence to the wider audience.

31. If you are required to wear specific items of clothing, hairstyles or jewellery in accordance with your ethnic background or faith, your needs will be accommodated where possible and practicable, however, this must not pose a hazard to the health and safety of any person or contravene any legitimate or reasonable requirement of the Council.

32. The Council reserves the right to insist that you do not wear particular items of clothing or jewellery which it believes may cause offence to customers, suppliers, or other employees or which may pose a risk to the health and safety of any person.

33. The Council will enforce these rules having regard to the differences for men, women and transgender and non-binary employees.

34. As an employee of the Council you are expected to wear / carry your security ID badge at all times ideally on a lanyard around your neck where this does not pose a health and safety risk. It must always be produced on request.

POLITICAL NEUTRALITY

35. Employees serve the Council as a whole. It follows that you must serve all Councillors equally and respectfully.

36. From time to time, some employees may be requested to advise a meeting of a political group or its senior leadership. You must do so in ways which do not compromise your political neutrality and inform the Director of Governance and Monitoring Officer in advance should you have any concerns.

37. Whether you hold a politically restricted post or not, you must not allow your own personal or political opinions to interfere with your work and you must at all times perform your duties in an objective manner.

RELATIONSHIPS

38. City of York Council is firmly committed to equal opportunities and believes that every employee has the right to work in a safe environment without the fear of discrimination, harassment or abuse. This is reinforced in the Council's Organisational Development Plan. As such, the Council will not tolerate or condone harassment or bullying in any form. The Council has established a Dignity at Work Policy which addresses these issues in more detail. This policy aims to prohibit harassment and bullying within the Council and covers both employees and elected Members. Details of the policy are available on the Council's Intranet.

APPOINTMENT OF STAFF

39. It is unlawful for appointments to be made on the basis of anything other than the ability of the candidate to undertake the duties of the post. If you are involved in making appointments you should do everything possible to ensure that these are made on the basis of merit and in accordance with the Council's Recruitment and Selection Policy and associated guidance documents which can be found on the intranet.

40. In order to avoid any possible accusation of bias, you must not become involved in any appointment or any other decision relating to the discipline, promotion, pay or conditions of another employee, or prospective employee if you are a relative of an applicant, or have a close personal relationship with them, or are a close personal associate of them. You must also not be involved in an appointment where you have the opportunity to benefit, directly or indirectly, from the appointment without the express prior approval of the employing Chief Officer.

41. In paragraph 40 (above) the term 'relative' means a spouse, partner, parent, son, daughter, step-son, stepdaughter, child of a partner, brother, sister grandparent, grandchild, uncle, aunt, nephew, niece and in-laws or the spouse or partner of an existing Councillor and / or senior employee of City of York Council.

42. In paragraph 40 (above) the term a 'close personal relationship' can be described as someone who is well known to you and for whom you have feelings of liking, affection and loyalty. It is a closer relationship then simply being an acquaintance. For example, if you are both member of the same charity, club or association, this is not likely, on its own, to mean that you have a close personal relationship.

43. In paragraph 40 (above) the term 'close personal associate' would include a person not employed by the Council with whom you have a close business connection.

44. In paragraph 41 (above) the term 'partner' means a member of a

couple who live together.

45. Chief Officers (which term comprises any Director, including the Corporate Director, Assistant Director) and Heads of Service must disclose to the Head of Human Resources any relationship known to exist between them and any person they know as a candidate for an appointment with the Council.

46. Ideally, people who already have a close personal relationship should not seek employment in the same work group. Senior employees have a particular responsibility to ensure that there can be no question of favouritism or bias in the appointment or treatment of any person with whom they have a close personal relationship outside their particular work group. The higher the person is in the management structure, the greater the likelihood of there being an adverse effect on normal working relationships if people with close personal relationships are employed in the organisation.

RELATIONSHIPS AT WORK

47. If a social relationship develops into a close personal relationship, this can often interfere with the normal working relationships within the work group and can cause others to doubt that they will be treated fairly.

48. If a person with whom you have a close personal relationship is employed by the Council, you should take special care to conduct yourself in such a manner that the relationship does not interfere with service delivery or normal working relationships and does not cause others to doubt that they will be treated fairly. If it does, then you may not be able to do the job for which you are employed. Appropriate action may be taken in such circumstances.

49. Those involved in a close personal relationship with a work colleague which has broken down must ensure that they do not involve others in their private affairs within the workplace. Relationships and/or their breakdown must not interfere with working arrangements and employees must ensure that work is not affected. Unless there is a genuine work related issue the Council will not allow its policies and procedures to be used by employees whose private relationship with each other has broken down.

COUNCILLORS

50. Mutual respect between employees and Councillors is essential for good local government. Some employees need to work closely with Councillors. Close personal familiarity between employees and individual Councillors can damage the relationship and prove embarrassing to other employees and Councillors, and should therefore, be avoided.

THE LOCAL COMMUNITY AND SERVICE USERS

51. Employees should always remember their responsibilities to the community they serve and ensure courteous, efficient and impartial service delivery to all groups and individuals within that community in accordance with the policies of the authority. This may involve dealing with troubled, angry and frustrated customers, although employees are entitled, not to be expected to place their personal health, safety and welfare at risk.

CONTRACTORS

52. All relationships of a business or personal nature with external contractors or suppliers, or potential contractors or suppliers, must be declared to your Head of Service, the Monitoring Officer and the Chief Financial Officer at the earliest opportunity. In this case a relationship would extend to where the employee will have a direct or indirect benefit of the appointment of a contractor or supplier.

53. Orders and contracts must be awarded in accordance with the Contracts Procedure Rules and no special favour should be shown to businesses run by parties identified in paragraph 40, whether these are friends or someone the employee has a close personal relationship with.

54. If your job entails engaging or supervising internal or external contractors, or having any other official relationship with contractors and you have previously had or currently have a business or personal relationship in a private or domestic capacity with any contractors, you should declare that relationship to your Head of Service and make the Monitoring Officer and the Chief Finance Officer aware of this as well.

55. You must not use, in a private or domestic capacity, any contractor with whom you have had or are having an official working relationship with, without first obtaining the permission of the Chief Officer, the Monitoring Officer and the Chief Finance Officer.

EMPLOYMENT MATTERS

56. If you apply for promotion or are seeking another post in the Council, you must not approach any City of York Councillor for a reference. Issues relating to your conditions of service, working arrangements or grading should be raised with your manager, supervisor and the Head of Human Resources - and not with Councillors.

57. You must not be involved in or attempt to influence any decision relating to discipline, promotion or pay adjustments for any other employee who is detailed in paragraph 40.

58. The information contained in Disclosure and Barring Service disclosures is considered highly confidential and the Council will restrict access to those who are entitled to see it as part of their duties in line with its DBS guidance.

OUTSIDE COMMITMENTS

59. The Council recognises that employees are entitled to their private lives. In general, an employee's choices and action outside of work are not the Council's concern. However, in order to protect both the employee and the Council there are exceptions to this, these are outlined below.

CONDUCT

60. Where in or outside work, employees must not conduct themselves in any way that creates doubt as to their suitability for their post or brings the Council into disrepute. Where conduct, whether inside or outside or work does create doubt as to an employee's suitability for their post or brings the Council into disrepute, this will be dealt with accordingly under the Council's Disciplinary Policy.

ADDITIONAL WORK

61. Employees may be able to take on outside employment/work/business responsibilities in addition to their existing contact of employment, providing it does not conflict with the performance of their duties in the role for which they are employed.

62. Additional work includes:

    (a) paid employment,
    (b) self-employment,
    (c) being a named partner in a business or a sole-trader
    (d) being named as an Officer of a company (e.g. Director or Secretary)
    (e) voluntary work involving driving duties if you are employed by the Council as an LGV/PSV driver (because of driving hour regulations)

63. In order to assess whether or not there might be a conflict, employees are required to obtain the consent of their Chief Officer before taking on any outside employment/duties. If you fall into this category, and want to seek the Council's agreement, you should complete Declaration of Interests and submit it to your Chief Officer. The Council will not unreasonably stop employees from undertaking additional employment/duties/work, but this employment must not, in the Council's view, conflict with or be detrimental to its interests, or weaken public confidence in the conduct of its business.

64. Should you fail to complete and declare additional work and complete the Declarations of Interest form, you may be referred for action under the Council's Disciplinary Policy.

65. Touting for or on behalf of any secondary employment in working hours is an improper use of the Council's time and will be dealt with accordingly.

66. An employee who wishes to take on additional work/duties must ensure that:

    (a) the additional hours worked do not contravene the Working Time Regulations or otherwise give the Council cause for concern about health and safety at work;

(b) the outside work does not place the employee in a position where their duties and private interests conflict;

(c) the outside work does not damage, or potentially damage, public confidence in the Council's conduct or business;

(d) the outside work does not involve the employee being in direct competition with the Council for work/contracts;

(e) any potential employer is aware of your employment with the Council;

(f) you do not wear Council uniform whilst undertaking the additional work/duties;

(g) you do not use Council property when undertaking the additional work/duties (e.g. Council owned computers, vans, tools, photocopiers);

(h) you do not use the Council's email system when undertaking the additional work/duties in line with the Electronic Communication Policy

(i) you do not undertake private or personal work, paid or unpaid, of any description in working hours or in the office.

VOLUNTARY WORK

67. The Council recognises the invaluable and positive role that volunteers play in supporting our services and communities and therefore, promotes the work volunteers do. Generally permission to volunteer is not required, unless you are seeking paid time off for voluntary work in line with the Employer Supported Volunteering Scheme (further details of this scheme is available from your manager and the intranet)

68. If you are employed by the Council as an LGV/PSV driver, because of driving hour regulations, you must seek permission to do voluntary work which involves driving duties by complete and submitting the Declaration of Interests form to your Chief Officer.

REFUSAL OF A REQUEST TO TAKE ON ADDITIONAL WORK

69. If an employee has their request to take on additional work refused and wishes to challenge this, they should initially speak to their manager, or raise with your Head of Service. If you remain dissatisfied consider raising a grievance under the Council's grievance procedure.

BOOKS, TRAINING MATERIALS AND INTELLECTUAL PROPERTY RIGHTS

70. If you write a book for payment on subjects relating to your work for the Council you must seek the permission of the Council through your Chief Officer using Declaration of Interests form.

71. Fees for giving lectures or writing articles/books may only be retained by employees where these activities are not integral to their employment or position with the Council and they are conducted in the employee's own time.

72. The Council retains intellectual property rights for work undertaken by employees. The Council will not authorise intellectual property rights to be used by any employee in a private capacity. Research, reports, designs, drawings, software and other developments or similar work, when created in the course of an employee's normal duties, remain the property of the Council. These should not be removed from Council premises or passed on to third parties by any employee acting in a private capacity.

PATENTS AND INVENTIONS

73. Any matter, or thing capable of being patented under the Patents Act 1977, made developed or discovered by an employee, either alone or with others, whilst in the performance of their duties should be disclosed to the Council through the appropriate Chief Officer and, subject to the provisions of the Patents Act, it will belong to and be the absolute property of the Council.

COMPUTER USE

74. The council wants employees to use computers to the full and to feel

competent and comfortable about doing so. However, it is essential that computers are used appropriately. Any reference to computers should be taken to mean all computer equipment and any associated technology (e.g. emails).

MISUSE OF COMPUTERS AND OTHER TECHNOLOGY

75. The misuse of computers is a serious matter and may result in employees being subject to disciplinary and, where appropriate, legal action.

76. A number of guidance documents exist in relation to the use of the Council's computers and information technology. These include the Electronic Communications Policy and associated guidance documents and the Social Media Policy. Employees must be familiar with, and abide by the Council's Policies on computer use.

77. Private use of Council facilities, such as computers (including use of the Internet) and stationery, is governed by these documents. Personal use of the office telephone is permitted within reason. Employees must not arrange to receive or have collected correspondence from CYC premises and sites (this includes parcels) related to outside work or private interests. Misuse of Council facilities such as mobile phones, office telephones and photocopiers may result in disciplinary action being taken.

78. An employee who is aware or suspects that abuse of computers, email, the internet, the intranet or other technology is taking place is under a duty to report this immediately under the Council's Whistleblowing Policy.

79. The Council will monitor the use of computers etc. without notice. A record of any sites accessed by staff is automatically stored on the system and may be examined later if misuse is suspected.

INTERNET AND SOCIAL NETWORKING

80. Internet access for personal use should be in line with the Council's policy on Electronic Communications Policy and must not affect an employee's performance and productivity at work.

PERSONAL INTERESTS

81. Employees may have a variety of personal interests, which may from time to time impact on their role for the Council. To protect the Council and the employee from any accusations of wrong doing the Council has in place a number of safeguards which demonstrate that these interest are not allowed to influence the way the Council conducts its business.

82. If you are a Chief Officer, then you must complete a Register of interests. The purpose of this register is to ensure that those who have responsibility for taking the majority of delegated decisions of the authority are required to meet similar standards required of elected members in relation to the registration and declaration of interests.

83. The Registration of Interest for Chief Officers will be published online and publically available.

84. The information may also need to be disclosed to those involved in hearing any disciplinary matter or in accordance with the Council's other legal obligations to disclose information to the external auditors, the Local Government and Social Care Ombudsman or in the course of court proceedings.

85. The form and guidance for completion is available in the Declaration of Interests Form.

86. All employees are required to declare interests that may conflict with the interest of the Council, or adversely affect the performance of their duties. Such disclosure protects employees from accusations of impropriety. Any Declarations of interest, that are financial or non-financial which could bring about conflict with the Council's interests must be made on the Declaration of Interests form.

87. If you are in any doubt about a potential conflict of interest, you should bring the matter to the attention of your manager so that a decision can be made as to how best to proceed.

88. You must not make, or become involved with, any official, professional, decisions about matters in which you have a personal

interest.

INTEREST IN CONTRACTS

89. Section 117 of the Local Government Act 1972 requires you to make a formal declaration about contracts or proposed contracts with the Council in which you have a pecuniary interest. Such declarations should be made on the Declaration of Interests form. It is a criminal offence to fail to comply with this provision, which is set out in full at Annex A to this Code. Pecuniary interests are considered at Section 95 of the Local Government Act 1972, See Annex B to this Code.

GIFTS AND HOSPITALITY

90. A potential source of conflict between public and private interests is the offer of gifts, hospitality or benefits in kind to employees in connection with their official duties. It is important to avoid any suggestion of improper influence.

GIFTS GENERALLY

91. Casual gifts offered to employees by contractors, organisations, firms or individuals such as calendars, diaries, mouse mats, pens, and other small gifts need not be declared. However it will not be appropriate to accept a gift if it is more than minimal and may be perceived as an inducement. Where a number of small gifts over a period of time are received these should be declared.

92. With the exceptions listed below, you should decline any personal gift offered to you, or to a member of your family, by any person or organisation you have dealings with through the Council.

93. Any such offer should be reported to your Manager and should be recorded in a register, which is kept for this purpose. Managers should report any such offer via email to the Corporate Director's Executive Support Assistant for the place and People's Directorate and the Corporate Support Manager for the Corporate Functions, who will record it in the register. The Corporate Director will then review and authorise accordingly.

94. When a gift needs to be refused, this should be done with tact and

courtesy, because the offer of gifts is common custom and practice in the commercial world, particularly at Christmas time. If the gift is simply delivered to your place of work, there may be a problem returning it, in which case it should be reported immediately to your Manager, who in turn will inform the Director of Governance and Monitoring Officer.

GIFTS FROM SERVICE USERS AND CLIENTS

95. There are sometimes problems encountered by employees who have a 'caring' role, or provide direct personal service to vulnerable people.

96. It is not unusual for residents of residential care homes, or for people receiving support at home from Council employees, or their relatives, to wish to express their thanks and gratitude to care staff by offering gifts, money or even, exceptionally, by making an employee a beneficiary in their will.

97. It is most important in such situations that employees are protected from any suggestion of improper motives or conduct. This is, however, an area which needs to be handled with great tact and sensitivity if needless offence to the individual making the offer is to be avoided, with a proper explanation given as to the reason why. Where it has not been possible to return a gift, this must be reported to your manager who will give you further guidance.

98. If you are aware that you have been or may be made a beneficiary of an individual's will, you should immediately report this to your manager. A manager will then visit the client to discuss the proposed bequest. The manager will seek to deter the individual from making the bequest, and ensure that if a bequest is given that it represents the genuine wishes of the individual who has not been subject of any improper influence. Following the visit, the manager will notify the Director of Governance who will discuss the matter with you and determine what action to take.

99. In some cases an employee might not know that he or she is a beneficiary until after the death of the client concerned. As soon as an employee is made aware of such a bequest, he or she should notify their Chief Officer who will advise as to whether the gift should be

accepted.

HOSPITALITY

100. Offers of hospitality are a normal part of the courtesies of business life but in the public sector it is important for employees to avoid creating an appearance of improper influence, thus undermining public confidence. You should only accept offers of hospitality if there is a genuine need to impart information or represent the Council in the community. Offers to attend purely social or sporting functions should be accepted only when these are part of the life of the community and where the Council should be seen to be represented. In all such cases they should be properly authorised by your Corporate Director

101. Hospitality is sometimes offered to representatives of the Council in an official or formal capacity.

102. If hospitality is offered to you as an individual employee, special caution is needed, particularly when the host is seeking to do business with the Council or to obtain a decision from it. You must exercise the utmost care in dealing with contractors, developers etc. who may stand to benefit from the goodwill of the Council. If you decide to accept hospitality it should be on the basis that there will be a clear benefit to the Council through e.g. networking and building contacts, if there is no or limited benefit to the Council you should not attend. You should resist additional gifts associated with an event such as free travel, or gift bags and items.

103. You should also be careful about attending exhibitions, seminars or visiting manufacturers etc. There is an increasing trend towards linking such visits to, for example, a major sporting event, show or concert with a view to legitimising offers of hospitality. Training events with very low training content and free catering, drink or transport may also be hospitality.

104. In general terms, it is more likely to be acceptable for you to join in hospitality offered to a group, than to accept something unique to yourself. When a particular person or body has a matter currently in issue with the Council, for example, an arbitration arising from a contract, then clearly common sense dictates that offers of hospitality should be refused even if in normal times they would be acceptable.

SPONSORSHIP – GIVING AND RECEIVING

105. When an outside organisation wishes to sponsor or is seeking to sponsor a Council activity, whether by invitation, tender, negotiation or voluntarily, the basic conventions concerning acceptance of gifts or hospitality apply. Particular care must be taken when dealing with contractors or potential contractors.

106. Where the Council wishes to sponsor an event or services, neither an employee nor any partner, spouse or relative must benefit from such sponsorship in a direct way without there being full prior disclosure to their Chief Officer of any such interest. Similarly, where the Council through sponsorship, grant aid, financial or other means, gives support in the community, employees should ensure that impartial advice is given and that there is no conflict of interest involved.

107. Employees should take advice from the Director of Governance on the possible legal or procurement issues which may be associated with securing sponsorship.

CRIMINAL CONVICTIONS/LOSS OF LICENCE OR QUALIFICATION

108. You must inform your manager immediately if you:

(a) receive any criminal conviction, caution, or are held or released subject to bail, or placed under bond during, either within or outside of your normal working hours;

(b) receive any driving convictions that result in the loss of your driving licence which then impacts on your ability to perform your duties at work, receive any penalty points on their driving licence, are involved in a road traffic accident (however minor) whilst driving at work, or if driving on Council business is part of your job role;

(c) have engaged in behaviour that has resulted in loss of licence, affiliation, accreditation, qualification or professional membership that may impact on your ability to carry out the

duties of your contracted role.

(d) Are impacted by a health condition that may affect your driving including the taking of any prescription medicines or self-prescribed medication that impact on your driving capacity or ability

109. If your post is subject to a Disclosure and Barring Service (DBS) Check, as well as the above, you must also inform your manager immediately if you are subject to a criminal investigation. If you are unsure about whether your post requires a DBS check, please seek clarification from your manager. All information you provide in this regard will be dealt with in strict confidence.

PLANNING MATTERS

110. All Officers submitting a planning application to the authority must inform the Director of Governance and the Director for Environment, Transport and Planning. The Director of Governance will maintain a register of all such applications. The Director for Environment, Transport and Planning shall ensure that these are dealt with without influence and where necessary decisions are referred to the Planning Applications Committee.

111. Further details about the conduct of planning matters are set out in Article 13 and Appendix 17 of the Constitution.

EQUALITY

112. The Council is committed to tackling discrimination in how it treats its employees and how it delivers services, and also to actively promoting and championing equality in the community. All members of the local community, customers and other Council employees have a right to be treated with fairness and equity. You should become familiar with and observe all Council policies relating to equality issues in addition to the requirements of the law under the Equality Act 2010 and the Public Sector Equality Duty.

113. If you feel that you have been unfairly treated, discriminated against or harassed, you are entitled to make use of the Council's Dignity at Work Policy. You are also entitled to be treated with respect by

clients, service users and members of the public, and be supported with this by the Council.

114. In the same way you are required to treat your colleagues, staff and members of the public fairly and with respect.

TENDER PROCEDURES

115. Employees involved in the tendering process and dealing with contractors should be clear about the nature of the separation of client and contractor roles within the Authority. Employees who have both a client and contractor responsibility must be aware of the need for accountability and openness. The relevant statutory rules appear in Annex A and B of this Code.

116. If you are part of a contractor or client unit or have other official relationships with contractors, you must exercise fairness and impartiality when dealing with all customers, other contractors and sub-contractors.

117. If you are responsible for engaging or supervising contractors and have previously had, or currently have, a relationship in a private or domestic capacity with a particular contractor, you must declare that relationship to your Chief Officer using the Declaration of Interests form.

