

# Constitution Contents 2021

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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 26.
- 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 he/she knows 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 Data Protection Act 1998, 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](mailto: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.



## **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 24 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.



## **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 its 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 Standing Orders for Council meetings;
- 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 will be elected by the Council at its Annual Meeting. 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.



## **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 Overview and 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. resigns 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. resigns 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 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.





## **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 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.

### **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 Policy & Scrutiny Committees**

- 7.1 Policy & Scrutiny Committees will follow the Policy & Scrutiny procedures rules set out in Appendix 5 of this Constitution when considering any matter.
- 7.2 Policy & Scrutiny Committees have no Executive decision-making powers in relation to the functions within their scope, nor does any Policy & Scrutiny Working Group or Forum.
- 7.3 Scrutiny working Groups and Forums will follow those parts of the Overview and 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 he or she has a prejudicial interest (as defined by the Members' Code of Conduct and/or the Officers' Code of Conduct). Where an individual Executive Member has delegated power to make a decision but has a prejudicial 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 – 4 Members
- All Scrutiny Committees – 4 Members
- Audit & Governance Committee – 4 Members

- Joint Standards Committee – 4 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 and its Sub-Committee – at least 4 Members
- Any other Committee of the Council will not transact any business unless at least 4 Members are present unless any rules within this Constitution stipulate otherwise

## **14 Substitutes**

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

- (a) For the 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. 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) Substitutes under paragraph (a) will have a specified priority of order. A Member who is not available to attend must firstly approach the first named substitute and only if that Member is not available (or has already agreed to substitute for another Member) will the second named substitute be approached. Only if the second named substitute is not available to attend (or has already agreed to substitute for another Member) will the third named substitute be approached.

i) 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 14.1 (c) (i) will not apply to Licensing Committee or any Sub-Committee thereof.

(d) Substitutes under paragraph (b) will have a specified priority of order and will be approached in the same manner as that specified in (c) above.

(e) The Council may appoint a Member of the Executive as the Deputy Executive Leader who will act for the Executive Leader in his or her 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 – POLICY, OVERVIEW AND SCRUTINY**

### **1 Role and Function of Policy, Overview and 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 Policy, Overview and Scrutiny bodies to discharge the functions conferred by section 21 of the Local Government Act 2000:

- Customer & Corporate Services Scrutiny Management Committee (will act as the Council’s statutory scrutiny committee)

1.3 Standing Policy, Overview & Scrutiny Committees:

- Economy & Place Policy and Scrutiny Committee
- Children, Education & Communities Policy & Scrutiny Committee
- Health & Adult Social Care Policy & Scrutiny Committee
- Housing & Community Safety Policy & Scrutiny Committee
- Climate Emergency Committee

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

1.5 The common functions and individual terms of reference for each of the Policy, Overview and 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 he or she has 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 Overview, Policy and 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 Customer and Corporate Services Scrutiny Management 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 Scrutiny Committee (CCSMC) 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 he or she 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 Customer & Corporate Services Scrutiny Management Committee**

- 10.1 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 Overview & Scrutiny Committee;
  - b) Allocating, in consultation with the Chair/Vice-Chair, urgent issues to be considered by an appropriate committee (including and-hoc scrutiny committee), as may be necessary;
  - c) Reviewing progress against the work plans of the Overview & 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 Overview & Scrutiny Committees, as required.
- 10.3 To provide an annual report to Full Council on the work of the overview & 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 Is responsible for monitoring performance of the following areas:
- a) Legal Services
  - b) Information Governance and Complaints

- 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

## **11 Policy and Scrutiny Committees**

- 11.1 The Council will establish Standing Policy and Scrutiny Committees whose overarching functions are:
- 11.2 To exercise the powers of an Overview and 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 Customer & Corporate Services Scrutiny Management 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, Customer & Corporate Services Scrutiny Management 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 Customer & Corporate Services Scrutiny Management 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 Economy & Place Policy and Scrutiny Committee:

- a) Highways
- b) Transport & Parking
- c) Planning & Development
- d) Regeneration & Asset / Property Management
- e) Economic Growth
- f) Emergency Planning
- g) Flood Risk
- h) Public Realm
- i) Waste
- j) Fleet
- k) Public Protection (Trading Standards, Environmental Health, Food Safety Licensing)
- l) Client Management: Make it York, GLL
- m) Client Management: YorWaste

12.3 This committee is responsible for examining long term policy development, strategic objectives and horizon scanning for best and emerging practice across the Economy & Place Directorate and for examining performance, operational outcomes and customer expectation and major project progress across the above service areas.

