

## AGENDA SUPPLEMENT

### Corporate Services, Climate Change and Scrutiny Management Committee

**To:** Councillors Fenton (Chair), Merrett (Vice-Chair), Ayre, Baxter, J Burton, Healey, Kelly, D Myers, Rowley, Steels-Walshaw, K Taylor, Waller and Widdowson

**Date:** Monday, 11 December 2023

**Time:** 5.30 pm

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

The Agenda for the above meeting was published on **1 December 2023**.

The attached additional documents, York and North Yorkshire Draft Public Constitution, (which **replaces** the exempt supplementary document published on 7 December 2023), referred to in agenda item 7, is now available for the following agenda item:

- 7. Mayoral Combined Authority Governance** (Pages 1 - 232)  
This report provides the Committee with an update on the progress of creating the Mayoral Combined Authority and governance issues.

This agenda supplement was published on **8 December 2023**

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**Y&NY**  
**CONSTITUTION**  
**[January 2024]**

# Y&NYCA Constitution 2024 – Contents

Page No.

## **PART 1 – INTRODUCTION AND ARTICLES**

1. Introduction
2. Functions of the Y&NYCA
3. Members of the Y&NYCA
4. Chairing the Y&NYCA
5. Meetings and Procedure
6. Responsibility for Functions
7. Committees of the Y&NYCA
8. Joint Arrangements
9. Officers
10. Decision Making
11. Finance, Contracts & Legal Matters
12. Review and Revision of the Constitution

## **PART 2 – FUNCTIONS OF THE Y&NYCA**

- A. Introduction
- B. Transport
- C. Economic Development, Regeneration and Housing.
- D. Education, Skills, Training and Culture
- E. Fire and Rescue
- F. Police and Crime Commissioner (PCC) Functions
- G. Incidental Provisions Pursuant to the Y&NYCA Orders
- H. Functions Conferred on a CA by Local Government Legislation
- I. Miscellaneous Roles of the Y&NYCA

## **PART 3 – RESPONSIBILITY FOR FUNCTIONS**

- A. Functions Reserved to the Y&NYCA
- B. Y&NYCA Functions Reserved to the Mayor
- C. Committees
- D. Joint Committees
- E. Deputy Mayor for Policing and Crime (Fire and Rescue Functions)
- F. Scheme of Delegation of Functions to Chief Officers and Schedule of Proper Officers

## **PART 4 – COMMITTEES**

- A. Audit and Governance Committee
- B. Business Committee
- C. [Transport and Place Committee – to be determined]
- D. Overview and Scrutiny Committee

- E. [To be added: Joint Independent Audit Committee for Policing]
- F. [To be added: Independent Audit Committee for Fire and Rescue]

**PART 5 – RULES OF PROCEDURE**

Section A. Y&NYCA Procedure Rules

- 1. Interpretation, Suspension and Chair's Ruling
- 2. Suspension and Revocation of Y&NYCA Procedure Rules
- 3. Membership of the Y&NYCA
- 4. Chair and Vice-Chairs <sup>[OBJ]</sup>
- 5. Portfolios <sup>[OBJ]</sup>
- 6. Assistant Portfolio Holders
- 7. Meetings
- 8. Admission of the Public
- 9. Notice of Meetings
- 10. Cancelling Meetings
- 11. Meeting Agendas
- 12. Chair of Meeting
- 13. Quorum
- 14. Order of Business
- 15. Committees
- 16. Rules of Debate <sup>[OBJ]</sup>
- 17. Voting
- 18. Conduct of Members
- 19. Disturbance by Members of the Public
- 20. Notification and Declarations of Interest
- 21. Records

Section B. Access to Information Procedure Rules

- 1. Scope
- 2. Definitions
- 3. Rights to Attend Meetings
- 4. Notices of Meetings
- 5. Access to Agenda and Reports Before the Meeting
- 6. Supply of Copies
- 7. Access to Minutes after the Meeting
- 8. Background Papers
- 9. Summary of Public's Rights
- 10. Exclusion of Access by the Public to Meetings
- 11. Exclusion of Access by the Public to Reports
- 12. Business Containing Exempt Information
- 13. Public Rights of Appeal
- 14. Key Decisions
- 15. Publicity and Procedure in Connection with Key Decisions
- 16. General Exception
- 17. Special Urgency
- 18. Reports to the Y&NYCA
- 19. Recording of Mayoral Decisions Made by Individuals
- 20. Recording of Non-Mayoral Decisions Made by Officers
- 21. Overview and Scrutiny Access to Documents
- 22. Additional Rights of Access for Members

23. Rights of Members 'Need to Know'

Section C. Overview and Scrutiny Committee Procedure Rules

1. Establishment
2. Membership
3. Committee Chair
4. Sub-Committees
5. Meeting Frequency
6. Quorum
7. Voting
8. Overview and Scrutiny Committee Work Programme
9. Procedure at Overview and Scrutiny Committee Meetings
10. Reports and Recommendations of Overview and Scrutiny Committee
11. Rights of Overview and Scrutiny Members to Documents
12. Members and Officers Giving Account
13. Attendance by Others
14. Call-in of Decisions
15. Call-in Procedure
16. Urgent Decisions: Call-in
17. Scrutiny Officer