118. If you become privy to confidential information on tenders or costs relating either to internal or external contractors, you must not disclose that information to any unauthorised person or organisation.

119. All employees must ensure that no special favour is shown to current, or recent, former employees or their partners, close relatives or associates in awarding contracts to businesses run by them or employing them in any capacity.

CORRUPTION

120. The Council takes a very firm stance against all forms of bribery and corruption which includes money laundering, misconduct in a public office, theft and more. All employees have a responsibility to help prevent, detect and report incidents of bribery and money laundering

and any concerns should be raised with a Corporate Directors and the Director of Governance and has adopted an Anti-Bribery Policy and Procedures which can be found on the intranet or a copy can be requested from HR.

121. Employees must be aware that bribing another person or receiving a bribe are serious criminal offences under the Bribery Act 2010. Penalties include fines and or imprisonment for up to 10 years

122. The offence of 'bribing another person' will be committed if you offer, promise or give financial or other advantage to another person with the aim of inducing or rewarding them perform an activity or function improperly. The activity or function could relate to an external business or commercial activity or any public function (for instance done in house or by another public sector body).

123. The offence of 'being bribed' will be committed if you request or agree to receive or accept any financial or other advantage in return for improperly performing or allowing the improper performance of an activity or function. The activity or function could be any public function or something you do during the course of your employment

124. Further details of the Bribery Act offences are set out in the Anti-Bribery Policy and Procedures.

125. For you own protection, if anyone makes an approach to you which seems to you, or might seem to a third party, to be aimed at obtaining some form of preferential treatment, or in any suspicious circumstances in connection with a contract, you must report the matter to your Chief Officer.

FINANCIAL PROCEDURE RULES

126. All employees involved in financial activities and transactions on behalf of the Council, including budgetary control, payments of accounts, payments of salaries and wages, petty cash and orders of works, goods or services must follow the Council's Financial Procedure Rules. These can be found in the Council's Constitution at Appendix 10 which is available on the Council's web pages.

127. They must ensure that they use public funds entrusted to them in a

responsible and lawful manner. They should strive to ensure value for money to the local community and to avoid legal challenge to the Authority.

ANNEX A

PERSONAL INTERESTS
LOCAL GOVERNMENT ACT 1972, SECTION 117

1. If it comes to the knowledge of an Officer employed, whether under this Act or any other enactment, by a Local Authority that a contract in which he has any pecuniary interest, whether direct or indirect (not being a contract to which he is himself a party), has been, or is proposed to be, entered into by the authority or any committee thereof, he shall as soon as practicable give notice in writing to the authority of the fact that he is interested therein.

   For the purposes of this section, an Officer shall be treated as having indirectly a pecuniary interest in a contract or proposed contract if he would have been so treated by virtue of section 95 above had he been a Member of the Authority.

2. An Officer of a Local Authority shall not, under colour of his office or employment, accept any fee or reward other than his proper remuneration.

3. Any person who contravenes the provisions of subsection (1) or (2) above shall be liable on summary conviction to a fine not exceeding (level 4 on the standard scale).

4. References in this section to a Local Authority shall include references to a joint committee appointed under Part VI of this Act or any other enactment.

ANNEX B

PERSONAL INTERESTS
LOCAL GOVERNMENT ACT 1972, SECTION 95

1. For the purposes of Section 94 above a person shall be treated, subject to the following provisions of this section and to Section 97 below, as having indirectly a pecuniary interest in a contract, proposed contract or other matter, if:

   (a) they or any nominee of their family is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the other matter under consideration; or

   (b) they are a partner, or is in the employment, of a person with whom the contract was made or is proposed to be made or who has a direct pecuniary interest in the other matter under consideration

2. Sub-section (1) above, does not apply to membership of or employment under any public body, and a member of a company or other body shall not be reason only of his membership be treated as having an interest in any contract, proposed contract or other matter if he has no beneficial interest in any securities of that company or other body.

3. In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purpose of section 94 above to be also an interest of the other.

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Appendix 16 - Protocol for Officer / Member Relations

Content:

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1. Introduction

1.1 The purpose of this protocol is to guide members and officers of the Council in their relations with one another. The protocol's intention is to build and maintain good working relationships between members and officers as they work together. Employees who are required to give advice to members are referred to as "officers" throughout.

1.2 A strong, constructive, and trusting relationship between members and officers is essential to the effective and efficient working of the Council.

1.3 This protocol also seeks to reflect the principles underlying the respective codes of conduct which apply to members and officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and they therefore demand very high standards of personal conduct.

1.4 The following extract from the Local Government Association

guidance on the 2020 Model Councillor Code of Conduct states that:

"Both councillors and officers are servants of the public and are indispensable to one another. Together, they bring the critical skills, experience and knowledge required to manage an effective local authority.

At the heart of this relationship, is the importance of mutual respect. Councillor-officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between councillors and officers should observe reasonable standards of courtesy, should show mutual appreciation of the importance of their respective roles and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.

Councillors provide a democratic mandate to the local authority and are responsible to the electorate whom they represent. They set their local authority's policy framework, ensure that services and policies are delivered and scrutinise local authority services.

Councillors of the Executive, chairs and vice chairs of committees have additional responsibilities. These responsibilities will result in increased expectations and relationships with officers that are more complex. Such councillors must still respect the impartiality of officers and must not ask them to undertake work of a party-political nature or compromise their position with other councillors or other officers.

Officers provide the professional advice and managerial expertise and information needed for decision making by councillors and to deliver the policy framework agreed by councillors. They are responsible for implementing decisions of councillors and the day-to-day administration of the local authority.

The roles are very different but need to work in a complementary way.

It is important for both sides to respect these differences and ensure that they work in harmony. Getting that relationship right is an important skill. That is why the code requires councillors to respect an officer's impartiality and professional expertise. In turn officers should respect a councillor's democratic mandate as the people accountable to the public for the work of the local authority. It is also important for a local authority to have a councillor-officer protocol which sets out how this relationship works and what both councillors and officers can expect in terms of mutual respect and good working relationships."

1.5 The provisions of this protocol are designed to complement the codes of conduct and will be interpreted having regard to the requirements of the Member Code of Conduct, the Employee Code of Conduct, the Council's Whistleblowing Protocol and the Council's policies, procedures and processes.

2. Members

2.1 Mutual respect between members and officers is essential to good Local Government. Overly close personal familiarity between individual members and officers can damage this relationship and prove embarrassing to other members and officers.

2.2 It is important that any dealings between members and officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position.

2.3 In line with the Member Code of Conduct, as set out in Appendix 14 of this Constitution, a member must treat others with respect, must not bully or harass people and must not do anything which compromises, or is likely to compromise, the impartiality of those who work for, or on behalf of, the Council.

2.4 Officers can expect members:

- to give political leadership and direction and to seek to further their agreed policies and objectives with the understanding that members have the right to take the final decision on issues based on advice
- to act within the policies, practices, processes and

conventions established by the Council

- to work constructively in partnership with officers acknowledging their separate and distinct roles and responsibilities
- to understand and support the respective roles and responsibilities of Officers and their associated workloads, pressures and reporting lines
- to treat them fairly and with respect, dignity and courtesy
- to act with integrity, to give support and to respect appropriate confidentiality
- to recognise that officers work to the instructions of their senior officers and not to individual members or political groups
- not to subject them to intimidation, harassment, or put them under undue pressure. Members will have regard to the seniority of officers in determining what are reasonable requests, having regard to the relationship between the member and officer, and the potential vulnerability of officers, particularly at junior levels
- not to request them to exercise discretion which involves acting outside the Council's policies and procedures
- not to authorise, initiate, or certify any financial transactions or to enter into any contract, agreement or undertaking on behalf of the Council or in their role as a member without proper and lawful authority
- not to use their position or relationship with officers to advance their personal interest or those of others or to influence decisions improperly
- to comply at all times with the Member Code of Conduct, the law, the Constitution and such other policies, procedures, protocols and conventions agreed by the Council.

2.5 It is important that members of the Council:

- respect the impartiality of officers and do not undermine their role in carrying out their duties
- do not ask officers to undertake work, or act in a way, which seeks to support or benefit a particular political party or gives rise to an officer being criticised for operating in a party-political manner

- do not ask officers to exceed their authority where that authority is given to them in law, by the Council or by their managers.

2.6 The Head of Paid Service, the Monitoring Officer and the Chief Finance (Section 151) Officer and other statutory officers have specific responsibilities placed on them by law. These responsibilities go beyond their obligations as employees of the Council. Where an officer is discharging their responsibilities under any statutory office a member or members shall not:

- improperly interfere with or obstruct the officer in exercising those responsibilities
- victimise any officer who is discharging or has discharged their responsibilities of the statutory office

3. Officers

3.1 The primary role of officers is to advise, inform and support all members and to implement the lawfully agreed policies of the Council.

3.2 Officers are responsible for day-to-day managerial and operational decisions within the Council. Members should avoid inappropriate involvement in such matters.

3.3 In performing their role officers will act professionally, impartially and with political neutrality. Whilst officers will respect a member's view on an issue, the officer should not be influenced or pressured to make comments, or recommendations which are contrary to their professional judgement or views.

3.4 Officers must:

- implement decisions of the Council and its subordinate bodies which are lawful, which have been properly approved in accordance with the requirements of the law and the Council's Constitution and are duly recorded.
- work in partnership with members in an impartial and professional manner
- treat members fairly and with respect, dignity and courtesy
- assist and advise all parts of the Council. Officers must

always act to the best of their abilities in the best interests of the authority as expressed in the Council's formal decisions.

- respond to enquiries and complaints in accordance with the Council's standards protocol
- be alert to issues which are, or are likely to be, contentious or politically sensitive, and be aware of the implications for members, the media or other sections of the public.
- act with honesty, respect, dignity and courtesy at all times
- provide support and learning and development opportunities for members to help them in performing their various roles
- not seek to use their relationship with members to advance their personal interests or to influence decisions improperly
- comply, at all times, with the Employee Code of Conduct at Appendix 15 of this constitution, and such other policies or procedures approved by the Council
- Officers have the right not to support members in any role other than that of member, and not to engage in actions incompatible with this protocol. In particular, there is a statutory limitation on officers' involvement in political activities.

4. The relationship: general

4.1 Members and officers are indispensable to one another. However, their responsibilities are distinct. Members are accountable to the public, whereas officers are accountable to the Council as a whole.

4.2 At the heart of the codes, and this protocol, is the importance of mutual respect and also of civility. Member/officer relationships are to be conducted in a positive and constructive way. Therefore, it is important that any dealings between members and officers should observe standards of courtesy and that neither party should seek to take unfair advantage of their position nor seek to exert undue influence on the other party.

4.3 Councillors should not raise matters relating to the conduct or capability of an officer, or of officers collectively, in a manner that is incompatible with this protocol at meetings held in public. This is a long-standing tradition in public service. An officer has no means of responding to criticisms like this in public.

4.4 A member who is unhappy about the actions taken by, or conduct of, an officer should:

- avoid personal attacks on, or abuse of, the officer at all times
- ensure that any criticism is well founded and constructive
- ensure that any criticism is made in private
- take up the concern with the Chief Operating Officer or appropriate Chief Officer

4.5 Neither should an officer raise with a councillor matters relating to the conduct or capability of another officer or to the internal management of the section or directorate in a manner that is incompatible with the objectives of this protocol.

4.6 Potential breaches of this protocol are considered at paragraph 13 below.

5. Officer advice to party groups

5.1 There is statutory recognition for party groups and it is common practice for such groups to give preliminary consideration to matters of Council business in advance of such matters being considered by the relevant Council decision making body. Officers may properly be called upon to support and contribute to such deliberations by party groups.

5.2 The support provided by officers can take many forms, ranging from a briefing meeting with a member of the Executive or shadow Executive or chair or spokesperson prior to a committee meeting to a presentation to a full party group meeting. Whilst in practice such officer support is likely to be in most demand from whichever party group is for the time being in control of the Council, such support is available to all party groups.

5.3 Any requests for advice or attendance are to be directed through the Group Leaders, Executive Members (or their shadows) or chairs/spokespersons for the relevant committee. The request shall be made to the relevant chief officer or, in their absence, to their deputy or the next appropriate lower tier officer. An officer

accepting an invitation to one political group or individual will not decline an invitation to advise another political group or individual on the same subject, although the officer is not obliged to offer to advise another political group on the same subject.

5.4 Certain points must however be clearly understood by all those participating in this type of process, members and officers alike. In particular:

(i) Officer support in these circumstances must not extend beyond providing information and advice in relation to matters of Council business. Officers must not be involved in advising on matters of party business. The observance of this distinction will be assisted if officers are not expected to be present at meetings, or parts of meetings, when matters of party business are to be discussed;

(ii) Party group meetings, whilst they form part of the preliminaries to Council decision making, are not empowered to make decisions on behalf of the Council. Conclusions reached at such meetings do not therefore rank as Council decisions and it is essential that they are not interpreted or acted upon as such, particularly having regard to the risk of challenge on the grounds of pre-determination;

(iii) The presence of an officer confers no formal status on such meetings in terms of Council business and must not be interpreted as doing so;

(iv) Similarly, where officers provide information and advice to a party group meeting in relation to a matter of Council business, this cannot act as a substitute for providing all necessary information and advice to the relevant Council meeting, committee or sub- committee when the matter in question is considered.

5.5 In relation to budget proposals;

(a) The administration shall be entitled to confidential discussions with officers regarding options and proposals. These will remain confidential until determined by the Administration or until published in advance of the Executive /Council meetings, whichever is the earlier;

(b) The opposition groups shall be entitled to confidential discussions with officers to enable them to formulate

alternative budget proposals. These will remain confidential until determined by the respective opposition groups or until published in advance of Executive/Council meetings, whichever is the earlier.

5.6 Special care needs to be exercised whenever officers are involved in providing information and advice to a party group meeting which includes persons who are not members of the Council. Such persons will not be bound by the Council`s codes of conduct (in particular, the provisions concerning the declaration of interests and confidentiality) and for this and other reasons, officers will only attend in these circumstances where the request has been made to, and agreed by, a chief officer. It must then be understood that officers may not be able to provide the same level of information and advice as they would to a 'members only' meeting.

5.7 Officers must respect the confidentiality of any party group discussions at which they are present in the sense that they should not relay the content of any such discussion to another party group, unless agreed otherwise.

5.8 Any particular cases of difficulty or uncertainty in this area of officer advice to party groups should be raised with the Chief Operating Officer who will discuss them with the relevant group leader(s).

6. Support services to members and party groups

6.1 The only basis on which the Council can lawfully provide support services (e.g. stationery, typing, printing, photocopying, transport, etc.) to members is to assist them in discharging their role as members of the Council. Such support services must therefore only be used on Council business. They should never be used in connection with party political or campaigning activity or for private purposes. Further advice for Members can be found in the Appendix 7 of this constitution.

7. Members' access to information and to Council documents (see Appendix 7 of this constitution)

7.1 Members are free to approach any Council directorate to provide

them with such information, explanation and advice (about the directorate's functions) as they may reasonably need in order to assist them in discharging their role as members of the Council. This can range from a request for general information about some aspect of a directorate's activities to a request for specific information on behalf of a constituent. Such approaches should normally be directed to the Chief Officer concerned.

7.2 As regards the legal rights of members to inspect Council documents, these are covered partly by statute and partly by the common law.

7.3 Members have a statutory right to inspect any Council document *which contains material relating to any business which is to be transacted at a Council, Committee or Sub-Committee meeting.* This right applies irrespective of whether the member is a member of the committee or sub-committee concerned and extends not only to reports which are to be submitted to the meeting, but also to any relevant background papers. This right does not, however, apply to documents relating to certain items which may appear in Part II (exempt) of the agenda for meetings. Further details are contained in the Access to Information Procedure Rules at Appendix 7 of this Constitution. Examples are documents that contain exempt information relating to employees, occupiers of Council property, applicants for grants and other services, contract and industrial relations negotiations, advice from Counsel and criminal investigations.

7.4 The common law right of members is much broader and is based on the principle that any member has a prima facie right to inspect Council documents *so far as their access to the documents is reasonably necessary to enable the member properly to perform their duties as a member of the Council.* This principle is commonly referred to as the "need to know" principle.

7.5 The exercise of this common law right depends therefore upon the member's ability to demonstrate that they have the necessary "need to know". In this respect a member has no right to "a roving commission" to go and examine documents of the Council. Mere curiosity is not sufficient. The crucial question is the determination

of the “need to know”. This question must be determined by the particular Chief Officer who holds the document in question (with advice from the Monitoring Officer).

7.6 In some circumstances (e.g. a committee member wishing to inspect documents relating to the functions of that committee) a member’s “need to know” will normally be presumed. In other circumstances (e.g. a member wishing to inspect documents which contain personal information about third parties) a member will normally be expected to justify the request in specific terms.

7.7 Whilst the term “Council document” is very broad and includes, for example, any document produced with Council resources, it is accepted by convention that a member of one party group will not have a “need to know”, and therefore a right to inspect, a document which forms part of the internal workings of another party group.

7.8 Further and more detailed advice regarding members’ rights to inspect Council documents may be obtained from the Monitoring Officer.

7.9 Finally, any Council information provided to a member must only be used by the member for the purpose for which it was provided i.e. in connection with the proper performance of the member’s duties as a member of the Council.

7.10 For completeness, members do, of course, have the same right as any other member of the public to make requests for information under the Freedom of Information Act 2000.

8. Officer–executive member/chair relationships

8.1 It is clearly important that there should be a close working relationship between the relevant Executive Member or chair of a committee and the chief officers who support that portfolio or committee. However, such relationships should never be allowed to become so close, or appear to be so close, as to bring into question the officers’ ability to deal impartially with other members and other party groups.

8.2 Whilst the Executive Member or chair and or vice chair of a committee (or sub-committee) will routinely be consulted as part of the process of drawing up the agenda for a forthcoming meeting, it must be recognised that in some situations an officer will be under a duty to submit a report on a particular matter. Similarly, an officer will always be fully responsible for the contents of any report submitted in their name. Any issues arising between a chair and or vice chair or Executive Member and an officer in this area should be referred to the Head of Paid Service for resolution.

8.3 It is important to remember that the law allows for decisions (relating to the discharge of any of the Council's functions) to be taken only by the Council, Leader, Executive, Executive Member, a committee, a sub-committees or an officer.

8.4 Under the Constitution, individual members of the Executive may, in some situations, take decisions. The Council has put in place mechanisms to ensure that the individual Executive Member seeks advice from relevant members and officers before making a decision within their delegated authority. This includes taking legal advice, financial advice and professional officer advice as well as consulting the Monitoring Officer where there is doubt about powers to act.

8.5 The Council's scheme of delegation and resolutions passed at Executive or committee meetings may authorise a named officer to take action, sometimes in consultation with one or more members such as the Executive Member or chair and vice-chair of a committee. In these circumstances it is the officer, rather than the member, who takes the decision or action and it is the officer who is accountable for it.

8.6 Finally, it must be remembered that officers within a directorate are accountable to their chief officer and that, whilst officers should always seek to assist an Executive Member or chair and or vice chair (or indeed any member) they must not, in so doing, go beyond the bounds of whatever authority they have been given by their senior officer.

9. Officer support: Scrutiny

9.1 It is not the role of scrutiny to act as a disciplinary tribunal in relation to the actions of members or officers. Neither is it the role of officers to become involved in what would amount to disciplinary investigations on a panel's behalf. This means:

(a) Scrutiny's questioning about the conduct of individuals should be in the sense of establishing the facts about what occurred in the making of decisions or implementing of Council policies, not to imply criticism or blame;

(b) In these circumstances, it is for the Head of Paid Service to institute a formal enquiry, and Scrutiny may ask (but not require) them to do so.

9.2 Scrutiny should not act as a "Court of Appeal" against decisions or to pursue complaints by individuals, as other procedures exist for this. These are internal, for example, the Corporate Complaints Procedure, and external/statutory, for example the Local Government and Social Care Ombudsman or appeal to the Courts. However:

(a) Scrutiny may investigate the manner in which decisions are made but should not pass judgement on the merits or otherwise of a decision in individual cases;

(b) They can comment on the merits of a particular policy affecting individuals.

9.3 Wherever possible Scrutiny should provide written questions or details of indicative topics to someone invited to appear before a panel to ensure they have adequate time to prepare for the meeting. In addition, invitees ought to be told the general line that further questioning is likely to take. Questioning should not stray outside the subject area that the Panel has previously indicated.

10. Correspondence

10.1 Correspondence between an individual member and an officer should not normally be copied (by the officer) to any other member. Where exceptionally it is necessary to copy the correspondence to another member, this should be made clear to

the original member. In other words, a system of “silent copies” should not be employed. Acknowledging that the “BCC” system of e-mailing is used, it should be made clear at the foot of any emails if another member has received an email by adding “CC Councillor x.”

10.2 Official letters or emails on behalf of the Council should normally be sent out under the name of the appropriate officer, rather than under the name of a member. It may be appropriate in certain circumstances (e.g. representations to a Government Minister) for a letter or email to appear over the name of a member, but this should be the exception rather than the norm. Letters or emails which, for example, create obligations or give instructions on behalf of the Council should never be sent out in the name of a member.

10.3 Correspondence to individual members from officers concerning regulatory matters such as planning, enforcement, licensing and environmental health matters should not be sent or copied to complainants or other third parties if they are marked “confidential”. In doing so, the relevant officer should seek to make clear what is to be treated as being shared with the member in confidence only and why that is so.