12.4 Children, Education & Communities Policy & Scrutiny Committee:

- a) School effectiveness and achievement, including school attendance and school safeguarding
- b) Children's Social Care
- c) School services, which include:
  - o School place planning and capital maintenance
  - o School transport
  - o Admissions
  - o The School governance service and SENDIASS
  - o Behaviour and attendance
  - o Elective home education
  - o Children missing education

- d) Local Area Teams
- e) Skills
- f) Early Years and childcare
- g) The Virtual School for children in care
- h) SEN and disability services
- i) Educational Psychology
- j) Neighbourhood Working
- k) Community Centres
- l) Voluntary Sector
- m) Culture
- n) Museums
- o) Libraries & Archives
- p) York Learning
- q) Children's Social Care

12.5 This committee is responsible for monitoring the performance of the above service areas through regular performance monitoring reports.

12.6 Health & Adult Social Care Policy & Scrutiny Committee:

- a) Public Health
- b) Services for carers
- c) Adult Safeguarding
- d) Adult Social Care Provision
- e) Adult Social Care Community Teams
- f) Commissioning, Quality Improvement and Partnerships
- g) Early Intervention and Prevention

12.7 This committee is responsible for monitoring the performance of the above service areas through regular performance monitoring reports.

12.8 In addition to the general powers and delegated authorities of Scrutiny Committees of this Council as set out above, the Health & Adult Social Care 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 overview and 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 overview and 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

12.9 Housing and Community Safety Policy & Scrutiny Committee:

- a) Housing Revenue Account
- b) Housing general
- c) Commissioning and contracts
- d) Older People's Accommodation Programme
- e) Landlord services
- f) Homelessness and Housing options, standards and adaptations
- g) Community Safety
- h) Early intervention, prevention and community development
- i) People & Neighbourhoods Strategy & Policy

- j) Anti-social behaviour
- k) Building Services
- l) Repairs and maintenance
- m) Housing Development

12.10 This committee is responsible for monitoring the performance of the above service areas through regular performance monitoring reports.

12.11 Climate Emergency Committee:

- a) Producing a ten-year Climate Emergency Action Plan and a Sustainable Energy Action Plan that engage and involve all departments within the Council and the wider city;
- b) Reviewing the Council's practices, policies, and procedures to develop an understanding of emission impacts on the city;
- c) Seeking advice from experts to recommend 5-year carbon budgets, across all the Council's activities;
- d) Establishing a carbon emissions baseline for the city that can be maintained to quantify the challenges that York faces and to provide annual reports on citywide progress towards the 2030 target;
- e) Developing mitigation strategies to enable communities to become more resilient in the face of climate change;
- f) Learning from best practice in other cities;
- g) Reviewing best practice across major UK institutions and local authorities on moving away from holding investments in fossil fuel companies that have not aligned their businesses with the Paris Climate Accord by 2023;
- h) Identifying external funding streams, locally, nationally and EU-wide, that may help us deliver a carbon neutral York;
- i) Considering how the committee's recommendations would reduce carbon emissions, to be developed in

the context of environmental responsibility, economic prosperity, social equity and cultural vitality;

- j) Endeavouring to ensure that the ten-year Climate Emergency Action Plan obtains cross-party support and commitment to guarantee its delivery;
- k) Work in collaboration with the York Climate Change Commission.

## **13 Task Groups**

- 13.1 These will be formed from within the membership of an individual Scrutiny Committee to undertake a specific scrutiny review in accordance with the powers conferred by section 21 of the Local Government Act 2000.



## **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 or the Sheriff.
- 1.4 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) Monitoring the Council's expenditure against Budget;
- i) Considering the Council's Treasury Management activities;
- j) To consider the action plan arising from the Annual Letter of the External Auditor;
- k) 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 or 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 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 main political groups);
- b) Three voting Members representing Parish Councils;
- c) No more than three non-voting Independent Persons.

3.2 A person who is disqualified from being a Member of a relevant authority shall be disqualified from membership 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.