11. Communications

11.1 The Council will undertake communications across a full range of audiences in order to;

- ensure local accountability by explaining policies, services and programmes to members, partners, businesses and residents
- change behaviour (for example by encouraging people to lead healthy, safer lives)
- support corporate priorities and delivery of service outcomes
- ensure operational effectiveness by informing people about services
- promote the Council, enhancing and maintaining its reputation, including promoting its interests, and

- respond in times of crisis

11.2 All communications will be delivered in accordance with the Code of Recommended Practice on Local Authority Publicity (2011), the Council's Media, and Social Media Protocols, and any associated policies. Full guidance on the Council's policy towards interaction with the press and media can be found within the Press and Media Protocol found at the following link: https://www.york.gov.uk/downloads/file/1282/media-protocol-october-2019

11.3 All communications will comply with the seven principles of the Code of Recommended Practice on Local Authority Publicity (2011) so that all communications activity;

- is lawful
- is cost effective
- is objective
- is even-handed
- is appropriate
- has regard to equality and diversity
- is issued with care during periods of heightened sensitivity.

The last principle, to ensure special care is taken during periods of heightened sensitivity, is of particular relevance during the pre-election period.

11.4 The Leader, Deputy-Leader, Executive Members and chairs act as spokespersons for the Council in responding to the press and media and making public statements on behalf of the Council. The Leader, Deputy-Leader, Executive Members and chairs should liaise with the Communications Team on all forms of contact with the press and media.

11.5 A Chief Officer or nominated representative may respond to press enquiries but should confine any comments to the facts of the subject matter and the professional aspects of the function concerned. On no account must an officer expressly or impliedly make any political opinion, comment or statement.

11.6 Any press release that may be necessary to clarify the Council's position in relation to disputes, major planning developments, court issues or individuals' complaints should be approved by the appropriate Chief Officer and/or the Monitoring Officer.

11.7 For more detailed information and guidance regarding the role of members in connection with the use of social media, reference should be made to the Council's Social Media Protocol found at the following link: https://www.york.gov.uk/downloads/download/417/social-media-policy-and-process

12. Involvement of ward members

12.1 Whenever a public meeting is organised by the Council to consider a local issue, all the members representing the ward or wards affected should, as a matter of course, be invited to attend the meeting. Similarly, whenever the Council undertakes any form of consultative exercise on a local issue, the ward members should be notified at the outset of the exercise.

13. Breaches of the protocol

13.1 Where a member is dissatisfied with the conduct, behaviour or performance of an officer, the matter should be raised with the appropriate Chief Officer. Where the officer concerned is a Chief Officer the matter should be raised with the Head of Paid Service. Where the employee concerned is the Head of Paid Service, the matter should be raised with the Monitoring Officer.

13.2 Where the relationship between members and officers breaks down or becomes strained, every effort will be made to resolve matters informally, through conciliation by an appropriate senior manager or members.

13.3 Where an officer feels that they have not been properly treated with respect and courtesy, or is concerned about any action or statement relating to themself or a colleague by a councillor and wishes to raise a grievance, they should raise the matter with their

line manager, director or the Head of Paid Service as appropriate. In these circumstances the Head of Paid Service or relevant Chief Officer will take appropriate action either by approaching the individual councillor and/or the party group leader.

13.4 Where an officer wishes to make a complaint under the Member Code of Conduct this should be made to the Monitoring Officer and dealt with in accordance with the procedure in Appendix 14 of the Constitution.

13.5 In the event of a grievance being upheld, the matter will be referred to the Head of Paid Service who, having advised the Leader of the Council and the appropriate group leader(s), will decide on the course of action to be taken, following consultation with the Constitution and Joint Standards Committee if appropriate.

13.6 Breaches of this protocol by a member may constitute a breach of the Member Code of Conduct.

13.7 Breaches of this protocol by an officer may be referred for disciplinary action.

14. Monitoring and review

14.1 The application and implementation of this protocol will be monitored and reviewed by the Council's Joint Standards Committee in consultation with the Council's Monitoring Officer.

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Appendix 17 – Code of Good Practice for Councillors involved in the Planning Process

1 Summary

1.1 One of the key purposes of the planning system is to balance private interests in the development and use of land against the wider public interest. Planning necessarily affects land and property interests and as such is often highly contentious. It is important therefore that planning decisions are made openly, impartially, with sound judgement and for justifiable planning reasons. The aim of this Code of Good Practice is to promote public confidence in the planning decision making process.

1.2 If Members do not abide by this Code of Good Practice, they may put:

- the Council at risk of proceedings on the legality or maladministration of the related decision, and;
- themselves at risk of being the subject of a standards complaint, or; if the failure is also likely to be a breach of the Localism Act 2011, a complaint being made to the Police to consider criminal proceedings.

2 When does this Code apply?

2.1 This Code of Good Practice applies to Members at all times when they are involved in the planning process. This includes both Planning Committee (i.e. Planning Committee A and Planning Committee B) meetings, any meetings of the full Council when exercising the functions of the Planning Authority, and less formal occasions, such as meetings with officers or the public and consultative meetings. It applies to planning enforcement matters or site specific policy issues as well as to planning applications. Although much of the Code applies only to members (including substitute members) of the Planning Committees, some aspects affect any Member who becomes involved with a planning matter.

2.2 This Code of Practice supplements the Council's Code of Conduct for Members ("the Code of Conduct"), and gives detailed advice on dealing with planning issues.

2.3 If Members have any doubts about the application of this Code to their own circumstances they should seek advice early, from the Monitoring Officer or Deputy Monitoring Officer, and preferably well before any meeting takes place.

Advice to Members:

Do apply the rules in the Code of Conduct first.

Do then apply the rules in this Planning Code of Good Practice, which seek to explain and supplement the Code of Conduct for the purposes of planning control.

Do seek early advice if in doubt.

3 Dealing with Interests under the Code of Conduct

3.1 Members must always declare disclosable pecuniary interests other registerable interests and non-registerable interests on a matter in accordance with the Code of Conduct. All Members must follow these rules, not just members of the Planning Committees.

3.2 An Other Registerable Interest arises where the business directly relates to the financial interest or wellbeing of one of the Member's Other Registerable Interests as set out in Table 2 ("Other Registrable Interests") of the Code of Conduct.

3.3 A Non Registerable Interest arises where a matter ***directly relates*** to a Member's financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1 of the Code Of Conduct) or a financial interest or well-being of a relative or close associate.

3.4 If a Member has an Other Registerable Interest or a Non Registerable Interest the Member may register to speak on the matter but must not participate as a member of the committee and must not remain in the room unless granted a dispensation under the Code of Conduct.

3.5 Where a matter arises at a meeting which ***affects*** a Non Registrable interest you may be able to speak and vote on the matter if the test set out in paragraphs 8 & 9 of the Code of Conduct is satisfied.

3.6 A disclosable pecuniary interest arises when you have an interest, or your partner has an interest which falls within the descriptions set out in Table 1 (Disclosable Pecuniary Interests) of the Code of Conduct. It is a criminal offence to participate in a Council meeting if Members have such an interest and have not been granted a dispensation.

Advice to Members:

Do disclose the existence and nature of your interest at any relevant meeting, including informal meetings or discussions with Officers and other Members. Disclose your interest at the commencement of discussion on that particular matter. If in doubt, you should always seek advice from the Monitoring Officer in advance of the meeting.

Where your interest is a disclosable pecuniary interest and you have not obtained a dispensation:-

Don't participate, or give the appearance of trying to participate, in the making of any decision on the matter by the Planning Authority.

Don't get involved in the processing of the application*.

Don't use your position to discuss the proposal with Officers or Members when other members of the public would not have the same opportunity to do so.

*A Councillor who has a disclosable pecuniary interest in a matter is permitted to seek to persuade Planning Officers of the merit of the application in the same way as a member of the public but should be careful to avoid placing pressure on an Officer for a particular recommendation.

4 Keeping an open mind

4.1 Councillors need to avoid bias or predetermination or any appearance of bias or predetermination before making a decision on a planning matter. Members of a Planning Committee must not make up their minds before they have all relevant material and arguments before them at a Planning Committee meeting. The use of a political whip is not permitted for decisions on planning applications.

4.2 Members of a Committee are entitled to feel predisposed towards a particular decision before it comes to Planning Committee, but must still be willing to consider and weigh all material planning considerations presented at the meeting before deciding on how to vote. Predetermination arises when Members' minds are closed (or reasonably perceived to be closed) to the consideration and weighing of the relevant factors. Where such concerns arise, a Member will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Member has a closed mind. In such circumstances, there is a risk of the whole decision becoming vulnerable to legal challenge. It also risks a public perception being created of unfairness in the planning process.

4.3 The Localism Act 2011 has built on clarification of the law provided by the Courts in a number of cases and Members can take some comfort that they will not be taken to have had a closed mind when making the decision just because they have previously done or said anything to indicate their view in respect of the matter. Nevertheless it remains the case that Members must not have closed their mind to possible alternative decisions and must be prepared to consider representations made and the advice of

Officers and listen to the debate before reaching a final view. A Member in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Member was predetermined or biased.

Advice to Members:

Don't make up your mind, or appear to have made up your mind, on how you will vote on any planning matter until you have heard the Officer's presentation and all the evidence and arguments at the Planning Committee when the matter will be considered. If you have predetermined your position or have given that impression, you should not take any part in the decision on that matter.

4.4 A member of a Planning Committee who is also a Parish Councillor may already have been consulted on a planning application at a Parish Council meeting. It is permissible to express a view at a Parish Council meeting on a matter and still participate at a Planning Committee so long as a Member has not closed their mind to reaching a different view. It is good practice in these cases for the Member to:

- make it clear during the discussion at the consultee body that their views are expressed on the limited information before them only,
- reserve judgement and the independence to make up their own mind when it comes before the Planning Committee once they have considered all of the relevant information,
- not in any way commit themselves as to how they or others may vote when the proposal comes before the Planning Committee, and
- disclose the Other Registerable Interest regarding their membership of the Parish Council when the Planning Committee comes to consider the proposal.

4.5 If a Member has already made up their mind they must not speak or vote on the business but they are not legally required to withdraw from the meeting (unless they also have an interest under the Code of Conduct which would preclude them from so doing). However, they may prefer to do so for the sake of appearances. If they decide to stay in the meeting they should explain that they do not intend to speak and vote because they have (or could reasonably be perceived as having) judged the matter elsewhere. Such statements may be recorded in the minutes.

4.6 Executive Members may have been involved in promoting a particular development in their role as Executive Members for the Service. Whilst a Member of a Planning Committee would not be required to withdraw simply because they are also an Executive Member, if an Executive Member also sits on Planning Committee it may be difficult for them to demonstrate objectivity in dealing with an application relating to that development. They must consider whether they have an interest or degree of involvement with the proposals that could give the impression of bias or pre-determination. Indeed, the Member may be seen as an advocate on behalf of the Council for the development in question. In those cases the best course of action would be for the Executive Member to withdraw from the Planning Committee for that matter.

5 Contact with Applicants, Developers and Objectors

5.1 Members of a Planning Committee should discourage applicants or agents from approaching them in any way, should minimise social contacts with known developers and agents and should refrain altogether from such contacts when developments are contemplated or a planning application has been received.

5.2 All Members should refrain from involving themselves in discussions with developers or potential applicants at the pre-application stage of proposals unless such discussions are part of structured and recorded arrangements with Officers and comply

with this Code, the Code of Conduct and rules on bias and predetermination.

5.3. If an approach is received from an applicant/agent in relation to a particular planning application or a matter that may give rise to a planning application, the Member should:

- Refer the applicant or agent to the relevant Officers of the Council, and notify Officers of the approach.
- Avoid giving any commitment or impression of a commitment or that they hold any particular view about the development or the future of the site in question.
- Confine themselves to providing information on the Council's general planning policies or procedures only, where the Member is fully aware of these.
- If they do express an opinion they should make it clear that they have not committed themselves to vote in accordance with those views and will only be in a position to take a final decision after having heard all the relevant information and arguments at Committee.

5.4 When any Member speaks at a meeting of the Committee on the subject of a particular planning application, they should disclose the fact that they have been in contact with the applicant/agent, if this is the case. Members are able to articulate their own views on proposals, but should not speak on behalf of the applicant or the agent who will have their own opportunity to speak to Committee.

5.5 Any written information received by a Member of the relevant Committee from the applicant or agent, objectors or any other third party, should be passed or copied immediately to the relevant Planning Officer and declared at the start of the consideration of the particular application.

Advice to Members:

Do seek to minimise social contacts with known developers particularly when the developer is known to be contemplating development in the City.

Do refer an applicant, developer or objector who approaches you about a planning application to Officers, if they need planning, procedural or technical advice.

6 Contact with neighbours, objectors, supporters, third parties or fellow Councillors

6.1 In order for the planning system to work effectively public concerns must be adequately aired. It is an important part of a Member's role to listen to residents' views and put these views forward within the Council. However, it is important that Members of the Planning Committees make decisions based on the full facts having considered all representations made and all other relevant considerations. Members will usually need a report from Officers to help them to do this.

6.2 Members of a Planning Committee should not give the impression that they have made up their mind about a particular matter in advance of the meeting. Discretion is always advisable. A good approach is to say something like: "From what I know at the moment I support (or have reservations about) this application, but I won't make a final decision until I have all the facts before me at Planning Committee".

6.3 All Members should advise anyone lobbying them that the Committee can only effectively consider representations if they are made in writing to the Chief Planning Officer and or Director of Environment, Highways & Transport. Members can also advise objectors of the rights they have for speaking at meetings. If there are technical issues or alternatives to be considered, then Members should either ask the applicant/objector to raise these

matters with Officers or ask officers to consider such matters when reporting to Committee.

6.4 No Member should accept gifts or hospitality of any value from anyone who is involved or affected by a planning proposal. Members should inform the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality).

6.5 No Member should take part in negotiations with applicants or potential applicants regarding their proposals for development except where such negotiations are part of a structured arrangement with Officers.

Advice to Members:

If you are lobbied:

Do explain that you are not in position to express a firm intention to vote one way or the other.

Do explain how representations can be made formally.

Don't accept any gifts or hospitality.

7 Lobbying by Members

7.1 Members are quite entitled to join general interest groups which may have an interest in planning matters such as the Civic Society or the Victorian Society. If Members are present at a Committee meeting where a group to which they belong has adopted a view on a particular matter then they need to declare an Other Registerable interest when the matter is discussed.

7.2 There may be circumstances where a political group has a policy commitment to a particular development. It may have been contained within the party's manifesto. This alone does not prevent a Member participating in decision making so long as they have not closed their mind to considering the planning arguments

and have the independence to make up their own mind on the planning proposal.

7.3 If a Councillor, whether or not a member of the Planning Committee, speaks on behalf of a lobby group at a Committee meeting they should withdraw from the meeting after the public speaking session.

8 Site Visits

8.1 Site visits can play an important role in ensuring that Members make decisions on a sound understanding of the relevant issues. However, care must be taken to ensure that site visits are not misused as a lobbying device to help ensure a particular outcome in respect of controversial applications or to defer consideration of an application to a subsequent meeting. Site visits should only be requested where there is a clear and substantial benefit in having one. Site visits will be virtual unless the Chair of the relevant committee considers it necessary for an in person site visit due to the complexity of a specific site. In person and virtual visits should focus precisely on the observation of site factors which are relevant to the decision. Members should ensure that they have seen all aspects of the site during the visit and should ask to see further aspects of the site should they require. Should there be a need for in person visits, Members should at all times visit the site as a single group. Additional information relating to site visits is contained in section 4 of the Protocol annexed to this Code.

8.2 While visiting sites Members must not accept any form of gift, hospitality or refreshment.

8.3 Members of a Planning Committee should not normally accept invitations to visit a site unless this is in the company of a planning officer. This does not prevent Members from going alone to view a site from public land.

8.4 Councillors have no rights to enter on private land. A Councillor might be invited to enter the site by the owner. It is not good

practice for a member of a Planning Committee to do so as this may give the impression of bias. If a Member feels that they need an explanation of the proposal then they should request a formal site visit by contacting the Case Officer at least 10 days before the Committee meeting.

Advice to Members:

Don't request a site visit unless you feel it is strictly necessary.

Do ensure that you comply with the Protocol for site visits annexed to this Code.

Do ensure that you treat the site visit only as an opportunity to seek information and to observe the site.

Do ask the Officers at the site visit questions or seek clarification from them on factual matters which are relevant to the site inspection.

Don't express opinions or views on the proposal to anyone.

Don't enter a site which is subject to a planning application unless you can comply with the good practice rules in this Code.

9 Decision Making

9.1 The Council's Constitution specifies that certain applications must be brought before the relevant Planning Committee and others may be determined by Officers. Members, including those who are not on the Committee, can request that a particular application should be brought to Committee rather than being determined by Officers under delegated powers.

9.2 Members should ensure that they only request that an application be brought to Committee in accordance with Constitutional

requirements, and for proper planning reasons which are reported to the Committee.

9.3 In making decisions on planning applications, the law requires the application to be determined in accordance with the development plan and the requirement to comply with national planning guidance unless material considerations indicate otherwise. Adequate planning reasons must be given for any decision/conclusion. It is particularly important to ensure that these are fully articulated and recorded prior to the vote and must be recorded where a decision is made contrary to an officer recommendation or contrary to established policy. Where a decision is made contrary to policy it is the Members' responsibility to explain their reasons in full. Pressure should never be put on Officers to "go away and sort out the planning reasons".

9.4 Members must come to a decision after due consideration of all the information reasonably required, upon which to base a decision. Members should not participate in a vote if they have not been present for the entire item including the Officer's presentation and any public speaking. During the meeting, Members should not attempt to answer e-mails, monitor or contribute to social media discussions or engage in any other activity which may distract them from giving the proceedings their full attention.

9.5 Members should ensure that they have had sufficient time to digest any new material which has been presented. Members may need to ask for an adjournment to do so. Occasionally it may be necessary to defer an item to allow for proper consideration or for additional information to be obtained. However, the Council has a duty to process applications without undue delay and applications should not be deferred as a delaying tactic or to put off making a decision because of the number of objectors to the proposals.

9.6 Messages should not be passed to individual Committee Members either from other Members or members of the public. This could create an impression that a Member is being improperly influenced.

Advice to Members:

Do come to meetings with an open mind and demonstrate that you are open-minded.

Do make decisions in accordance with the Development Plan unless material considerations indicate otherwise.

Do come to your decision only after due consideration of all of the information reasonably required.

Do make sure that if you are proposing, seconding or supporting a decision that you clearly identify the planning reasons leading to this conclusion and can identify the supporting evidence.

10 Officers

10.1 Members, whether or not they sit on a Planning Committee, must not put improper pressure on any Officer to put forward a particular recommendation and should not do anything which compromises or is likely to compromise their professional integrity and impartiality. Doing so may be a breach of the Code of Conduct.

10.2 Planning Officers must act in accordance with Officer and professional codes of conduct. The Royal Town Planning Institute requires its members to fearlessly and impartially exercise their independent professional judgment to the best of their skill and understanding. Accordingly there may be occasions where Officers make recommendations which may be contrary to the views and wishes of Members.

Advice to Members:

Do not apply improper pressure on Officers to make a particular recommendation.

Do respect the professional obligations of planning Officers.

11 Members as developers or applicants

11.1 If a Member has an interest in land that may be the subject of re-designation or other decision in the Development Plan process, or if a Member, or someone with whom they have a close association is making a planning application to the Council, then they should discuss this at the earliest opportunity with the Chief Planning Officer or the Director of Environment, Transport and Planning. The planning application should contain a declaration (in the form of a covering letter) of the Member's position in relation to the planning application, so that all those consulted are aware of the relationship. The Chief Planning Officer or the Director of Environment, Transport and Planning will oversee the consideration of the application with the case officer, including any discussions that may involve other Members.

11.2 Any application by a Member will be reported to Planning Committee A or Planning Committee B as appropriate and will not be dealt with by an officer under delegated powers. The Member's interest should be made clear at the Committee.

11.3 If a Member's planning application comes before the Planning Committee they will have a disclosable pecuniary interest in relation to the application. This must be declared and means that the Member may not participate in the discussion or vote on the application. Government guidance suggests that the prohibition on discussing the item would prevent Members making representations to the Committee as an ordinary member of the public. While some lawyers have questioned this guidance there is a degree of uncertainty. The safest option would be for the Member to either seek a dispensation allowing them to make representations, or ask someone else to make those representations on their behalf.

12 Enforcement cases

12.1 Planning enforcement is particularly sensitive since it can ultimately result in Court proceedings. All Members are encouraged to report breaches of planning control to Officers or to support their constituents in doing so. They may seek updates on progress which is being made to resolve matters but should avoid playing too pro-active a role such as by involving themselves in meetings between Enforcement Officers and developers.

13 Member Training

13.1 In order to ensure that Members are fully aware of the requirements placed on them when sitting on Planning Committees it is the policy of the Council to require Members to attend prescribed training before sitting as a Member or Substitute Member. From time to time, the Council may also require Members to attend refresher training sessions.

Annex 1

Planning Committee Protocol

Purpose of the Protocol
1. Introduction
2. Public Speaking Procedure
3. Pre-Committee Matters including Site Visits
4. Committee Agenda
5. Order of Proceedings
6. Decision Making
7. Voting Procedures
8. Following the Committee Meeting
9. Review and Monitoring

Purpose of the Planning Committee Protocol

This protocol has been adopted to ensure the highest standards of probity in the performance of City of York planning function. Consistency, fairness and openness are important qualities for any regulatory function and they are vital to the conduct of a planning committee.

The purpose of the protocol is:

(a) To state how the Members of the Planning Committee will exercise those functions, including behaviour in relation to applicants, residents and other third parties;
(b) To ensure a consistent and proper approach by all Members of the Planning Committee to the exercise of planning functions;
(c) To ensure applicants and their agents, residents and other third parties are dealt with by Members of the Planning Committee consistently, openly and fairly;
(d) To ensure the probity of planning transactions and the high standards expected in public office; and
(e) To ensure planning decisions are made openly, fairly and in the public interest, in accordance with legislation and guidance.