## **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.

### **2. Role**

- 2.1 The Staffing Matters & Urgency Committee of Council may undertake all non-executive functions relating to staffing matters excluding disciplinary related matters involving Chief Officers (statutory and non-statutory) and all non-executive functions in case of emergency.

### **3. Functions**

- 3.1 Power to appoint Chief Officers 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 or conduct the recruitment and selection process in respect of the following 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) Corporate Directors
  - e) Directors
  - f) Assistant Directors
- 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 Staffing Conditions, the Staffing Matters and Urgency Committee will have the following decision making functions:
- In respect of Chief Officers 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
    - b) To approve restructures at Chief Officer level of the Council
    - c) All pay related issues relating to Chief Officers
  - 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. Constitutional Appointments**

- 5.1 On behalf of Full Council to approve in year changes to the Membership of Committees. These changes will be reported to Full Council at the earliest opportunity.

#### **6. Urgency**

- 6.1 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.
- 6.2 In relation to any urgent matter, which involves the exercise of Executive functions, the Committee shall act in an advisory capacity to the Executive 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].
- 6.3 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.



## 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 represent 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 which 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. All decisions regarding the day-to-day operation of each company are the responsibility of the Directors of each 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.
- 1.4 There are two classifications of companies, which the Shareholder Committee regularly deals with:
  - 1.4.1 “*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.

1.4.2 “*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.

## 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)	Twice per annum, as a minimum.	Yes	Yes (once per annum)

requirements set out within any shareholder agreement or contracts for goods/services/ works with the company)			
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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 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 the 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:

	<b>Function</b>	<b>Teckal Companies</b>	<b>Non-Teckal Companies</b>
a)	acting as the owner or joint owner of the Council's companies;	✓	✓
b)	approving or making amendments to strategic or 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 company Directors including the Chair which require Shareholder consent under the articles and/or shareholder	✓	✓  In so far as it requires a resolution of the Council and any other

	<b>Function</b>	<b>Teckal Companies</b>	<b>Non-Teckal Companies</b>
	agreement of the company;		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;	✓	✓
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:  <ul style="list-style-type: none"> <li>• any instruction to the Directors to allot shares;</li> </ul>

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	Function	Teckal Companies	Non-Teckal Companies
			<ul style="list-style-type: none"><li>• any increase in the authorised share capital of the company;</li><li>• any reduction in the authorised share capital of the company;</li><li>• any sub-division, consolidation, or re-denomination shares;</li><li>• variation of class rights attached to shares;</li><li>• any purchase of shares by the company itself;</li><li>• any alteration to the company's articles of association relating to pre-emption rights, or relating to the shares of the company; or</li><li>• any disapplication of pre-emption rights,</li></ul>

	Function	Teckal Companies	Non-Teckal Companies
			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 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: <ul style="list-style-type: none"> <li>• by one of the Directors, or</li> <li>• by persons connected with one of the Directors, or</li> </ul>

	Function	Teckal Companies	Non-Teckal Companies
			<ul style="list-style-type: none"> <li>• by the company to purchase its own shares,</li> </ul> <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>
m)	<p>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 Subsidy Control Regime and necessary grant or loan terms and conditions, and the usual risk assessments;</p>	✓	✓
n)	<p>entering, amending or terminating any agreements which create a potential liability</p>	✓	<p>In so far as the financial assistance being sought is:</p> <ul style="list-style-type: none"> <li>• by one of the Directors, or</li> <li>• by persons connected with one of the Directors, or</li> <li>• by the company to purchase its own shares,</li> </ul> <p>and therefore requires a resolution of the Council and any other shareholders of the company.</p>

	<b>Function</b>	<b>Teckal Companies</b>	<b>Non-Teckal Companies</b>
	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: <ul style="list-style-type: none"> <li>• amendments to the company's Articles of Association or Shareholders Agreement;</li> <li>• re-registering the company from private to public (or vice versa) or limited to unlimited (or vice versa).</li> </ul>
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.

	<b>Function</b>	<b>Teckal Companies</b>	<b>Non-Teckal Companies</b>
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 to the Staffing Matters and Urgency Committee:

- a) approving the appointment or dismissal of company directors including the Chair where the Council is making the appointment or dismissal;
- b) 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 where the Council is making the appointment;
- c) 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; and
- d) 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.



- 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 which 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 AND PLANNING AREA SUB COMMITTEE**

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

- a. Planning Committee
- b. Planning Area Sub Committee.

### **1 Composition**

- 1.1 The membership of each Committee will be established in accordance with the rules of proportionality.
- 1.2 The Chairs and Vice Chairs of both Committees shall be appointed by Full Council.
- 1.3 Executive Members can sit on both of these Committees.

### **2 Role of 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 the Planning Area Sub-Committee or to Officers.

### **3 Functions of the Planning Committee**

- 3.1 To approve or refuse, other than applications and other related consents that constitute repeat or variations involving minor modifications or non-material amendments applications for planning permission and other related consents under the appropriate legislation in accordance with the following criteria :
  - a. Outline planning applications for:
    - i. residential development on sites over 1.0 hectare in area, and;

- ii. non-residential development on sites over 1.5 hectares in area.
    - iii. 40 dwellings or more.
  - b. Full detailed, or reserved matters applications for:
    - i. residential development (including conversions/changes of use) of 40 dwellings or more, and;
    - ii. non-residential development, including extensions and changes of use, of over 3,000 square metres gross floor space.
  - c. Any application or proposal which in the opinion of the Director Environment, Transport and Planning raises significant strategic or policy issues for the city.
  - d. Changes of Use of land of 5.0 hectares or more.
  - e. Any application that the Corporate Director Place or the Director Environment, Transport and Planning considers should be presented to the Planning Committee for decision.
- 3.2 To determine any non-residential or domestic application for which there is a policy presumption against development in the Green Belt if a Ward Councillor for the site of the application requests that it should be the subject of consideration by the Planning Committee. The request to bring an application to the Planning Committee must be made in writing to the Corporate Director Place or the Director Environment, Transport and Planning within the consultation or reconsultation period and include the planning reason(s) for the request.
- 3.3 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 Corporate Director Place or the Director Environment, Transport and Planning it is a minor modification.

#### **4 Role of Planning Area Sub-Committee**

- 4.1 The purpose of the Planning Area Sub-Committee is to consider and determine applications for planning permission and other related consents, arising under the Town and Country Planning 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 the Planning Committee or to Officers.

#### **5 Functions of Planning Area Sub-Committee**

- 5.1 To approve, with or without conditions, or refuse, applications for planning permission and other related consents other than applications and other related consents that constitute repeat or variations involving minor modifications or non-material amendments under the appropriate legislation in accordance with the following criteria:
- a. Outline planning applications for:
    - i. residential development on sites between 0.5ha and 1ha in area;
    - ii. non-residential development on sites between 1ha and 1.5ha in area;
  - b. Full detailed or reserved matters applications for:
    - i. residential development (including conversions/changes of use) between 10 to 39 dwellings;
    - ii. non-residential development (including extensions and changes of use) of between 1,000 and 3,000 square metres gross floor space.
  - c. Changes of Use for 1.0 hectares and less than 5.0 hectares of land.
  - d. Any application which would otherwise be delegated to Officers which the Ward Councillor for the site of

the application requests should be the subject of consideration by the Planning Area Sub-Committee. The request to bring an application to the Planning Area Sub-Committee must be made in writing to the Corporate Director Place or the Director Environment, Transport and Planning within the consultation period and include the planning reason(s) for the request.

- e. Any application which would otherwise be “delegated” to Officers for determination for which the applicant is:-
  - i. a serving Councillor of the City Council or the spouse/partner of a Councillor;
  - ii any Chief Officer or senior manager, or the spouse/partner of such an employee;
  - iii Any staff member within the Development and Regeneration Planning and Environment department/s, or the spouse/partner of such an Officer, or Officer who has been actively involved planning negotiations or the spouse/partner of such an Officer.
- f. Applications submitted by or on behalf of the Council for its own developments except for the approval of “Minor” or “Other” category developments to which no objection has been received.
- g. Any application that the Corporate Director Place or the Director Environment, Transport and Planning considers should be presented to the Planning Area Sub-Committee for decision.

- 5.2 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 Area Sub-Committee to determine unless in the opinion of the Corporate Director Place or the Director Environment, Transport and Planning it constitutes a minor modification.



## **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;
- 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 15 A - 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 Corporate Appeals Committee functions. Nominated substitutes are permitted if a Member of the Committee is not able to attend. Appeal Committee Members and substitutes are appointed by Full Council.