The Localism Act 2011 sets out a duty for each local authority to promote and maintain high standards of conduct by councillors and to adopt a local code of conduct. The Members' Code of Conduct sets out the general principles the Council has adopted. This Protocol relating to planning matters is intended to be supplementary to The Members' Code of Conduct and The Council's Constitution. Accordingly, the provisions of the Code of Conduct and Code of Good Practice for Councillors involved in the Planning Process continue to have full force and effect.

The aim of this protocol is to provide more detailed guidance on the application of the guidance in relation to planning matters.

Copies of this Protocol will be incorporated into the Council's Constitution and will be kept under review in accordance with paragraph 10.2 of this Protocol. Additionally, this Protocol will be publically available online.

1. Introduction

1.1 This Protocol applies to all meetings of the Council's Planning Committees (both Planning Committee A and Planning Committee B) in relation to the determination of planning applications and any other business dealt by the Planning Committees.

1.2 The determination of planning applications is a process involving the application of national, strategic, local and neighbourhood level planning policies within a legislative framework. Planning decisions can be appealed by unsuccessful applicants and challenged by way of judicial review by third parties. Complaints about maladministration and injustice can also be made to the Local Government Ombudsman. It is important that those involved in the determination of planning applications, and particularly officers and Members of the Planning Committee, act reasonably and fairly to applicants, supporters and objectors.

2. Public Speaking Procedure

2.1 This document sets out the procedures members of the public, Parish Councils and Councillors who are not members of the Planning Committee must follow when addressing the Planning Committee.

2.2 If members of the public have written to support, object to or comment on an application the Council will write to them about the date and location of the Planning Committee meeting where the application will be considered. Likewise, the Council will also notify all applicants (or their agents) whose applications are to be considered.

2.3 Anyone who has not made a representation on the application at the planning consultation stage, or who has made a late representation, will still be able to request to speak at Planning Committee in accordance with the Council's Public Participation Protocol but the Council will not write to them about the date and location of the Committee meeting. However, details of Planning Committee meetings are published on the Council's website.

2.4 Anyone who supports or objects to an application does not have to speak at a Planning Committee meeting. Representations are reported to the Planning Committee either in writing or verbally so it is up to the individual whether to attend or speak (in person or remotely).

Registering to Speak at Planning Committee

2.5 Anyone who wants to speak at Planning Committee (which for the avoidance of doubt includes Ward Councillors, and Town or Parish Councillors) must complete a 'request to speak at a public meeting form available at: by https://www.york.gov.uk/form/SpeakAtCouncilMeetings

2.6 A request to speak at a public meeting form must be received no later than 5pm two working days before the meeting takes place. For a Monday meeting, this would be 5pm on the previous Thursday. Requests to speak will not be carried forward to future Planning Committee meetings and therefore it will be necessary to register a

request to speak at a public meeting form for each and every Committee meeting.

Speaking Procedure at Planning Committee

2.7 At Planning Committee the Chair will introduce the item and ask speakers to address the Planning Committee in turn. Each speaker will be given 3 minutes. The number of speakers is at the Chair's discretion.

2.8 The five categories and order of speakers is as follows:

i) **Objector(s)**
ii) **Parish Council Representative(s)** - The Council expect the Parish Council representative to express the single, corporate view of that Council.
iii) **Ward Councillor(s) not sitting as a Planning Committee Member**
iv) **Supporter(s) who are not associated with the applicant or application** (for the avoidance of doubt this cannot include family of the applicant or agent).
v) **The applicant and/or agent**

2.9 To assist the process those wishing to speak are requested to ensure they express their views clearly and concisely within the time allocated and any matters raised are relevant to the application. All those involved in public speaking are restricted to an oral presentation only.

2.10 The Chair of the Planning Committee may intervene, or vary the order of speakers, in the interests of efficiency.

2.11 Those addressing the Planning Committee will not be able to ask questions or join in the debate after their speaking time has elapsed. After a speaker has addressed the Planning Committee for 3 minutes, Members of the Planning Committee may, through the Chair, ask questions to speakers on points of fact and clarification before they debate an application. Speakers must not interrupt other speakers, nor interrupt the Planning Committee debate.

Items on the agenda

2.12 Items on the agenda will be dealt with, however there is a possibility that the applicant may withdraw the application or that the Planning Committee may defer consideration of an application for example to obtain further information.

2.13 The Planning Committee agenda is available 5 working days in advance of the meeting. The agenda and associated reports can be viewed on the Council's website.

2.14 Speakers are advised to familiarise themselves with the contents of the relevant Planning Committee report in the Committee Agenda prior to addressing the Planning Committee in order to avoid taking up Planning Committee time in repeating the Officer's comments.

Presenting new information

2.15 If speakers wish to present documents or photographs to the Planning Committee, the material must be submitted to planning.comments@york.gov.uk no later than 5pm on the second working day before the meeting. For a Monday meeting this would be 5pm on the previous Thursday. The Council will consider the information to ensure that there is no issue of impropriety, i.e. showing people or events in an unfavourable way, or defamation/slander for example.

2.16 The submission of paper documentation on the day of the meeting by applicants, agents and persons making representations to the Committee is not permitted and cannot be circulated in the meeting.

Material considerations

2.17 Relevant issues in considering planning applications **(material considerations)** can include (but are not limited to)**:**

- The Development Plan
- Other planning policies
- National Planning Policy Framework and other Government advice
- Highway safety and traffic considerations
- Landscape impact
- Local amenity
- Noise
- Privacy (overlooking etc.)
- Conservation areas and listed buildings
- Archaeology
- Risk of flooding
- Loss or effect on trees and wildlife/nature conservation
- Case law and relevant previous decisions etc.

2.18 The Committee must only consider material considerations when determining planning applications.

Non-Material considerations

2.19 Issues which are irrelevant when determining planning applications (**non-material considerations).** This list is not exhaustive but gives examples of the types of issues that are not relevant when determining applications**:**

- Business competition
- Ownership disputes
- Reduction in property values
- Restrictive Covenants
- Moral objections
- Personal circumstances or private rights

- Matters controlled by other legislation e.g. Buildings Regulations, Licensing.
- The applicant's motives for making an application.
- Loss of trade elsewhere.
- Construction issues e.g. standard of workmanship, length of time taken to do work.
- Precedent e.g. unrelated decisions that have been made before.
- Complaints about procedures in dealing with applications.

2.20 An application submitted after development has been carried out has to be determined on its own planning merits like any other.

3. Pre-Committee Matters Including Site Visits

Site Visits

3.1 The site visit is for the Members of the Planning Committee to view aspects of an application site, it is a fact finding exercise for the Planning Committee. The prospect of a Planning Committee site visit should not deter Members of the Planning Committee from looking at a site themselves from any public vantage points in the same way that any other member of the public may do.

3.2 Although the site visit is a formal part of the decision making process, it is not where decisions are taken.

Arrangements for the site visit

3.3 Planning Committee site visits will take place before the application is considered by the Planning Committee. The date, time and order of site visits will be circulated to Members of the Planning Committee.

3.4 The committee visits will be virtual unless it is considered by the Chair that an in person site visit is necessary due to the complexity of the site.

3.5 If access onto the site is necessary, the applicant or agent will be informed of the site visit and asked to ensure that access is available.

Attendance at the site visit

3.6 The persons entitled to be present at all times during the site visit are Members of the Planning Committee and appropriate Officers as determined by the lead planning officer for the committee meeting.

Virtual Visits

3.7 Where the site visit is virtual Local Ward Members and Parish Council representatives may join the site visit group but only to observe and listen. Where this happens, the representative(s) will not be permitted to address the Planning Committee or its Members unless asked to identify physical features such as boundaries or access points.

3.8 If members of the public would like to request that site specific items are viewed they must make the planning case officer aware of this request before the site visit commences.

In person visits

3.9 For in person site visits the land owner or their agent or the applicant may need to accompany Members of the Planning Committee on the site visit. Where this happens that person will not be permitted to address the Planning Committee or its Members unless asked to identify physical features such as boundaries or access points.

3.10 Members of the public may attend and listen to the proceedings where these are conducted in public areas, but they have no right to enter private land or buildings.

Conduct at the site visit

3.11 The following procedures will be observed in the holding of all Planning Committee site visits:

3.12 Officers will arrange the in person site visit in advance with relevant parties. There is no right to enter on private land without permission of the land owner. Where appropriate, officers will obtain permission from the land owner or their agent for those invited to attend the site visit to enter the land. If permission is not given for Members and Officers and other interested parties to enter, the site will have to be viewed from the public highway/areas.

3.13 The Chair (or Vice Chair deputising for the Chair) will control proceedings throughout.

3.14 The Chair will explain that the purpose of the site visit is to obtain information relevant to the determination of the application. The Chair will summarise the proceedings and the constraints as set out below.

3.15 The Chair will introduce the Planning Officer who will describe the proposals to Members with reference to matters of fact and features on the land and the submitted plans/drawings and summarise the relevant issues and material considerations. It is expected that Members of the Planning Committee will already be familiar with the planning officer's report where one has been provided.

3.16 Members of the Planning Committee may ask the Planning Officer for factual clarification of any planning matter relating to the proposal or surrounding land, for example, distances to adjoining or objectors' properties or the location of the planned development.

3.17 Other officers may be present to provide other specialist/expert advice/information where relevant/required (e.g. Highways Engineers, Tree Officers or Environmental Health Officers Etc.).

3.18 Members of the Planning Committee will then be invited through the Chair to ask any questions of fact or seeking clarification from the Officers present. Members of the Planning Committee should not direct these questions to the applicant or others present. Any matters not to hand will be reported at the Planning Committee meeting. Discussion on the merits of the application will not be permitted, and Members of

the Planning Committee should refrain from making comments on the proposal.

3.19 During the in person site visit, no separate discussions regarding the application must take place with Officers or Members of the Planning Committee and either applicants, objectors or supporters. In order to assist in ensuring that Members of the Planning Committee receive the same information, they are required to keep together in one group with the Chair and the Planning Officer during the entirety of the accompanied site visit. They will not break-off to discuss the proposal separately with residents or the applicant.

3.20 During the in person site visit, Officers and Members of the Planning Committee will not accept any representations (including verbal presentations, documents, letters or petitions) from applicants, objectors or supporters. Any representations should be sent to the Planning Department by email to: planning.comments@york.gov.uk and these will be reported at the relevant meeting of the Planning Committee.

3.21 No hospitality will be accepted by Officers and Members of the Planning Committee from the applicant or any other interested party present at the site visit.

3.22 The Chair will conclude the site visit. Where Members of the Planning Committee attend an in-person site visit they will leave the site promptly, as a group, and refrain from talking to the applicant, objectors or other interested parties. No indication of the views of Members of the Planning Committee or the likely outcome of the Planning Committee's deliberations on the application will be given. To do so might imply that a Member's mind is already made up.

3.23 If Members of the Planning Committee require further information or clarification of any aspect of the development, the officer(s) attending the site visit will be asked to ensure that such information is available by the time the application is considered by Members of the Planning Committee at the relevant meeting of the Planning Committee.

Pre-Committee Briefings

3.24 Pre-committee briefings will be held with the Chair and Vice Chair and relevant Officers. The purpose of the pre-committee briefing is to update the Chair and Vice Chair on the applications to be presented at the next Planning Committee meeting and to go through any amendments/speakers etc. following dispatch of the formal agenda.

4. Committee Agenda

4.1 Each planning application for a consideration by the Planning Committee is the subject of a written report with an officer recommendation. In addition to the report, officers will present the item for consideration together with illustrative material to explain the scheme. The planning application itself is available to view on Public Access at Simple Search (york.gov.uk) under the relevant application number or using the address search function.

4.2 The Planning Officer will also present to the Committee any relevant additional information that has been received prior to the meeting but after publication of the agenda.

5. Order of Proceedings

5.1 Generally, Planning Committee meetings take place at West Offices, however virtual Planning Committee meetings may also be utilised where situations facilitate them. The time of the meeting is stated on the agenda papers and published in the Diary of Meetings on the Council's website.

5.2 At the discretion of the Chair, the order of business on the agenda may be varied at the meeting with the agreement of the Planning Committee.

5.3 The procedure for considering each item shall be as follows:

- The Planning Officer shall provide an update on any pre-Committee updates and then introduce the application.
- Public speaking in accordance with the Public Speaking Procedure (as set out in paragraph 3 of this Protocol will take place).
- The Planning Officers will address, where necessary, any issues raised during public speaking and respond to questions from Members of the Planning Committee.
- The Planning Committee will consider the application and reach a decision.
- Advice may be provided by Planning Officers and/or the Legal Officer at any time as necessary.

5.4 Members should raise any queries they may have on an application with the Chief Planning Officer as soon as possible prior to the meeting, including the need for additional information. This can help identify issues early on and help to make sure that issues do not come to light for the first time at Committee. A 'no surprises' at Committee approach should be the aim.

6. Decision Making

6.1 In coming to a decision on a planning application, a Member of Planning Committee must:

- Come to the meeting with an open mind;
- Not communicate with anyone (except Officers, other Planning Committee
  Members, and public speakers through the Chair) orally, electronically, in writing or by any other means during the proceedings of the Planning Committee;
- Come to a decision only after due consideration of all the information reasonably required to base a decision upon;
- Not take part in the debate or vote on a proposal unless they have been present for the entire item including the Officer's presentation and any public speaking, and
- Ensure that if they are proposing, seconding or supporting a decision contrary to the Officer's recommendation or the Development Plan,

that they identify and understand the planning reasons leading to their conclusion and that they consider any professional advice given.

6.2 Reasons must be given before a Seconder to the proposal is sought and the vote is then taken and recorded if the proposal is contrary to or an amendment to the Officer recommendation.

7. Voting Procedures

7.1 The Chair of the meeting will usually bring the Planning Committee to a vote promptly on the officer recommendation in the first instance, where they consider that there has been sufficient debate on the item.

7.2 All items on the agenda will require a decision being taken on them and cannot be undetermined (unless they are deferred).

Decisions contrary to the Recommendation

7.3 A motion to go against the recommendation should usually only be considered after a vote on the recommendation (or an amendment to the recommendation) has taken place. Where a motion to go against the recommendation (or an amendment to the recommendation) set out in the report is proposed, material planning reasons for voting against the recommendation must be given. When the recommendation is not supported, a new motion to either grant or refuse or defer the application must be moved and seconded. However, before a new motion is proposed, the Committee must first receive advice from the Chief Planning Officer or their representative, as to what form a new motion could take. That advice will be based upon the material planning considerations that have been discussed by the Committee and whether there are grounds that could be defended in the event of an appeal or legal challenge.

8. Following the Committee Meeting

8.1 The decisions of the Planning Committee must be recorded in the minutes of the meeting and published on the Council's website (for interested parties who cannot attend).

8.2 If an application for planning permission has been refused, or permission has been granted with conditions imposed, an applicant can appeal to The Planning Inspectorate via their website: https://acp.planninginspectorate.gov.uk/

8.3 The decision notice issued by the Planning Department will be accompanied by information on how to appeal. There is no 'third party right of appeal', so only the applicant may appeal against a decision made.

9. Review and Monitoring

9.1 This Protocol will be monitored and reviewed annually by the Chief Planning Officer and Chair and Vice Chair of the Planning Committees to ensure it remains current and relevant to the operational needs of those Committees.

9.2 As this Protocol will be incorporated into the Council's Constitution, any proposed changes will be reported to the Audit and Governance Committee for information and to Full Council for approval and immediate implementation.

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Appendix 18 - Guidance to Councillors and Officers Appointed to Outside Bodies

1 Introduction

1.1 This guidance sets out the main issues which Councillors and Officers should consider when appointed by the Council to serve on outside bodies.

1.2 In the context of this guidance ‘outside bodies’ include trusts, companies, charities, school governing bodies, industrial and provident societies and community associations. Councillors or Officers may be involved as a director, trustee, governor or member (with or without voting powers).

1.3 Councillors and Officers who are involved in the management of outside bodies have responsibilities to that body that must be acted upon. Their role, responsibilities and potential liabilities will depend upon the legal nature of the organisation and the capacity in which they have been appointed. Failure to act in a proper manner may give rise to personal liability or liability for the Council.

1.4 With the increasing emphasis on partnership working, Councillors, as community leaders, have an important role to fulfil in supporting and advising outside bodies. However, this can give rise to conflicts of interest, particularly where the organisation is seeking or receiving funding from the Council. Councillors and Officers always need to be clear about their roles and be alert to potential conflicts of interest in order to ensure transparency and public confidence in local democracy.

1.5 The purpose of this guidance is to assist Councillors and Officers in the discharge of their responsibilities on outside bodies clearly and effectively. It covers, primarily, the position of Councillors and Officers appointed by the Council to serve on outside bodies, though much of the advice applies equally to Councillors and

Officers who are involved with outside bodies in a private capacity. In those situations, however, the Council's insurances will not apply.

1.6 This guidance is general and Councillors and Officers should contact the Monitoring Officer for further advice if they have any particular issues of concern.

2 Issues to consider before appointment

2.1 Before accepting an appointment to an outside body Councillors and Officers should check the following:

a) The legal status of the organisation, e.g. company, trust, charity, unincorporated association;
b) The capacity in which the Councillor or Officer is to be appointed, e.g. director, trustee,
c) Whether the Councillor or Officer will have voting rights or observer status;
d) The purpose of the organisation and how this relates to the Council's functions and objectives;
e) The relationship between the Council and the body and the likelihood and extent of any conflicts of interest;
f) The requirements of the organisation's governing instrument, e.g. constitution; trust deed; memorandum and articles of association, both as a member and generally;
g) The financial status of the organisation;
h) governance and decision-making arrangements, including the management of risk;
i) Any code of conduct for members of the outside body;
j) Any potential liabilities;
k) Extent of any insurance cover for members of the outside body.

2.2 Having checked the above, Councillors and Officers should consider carefully whether they are willing to be appointed to participate formally in the management of the external organisation

e.g. as a director, trustee or voting member, or whether their role as a representative or Officer of the Council may be more effectively discharged as a non-voting member with observer status only. Bearing in mind the potential liabilities that may be incurred through formal involvement in an organisation, Councillors and Officers are generally advised to seek appointment as members with observer status only, unless there are exceptional reasons for more formal participation.

2.3 Councillors and Officers are encouraged to seek advice from the Monitoring Officer where any of the above issues are unclear.

3 Application of the Council's Code of Conduct for Members

3.1 The Council's Code of Conduct for Members at Appendix 14 and the Council's Code of Conduct for Officers at Appendix 15 of the Constitution, place specific obligations on Councillors and Officers when acting in that capacity in their dealings with outside organisations. The Code will, in particular, apply where a Councillor or Officers is acting as a representative of the Council on an outside body.

3.2 Apart from the general duty to promote and support high standards of conduct, the following duties of the Code are particularly relevant in this context:

a) act solely in the public interest and never improperly confer an advantage or disadvantage on any person or act to gain financial or other material benefits for yourself, your family, a friend or close associate;
b) Avoid placing yourself under a financial or other obligation to outside individuals or organisations that might seek to influence you in the performance of your official duties;
c) Make all choices, such as making public appointments, awarding contracts or recommending individuals for rewards or benefits, on merit;

d) Declare any private interests, both pecuniary and non-pecuniary, that relate to your public duties and take steps to resolve any conflicts in a way that protects the public interest.
e) Comply with the statutory requirements on the registration and declaration of interests.

3.3 Councillors and Officers who have a direct or indirect disclosable pecuniary interest in any business at a meeting of the Council, e.g. award of a contract, must not participate in any discussion of the matter or, in the case of a Councillor, vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.

3.4 Councillors and Officers who serve on more than one body, in particular, need to be mindful of potential conflicts of interest and always act in an open and transparent manner in carrying out their respective roles. For example, where a Councillor is at a council meeting considering an application for a grant or a community asset transfer request from a parish council or other public body of which they are a member, they should declare the existence and nature of their interest. Having done so, they may, generally, take part in the discussion of that item and vote, unless there are particular reasons why this would not be appropriate. It is also advisable as a matter of transparency, to include details of the interest in their register of interests.

3.5 The same principle will generally apply where Councillors are appointed to serve as school governors, but it is always necessary to have regard to the nature and extent of any conflict of interest in deciding whether to participate or vote. Where the governing body is considering a matter which is likely to have a material effect on the Councillor or a member of their family, it would be advisable to declare an interest and take no further part in the proceedings.

3.6 Councillors and Officers appointed to serve on outside bodies should be mindful of their legal obligations regarding disclosure of confidential information and in case of doubt should seek advice from the Monitoring Officer.

4 Predetermination and Bias

4.1 Aside from the Code of Conduct, under common law, Councillors must be careful to avoid any pre-determination or bias in their decision-making. Predetermination occurs where someone has a closed mind so that they are unable to apply their judgement fully and properly to the issue requiring a decision. This can lead to legal challenges and decisions being set aside.

4.2 The Localism Act 2011 clarified the rules on predetermination. It makes it clear that a Councillor is not deemed to have had a closed mind on an issue just because they have indicated what view they have taken or may take before the issue is decided. A Councillor is not, for example, prevented from participating in discussion of an issue, or voting on it, if they have campaigned on the issue or made public statements about their approach to it.

4.3 The general position remains however, that, whatever their views, members must approach their decision-making with an open mind in the sense that they must have regard to all material considerations and must be prepared to change their views if persuaded that they should.