### **2 Role and Functions**

- 2.1 The Corporate 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.
- 2.2 Appendix 12, Officer Employment Procedure Rules, contains the procedures for recruitment, disciplinary and dismissal of Chief Officers.

### **3 Nature of Corporate Appeals Committee**

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

- a) No Member of the Committee should have a vested interest 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 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.

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

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 Member.
- 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.

### 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 interest 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 - HOUSING APPEALS COMMITTEE**

### **1 Composition**

- 1.1 The Council will establish a Housing Appeals Committee.
- 1.2 The Appeals Committee, to which the Housing Appeals Committee forms part of, will comprise of 9 Members.
- 1.3 The Chair of the Committee shall be appointed at the commencement of the Meeting.
- 1.4 The Committee may convene a Panel of 3 Members drawn from its Membership to exercise its Housing Appeals Committee functions. Nominated substitutes are permitted if a Member of the Committee is not able to attend. Appeal Committee Members and substitutes are appointed by Full Council.

### **2 Role and Functions**

- 2.1 The Housing Appeals Committee will determine appeals in relation to the following matters:
  - a) To determine appeals against decisions by Officers in respect of:
    - o 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 Housing Appeals Committee**

- 3.1 Appeals are heard as a measure of good administration, they are not statutory. The Housing Appeals Committee observes the rules of natural justice and to that end:
  - a) No Member of the Committee should have a vested interest 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 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.

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





## **ARTICLE 17 - EDUCATION APPEALS COMMITTEE**

### **1 Composition**

- 1.1 The Council will establish an Education Appeals Committee.
- 1.2 The Appeals Committee, to which the Education Appeals Committee forms part of, will comprise of 9 Members.
- 1.3 The Chair of the Committee shall be appointed at the commencement of the Meeting.
- 1.4 The Committee may convene a Panel of 3 Members drawn from its Membership to exercise its Education Appeals Committee functions. Nominated substitutes are permitted if a Member of the Committee is not able to attend. Appeal Committee Members and substitutes are appointed by Full Council.

### **2 Role and Functions**

- 2.1 The Education 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.

### **3 Nature of Education Appeals Committee**

- 3.1 Appeals are heard as a measure of good administration, they are not statutory. The Education Appeals Committee observes the rules of natural justice and to that end:
  - a) No Member of the Committee should have a vested interest 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 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.

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



## **ARTICLE 18 - YORK HEALTH AND WELLBEING BOARD**

### **1 York Health and Wellbeing Board Terms of Reference**

- 1.1 The York Health and Wellbeing Board has a key strategic role in 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.

### **2 Name**

- 2.1 The Board will be known as the York Health and Wellbeing Board ('the Board').

### **3 Membership**

- 3.1 Board Members will be required to represent their organisation with sufficient seniority and influence for decision making. The Membership of the Board will consist of:
- a) The Leader of City of York Council ("the Council) or their nominee. The Leader's nominee is the Elected Member Portfolio Holder for Adult Social Care (Chair)
  - b) Elected Member Portfolio Holder for Education, Children and Young People)
  - c) Elected Member – Opposition Representative
  - d) Elected Member – Opposition Representative
  - e) The Chair of NHS Vale of York Clinical Commissioning Group (Vice-Chair)
  - f) The Accountable Officer of NHS Vale of York Clinical Commissioning Group
  - g) A clinical representative of NHS Vale of York Clinical Commissioning Group
  - h) The Director of Healthwatch York
  - i) The Director of Public Health
  - j) The Corporate Director of People of City of York Council
  - k) The Chief Executive of York CVS
  - l) The Chief Executive of York Teaching Hospital NHS Foundation Trust

- m) The Chief Executive of Tees, Esk and Wear Valleys NHS Foundation Trust
- n) The Chair of the Independent Care Group
- o) A representative of NHS England
- p) The Deputy Chief Constable of North Yorkshire Police
- q) Other Members appointed by the Board or the Leader of the Council after consultation with the Board.

## **4 Legal Status**

- 4.1 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.

## **5 Disqualification from Membership**

- 5.1 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 his or her appointment been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and has had passed on him a sentence of imprisonment (whether suspended or not) for a period of not less than three months without the option of a fine.

## **6 Quorum**

- 6.1 The quorum shall be 7 Members including as a minimum a representative of the City of York Council and a representative of NHS Vale of York Clinical Commissioning Group.

## **7 Chair and Vice Chair**

- 7.1 The Chair of the Board shall be the Leader of the Council or his or her nominated representative. The Vice-Chair of the Board shall be the Chair of NHS Vale of York Clinical Commissioning Group

7.2 The Chair of the Health and Wellbeing Board will be required to hold a named delegate list for board representatives including deputies.

## **8 Frequency of Meetings**

8.1 The Board shall schedule meetings at least four times a year.

## **9 Delegation of Powers**

9.1 The Board may establish sub-committees to discharge any function of the Board or to advise the Board in respect of its functions.

9.2 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**

10.1 In order to advance the health and wellbeing of the patients and residents in York, encourage persons who arrange for the provision of any health or social care services to work in an integrated manner.

10.2 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.

10.3 To approve and make recommendations to the Executive and the Clinical Commissioning Group in respect of use of Better Care funding based upon jointly agreed plans.

10.4 To exercise the functions of a local authority and its partner clinical commissioning groups under sections 116 and 116A of the Local Government and Public Involvement in Health Act 2007

relating to joint strategic needs assessments, and the joint health and wellbeing strategy.

- 10.5 To exercise the statutory functions of a Health and Wellbeing Board in relation to the carrying out and publication of pharmaceutical needs assessments.
- 10.6 To exercise any other functions of the Council which the Council has determined should be exercised by the Board on its behalf in accordance with section 196(2) of the Health and Social Care Act 2012 including:
- a) Overseeing the development of local commissioning plans and, where necessary, initiating discussions with the NHS Commissioning Board (NHS England) if an agreed concern exists
  - b) Leading cultural and behavioural change to support a joint approach to meeting local need
  - c) Holding all partners to account for their role in the delivery of joint commissioning and overall stewardship of the health and wellbeing outcomes for patients and residents
  - d) Working 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 patients and residents.
- 10.7 Where it considers it appropriate to do so, or when so requested by the Council, to give the Council its opinion on whether the Council is discharging its duty under section 116B of the 2007 Act to have regard to the joint strategic needs assessment and joint health and wellbeing strategy.
- 10.8 To periodically review the York Health and Wellbeing Board constitution.
- 10.9 Board Members will be bound by the same rules as Councillors.



## ARTICLE 19 - STANDING ADVISORY COUNCIL FOR RELIGIOUS EDUCATION

This is currently being considered by SACRE. Full Council is not able to adopt this in the absence of SACRE's confirmation.

### 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
- 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

**Commented [SM1]:** I agree that it makes sense to move from 3 to 2

**Commented [BJ2]:** Need to specify how many members are in this group

**Commented [OS3R2]:** There are currently 3 places  
Olivia Seymour  
Katharine harper  
1 vacancy

If it is helpful we could explore having 2 places rather than 3 as it is a single vote anyway

**Commented [SM4]:** We could ask for a representative from YSAB and I think it would be helpful to have an ITT rep

**Commented [BJ5]:** Need to specify how many members are in this Group

**Commented [OS6R5]:** I think it would be helpful to have something such as 'up to 5' this would enable a good cross section of primary/secondary/maintained and academy representation.

NASACRE handbook says The members of this group are usually representatives of professional teacher associations. It is usual for there to be representation also from the head teacher associations. It is the local authority that decides which associations will be invited to be represented. They will usually approach the teacher unions, but local associations of RE teachers may also be asked to provide a representative. Sometimes someone from a local teacher training establishment is also invited to be a member of this group, or someone representing the interests of local Academies or Free schools. Group

**Commented [SM7]:** I wonder if we did add in a school governor as the focus is on religious education – we have a governor on schools forum

**Commented [SM8R7]:**

**Commented [BJ9]:** Should this remain at 4?

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 s/he was appointed to represent or (as the case may be) of the Authority.

b) S/he is absent for a period of three consecutive meetings without reasonable grounds.

2.3 Any member of the SACRE may at any time resign his/her 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

**Commented [BJ10]:** Should substitutes be allowed to attend

**Commented [OS11R10]:** It is rare for a SACRE constitution to include this. I have not come across it before in any SACRE I have sat on or worked with and there is a mixed message in some NASACRE documentation. I think it is challenging to allow substitutions particularly as it is hard to ensure any substitutes understand the legal framework they would be operating under and could cause challenges in voting situations.