4.4 Councillors need to be aware that decisions may be challenged and set aside on the grounds of bias. Under common law, bias involves some element of partiality or personal interest in the outcome of a case, as a result of a close connection with the parties, or the subject matter of the dispute, or because of a tendency towards a particular shared point of view.

4.5 The relevant test for bias is whether the fair-minded and informed observer, having considered the facts, would conclude that there was a real possibility that the decision-maker was biased. The risk of a successful challenge on these grounds may be overcome by proper observance of the requirements of the Code of Conduct and particularly the provisions set out above.

5 Legal status, capacity, duties and liabilities

5.1 Where a Councillor or Officer is appointed to an external organisation by the council, the Councillor or Officer will be representing the interests of the Council. However, they will also have duties to the organisation. The extent of these duties will depend on the type of organisation and the nature of the position that the Councillor or Officer is appointed to.

5.2 If the Councillor or Officer is serving in a decision-making capacity, or has a position of management or control on the external organisation, they will owe duties to that organisation that are distinct and separate from their duties as Councillor or Officer.

5.3 In contrast, where the Councillor or Officer is appointed to an external organisation as an observer only and is not required to participate in the organisation's management or governance other than to attend and vote at annual or general meetings, it is likely that the Councillor or Officer will, for the most part, be acting as a representative of the Council and would not have the same duties in respect of the governance of the organisation referred to above.

5.4 The specific responsibilities of Councillors and Officers will depend upon the legal status of the outside body and the capacity in which they have been appointed. The position of Councillors and Officers in relation to various types of outside body, is summarised in the appendices to this note as follows:

- Appendix A - Director of Limited Liability Company

- Annex 1 – Summary - Executive, Shareholder Committee and Companies
- Appendix B - Trustee of Trust or Charitable Trust
- Appendix C - Member of Unincorporated Association
- Appendix D - Member of Steering Group, Joint Committee or Partnership Body

5.5 The key point to note, is that where Councillors or Officers are carrying out their duties as a trustee, director, or management committee member, they may take account of the wishes of the Council, but their primary duty is to act in the best interests of the organisation to which they have been appointed.

6 Liability, Insurance and Indemnity

6.1 Councillors and Officers can incur personal civil and criminal liability from formal participation in outside bodies. However, under section 265 of the Public Health Act 1875 (as applied by Section 39, Local Government (Miscellaneous Provisions) Act 1976), Councillors and Officers enjoy statutory immunity from civil liability where they act within the powers of the authority, in good faith and without negligence.

6.2 This immunity does not apply however, where they act beyond the powers of the council or act in bad faith (i.e. with dishonest or malicious intent) or negligently, and it does not protect them from criminal liability, for example for fraud where they exercise managerial responsibilities.

6.3 City of York Council has a wide insurance provision to protect its assets and liabilities. Within these provisions the Council has extended its cover to protect its elected and co-opted members of outside bodies when carrying out duties in connection with the business of the Council. Those afforded the protection are:

a) Elected Members of the Council or co-opted members of any Committee or Sub-Committee;
b) Members of committees, schemes or associations formed to assist in the activities of the Council.

6.4 Further assistance on the issues covered in this guidance may be obtained from the Council's Monitoring Officer.

Appendix A – Duties and Responsibilities of a Director of Limited Liability Company (both Teckal and Non-Teckal)

1 Directors Duties

1.1 Directors owe a number of duties to their company, which are set out in the *Companies Act 2006.* These duties are to:

a) Act within powers (*section 171*) - see paragraph 2 *'Acting within powers - Consequences of exceeding authority'*.
b) Promote the success of the company (*section 172*).
c) Exercise independent judgement (*section 173*) - see paragraph 3 '*Duty to act for the company and risk of local authority becoming a shadow director'*.
d) Exercise reasonable skill, care and diligence (*section 174*) – see paragraph 4 '*Requirement for appropriate level of skill and expertise'*.
e) Avoid conflicts of interest (*section 175*) – see paragraph 5 *'Avoid conflicts of interest – Council vs Company'*.
f) Not accept benefits from third parties (*section 176*).
g) Declare interest in a proposed transaction or arrangement with the company (*section 177*).

1.2 Councillors and Officers appointed as directors should be aware of these duties, particularly those which could lead to:

a) A conflict with their role as a Councillor or Officer (for example, the duties to promote the success of the company, to exercise independent judgement, and to avoid conflicts of interest).
b) Personal liability for the debts of the company.

2 Acting within powers - Consequences of exceeding authority

2.1 Directors must ensure that they act within the company's constitution (its memorandum and articles of association) and must only exercise these powers for their proper purpose. If a director acts outside of their powers a company can still be bound by the unlawful actions of their Officers / Directors (unlike statutory

corporations, such as local authorities). Third parties acting in good faith can rely on decisions made by directors acting outside their authority, but the company may recover any resulting loss from the director personally.

3 Duty to act for the company and risk of local authority becoming a shadow director

3.1 Councillors and Officers appointed to external corporations must ensure that they take decisions in accordance with their personal convictions; **they must not act on behalf of, or in promotion of, the local authority**. As a director, the Councillor or Officer has a statutory duty to promote the success of the company and exercise independent judgement. If the Councillor is unable to do this without compromising their duty to the authority, they should resign their post. However, an Officer's duty to the authority is contractual, and so the authority can waive their contractual obligations if appropriate.

3.2 Furthermore, if the Councillor or Officer is a mere conduit for the local authority's viewpoint, the local authority risks being held to be a shadow director of the company. A shadow director is a person in accordance with whose directions or instructions the directors of a company are accustomed to act.

3.3 If the local authority is found to be a shadow director in an insolvency situation, it could be liable for the debts of the company where it knew, or ought to have concluded, that the company could not avoid insolvency but did not prevent it from continuing to trade (wrongful trading).

4 Requirement for appropriate level of skill and expertise

4.1 A director must exercise the care, skill and diligence which would be exercised by a reasonably diligent person with both:

a) The general knowledge, skill and experience that may reasonably be expected of a person carrying out the functions carried out by the director in relation to the company (the "objective" test).

b) The general knowledge, skill and experience that the director actually has (the "subjective" test).

4.2 So, at a minimum, a director must display the knowledge, skill and experience set out in the objective test, but where a director has specialist knowledge, they must meet the higher subjective standard. Therefore, a Councillor or Officer should consider, along with the appointing local authority, whether they have the skills necessary to run a company; it is not enough that an individual has the time and enthusiasm. In addition, individuals with specialist skills will be expected to apply those skills to their role as director.

Liabilities arising from insolvency of company or association

4.3 The need to have the necessary expertise to manage the company's finances is particularly important if the company is struggling financially. A director who does not scrutinise and understand the company's accounts risks incurring personal liability to the company's creditors for wrongful trading under section 214 or Section 246ZB of the Insolvency Act 1986 if they continue to trade when they knew, or ought to have concluded, that there was no reasonable prospect that the company would avoid becoming insolvent.

4.4 It is important to recognise that liability arises whether or not the director understood the company's financial position or intended any harm; if they should have known the company could not avoid insolvency, they were obliged to take every step to minimise its creditors' losses.

5 Avoid conflicts of interest – Council vs Company

5.1 A Councillor or Officer appointed as a director to a company will owe specific duties to the company in that capacity under both

statute and common law. Councillors and Officers are under a duty to exercise independent judgement when they are making decisions on behalf of the council. However, as a director of an external organisation they will also have a duty to exercise independent judgement and to act in the best interests of the company to which they are appointed.

5.2 This means that if the Councillor or Officer finds themselves in a situation where the interests of the council arise, the Councillor or Officer must disclose that interest. If they simply act or vote in line with the Council's position, the Councillor or Officer would not be acting in the best interests of the company and would be in breach of their duties as a director and could incur personal liability for their actions. Where a potential or actual conflict of interest arises, the Councillor or Officer may have to resign from either the company or the council.

5.3 A summary regarding potential conflicts of interest for Councillors who are members of Executive and/or the Shareholder Committee is set out in Annex 1 (Summary - Executive, Shareholder Committee and Companies) to this Appendix 1.

6 Other responsibilities

6.1 Directors must also be aware of how acts and decisions of other individuals may bind the company, for example:

a) Company directors may have powers delegated to them by the company, but they also have ostensible authority to act on behalf of the company, and their actions will bind that company, so that a third party dealing in good faith with a company's director may rely on the actions of that director even if they were not actually authorised by the company.
b) Employers have vicarious liability for the tortious acts of employees carried out in the course of their employment. This can include discrimination against one employee at the hands of another, as well as breaches of health and safety.

Annex 1: Summary - Executive, Shareholder Committee and Companies

1 General

1.1 The shareholder of a company owned by the Council is always the City of York Council, not the members of the Executive or the Shareholder Committee themselves, or any Council Directors appointed to represent the Council on the boards of these companies.

2 Executive

2.1 **Purpose in relation to companies:**

2.1.1 The Executive will make decisions in relation to a company of which the Council is a Shareholder that are reserved to the Executive in the terms of reference of the Shareholder Committee as set out in the Constitution at Article 12: Shareholder Committee.

2.1.2 These are decisions that involve:

a) changes to company governance e.g. including amending a company's articles of association, or its shareholder agreement;

b) agreements to any amalgamation, merger, joint venture, profit sharing or similar arrangements; and

c) approving steps to wind up a company.

2.2 Conflicts:

2.2.1 A member of the Executive can also be a director of a company. However, in the context of the Council being a shareholder of various companies and members of the

Executive also being Directors of various companies there is potential for conflicts to arise.

2.2.2 Councillors who have a direct or indirect disclosable pecuniary interest in any business at a meeting of the Council, e.g. award of a contract, must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.

3 Shareholder Committee

3.1 Purpose:

3.1.1 The Shareholder Committee has been established by the Executive specifically to discharge the shareholder functions of the Council in relation to those companies of which the Council is a shareholder. The Shareholder Committee does not have day-to-day operational control over any of the companies of which the Council is a shareholder.

3.1.2 The decisions which the Shareholder Committee is required to make in relation to a company are set out in the Shareholder Committee terms of reference as set out in the Constitution at Article 12: Shareholder Committee and the Shareholder Agreement for each company.

3.2 Conflicts:

3.2.1 In law, a shareholder of a company can also be a director of a company – this is often the case in small family-run companies. However, in the context of the Council being a shareholder of various companies and members of the Shareholder Committee also being Directors of various companies there is potential for conflicts to arise.

3.2.2 Councillors who have a direct or indirect disclosable pecuniary interest in any business at a meeting of the

Council, e.g. award of a contract, must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these requirements without reasonable excuse may result in prosecution.

4 Director

4.1 Purpose:

4.1.1 A member who is appointed as a director of a company will be involved in all decisions regarding the day-to-day operation of that company. Directors owe a number of duties to their company which are set out in the Companies Act 2006:

h) Act within powers
i) Promote the success of the company
j) Exercise independent judgement
k) Exercise reasonable skill, care and diligence
l) Avoid conflicts of interest
m) Not accept benefits from third parties
n) Declare interest in a proposed transaction or arrangement with the company

4.2 Conflicts:

4.2.1 Council decision making

Where a member of Shareholder Committee and/or the Executive is also a director of a company and the Shareholder Committee or the Executive is being asked to make a decision in relation to that company, e.g. award of a contract, the member should declare a direct or indirect disclosable pecuniary interest and must not participate in any discussion of the matter or vote on it, unless a dispensation has been obtained. Failure to comply with these

requirements without reasonable excuse may result in prosecution.

4.2.2 Company decision making

Conversely if the Councillor finds themselves in a situation in relation to the company where the interests of the Council arise, the Councillor must disclose that interest. The Councillor has a duty to exercise independent judgement and to act in the best interests of the company to which they are appointed. If they simply act or vote in line with the council's position, the Councillor would not be acting in the best interests of the company and would be in breach of their duties as a director and could incur personal liability for their actions.

5 Simple checklist:

If in doubt, consider the following questions:

1. Are you a member of the Executive and/or the Shareholder Committee?

2. Are you a director of the company in relation to which the Executive and/or Shareholder Committee is being asked to make a decision?

If the answer is ‘yes’ to both a potential conflict could arise and the member should declare this and not participate in any discussion of the matter or vote on it.

Appendix B – Duties and Responsibilities of a Trustee of Trust or Charitable Trust

Additional duties and responsibilities placed upon Trustees include making sure that the body acts in accordance with the overriding duty to all beneficiaries of the Trust. Beneficiaries may be people within the City of York or a specific category of persons for whose benefit the Trust was originally established. The Trustee Act 2000 contains most of the duties upon the Trustees; the Act also includes a statutory duty of care which applies when a Trustee is:

- Exercising a general power of investment or any specific power of investment arising from the Trust;
- Making investments arising in line with the Standard Investment Criteria under Section 4 of the Act or taking independent advice on investments under Section 5;
- Exercising the power to acquire land or deal in land;
- Appointing agents, custodians or nominees or in reviewing their obligations;
- Compounding liabilities under Section 15 of the Trustee Act 1925;
- Insuring Trust property;
- Dealing with reversionary interests, valuations or audits.

The standard of care expected of Trustees is that which is reasonable in the circumstances, taking into account any particular skills or competencies possessed by the individual, e.g. the standard of care will be higher for someone with an accounting qualification in relation to financial matters than someone without such a qualification.

Duties and responsibilities applicable to charities are even more extensive, as charitable Trustees have additional responsibilities under the Charities Acts. Information on this can be found on the Charity Commission website, or by using the attached link: https://www.gov.uk/guidance/charity-commission-guidance.

In many cases the Charity Commission needs to be consulted before a charity takes action or decides on a particular course of action involving charity property.

Appendix C – Duties and Responsibilities of a Member of Unincorporated Association

Unincorporated associations and partnerships are not separate legal entities which means that the individuals who are represented on the management committee are personally liable for all acts and omissions of the body. Each of the individuals are jointly and individually liable for what the organisation does. Partnerships and voluntary organisations often have this legal status, however, such associations and partnerships should still have a written constitution setting out the procedural rules which need to be followed and governing how it operates.

An unincorporated association may be charitable and may register as a charity, if this is the case then the duties and responsibilities set out in Appendix B must be considered.

Appendix D – Duties and Responsibilities of a Member of Steering Group, Joint Committee or Partnership Body

The Council may establish joint arrangements with one or more local authorities and/or their Executives to exercise functions, which are not Executive functions in any of the participating authorities, or advise the Council. Such arrangements may involve the appointment of a joint committee with these other local authorities and a Councillor may be appointed to such a joint committee. A Member of the Executive may not be a Member of any joint committee established to carry out the Council's scrutiny functions.

The Council's Executive may establish joint arrangements with one or more local authorities to exercise functions which are Executive functions. Such arrangements may involve the appointment of joint committees with these other local authorities.

The council may delegate non-Executive functions to another local authority, or in certain circumstances, the Executive of another local authority. The decision whether or not to accept such a delegation from another local authority shall be reserved to the meeting of Full Council.

The Access to Information rules in Part 5A of the Local Government Act 1972 will apply to joint committees established under this Appendix.

Appendix 19 – Protocol for use of ICT by Members/Use of Resources

1. Introduction

1.1 This protocol sets out to support Members to carry out their role effectively with the Information Communication Technology (ICT) provided whilst protecting the Council and its Members from the risks associated with its use. The protocol helps Members to stay compliant with the law and good security practice and is intended to assist and enable them in carrying out their activities.

1.2 This protocol must be used in conjunction with agreed policies and procedures around ICT security and use of systems such as internal email. Any breach of the requirements of the protocol or the agreed policies and procedures may amount to a breach of the Members' Code of Conduct and the removal of access to the Council's assets, systems and resources.

2. ICT Equipment

2.1 Members are provided with equipment to support their needs. Support is available from ICT to help Members understand what each item can and cannot support and to match the device to the Member's individual requirements, such requirements may include a laptop, tablet or mobile phone. Printers will not be supplied.

2.2 All items are procured through the standard ICT procurement process and will be covered by standard warranty and insurance policies. All equipment issued belongs to and will remain the property of City of York Council. The equipment provided must be used for all democratic work, including use at Council meetings, reading/annotating agendas, reports, minutes and

accessing City of York Council emails and for constituent work related to the Council and Council business. It is not to be used for purely political purposes or private business purposes. Where members are also appointed to other bodies, arrangements may be made to share equipment.

2.3 All reasonable steps must be taken to ensure that equipment is kept secure and protected from theft/damage. Particular care must be taken to ensure that equipment is not left on view in cars or in public transport, etc. In the event of theft, loss or damage to any part of the equipment, members must inform the ICT Service Desk, by telephone (01904 552222) or email (ictservicedesk@york.gov.uk) immediately. In the event of theft of the equipment, the theft must be reported to the Police without delay in order to obtain an Incident Number and then provide this information to the ICT Service Desk and Insurance @ insurance.claims@york.gov.uk.

2.4 The member will only grant access to any equipment to an authorised employee or agent of the Council for the purpose of service, repair or audit and will make the equipment available at reasonable notice and in working hours. Use by family/friends or any other third party is not permitted, family members can provide assistance to members in the use of the equipment as long as the Member remains in overall control and does not divulge their user name or password.

2.5 If a member ceases to be a Member of the Council, the equipment must be returned to the Council within 10 working days and in such an event access to Council systems will be disabled within 10 working days.

Lending any equipment to a third party is strictly forbidden.

3. Software

3.1 Members ICT equipment is configured to comply with the Council's ICT Security Policy and to meet the requirements of the Public Services Network. Any unauthorised changes may contravene these policies therefore configurations must not be changed and Members must not attempt to add additional hardware or software to any equipment.

3.2 If any additional applications are required, these can be requested by contacting the ICT Service Desk. Each request will be evaluated on its merits. Members should never delete any of the Council supplied software or any applications.

3.3 In the event of any maintenance or updates becoming necessary, the ICT Service desk may be able to do this upon request remotely, but where this is not possible the equipment must be returned to West Offices at an agreed time for such works to be carried out.

3.4 If there is a suspicion of a virus infecting any equipment or any notifications of untoward activity, this must be reported immediately to the ICT Service Desk. Do not ignore warnings as this could lead to more widespread infections and serious disruption to Council ICT systems.

3.5 All software provided by the Council with any equipment remains the property of the Council, or the licensing organisation and may not be shared or copied to another computer/device.

4. Access to Systems

4.1 Access to the Council's systems is via a username and password and individual applications may need their own

username and password. Members are required to adhere to the Council's password policy. Regular audits of all passwords are undertaken as part of the security audits of the Council. Care must be taken to keep passwords secure and passwords must not be disclosed to anyone and must be changed when required by ICT should security concerns be identified.

4.2 Systems and equipment must only be used for Council business. ICT equipment left unattended must be locked or logged off. Members are responsible for all activity undertaken when logged onto the equipment and must not allow any unauthorised person access to the Council's systems.

4.3 Members are permitted to connect their equipment to their home or third party Wi-Fi, subject to any provisions of the Council's ICT policies.

5. Storage

5.1 Various places are available to store electronic data and specific guidelines will be provided as part of Member training/Member induction. All council meeting papers will be accessible by Modern.gov. Members are discouraged from printing off meeting papers. Members are encouraged to be as paperless as possible and should only print essential material.

5.2 Any data stored locally on equipment is not backed up and will be lost in the event of loss or damage to the equipment. All data that you need to retain should be moved where possible to central storage. Council data should not be transferred to removable media, should it be necessary only City of York Council items that are provided by the Council and are encrypted are to be used and this must not then be transferred to personal or third party equipment

without the necessary permissions from the Corporate Governance Team.

6. Internet Access

6.1 Do not access any area that could be construed as unfit, obscene or would otherwise be considered inappropriate for a Member of the Council. All internet sites visited by any user (Member or Officer) when connected via Council equipment will be recorded, monitored and if necessary will be available for audit purposes. If you accidentally visit any area that could be construed as unfit, obscene or inappropriate you must leave it immediately and inform the Monitoring Officer.

6.2 Care must be taken when downloading files via the internet. Computer viruses may be contained in files and/or emails and can severely damage the operation of the equipment and the Council's systems. If in doubt, do not click on links or download files.

6.3 The equipment provided to Members should not be used to access personal social media sites such as Facebook or Twitter. It is however permissible for Members to use the equipment provided for social media for legitimate Council reasons such as communicating with residents or maintaining corporate sites. It is recommended that Members have separate social media accounts for Council business. Members are required to adhere to the provisions of any Council ICT policies around social media. Passwords for social media accounts must never be the same as the passwords used for logging onto the device or any CYC system.

7. Email

7.1 Members will be allocated a Council email address for use on Council business. This email must not be used for personal or political purposes. If you receive any unsolicited emails (e.g. junk or chain mail) do not forward to any other recipients and delete them or move them into the junk folder.

7.2 You must not use anonymous emailing services to conceal your identity when sending emails, falsify emails to make them appear to originate from someone else, or provide false information to any internet service which requests a name, email address or other details.

7.3 Members must not automatically forward emails from a Council email account onto a webmail account hosted on the internet by a third party, for example Google, Yahoo, Hotmail, etc. and should not manually do so as a matter of course as this can lead to Council data being placed on an insecure domain.

7.4 All Council ICT policies are available on the Council's Intranet. These policies must be adhered to at all times.

8. Cameras

8.1 Any camera on ICT equipment must not be used to take inappropriate, illicit or sexually explicit photographs or videos, nor be used to embarrass anyone in any way. Members must use their judgement on appropriate use of cameras. Good practice is to ensure that any person to be photographed has given their consent.

9. Monitoring

9.1 The Council has the capability to monitor all use of the internet and intranet and retains logs of all use. The reason

that monitoring takes place is to ensure compliance with legislation and the standards and rules set by the Council. We record and monitor:

- Details of websites visited or attempted to be visited;
- Pages accessed;
- Files downloaded;
- Graphic images examined;
- Any file attachments (e.g. pictures or Word documents).