**Commented [SM12]:** I agree let's not go with substitutes makes it difficult to achieve consistent attendance

**Commented [BJ13]:** I am going to presume that we do not support substitute members for any of the Committees

**Commented [BJ14]:** New addition to add clarity of length of appointment

**Commented [SM15]:** Do we want to have a process for inviting expressions of interest from prospective members of SACRE?

**Commented [BJ16]:** Do co-opted Members have voting rights? See below under Voting..

**Commented [OS17R16]:** It is not common for co-opted members to have voting rights and depending on the context of co-option could cause some issues given each committee only has one vote. This could mean 1 co-opted member has 1 vote and 8 full committee A members still only have 1 vote because of the legal framework for voting

The NASACRE handbook says Co-opted SACREs may co-opt other members who have a particular expertise or represent a small local faith or belief community. Many bring in a Humanist representative, currently technically prevented by law from becoming full members of Group A. Co-opted members do not have voting rights

- 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.

**Commented [C1C18]:** Not sure that this is how we are working? And it probably directly conflicts with 5.2

**Commented [BJ19R18]:** Yes this will need amending if we agree the terms of reference section -

**Commented [BJ20]:** Content with this?

**Commented [OS21R20]:** I think there needs to be a mechanism for re-election. This can be helpful if there are members not engaging or contributing but causes a number of challenges if for example a Committee A member has to step down after 3 years but there isn't another member of that faith that can support. We have some members that have contributed to SACRE for a long time that you wouldn't want to lose. In the case of Committee B the DBE always includes the RE adviser as member of its SACREs to endure the link with RE advice and support for VC schools in SIAMS. Membership has always been an issue and I think this could exacerbate it

**Commented [BJ22R20]:** Thanks Olivia – are your comments just limited to the 3 year term for the chair and vice chair? For example if a Ctee D CYC Councillor was to be the Chair then this could be for a maximum period of 4 years as he/she may lose the seat at the next election.

I am happy to write details under the Terms of Office Section that all Members of the Committee of SACRE shall sit for a 4 year term (unless they leave for the reasons as stated) and will be subject to re-election by agreement of the Committee at its next meeting etc? would that help?

**Commented [OS23R20]:** I think that works well, thanks Janie

**Commented [BJ24R20]:** Noted – see new additional wording in term of office section

- 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:
  - o any matters in respect of which SACRE has given advice to the authority,
  - o broadly describe the nature of the advice given, and
  - o 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

[NEED TO STATE HERE WHICH MEETING WILL BE THE ANNUAL MEETING – IS IT THE FIRST ONE OF THE YEAR]

## 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

**Commented [OS25]:** If this is linked to the annual report cycle and electing chair it is usually the autumn term meeting in most SACREs

**Commented [SM26]:** We've usually presented the annual report in November/December to link with school data

- 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
- 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

Commented [BJ27]: or no more than 3 in a year

Commented [OS28R27]: At the moment there are 4. This is to allow the approval of the annual report in a single item agenda in Dec/Jan

Commented [BJ29R27]: I referenced three as I understand that the decision was taken in York in Autumn 2018 for the meetings to be limited to 3 but am happy for this to be 4



- 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 LA.

### 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.

**Commented [OS30]:** In other SACRES in the region the agenda is usually clerk, chair, vice chair and officers to SACRE. That has been the practice in York recently too

**Commented [BJ31]:** Content with this?

**Commented [OS32R31]:** I think this is helpful in case any legal advice/professional RE advice is needed

**Commented [CIC33R31]:** Is there a provision for 'urgent' as opposed to 'any other' business. I'd be content with these coming up to the day before the meeting.

- 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.

DRAFT

## **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, Salvationist, Sikh, Society of Friends (single representative for each)
- b) Group B: Three 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.<sup>5</sup>

Members of Groups A and B, each of whom represents a faith community within the locality: <sup>6</sup>

Commented [BJ34]: This needs updating in line with the revised constitution

Commented [OS35]: It would be helpful if this section mirrored the wording in the NASACRE handbook which is updated. It is not very different but there are some changes  
[https://nasacre.org.uk/file/nasacre/SACRE\\_members\\_handbook-1.pdf](https://nasacre.org.uk/file/nasacre/SACRE_members_handbook-1.pdf)

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<sup>5</sup> NASACRE Members Handbook  
<sup>6</sup> NASACRE Members Handbook

- 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, 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:<sup>7</sup>

- 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: <sup>8</sup>

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<sup>7</sup> NASACRE Handbook

<sup>8</sup> NASACRE Handbook

- 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;
- 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?**

There are no requirements to meet for a certain number of times 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.

**Commented [BJ36]:** Ensure this is consistent with the revised constitution

**Commented [BJ37]:** The constitution indicates will meet 3 times each year

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 York's Effectiveness and Achievement Team, **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 through 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

**Commented [SM38]:** From September I'll be picking this up - I covered it before Mike J took it on

**Commented [BJ39]:** Check who this is from Education Service

**Commented [OS40R39]:** If there is not a professional RE adviser the LA adviser would need to fulfil or look at who fulfils those aspects  
<https://nasacre.org.uk/file/nasacre/SACRE%20officers-1.pdf>



(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

**Commented [SM41]:** I think this would be for the SACRE handbook/guidance document rather than here

**Commented [BJ42]:** Is this correct?

**Commented [OS43R42]:** It's not in any of the official NASACRE documentation. Although some of these are good ideas I wonder if it needs to be in here?

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

#### IS THIS STILL UP TO DATE / FIT FOR PURPOSE?

Commented [OS44]: This could be updated using the NASACRE guidance <https://nasacre.org.uk/file/nasacre/Code%20of%20conduct.pdf>

#### General principles<sup>9</sup>

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.

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<sup>9</sup> 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<sup>10</sup>

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;

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<sup>10</sup> NASACRE Code of Conduct

- 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
- 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

**Commented [SM45]:** I think that these sections should come out and we go with the general principles in this document

**Commented [BJ46]:** Is this still relevant and to be included or just happy with the general principles?

**Commented [OS47R46]:** I think this is a helpful reminder to members about their role and responsibilities. It is also helpful as part of inducting new members

**Commented [BJ48]:** Is this still relevant or content with general principles?

- 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;

**Commented [OS49]:** This could be updated using the NASACRE role descriptions documents  
<https://nasacre.org.uk/file/nasacre/SACRE%20chair.pdf>  
<https://nasacre.org.uk/file/nasacre/SACRE%20officers-1.pdf>

- 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 Lord Mayor or Portfolio Holder and Executive 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;

Commented [BJ50]: need to insert relevant Cttee here

- 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 Professional and other SACRE Officers, produce reports to the Lord Mayor or Portfolio Holder and Executive 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 3 agenda planning / setting meetings per year;

Commented [BJ51]: add correct cttee here

Commented [BJ52]: proposed to be 4



- 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.



## **ARTICLE 20 - YORK'S COMMITMENT TO CORPORATE PARENTING**

### **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 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
- 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 Co-Chaired by a representative of Show Me I Matter and I Still Matter and an Elected Member.
- 5.2 The Co-Chairs will be nominated at the first meeting of each year.
- 5.3 The Membership of the Board will consist of:
  - a) Up to 3 representatives from Show Me I Matter and Still Matter
  - b) A maximum of 4 Elected Members drawn from:

- The Executive Member for Education, Children and Young People's Services.
- The Elected Members on the Show Me That I Matter Panel (children in care council).

5.4 The Board will also have the power to co-opt non-voting Members to advise which will include the following:

- a) Corporate Director of People/Director of Children's Services
- b) Assistant Director of Children's Services
- c) Group Manager – Achieved Permanence
- d) Assistant Director - Education/Virtual School Head
- e) Representative from Health
- f) Care experienced young people as recommended by Show Me That I Matter and I Still Matter
- g) Up to two Foster Carers
- h) Other significant agencies/services involved in corporate parenting as and when required ie Police
- i) Representative of DWP
- j) Housing Representative
- k) 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.

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 co-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.





## **ARTICLE 21 - 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 22 – 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 the 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.

## **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 Council.



## **ARTICLE 23 – OFFICERS**

### **1 General**

1.1 The Council may engage 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. Officers, 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 Veritau – Chief Executive (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 his/her 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 Officers 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 24 – 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 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 25 - 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.



## **ARTICLE 26 - 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 (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 him/her 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.