9.2 The Council has the capability to monitor, log and retain email correspondence. Any email and internet traffic being sent or received through the Council system will be scanned for potential viruses.

10. Complying with legislation

10.1 The following is a summary of areas to be aware of:

a. Data Protection - You are responsible for complying with the Data Protection Act 2018, which covers information held in electronic and paper-based form about individuals. It is a criminal offence to collect and process personal data on your ICT equipment unless the use is registered with the Data Protection Registrar. The Director of Governance has copies of all of the Council's Data Protection registrations and can give Members advice if necessary.

b. Computer Misuse – The Computer Misuse Act 1990 covers unauthorised or malicious use of any computer system. It is the law used to prosecute hackers and people who write and distribute computer viruses deliberately. It is a criminal offence to access or attempt to access any computer system you are not authorised to access. The law protects against

employees and members of the public who deliberately cause damage to systems and data. The Act also makes it illegal for a person to deliberately delete data or sabotage systems to the detriment of the Council.

c. Harassment – The Protection from Harassment Act 1997 covers harassment either by using email to send a harassing message to someone or by downloading and distributing material from the Internet which constitutes harassment because it creates an intimidatory working environment.

   Harassment and discrimination are unlawful under the Protection from Harassment Act 1997, the Sex Discrimination Act 1975, the Disability Discrimination Act 1995 and the Race Relations (Amendment) Act 2000. As with any form of harassment under the anti-discrimination legislation, the intention of the parties is irrelevant. The problem with email is that, written communication can be misinterpreted and offence may be caused where none was intended.

d. Obscene Material – Publishing legally "obscene" material is a criminal offence under the Obscene Publications Acts 1959 and 1964. This includes electronic storing and/or transmitting obscene materials that would tend to deprave and corrupt or paedophiliac material.

e. Defamation or False Statements – The liability for defamation or false statements applies to electronic communication just as it does to more traditional forms of communication. Anyone who emails a libellous or false email message or posts such a message on the Internet will be responsible for it and liable for any damage it causes to the reputation of the victim. In addition to the liability of the individual who made the

libellous or false statement, the Council may also be held liable. This could be either under the normal principles of:

- **Indirect Liability** – because the Council is considered responsible – known as "vicarious liability"; or;
- **Direct Liability** – as a publisher because of providing the link to the Internet and email system.

An untrue statement that damages the reputation of a person or company by causing people to think worse of them will generally be defamatory. Similarly, a false statement intended to cause damage to a person or their economic interests can bring a claim for damages.

Do not put anything on an email or an attachment, which you would not put in a normal letter on Council headed paper. Treat email as you would a postcard going through the open post.

f. Copyright – Although any material placed on the Internet or in public discussion areas is generally available, the originator still has moral and, possibly, legal rights over it. You should not copy it without acknowledging the original source and, where appropriate, gaining their permission. This applies even if you modify the content to some extent. Please note that any official material placed on a website is subject to copyright laws.

Copyright laws are different for each piece of software. In general, the copyright to every piece of software run on a system is owned by whichever company or person who wrote it. The Council has a legal duty to make sure sufficient licences of the correct type are present to

cover the use of all software. Members must be aware of these issues and make sure that the Council has correct licences for any software used.

g. Contracts – Electronic communication, such as email, is generally regarded as an informal means of communication but it is, nevertheless, capable of creating or varying a contract in just the same way as a written letter. You should be careful not to create or vary a contract accidentally.

h. Disclaimer – despite putting confidential disclaimers and, where appropriate, personal disclaimers, on external communications, there is still nevertheless a legal connection to the Council. Always remember that any statement you make may still be construed as representing the Council.

11. Points of Contact

11.1 The ICT Service Desk is the first point of contact for all ICT enquiries, queries and support problems. Calls can be logged via the ICT Self Service Portal icon that you will see on your CYC desktop or by telephoning 01904 552222.

11.2 Further assistance on the issues covered in this protocol may be obtained from the Council's Monitoring Officer or the Council's Head of ICT, or by consulting the ICT Policies page on the Council's Intranet website.

Appendix 20 - Member Allowances and Member Allowances Scheme

1 Basic Allowance

1.1 Every Councillor, irrespective of any particular office he or she may hold on the Council, is entitled to the same level of basic allowance. The basic allowance will be paid to Councillors as a monthly salary. It is intended to recognise the time commitment of all Councillors, including such inevitable calls on their time as meetings with officers and constituents and attendance at political group meetings.

1.2 The basic allowance also covers incidental costs incurred by Councillors such as the use of their homes, general administration, out of pocket expenses, internet and telephone expenses and travel within the city of York.

1.3 The basic allowance will be uplifted on an annual basis in line with any general salary increases payable to Council staff taking into account any views specifically expressed by the Independent Remuneration Panel.

2 Special Responsibility Allowance

2.1 In addition to the basic allowance it was agreed at Council that Councillors may receive a special responsibility allowance for any of the following additional responsibilities:

a) Leader of the Council

b) Deputy Leader of the Council

c) Group Leader (Main Opposition)

d) Deputy Group Leader (Group with more than ten Members)

e) Group Leader (Minority Party – minimum 4 Members)

f) Executive Member

g) Chair of Corporate Scrutiny Committee

h) Chair of Scrutiny Committee

i) Chair of Planning Committee

j) Chair of Licensing and Regulatory Committee

k) Chair of Audit and Governance Committee

l) Lord Mayor as Chair of Council

2.2 Should Councillors be eligible for a special responsibility allowance, this will be added to the basic allowance and shown in total on their monthly payslip. However, only one Special Responsibility Allowance is payable per Member by the Council and where a member attracts more than one Special Responsibility Allowance, only the higher Allowance will be paid.

3 Other Entitlements

Dependent Carers Allowance

3.1 Council has agreed to pay a dependent carers allowance to those Councillors/co-optees who are eligible with regard to expenditure incurred for the care of children or dependent relatives to enable a Member to carry out council functions.

3.2 The reimbursement of costs incurred will normally be at a rate of the living wage.

3.3 This rate of allowance may be exceeded in circumstances where professional care is required for children or dependent relatives with medical or other special needs.

3.4 In no circumstances will the allowance exceed the amount actually paid.

3.5 Claims for dependent carers allowance should be submitted via iTrent for approval by the Head of Democratic Governance by the date notified, and where possible should be supported by recipients.

3.6 All dependent carer allowance claims should be made within two months of the meeting attended.

Welfare Support

3.7 In recognition of the effects of work related and personal stress related to their role, Members will be able to access, in principle, a similar level of Welfare Support to that of a City of York Council employee, where deemed appropriate in consultation with the Head of Human Resources.

Travel and Subsistence

3.8 Travel allowances are payable to Members for travel outside of the city of York in respect of approved duties. The following are to be regarded as approved duties:

a) A meeting of a joint committee of which the Authority is a member
b) A meeting of any body to which the Council makes appointments
c) A meeting of the Local Government Association, any sub group of the Association or any body to which the Association makes appointments
d) Duties undertaken on behalf of the Authority in connection with the discharge of any function of the authority conferred by or under any enactment and empowering or requiring the Authority to inspect or authorise the inspection of premises
e) Duties undertaken on behalf of the Authority in connection with arrangements made by the Authority for the attendance of pupils at a school approved for the purposes of section 342 of the Education Act 1996
f) A meeting which has both been authorised by the Authority, a committee, or subcommittee of the Authority or a joint committee of the Authority and one or more other

authorities, or a sub-committee of a joint committee and to which representatives of more than one political group have been invited (if the Authority is divided into several political groups) or to which two or more Councillors have been invited (if the authority is not divided)

g) Visits by Executive Members, Chairs and Vice-Chairs of Committees and Group Leaders on business associated with those roles
h) Attendance of Members at conferences, training courses and seminars approved in accordance with the council's arrangements for Member development
i) Other travel approved by the appropriate officer as being reasonably necessary to further the aims of the council (excluding travel for party political or social functions)

3.9 Claims should be submitted via iTrent by the date notified, for approval by the Head of Democratic Governance. Receipts showing expenditure incurred should be retained for audit purposes.

3.10 The Council will pay or reimburse approved travel or subsistence expenses for Members in accordance with HMRC recommended rates or such other national guidance as may be applicable.

3.11 No travel allowance is payable for travel within the area of the city unless the Member has medical or other special needs requiring the use of taxis on approved duties.

3.12 When travelling by public transport preference must always be given to the cheaper fare whenever possible.

3.13 When using a Councillor's/co-optee's own vehicle the amount claimed for travel must not exceed the value of a 2nd class rail ticket for the same journey, where that comparison is possible.

3.14 All travel and subsistence claims should be made within two months of the meeting attended.

3.15 Tea and evening meal allowances cannot be claimed in the same evening. Tea or evening meal allowances will only be paid if absence is continuous.

Meals provided free of charge

3.16 The claim shall be reduced by an appropriate amount in respect of any meals provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates, e.g. should a Councillor/co-optee attend a seminar/meeting and lunch is provided free of charge, a subsistence claim for lunch would not be acceptable.

Travel by Taxi

3.17 Councillors/co-optees may claim taxi fares provided that the journey is necessary to undertake an approved duty of the Council outside of the area of the city and where no public transport is reasonably available.

3.18 Expenses incurred on taxi travel within the area of the city will only be payable where a Member has a medical or other special need requiring the use of taxis in order to carry out approved duties.

Parking Passes and Cycle Allowances

3.19 Councillors are entitled to choose one of the following:

a) Option 1 - Councillors Parking Pass

Allows Councillors to park in most Council car parks with the exception of ‘The Shambles’, ‘Marygate’ and ‘Coppergate Centre’ within the permitted time limits of that car park.

b) Option 2 - Cycle Allowance

A monthly allowance payable to Councillors via their payslip. Councillors in receipt of this allowance are expected to use their bicycle as their usual mode of transport.

3.20 Requests for full details of current amounts payable in relation to Councillor allowances and entitlements together with any queries regarding the scheme should be directed to Democratic Services.

Appendix 21 - Urgent Decision Making Protocol

1 In accordance with the Constitution, the Council undertakes its business via a range of functions, namely Council meetings (Full Council, Executive and Regulatory committees), Scrutiny meetings, Executive Member Decisions and Officer Decisions.

2 In response to national advice and guidance (as experienced during the COVID-19 Pandemic), where the Council is unable to sustain the above mentioned functions and an urgent Scheme of Delegation is required to enable business as usual decision making to still take place safely and as transparently as possible. This allows for there to be a mechanism in place which can ensure the Council can make urgent decisions so as to fully protect and meet the best interests of the Council, its Officers and residents.

Decisions to be taken using the Urgent Powers of the Chief Operating Officer

3 The Chief Operating Officer or their nominated deputy (see below) has the following delegations:

a) To take such immediate action as they consider necessary to implement the Council's peace time emergency planning scheme, or to take such decisions in the event that a constitutionally prescribed decision making meeting cannot be convened within the required timeframe or in direct response to Central Government guidance or direction;

b) The power to take any decision, including a key decision, in a situation where the matter is urgent and does not allow time for a report to be considered by the Council, the Executive, the relevant Executive Member or the appropriate Committee. Wherever possible, in the case of any key decisions, such decisions shall be made in consultation with the Leader of the Council or the Deputy

Leader. The decision shall be reported to the next appropriate and available meeting.

4 A nominated deputy to the Chief Operating Officer has the following powers:

a) The Chief Operating Officer will designate one of the Corporate Directors as the deputy to the Chief Operating Officer. Such designation shall carry with it the delegation to exercise all and any of the Chief Operating Officer's specific delegated functions, during any period where the Chief Operating Officer is absent in the sense that they are not in a position to exercise the powers of the Chief Operating Officer, for example due to sickness, incapacity, a position of conflict or being out of contact in the case of emergency.

5 Please note this excludes those decisions which are required to be made by the following Officers in their statutory capacity:

a) Corporate Director for People
b) Chief Finance Officer (s151)
c) Director of Governance (Monitoring Officer)
d) Director of Public Health

Process to be followed

6 When considering each decision, the Chief Operating Officer and / or their deputy will receive a sufficiently detailed report from the relevant/appropriate Chief Officer. As a mandatory minimum, each report will detail implications relating to Finance, HR, Legal and Public Health.

7 The Chief Operating Officer and / or their deputy prior to making the decision will consult with:

a) The Leader of the Council and in their absence the Deputy Leader;

b) The Chief Finance Officer (s151 Officer);
c) The Director of Governance (Monitoring Officer);
d) Head of HR (where relevant and appropriate);
e) Director of Public Health (where relevant and appropriate).

8 Once the decision has been taken, the decision record and the detailed report will be provided to the Monitoring Officer and in their absence the Head Civic, Democratic and Scrutiny Services, and arrangements will be made for the decision to be published on the Council's website. The decision template will record the views offered by the Leader of the Council (or Deputy Leader) and other consultees.

9 All decisions made will be reported on a retrospective basis by the Monitoring Officer to the relevant Committee.

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Appendix 22 - Protocol for Webcasting, Filming and Recording of Council Meetings

1 Background

1.1 The main purpose of webcasting is to promote openness and accountability, and to support greater participation in local democracy by giving members of the public, elected members, officers and other interested parties the opportunity to view meetings without having to attend in person.

1.2 Live webcasting and the retention of recordings online for later viewing does not replace the formal record of the meeting and the decisions made. The only formal record of any meeting of a Local Authority is its minutes and agendas which are required to be maintained and retained for a number of years.

2 Operating Procedure for Filming/Webcasts

2.1 At the start of each meeting to be filmed, an announcement will be made to the effect that the meeting is being webcast, and that the Chair may also terminate or suspend the webcasting of the meeting, in accordance with this protocol. This will be confirmed by the Chair making the following statement: "*I would like to remind everyone present that this meeting will be broadcast live to the internet and will be capable of repeated viewing*."

2.2 Webcasts will only commence at the beginning of a meeting when the Chair opens the meeting and will finish when the meeting is closed. During any adjournments or parts of the meeting where press and public are excluded video and audio will be switched off and a holding screen displayed for those viewing live.

2.3 The Chair of the meeting shall have the discretion to terminate or suspend the webcast if:

a) The meeting is adjourned;
b) A resolution is lawfully passed to exclude the press and public from the meeting or a specific portion of the meeting;
c) There is a public disturbance;
d) Webcasting may lead to a potential infringement of the rights of any person or other breach of law, subject to legal advice; or
e) The Chair considers that continuing to webcast would prejudice the proceedings of the meeting, subject to agreement by the majority of Members attending the meeting.

2.4 Anything that is outside of the scope of the meeting will not be filmed. This includes reaction shots, walkouts etc. Where an operator is unsure on what to film or is in an unfamiliar situation, the operator should select a camera shot of the Chair of the meeting.

2.5 Webcasts or parts of webcasts may be removed if, in the reasonable opinion of the Monitoring Officer, it may prejudice the Council's or the public's interests.

2.6 Content may also be removed if the Monitoring Officer considers it necessary because all or part of the content of the webcast is or is likely to be in breach of any statutory provision or common law, for example Data Protection and Human Rights legislation or provisions relating to confidential or exempt information. The reason for any decision to edit a webcast will be logged and published.

2.7 Council anticipates that the need to exercise this power will occur only on an exceptional basis.

2.8 Any elected Member who is concerned about any webcast should raise their concerns with the Head Civic, Democratic and Scrutiny Services.

2.9 Should the live webcast be halted for a technical reason the following procedure will be applied:

a) The webcasting operator will inform the Democracy Officer and Chair as soon as practically possible
b) The Chair may agree a short adjournment to see if the problem can be resolved. *If after adjourning the problem still persists, the meeting should continue irrespective of it not being transmitted live. *[*N.B. Not applicable under current legislation covering remote meetings. In this case the remainder of meeting would need to rescheduled]*
c) If the live webcast cannot be resumed a back-up recording will be published following the meeting

2.10 People under the age of 16 will not be filmed unless written parental/guardian permission has been provided.

2.11 Recordings of meetings will be made available to view online for a period of 6 years after which time they will be permanently deleted. Footage covering the meetings of Annual Council, which are mainly ceremonial, can be kept indefinitely for posterity.

3 Public Speakers and Audience Attendees

3.1 As part of the process for registering to speak at public council meetings, residents will be advised that the meeting will be streamed live on the internet made available to view later online.

3.2 If an attendee does not wish to be filmed whilst speaking to the committee, the webcast operator will:

a) Give guidance to the best place to sit
b) Ensure no close-up images of the attendee will be taken
c) If the attendee is speaking, the webcast operator will focus the camera on the Chair or a camera view where the speaker will not be shown.

3.3 Guidance will be provided to people in the audience at public council meetings advising them to contact Democratic Services staff if they have concerns about being seen on camera.

4 Signage at Meetings

4.1 On signs to be displayed at the entrance to the meeting room and on the meeting agenda, there will be the following notice:

WEBCASTING NOTICE

Please note: this meeting may be filmed for live and /or subsequent viewing online - at the start of the meeting the Chair will confirm if all or part of the meeting is being filmed.

You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy.

The council avoids filming public seating areas where possible. If you have concerns about being seen on camera during the meeting please contact a member of the council's Democratic Services Team.

5 Filming by members of the public and press

5.1 Members of the public and press are permitted to film or record, from the seating area assigned to members of the press and public, councillors and officers at any council meetings that are open to the public and press.

5.2 We may reasonably ask for the filming to be undertaken in such a way that it is not disruptive or distracting to the good order and conduct of the meeting. As a courtesy, attendees will be informed at the start of the meeting that it is being filmed; we recommend that those wanting to film liaise with council staff before the start of the meeting.

6 Tweeting or blogging by members of the public and press

6.1 The Council permits social media reporting of all its public meetings.

7 Photography

7.1 The Council permits photography at all of its public meetings.

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Appendix 23 - Procedure for Conduct of Remote Meetings

This appendix was suspended on 6th May 2021, however is retained within the constitution for transparency reasons.

1. These implement The Local Authorities and Police and Crime Panels (Coronavirus) (Flexibility of Local Authority and Police and Crime Panel Meetings) (England and Wales) Regulations 2020 (the "Regulations") which became into force on 4th April 2020, and provide for alternative arrangements for Local Authority meetings which are required to be held between 4th April 2020 and 7th May 2021.

2. These arrangements will remain under review by the Monitoring Officer.

3. These Rules should be read in conjunction with Appendix 3 Council Procedure Rules.

Which meetings do the Regulations refer to?

4. The Regulations refer to the following:

    - Full Council;
    - Executive;
    - Committees;
    - Sub Committees; and
    - Annual Council (separate arrangements).

Full Council

5. There are no current arrangements planned to convene a meeting of Full Council unless one is deemed necessary. Should one be required, the Monitoring Officer will ensure it meets with the terms of the Regulations for remote meetings.

Annual Council

6. Separate guidance will be issued in due course.

Other Committees of the Council

7. Upon receipt of proposed items of business, the Monitoring Officer, in consultation with the relevant Portfolio Member and or Chair of a Committee and the Head of Paid Service and s151 Officer shall make arrangements for a remote meeting to take place in accordance with the Regulations using the risk assessment process meeting process being implemented.

Quoracy of Meetings

8. All remote meetings of the aforementioned meetings will operate with the minimum quoracy levels, which is as follows:

    - Annual Council – one quarter of the whole number of Members of the Council
    - Budget Council - one quarter of the whole number of Members of the Council
    - Full Council - one quarter of the whole number of Members of the Council
    - Executive – minimum of 4 Members;
    - Planning Committee – minimum of 4 Members (2 Liberal Democrat and 2 Labour); and
    - Licensing hearings held under Licensing Act 2003 – 3 Members.

9. In the event that a remote meeting starts quorate but, due to unforeseen circumstances, for example, IT issues, does not remain quorate, the Democratic Services Officer may temporarily suspend the meeting until the issue is resolved and the meeting can recommence. These circumstances will be fully reflected in the minutes produced for each meeting.

10. In order to avoid a meeting not being quorate should a Member experience IT issues and lose the connection to the remote meeting, there should be an additional two Members present above the minimum quoracy level for the relevant meeting.

Voting

11. All Members attending a meeting will be asked to enter a named vote where voting is required so as to aid clarity and transparency with the live streaming arrangements. To record a vote, the Democratic Services Officer will perform a roll call of all Members present and ask them to state their voting intention (For, Against, Abstain). The Officer will keep a clear note of the votes made. These will then be counted and recorded in the minutes. At the conclusion of the voting the numbers of votes cast for, against and abstentions will be announced as well as the outcome of the vote. In the event of any vote being equally divided the Chair will have a second or casting vote.

Access to documents

12. All agendas, reports and background papers will be available for public inspection by them being placed on and be available to view on the Council's website. There is no longer a requirement to produce a printed copy of an agenda for public distribution. (Regulations 15 and 16(4) and (5)).

Public Participation

13. The requirement to ensure that meetings are open to the public includes access by remote means, including video conferencing, live webcast and live interactive streaming. Where a meeting is accessible to the public through such remote means, the meeting is open to the public whether or not members of the public are able to attend the meeting in person.

14. The Council will endeavour to facilitate public participation where the meeting is being held remotely and where the IT platform allows for

this. There may be instances where the IT platform would not permit the number of public speakers who wish to speak, or, where there are unforeseen issues with IT. Any consideration to reduce public participation will take account of technical issues and fairness.

15. Remote meetings will have a standing item on the agenda regarding public participation. Members of the public may register to speak on an item on the agenda or an issue within the meeting's remit (but see Annexes 1 and 2 on licensing hearings and planning matters) by contacting Democratic Services using the contact details as set out in the agenda for the meeting no later than 5.00pm two working days before the meeting. Speakers will have a maximum of 3 minutes to speak and may subsequently be asked questions by Members. There is no public right of reply following the decision of the meeting.

16. For planning matters and licensing hearings, members of the public may speak on the matters or applications to be considered by members only. See the relevant Annex to this Appendix 22 for further detail. For Planning meetings, it will be at the Chair's discretion as to the number of speakers at that particular committee.

17. In exercising their right to public participation a member of the public is entitled to express views positive or negative about the performance of the Council but must not say anything which is defamatory or discriminatory, make any personal attack on an officer or disclose confidential or exempt information including personal information.

18. In the event that the Council are unable to facilitate public participation for a specific remote meeting, written questions for the public may be submitted for consideration at the meeting. Members of the public are strongly encouraged to email their comments in questions to the Democratic Services team prior to the meeting taking place so that in the event of technology difficulties, comments and views can still be taken into consideration at the meeting.

19. Meetings will be live streamed on the Council's YouTube website. Members of the public who wish to participate in meetings may need to familiarise themselves with the chosen video conferencing technology.

Arrangements for Confidential/Part II items of business

20. The Council have arrangements in place which will enable Members to go into a private session that is entirely separate to the public meeting to enable such matters to be dealt with in private.

21. Agendas will be organised so that such items are dealt with last, with the public excluded from that part of the meeting.

22. In the event there is a need to enter private session during the course of the meeting, for example to give Members the opportunity to seek legal advice, the meeting will be adjourned whilst Members and officers attend the private session. As soon as the private session has concluded, the public meeting will be re-opened so that business can be resumed. During this time, a "screen saver" will appear on the video-conferencing platform notifying anyone viewing of the short adjournment in the public element of the meeting.

Moving or cancelling remote meetings

23. The Monitoring Officer may, following consultation with the Chair of the relevant remote meeting move or cancel a remote meeting without notice.

Background Guidance

24. The Regulations allow Councils to devise arrangements to hold meetings remotely without all, or any, of the Members being physically present in a room. This allows for remote meetings through electronic, digital, virtual locations, live webcast, live interactive streaming, video and telephone conferencing. Authorities are empowered to make provision in their standing orders for remote attendance at meetings regarding, for instance, voting, member and public access to documents; and remote access of public and press

to a local authority meeting to enable their attendance or participation.

25. The Council have developed and implemented standing orders and other rules which can facilitate remote meetings which have now been incorporated into the Constitution in this Appendix 23:

    a. Appendix 22 - Webcasting Protocol
    b. Appendix 8 - Public Participation Rules

26. In the event that West Offices is in lockdown and remote meetings are being delivered in place of physical or hybrid meetings, the following will not occur:

    - Printed copies of an agenda will not be available;
    - Public inspection of any agenda items will be via the council website only.

Which ICT platform will City of York Council use to promote remote meetings that can be live streamed?

27. The ICT platform which the Council will use to facilitate remote attendance and access to its meetings may change during the course of a remote meeting, for example, going from public (Part I) to private (Part II) session. Factors, including securing and sharing data through these platforms will determine the platform used at any time. The platform used will enable the following to take place:

    - Contributions to be received from people using a wide variety of devices, not all of whom are on the Council network;
    - Being accessible to participants and members of the public who are either taking an active role or just observing; and
    - Presentations and documents (maps, plans, etc) to be displayed where required.

28. It should be noted that, wherever possible, local Officer Schemes of Delegation will continue to be fully promoted and utilised (i.e. Planning Area Sub-Committee), although it is recognised that this

may not be possible for some matters, i.e. certain licensing applications.

29. There may still be instances where urgent decisions are required. As such, the Council will continue to operate the Urgent Decision Making Guidance issued in March 2020 until further notice.

30. All meetings must be live streamed or live webcast (unless the meeting has resolved to go into private (Part II) session to deal with confidential or exempt information). They cannot be recorded and then uploaded to the Council's website at a later date.

What does "remote" meeting mean?

31. "Place" of a meeting is defined in Regulation 5(1) as:

> *"Where a meeting is held, to be held, includes reference to more than one place, including electronic, digital or virtual locations such as internet locations, web addresses or conference call telephone numbers".*

32. Members are in remote attendance so long as they comply with all of the following conditions at the specific time (of the scheduled meeting) and are able to:

- Hear, and where practicable see, and be so heard and where practicable be seen by, the other members in attendance;
- Hear, and where practicable see, and be so heard and where practicable be seen by any members of the public entitled to attend the meeting in order to exercise a right to speak at the meeting; and
- Be heard, and where practicable, be seen by any other members of the public attending the meeting.

33. Any reference to a member, or a member of the public is a member of the public attending the meeting and includes that person attending via remote access.

34. A member must therefore be able to fully engage with the meeting. No reference is made to officers who attend to advise Members.

However, they should be able to hear and be heard, and where practicable, seen, along with those other participants.

Remote access - Regulation 5 (6): Voting, Access to Documents, Public Participation

35. The regulations stipulate how remote meetings can be accessed and these require the Council to adopt revised standing orders. This includes provisions for:

- How Members vote at meetings;
- How agendas and documents are accessed by Members, Officers and members of the public; and
- How members of the public and press can remotely participate and attend meetings by electronic means including telephone conference, video conference, live webcasts or live interactive streaming.

36. Regulation 5 applies notwithstanding any prohibition or restriction in the Council's standing orders or other rules (Regulation 5(5)). It means that the Council does not have to draft revisions to its Constitution and have them approved by Full Council before commencing remote meetings. The Council is though empowered to change its standing orders and rules to address remote attendance but the legislation does not require it to do so. There will be a need to draw up some processes, in particular how public participation is facilitated, and to operate in a reasonable rational and fair manner. In the event that any remote meeting procedures conflict with the Council's constitution or standing orders, the provisions contained within this document takes precedence in relation to the governance of remote meetings.

Convening a Meeting

37. The Regulations have put alternative arrangements in place for the convening of a meeting including the flexibility of meetings taking place:

- Meetings can now be held on a date and time of the Council's choice;
- The frequency of meetings can be altered; and
- Meetings can now be held, moved or cancelled without requirement for further notice.

38. This means that the Council are not bound by the previously published meetings calendar and are free to schedule meetings much more flexibly to meet the local decision-making requirements. However, in the interests of fairness, the Council should give as much notice as possible.

39. It should be noted that hearings to determine licensing applications under the Licensing Act 2003 must be postponed or adjourned to a specified date notified to the parties, with stated reasons that are in the public interest. Please see Appendix 1 for further detail.

ANNEX 1 – GENERAL LICENSING AND TAXI LICENSING SUB – COMMITTEES PROCEDURE FOR REMOTE LICENSING HEARINGS

Introduction

1. This procedure sets out how City of York Council deals with remote hearings. This procedure must be considered in conjunction with Appendix 22: Procedure for Conduct of Remote Meetings which sets out how all meetings, including licensing hearings, are held in York.

2. The procedure adopted at a licensing hearing is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.

3. The Council's licensing hearings procedure is based on regulations made under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee has a duty to view all evidence presented before them impartially. The Sub-Committee is not bound by the formal rules of evidence. Nevertheless, Members must carry out their duty placing what weight they feel is appropriate given the nature of the evidence and the manner in which it was obtained, and communicated.

4. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The live stream of the Hearing will be recorded and the recording placed on the Council's website.

Representations at Remote Licensing Hearings

5. The Applicant is permitted to speak at the remote hearing (see below). Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. Any party to a hearing may be assisted or represented by any person, legally or otherwise.

6. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions**.**

7. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.

8. The Sub-Committee may take into account any documentary evidence or other information in support of the application or representations either before the hearing or, with the consent of all other parties, at the hearing. The procedure set out in paragraph 14-18 will be followed.

9. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by Members.

10. The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length.

11. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.

12. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

Procedure prior to the Remote Hearing

13. The Sub-Committee will use a video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee using a secure video-conferencing platform. This video-conferencing platform will also be used for decision making in private.

14. All paperwork relevant to the hearing will be published online on the Council's website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.

15. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.

16. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.

17. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.

18. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

ORDER OF PROCEEDINGS AT THE REMOTE HEARING

Chair's introduction and opening comments

1. The Chair will introduce the Sub-Committee Members and Officers and welcome the Applicant and Representors (or their representatives), and establish the identity of all who will be taking part.

2. The Chair will outline the procedure to be followed.

3. The Chair will proceed with the order of business on the agenda.

Licensing Manager

4. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to outline the application.

5. The Chair will invite all parties (who have registered to speak) and/or their representative to ask questions of the Licensing Officer [maximum 5 minutes each party] in the following order:
    - Applicant
    - Police
    - Other Responsible Authority [each in turn]
    - Ward Councillors [each in turn]
    - Interested Parties [each in turn]
    - Sub-Committee Members [each in turn]

The Application

6. The Chair will invite the Applicant and/or their representative to address the sub-committee, present information in support of their application and call any witnesses to support their application, one witness at a time *[maximum 15 minutes].*

7. The Chair will invite the Representors (who have registered to speak) and/or their representative to ask questions of the Applicant and/or their representative [maximum 5 minutes each party] in the following order:
    - Police
    - Other Responsible Authority [each in turn]
    - Ward Councillors [each in turn]
    - Interested Parties [each in turn]
    - Sub-Committee Members [each in turn]

8. The Applicant and each of their witnesses may be questioned by:

    - Members of the Sub-Committee;
    - The Sub-Committee's legal adviser.

The Representations

9. The Chair will invite the Representors (who have registered to speak) and/or their representative to address the Sub-Committee, present information and call any witnesses in support of their representation *[maximum 15 minutes each party] in the following order:*

    - Police
    - Other Responsible Authorities [each in turn]
    - Ward Councillors [each in turn]
    - Interested Parties [each in turn]

10. After each presentation the Chair will invite questions from the Applicant and Representors (who have registered to speak) [maximum 5 minutes each party] in the following order:
    - Applicant
    - Police
    - Other Responsible Authority [each in turn]

- Ward Councillors [each in turn]
- Interested Parties [each in turn]
- Sub-Committee Members [each in turn]

11. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Cross-examination

12. Cross-examination of another party is not normally permitted. However, the Sub-Committee will consider any application for permission to cross examine another party should any party wish to make such an application.

Summaries

13. The Chair will invite the Applicant and Representors (who have registered to speak), or their representative, to summarise their case *[maximum 5 minutes each party]* in the following order:

    - Police
    - Other Responsible Authorities [each in turn]
    - Ward Councillors [each in turn]
    - Interested Parties [each in turn]
    - Applicant

14. The Chair will provide the Sub-Committee with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.

15. The Sub-Committee's legal adviser may seek points of clarification from the Applicant, Representors or their representative.

Determination

16. The Sub-Committee will withdraw to consider their decision in a separate private on line meeting.

17. The Legal Adviser and Democratic Services Officer will remain present during the decision making process. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.

18. Unless expressly stated by the Sub-Committee in the hearing, the Sub-Committee will not return to the public online meeting to announce their decision. The Sub-Committee will provide an outline of their decision in writing to the Applicant and Representors on the day of the hearing concluding, unless further time is required to deliberate. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.

19. In the event that the Sub-Committee do return to the public online meeting to announce their decision, the Sub-Committee will only announce an outline of their decision. There can be no further questions or statements from any party. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.

ANNEX 2: PROCEDURE FOR REMOTE PLANNING COMMITTEE A AND PLANNING COMMITTEE B MEETINGS

Introduction

1. This procedure sets out how City of York Council deals with remote Planning Committee and Sub-Committee meetings. This procedure is supplemental to, and must be considered in conjunction with, Appendix 22: Procedure for Conduct of Remote Meetings document which sets out how all meetings, including Planning Committee meetings, are held in York. Members must also continue to adhere to the Code of Good Practice for Councillors involved in the Planning Process at Appendix 17 of this Constitution.

2. The live stream of the meeting will be recorded and the recording placed on the Council's website.

Preparation for the Remote Planning Committee Meeting

3. The Planning Committee will use a video-conferencing platform when the meeting is in public session. Clear instructions will be provided to participants on how to join the remote meeting. A link for the general public to watch the meeting will be available on the Council's website.

4. The Committee may exclude the public from any part of a meeting if it considers there are commercially sensitive or 'exempt' matters to be discussed. Should any part of the meeting need to be held in private session, a separate private online meeting will be convened by the Committee using a secure video-conferencing platform.

5. All paperwork relevant to the Planning Committee meeting will be published online on the Council's website, 5 working days before the remote meeting. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote meeting.

Public Participation

6. The applicant, their advisor and members of the public may register their wish to speak on the matters or applications to be considered by members by contacting Democratic Services using the contact details set out in the published agenda for the meeting or, alternatively, by emailing democratic.services@york.gov.uk by no later than 5.00pm two working days before the meeting takes place. Clear instructions will be provided to public speakers who have registered to speak on how to join the remote meeting.

7. Members of the public that have registered to speak are strongly encouraged to email the points they wish to make to the Committee to Democratic Services as set out in paragraph 6, above, prior to the meeting taking place so that in the event of technology difficulties, they can still be taken into consideration at the meeting. These will not be circulated to the members of the Planning Committee unless technical difficulties are experienced during the meeting meaning that public participation of one or more registered public speakers is not possible. This is to ensure all views are taken into consideration within the Planning Committee meeting itself and there is no discussion outside the meeting.

8. It will be at the Chair's discretion as to the limit on the number of speakers at that particular committee. Each speaker will be invited to make their representation and will be allowed a maximum of 3 minutes each to speak and may subsequently be asked questions by Members.

9. After each registered public speaker has finished speaking and Members have no further questions of them, they will be asked to leave the remote meeting platform and will be able to view the remainder of the meeting via the live webcast broadcast online.

ORDER OF PROCEEDINGS AT THE REMOTE PLANNING COMMITTEE MEETING

Chair's introduction and opening comments

10. The Chair will introduce the Committee Members and Officers attending with the Members and welcome any registered public speakers and establish the identity of all who will be taking part.

11. The Chair will outline the procedure to be followed. In all matters of procedure and interpretation of these rules, the Chair's decision will be final.

12. The Chair will proceed with the order of business on the agenda.

Planning Officer

13. When the agenda item relating to the application is reached, the Chair will invite the Planning Officer to outline the application.

14. The Planning Officer and any other relevant officers present may be asked questions by the Planning Committee Members.

Public Participation

15. The Chair will then invite the registered pubic speakers to speak for a maximum of three minutes each.

16. The Chair will invite Members to ask questions of each registered speaker immediately after they have spoken.

Members Debate

17. After all registered public speakers have spoken and there are no further questions from Members, the Chair will invite Members to

debate the application in question. At this point there will be no further public speaking.

18. At any time it may be necessary for officers to address the Committee to answer questions asked or to comment or clarify any points that have been raised during consideration of the application or to advise the Committee.

19. Any dispute or question as to procedure at the Committee, including the operation of the public speaking scheme, will be determined by the Chair, whose decision on all matters will be final.

The Vote

20. Following consideration of the application, the Chair will ask the Committee to vote on the application in question.

21. Members will be asked to enter a named vote so as to aid clarity and transparency with the remote meeting arrangements. To record a vote, the Chair will perform a roll call of all Members present and ask them to state their voting intention (For, Against, Abstain).

22. In the event of any vote being equally divided the Chair will have a second or casting vote.

Close

23. Once all business of the meeting has been considered, the Chair will close the meeting

Appendix 24 - International Travel Protocol

Protocol for Members and Officers in respect of International Travel
Applicable to both Councillors and Officers

1. All international travel journeys shall be undertaken for legitimate council business reasons only and will only be funded in exceptional circumstances.

2. Any travel which is not paid for by City of York Council must be authorised in advance and full details of the funding party must be provided.

    a) All travel arrangements will be confirmed as “economy class” or at the lowest cost to the public purse. Councillors and Officers would be able to upgrade their ticket but do so at their own personal expense.
    b) Councillors and Officers will provide the Council with confirmation that there are no known medical reasons which could prevent them from undertaking international travel, flights etc.
    c) Subject to meeting health and any other requirements which may be deemed necessary in respect of the proposed travel arrangements and destination, the Council will provide appropriate insurance for the Councillor or Officer.

3. Air travel should be minimised in order to accord with the Council’s commitment to carbon reduction.

Actions to be taken prior to approval being granted

4. The Councillor or Officer will be required to (it is acknowledged that some of the details may be confidential):

    a) Clarify the purpose of the travel;
    b) Give details of the aims and objectives to be sought from this travel and how this would benefit City of York Council;

c) Give reasons as to why this travel is essential and how the aims and objectives cannot be sought by other means e.g. virtual meeting
d) Explain what the Councillor or Officer hopes to get out of the proposed trip.

5. Upon returning from an approved trip, the Councillor or Officer will be required to (it is acknowledged that some of the details may be confidential):

a) Provide feedback from the authorised trip;
b) Detail the achieved outcomes and how this will be actioned;
c) Detail how City of York Council will benefit as a result of this authorised trip;
d) Provide details of the payment of any expenses during the trip (i.e. room service, drinks, etc.).

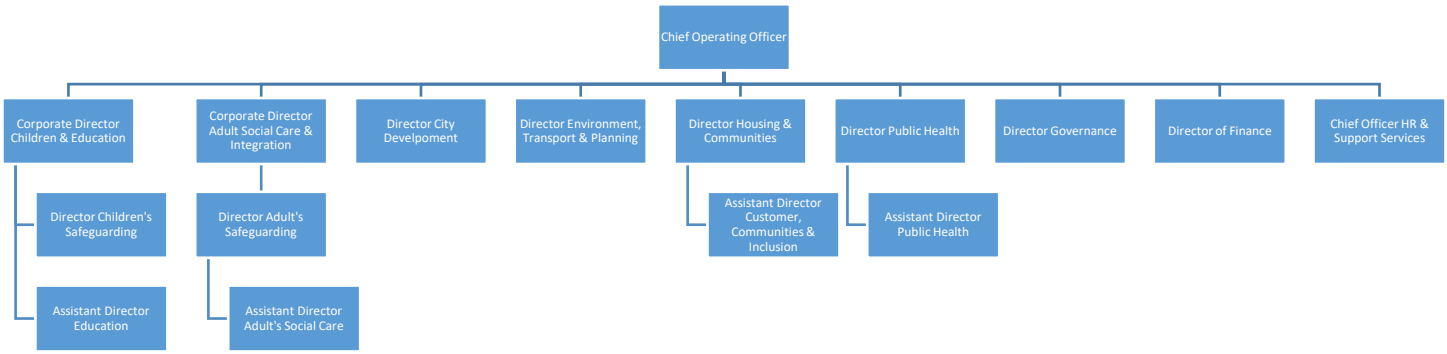
Applicable to Councillors only

6. Authorisation for expenditure for international travel shall be sought from the s151 Officer.

Applicable to Officers only

7. The Council's Corporate Management Team will authorise expenditure for international travel for officers following consultation with the s151 Officer.

Appendix 25 – Senior Management Structure



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Appendix 26 – Information Governance

1 The council is committed to the principles of the UK GDPR/GDPR/Data Protection Act 2018 and other related privacy legislation, e.g. PECR and have detailed policies and systems in place as well as a Data Protection Officer (DPO) to oversee our overall compliance to data protection regulations including the management of access rights requests. Our policies are regularly reviewed and updated, and our staff are periodically trained on data protection and security.

2 The council is committed to the principles of transparency and openness in line with the FOI Act, EIR and Local Government Transparency Code and have detailed policies and systems in place which are regularly reviewed and updated and our staff are periodically trained in these areas.

3 The DPO is part of the councils Corporate Governance Team and reports directly to the Council's Monitoring Officer. The team manage and monitor key areas in complaints, feedback and information governance ensuring compliance with laws and regulations for complaints including those relating to Data Protection, Freedom of Information and (R)IPA matters; Ombudsmen and Regulator complaints. They advise and support on measures to both detect and prevent risks, so reducing the likelihood and severity of sanctions, penalties or loss of reputation.

Contact details for information governance and the DPO:

email: information.governance@york.gov.uk
telephone: 01904 554145
write to: Data Protection Officer
City of York Council
West Offices
Station Rise
York
YO1 6GA

Contact details for complaints, concerns, comments and compliments (the 4Cs) or complaints about adults or children's social care are:

email: haveyoursay@york.gov.uk
telephone: 01904 554145
write to: Corporate Governance Team
City of York Council
West Offices
Station Rise
York
YO1 6GA

You can also complete the online form at Have your say – City of York Council

Appendix 27 - Protocol for Monitoring and Review of the Constitution by the Monitoring Officer

1 A key role for the Monitoring Officer is to be aware of the strengths and weaknesses of the Constitution adopted by Full Council, and to make recommendations for ways in which it could be amended in order to achieve better the purposes set out in Appendix 1.

2 In undertaking this task, the Monitoring Officer may:

a) observe meetings of different parts of the Member and Officer structure;

b) undertake an audit trail of a sample of decisions;

c) record and analyse issues raised with them by Members, Officers, the public and other relevant stakeholders; and

d) compare practices in this authority with those in other comparable authorities, or national examples of best practice;

e) undertake any other activities which are deemed necessary and or appropriate, or undertake steps which may directly respond to queries raised by stakeholders for example Internal Audit, External Audit and other organisations/bodies.

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Appendix 28 - Protocol on the Production and Content of Minutes of Meetings

1 Purpose

1.1 This protocol sets out formally:

a) the principles and procedures for the drafting, clearing and publication of minutes of formal meetings of City of York Council; and
b) guidance on the content of minutes.

2 Meetings to which the Protocol Relates

2.1 In this protocol “meetings” refers to meetings of the following bodies:

a) City of York Council;
b) those bodies to which Members are formally appointed at the Annual Meeting, i.e. the Executive and its committees and non-Executive Committees and their sub-committees; and
c) any bodies of that nature established between Annual Meetings.

2.2 The records of meetings of working groups/parties and panels and task groups, or of joint meetings where City of York Council Democratic Services are responsible for the minutes, whether or not Members are appointed to them, need not follow the arrangements described in this protocol.

3 Production of Minutes

<u>Responsibility</u>

3.1 The production of minutes of meetings will be the responsibility of staff of Democratic Services only (referred to in this Protocol as the committee administrator”).

Timescales

3.2 The normal timescales for the production of minutes will be:

a) draft minutes - within 5 working days of the meeting;
b) publication on the Council's website of the final draft – within 10 working days of the meeting.

Clearance

3.3 To reinforce the role of the committee administrator as an impartial recorder and interpreter of decisions taken at a meeting, the drafts of minutes will only be cleared with:

a) the Monitoring Officer, if they or their representative was present at the meeting; or
b) the Democratic Services Manager, if they or their representative was present at the meeting; or
c) another senior officer present at the meeting if neither (a) nor (b) was present.

3.4 No Member will be consulted on the wording of draft minutes.

3.5 In exceptional circumstances other officers who were present at the meeting may be consulted on a draft minute to clarify complex or technical information reported at the meeting which needs to be included in the minutes.

3.6 To avoid any uncertainty among those present at the meeting, it will be the responsibility of the committee administrator to seek clarification of any decision or amendment before or at the time of it being put to the vote or agreed, where, in the view of the committee administrator, there exists any doubt or confusion about what the committee has decided or has been asked to decide.

4 Status of published draft/approved minutes

4.1 The published minutes of a meeting will be regarded as an unofficial record of the meeting until they are formally approved by the next available meeting of the relevant body, although in the meantime the decisions taken will in normal circumstances have been implemented, subject to any post decision call in relating to Executive decisions.

4.2 Once formally approved by the body, the minutes will be regarded for legal purposes as the only formal record of the meeting. The committee administrator will, at that point destroy any notes he or she took at the meeting on which the minutes were based.

4.3 Where a change to the minutes is made at the meeting at which they are signed, the amended record will be published on the website and the changes written by hand on the paper copy signed by the Chair.

5 Content of a Minute

5.1 The minutes of a meeting will typically comprise the following:

a) where appropriate, a reference number for any previous minute on the subject;
b) a listing of Member and Officer attendees;
c) details of any apologies received from Members;
d) a note of any declaration of interest in the subject made at the meeting;
e) details of any public participants and a brief summary of their submission;
f) an acknowledgement of any written representations received, who from and a brief summary of their submission;
g) details of any resolutions passed at the meeting to exclude the press and public during consideration of any exempt or confidential business, specifying the

relevant exclusion paragraph(s) under the Local Government Act 1972;

h) a preamble, consisting of a brief summary of the subject of the minute;
i) in the case of minutes of the Executive, an outline of the options available in making a decision on the subject, a note of the option chosen and the reasons for choosing it;
j) a record of any discussion on the subject. That record will include:
    - any additional information (either written or oral) presented at the meeting not contained in the report on the subject. This might be a full or summarised record of the information presented;
    - any amendments formally moved or seconded by Members and a note of whether or not they were approved;
    - apart from formal amendments, any general discussion on the subject which has a bearing on or which, in the view of the Monitoring Officer and/or representative of the Monitoring Officer when considering the draft minutes prior to publication will enhance a reader's understanding of the reasons for a decision.

f. if requested under the relevant Procedure Rules, a record of the vote taken on the subject or the names of members who indicate their wish that the minutes record how they voted; and
g. the full resolution on the subject, incorporating any amendments made to a recommendation or motion, and worded in such a way as to be clear, with minimal reference to other written records, the meeting's decision and intentions.
h. Any urgent business which the Chair has agreed to take in accordance with statutory provisions, together with the reasons why.

5.2 The names of individual members will not be recorded as part of the discussion on a subject unless they move or second a formal motion or amendment.

5.3 The names of individual Officers will not be recorded as part of the discussion on a subject. Job titles may be included for Head of Service and above.

5.4 Minutes covered by the Protocol will indicate the time when a Member arrives if it is after the meeting has commenced or the time they leave if it is before the meeting has closed.

5.5 Minutes will indicate the time consideration of an individual item commences.

6 Record of Questions/Statements

6.1 Where Members, who are not members of the body, are allowed to ask questions or make statements at the meeting, the minutes will provide a fair and coherent summary of any question and the response given. The names of individual members will not normally be recorded as part of the discussion. In the case of Council meetings, questions to Executive Members and the responses given will, as far as possible, be recorded in full.

6.2 A record of any questions asked or statements made by the public at a meeting will normally provide a brief outline of the question or statement and short but coherent summary of the response given.

6.3 In exceptional circumstances a question on a matter of particular importance or wide public concern, and the answer given to it, may justify a fuller record but this will be at the discretion of the Head of Democratic Governance in consultation with other relevant officers.

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Appendix 29 – Joint Standards Committee Procedures

CASE HANDLING PROCEDURE

These arrangements are made under section 28(6) of the Localism Act 2011 and set out how City of York Council ("the Authority") will investigate and determine allegations that an elected or co-opted member of the Council, or of a parish or town council within the Authority's area (the "Subject Member"), has failed to comply with the adopted Code of Conduct.

Monitoring Officer

1) All allegations will be received by the Authority's Monitoring Officer ("MO") who may, at any time, nominate a deputy to carry out any of their functions listed in this procedure.

2) Where the MO is the complainant, a relevant witness, or otherwise has a conflict of interest, and where the matter cannot be properly dealt with by a deputy for any reason, the MO will refer the allegation to the Chair and Vice-Chair of the Joint Standards Committee ("JSC") who will together take over the MO's role in the procedure, with the assistance of one of the Deputy Monitoring Officers."

Independent Person

3) The Authority will appoint an Independent Person ("IP") whose views may be sought at any stage of the procedure but ***must*** be sought, recorded, and taken into account, before it makes a decision on an allegation that it has decided to investigate.

4) The appointed IP's views can also be sought at any stage by the Subject Member against whom an allegation has been made.

5) The IP is a consultant only and cannot take a decision themselves.

6) Save in exceptional circumstances, once appointed the IP will remain the IP to be consulted throughout the procedure.

The Allegation

7) All allegations ***must*** be made in writing. A form is available on the Authority's website and in the reception of West Offices for this purpose. Assistance in completing the form can be provided.

8) Within *3 working days* of receipt, the MO will contact the complainant to acknowledge their allegation and to outline this procedure and the timescales involved.

9) Every allegation will be treated on its own merits, but multiple allegations may be consolidated where they relate to the same alleged misconduct.

10) Where an allegation identifies criminal conduct, or a regulatory breach, the MO may refer the matter to North Yorkshire Police (or other relevant Regulatory Authority) for consideration. In such cases the MO may pause this procedure until the outcome of the referral is known, but is not obliged to do so.

11) An anonymous allegation will not generally be accepted unless the MO concludes that there is a compelling public interest in doing so.

12) Where a complainant requests their identity be withheld from the Subject Member, and the MO believes there is a genuine risk of intimidation, serious harm or distress, or an adverse impact on employment, the complainant's identity may be so withheld. The complainant must be informed of the reasons for the decision.

13) A Subject Member has no automatic right to confidentiality but may request that an allegation remain confidential whilst it is investigated. The MO will consider the procedural fairness of such a request, balancing the public interest against the risk of the Subject Member (and/or to persons associated with them) suffering serious harm or distress were the allegation to become known, before deciding whether the investigation ought to remain private.

A – Jurisdiction

14) The MO will apply an initial filter to an allegation to check:
    a. it is against an elected or co-opted member,

b. they were in office at the time of the allegation,
c. it relates to when they were acting, or purporting to act, in their capacity as an elected or co-opted member,
d. that, if proven, the matter could be capable of being a breach of the adopted Code.

B – Initial Assessment

15) Where jurisdiction is established, the MO will notify the Subject Member (and in the case of town or parish councillors also the town or parish clerk) of the allegation and provide a copy of it, together with any supporting evidence.

16) The Subject Member will then be given *10 working days* from date of notification to respond to the MO with any comments they wish to make.

17) At the end of this period (whether or not a response is received from the Subject Member) the MO, in consultation with the IP, will decide whether to:
- take no further action,
- seek to resolve the matter informally,
- refer the matter for deeper investigation,
- refer the matter to a committee hearing.

18) Where the Subject Member is the Leader, opposition Leader, a member of the Executive or a Shadow Executive, and the initial assessment decision is to take no further action, the initial assessment must first be referred to the Chair and Vice-Chair of the JSC who may, if they both agree, substitute an alternative decision.

No Further Action

19) Where it is decided not to take any further action, the matter will be immediately closed. Examples of when this **might** occur include:

a. there is insufficient evidence to demonstrate a Code breach,
b. an alternative remedy ought to be explored first,
c. the allegation describes a trivial breach, is intended to cause annoyance frustration or worry (vexatious), is intended to cause harm (malicious), has little or no substance (frivolous), or is petty tit-for-tat (retaliatory),

d. the allegation is made by one councillor against another in circumstances amounting to robust political debate,
e. the allegation is merely a delay, or failure to respond to a constituent request, not in itself capable of amounting to disrespect,
f. the relevant conduct took place over six months previously without good reason for a delay in making the allegation,
g. the allegation relates to a decision of the Authority (or a town or parish council), rather than conduct of an individual,
h. the allegation is the same or substantially similar to one which has recently been considered, and no new material evidence has been submitted,
i. if proven, the allegation would warrant no sanction, or
j. the Subject Member has stood down or is seriously ill.

20) The complainant and Subject Member will be notified of the decision in writing and the outcome reported to the JSC.

21) There is no internal right of appeal.

Informal Resolution

22) Where a Code breach is relatively minor, a one-off, or a genuine mistake, a proportionate outcome in the public interest might include:
a. suggesting the offer of a written apology,
b. suggesting the withdrawal of the offending remark,
c. suggesting the Subject Member undertake relevant training,
d. convening a meeting (with or without a mediator present), between the complainant and Subject Member, to try to resolve the issue(s),
e. inviting a response from the Subject Member's political group (where they are a member of such a group), or
f. a written warning as to future conduct.

23) The complainant and Subject Member will be notified of the proposed resolution in writing and the decision reported to the JSC.

24) A register of informal resolutions will be maintained by the MO and, where a member becomes the subject of a new allegation, any prior resolutions will be taken into account before a further informal resolution can be considered.

25) If, after a reasonable time, the suggested informal resolution has not taken place, or any party refuses to engage with the proposal, the MO in consultation with the IP will decide whether further action is necessary in the public interest.

26) There is no internal right of appeal.

C – Referral for Investigation

27) Where a deeper investigation is warranted, it must be carried out fairly and reasonably by the MO, an officer appointed by them, or in being contracted to an external agent.

28) The investigation will be limited to matters raised in the written allegation.

29) An investigation report will then be prepared *within 3 months* of referral. This time limit may be extended only where the MO agrees that it is necessary, proportionate and reasonable to do so.

30) Where a Subject Member becomes seriously ill, or ceases to be a member or co-opted member, or some other exceptional circumstance occurs before the investigation is complete, the MO in consultation with the IP **may** decide to halt the investigation and take no further action.

31) The written report must outline the investigator's findings of fact, on the balance of probability, and indicate in its conclusion whether the investigator believes a breach of the Code has occurred.

32) The report will be provided to both the complainant and Subject Member who may, within 5 working days of receipt, comment on it. The investigator will then be given 5 working days to indicate whether these comments affect the report's conclusion.

33) The report, and any comments, will then be considered by the MO in consultation with the IP, before deciding whether to:
- take no further action,
- seek to resolve the matter informally, or
- refer the matter to a committee hearing.

34) There is no internal right of appeal.

D – Referral to a Hearing

Pre-hearing

35) A hearing will be held before the JSC *within 6 weeks* of a referral.

36) The MO will manage the hearing procedure, and advise the JSC throughout the hearing process, but *must not* take part in the decision itself.

37) The MO will write to the complainant, the Subject Member and any investigator not later than *10 working days* before the hearing to confirm the hearing date, its location, and to provide a copy of this procedure.

38) Neither the complainant, Subject Member nor investigator can be compelled to attend the hearing and the hearing need not be an oral hearing.

39) Irrespective of whether the MO decides that an oral hearing is necessary, or a party has indicated that they do not wish to attend, the complainant, Subject Member and investigator *must* all be invited to provide, *no later than 3 working days before the hearing*, written submissions and/or any evidence that they would like the JSC to take into account.

40) The Subject Member will also be invited to confirm whether they accept the findings of any investigation report, to identify any areas of dispute, and (if they intend to attend the hearing) to indicate whether they would like someone to accompany them.

41) Any submissions and/or evidence received will be circulated to all parties before the hearing. Late submissions or evidence will not be considered at the hearing, unless all parties have been invited to comment on the procedural fairness of doing so **and** where the Chair agrees that it may be considered.

42) If a party wishes to call a witness to the hearing, they must advise the MO of this intent no later than *3 working days* before the hearing, explain why the witness is necessary, and provide the witness' name and contact details.

43) Only the parties themselves, and any relevant witnesses whose attendance has been agreed with the MO in advance of the hearing, may address the JSC at the hearing.

44) The hearing must be open to the public, save where either:

a) it is likely that *confidential information* will be disclosed, within the meaning of section 100A(3) Local Government Act 1972

or

b) it is likely that *exempt information* will be disclosed, as defined in schedule 12A to Local Government Act 1972 and the JSC resolves that the public interest in maintaining the exemption outweighs the public interest in disclosure.

45) Where a hearing, or part of a hearing, remains open to the public the Public Participation Protocol will not apply: members of the public may not ask questions of any party or address the JSC at any point.

46) The appointed IP must be present at the hearing, whether or not it is an oral hearing, and their views taken into account before the JSC comes to a decision. The IP may not take part in the decision itself.

47) The hearing may be adjourned at any time but only when it is necessary and in the public interest, for example, to allow production of additional evidence, to secure a party's or witness's attendance, or where there is insufficient time to conclude the hearing on a single day.

At the hearing

48) At the commencement of the hearing, the JSC members will appoint a Chair for that hearing. This need not be the same member as the member appointed annually to Chair the JSC. No member of the JSC may act as Chair unless they have received the relevant training to be able to do so.

49) All JSC decisions are made on the balance of probabilities. The technical rules of evidence applicable to civil and criminal courts

will not apply. Hearsay evidence may be considered, and it will be a matter for the JSC to decide how much weight to attach to it.

50) Order of presentation:

a) the complainant will be invited to present their allegation,
b) the investigator will then present their report,
c) the Subject Member will then be invited to present their response,
d) each party will be given 5 minutes to sum up their position,
e) the IP will then be invited to indicate their views on both breach and, if found, appropriate sanctions.

Where any party is not present, their written submissions and any evidence submitted in support will be read out.

51) Submissions will be limited to 10 minutes unless, and where good reason can be demonstrated, the Chair permits additional time.

52) Questions and witnesses:

a) Once each party or witness has presented their case, they may be asked any relevant questions first by the JSC, then the complainant, the investigator, the IP and finally the Subject Member.

b) Any witness ***must*** remain outside the room until called to address the JSC, but may then choose to remain or to leave the hearing once they have done so

Decisions

53) The JSC will decide:
- the facts, on balance of probability, upon which it will base its decision,
- whether these facts amount to a breach of the Code of Conduct, and
- what sanction (if any) would be appropriate.

54) The JSC will then announce its decision and give reasons, and each party invited to comment, before the hearing ends.

55) A Decision Notice will be published *within 5 working days of the hearing* and a copy, with reasons, provided to the complainant and the Subject Member and, in the case of a town or parish councillor, to the town or parish clerk.

56) The MO will maintain a register of decisions. Following a finding of a second or subsequent Code of Conduct breach, the JSC may take into account any previous decision against a Subject Member before considering what, if any, sanction it considers appropriate.

57) There is no internal right of appeal.

Formal Sanctions

58) In order to promote and maintain the highest of standards of members and co-opted members at the Authority, the JSC may consider one or more of the following sanctions:

- Report its findings to full council and/or the relevant town or parish council
- Recommend to full council that it restrict the Subject Member's access to specific facilities and resources, including any premises, or to restrict contact with named individuals, for a specified period
- Issue, or issue through a town or parish clerk, a formal reprimand
- If the Subject Member is also a member of a political group, to recommend to that group's leader that the Subject Member be removed from any or all committees and sub-committees
- If the Subject Member is the leader of a political group, to recommend to that group's secretary or other official that they be removed from that role
- Recommend to the Leader that the Subject Member be removed from positions of authority or, if the Subject Member is the Leader, to recommend to full council that they be removed from that post

- Instruct the MO to offer the Subject Member specific training, or assist the town or parish council to offer such training

- Recommend to full council that the Subject Member be removed from all outside appointments and nominations

Appendix 30: Major Projects Conflicts Protocol

1. Introduction

1.1. The Council is the Local Planning Authority for the City of York. It determines applications for planning permission and approves relevant planning policies in respect of development.

1.2. The Council is the Highway Authority for the City of York and makes decisions in respect of highway matters including the construction and adoption of roads servicing development.

1.3. Officers will have different roles in respect of development as professional advisers to promoters, policy makers and decision makers.

1.4. Members will have different roles in respect of development as promoters, advisers, policy makers and decision makers.

1.5. Where the Council has a material interest in a key, major development project within the City, for example as a landowner, potential investor or development partner, a clear distinction of the roles undertaken by the separate arms of the Council should be documented to ensure transparency of the governance arrangements – in particular in relation to Local Planning Authority and Highway Authority decision making.

2. Why have a protocol?

2.1. The Council would wish to avoid any perception that developments in which it has an interest are treated differently from those of any other developer.

2.2. The Council would also wish to ensure that Officers charged with providing professional and technical advice in respect of its regulatory functions understand that they are free to do so in line with their professional obligations and without feeling constrained by the Council's commercial interests.

2.3. The Council would wish to ensure that Members have a clear understanding as to the remit and forum within which they can take part in decision making

2.4. A clear protocol identifying the distinction between the Executive Members' role in actively promoting development and the independent role of Planning Committee Members when dealing with applications before them will assist Members' understanding and ensure that the processes robustly manage conflicts of interest, demonstrating fairness.

3. Key Controls

Planning applications

3.1. The Council's Constitution, at Appendix 1, sets out the Responsibility for Functions. This is framed so that direct delegation is given to the Chief Planning Officer from Full Council. The Head of Planning and Development Services is the designated Chief Planning Officer for the Council.

3.2. All planning applications made by or on behalf of the Council will, in accordance with normal practice, as detailed at Article 13 and Appendix 1 of this Constitution, be determined by the Planning Committees and not delegated to Officers unless of a minor nature.

3.3. For the avoidance of doubt, planning applications in relation to a major project promoted by the Council as a development partner will likewise be determined by Planning Committee A and not delegated to Officers, even when not submitted in the Council's name.

Role of Members

3.4. Where the Leader and the Deputy Leader are jointly responsible for promoting a major project they will not sit on the Planning Committee when it is determining an application related to that major project.

3.5. Where an Executive Member may have input or play a lead role into the master planning of a major project, for example, Culture Leisure and Communities, they will not sit on the Planning Committee when it is determining an application in respect of that major project.

3.6. Other members of the Executive may sit on the Planning Committee when it is determining an application relating to a major project but should consider their participation in decision making on the scheme at meetings of the Executive. This is in line with the Council's Planning Code of Good Practice Appendix 17 in this Constitution.

3.7. Major planning applications can be the subject of Pre Committee Presentations to the Planning Committee. Members promoting the development at such meetings are likely to have difficulty in demonstrating objectivity at Planning Committee, and should not take part in the Planning Committee determining the application.

Officers

3.8. Where the Corporate Director of Place is responsible for promoting a major project in which the Council is the developer or a development partner a conflict may arise between the planning/highway functions of the Corporate Director of Place and their economic development and/or the estate management and property functions. Where such a conflict arises the Corporate Director of Place will not provide advice or take statutory decisions for the Council in respect of its functions as a planning and/or highway authority relating to that major project, including in relation to planning applications, or planning applications made by a development partner.

3.9. Any decision that a conflict exists between the planning/highway functions and the economic development and/or the estate management and property functions of the Corporate Director of Place will be made jointly by the Corporate Director of Place and the Chief Operating Officer and will be recorded in writing.

3.10. The Director of Governance shall determine any dispute regarding whether or not a conflict exists between the planning/ highway functions and the economic development and/or the estate management and property functions of the Corporate Director of Place.

3.11. The Director of Transport, Environment & Planning has overall responsibility for the advice given to the Council in its role as local planning and highways authority. The advice will not be subject to any undue influence or veto from any other part of the Council. The Director's role in respect of ensuring the provision of advice the Council as a developer will be restricted to the giving of such advice as would be available to any other developer. Any concerns regarding undue influence can be raised with the Chief Operating Officer or the Director of Governance.

3.12. The Corporate Director of Place and the Director of Transport, Environment & Planning, or the Chief Operating Officer (as appropriate) will be responsible for ensuring that "ethical walls" are maintained to prevent information being shared inappropriately between those responsible for progressing the major project and those undertaking regulatory roles. Other parts of the Council, for example legal services, providing support to the scheme and to the regulatory arm will operate similar protocols.

3.13. Any conflicts of interest identified will be managed with the aim of removing them. If that is not possible the conflict shall be raised with the Director of Governance whose approval to the conflict and any mitigating measures will be required and will be recorded on the relevant file.