**PART 6 – FINANCIAL PROCEDURES**

Section A. Y&NYCA Financial Regulations

1. General
2. Staffing
3. Accounting Arrangements
4. Banking Arrangements and Cheques
5. Budgetary Control
6. Capital and Revenue Budgets
7. Control of Expenditure
8. Virements
9. Maintenance of Balances/Reserves/Provisions
10. Borrowing and Investments
11. Contracts
12. Estates and Property
13. Assets for Disposal
14. Income
15. Insurance
16. Risk Management
17. Internal Audit
18. Requisitions and Purchase Orders for Work, Goods & Services
19. Payment of Accounts
20. Petty Cash
21. Taxation
22. Internal Control
23. Purchase Cards
24. Bids for External Funding

Section B. Y&NYCA Contract Procurement Rules and Grant Rules

A Brief Guide to Contract Procurement Rules and Grant Rules

Scope of Contract Procurement Rules

Common Requirements

Conducting Purchases

Contract and Other Formalities

Contract Management

Definitions

**PART 7 – CODES AND GUIDANCE**

Section A. Code of Conduct for Members

Part 1 – General Provisions

1. Introduction and Scope
2. General Principles
3. General Obligations for Members

Part 2 – Disclosable Pecuniary Interests

4. Notification of Disclosable Pecuniary Interests
5. Non-Participation in Case of Disclosable Pecuniary Interest
6. Offences <sup>(OBJ)</sup>

Part 3 – Other Interests

7. Notification of Personal Interests
8. Non-Participation in Case of Prejudicial Interest
9. Interests Arising in Relation to Overview and Scrutiny Committee

Part 4 – General Matters Relating to Parts 2 & 3

10. Register of Interests
11. Sensitive Interests
12. Dispensations

Section B. Gifts and Hospitality Guidance for Members

1. General Introduction
2. Legal Position
3. Gifts and Hospitality
4. Hospitality
5. Unacceptable Hospitality
6. Notifications
7. The Register
8. Gifts Which Cannot be Retained
9. Advice and Sanctions

Section C. Officer Code of Conduct

1. Introduction
2. Scope
3. General Principles
4. Equality
5. Service Provision
6. Political Neutrality and Working with Members
7. Dealing with the Press and Media

8. Disclosure of Information and Information Security
9. Propriety in Financial/Procurement Matters
10. Declarations of Interest
11. Propriety in Employment Matters
12. Indemnification of Employees
13. Breach of Code of Conduct

Section D. Member/Officer Relations Guidance

1. Introduction and Principles
2. General Points
3. Officer Support to Members: General Points
4. Officer Advice to Party Groups
5. Attendance at Party Political Group Meetings
6. Members' Access to Information and to Authority Documents
7. Correspondence
8. Publicity and Press Releases
9. Officer/Member Guidance Review and Interpretation

Section E. Code of Corporate Governance

1. Introduction
2. What is Good Governance
3. Behaving with Integrity, Demonstrating Strong Commitment to Ethical Values, and Respecting the Rule of Law
4. Ensuring Openness and Comprehensive Stakeholder Engagement
5. Defining Outcomes in Terms of Sustainable Economic, Social, and Environmental Benefits <sup>[OBJ]</sup>
6. Determining the Interventions Necessary to Optimise the Achievement of the Intended Outcomes
7. Developing the Entity's Capacity, Including the Capability of its Leadership and the Individuals Within It <sup>[OBJ]</sup>
8. Managing Risks and Performance Through Robust Internal Control and Strong Public Financial Management
9. Implementing Good Practices in Transparency, Reporting, and Audit to Deliver Effective Accountability

Section F. Anti-Fraud and Corruption Policy

1. Introduction

Section G. Complaints and Whistleblowing

1. Introduction
2. Whistleblowing
3. Complaints

Section H. International Visits Protocol <sup>[OBJ]</sup>

1. Introduction
2. Determining an appropriate visit
3. Seeking authorisation
4. Travel and subsistence
5. Following the visit



**PART 8 – MEMBERS ALLOWANCES** <sup>[OBJ]</sup>

- A. Members Allowance Scheme
- B. Allowance Payable to Mayor <sup>[OBJ]</sup>
- C. Allowances Payable to the Independent Members and Independent Person
- D. Scheme of Travel and Subsistence Allowance as Authorised Pursuant to the Order

**PART 9 – POLICE & CRIME COMMISSIONER FUNCTIONS – GOVERNANCE DOCUMENTS**

[To be added and reviewed by the OPFCC]

**PART 10 – Management Structure**

[To Follow]

**PART 1**

**INTRODUCTION AND ARTICLES**

## 1. Introduction

In this Constitution:

- 1.1 'the 2009 Act' means the Local Democracy, Economic Development and Construction Act 2009;
- 1.2 'the Combined Area' means the area consisting of the areas of the Constituent Councils;
- 1.3 'the Constituent Councils' means City of York Council and North Yorkshire Council;
- 1.4 'the Deputy Mayor' means the member of the Y&NYCA appointed by the Mayor to be the Mayor's deputy pursuant to section 107C (1) of the 2009 Act and Article 3.5 of Part 1 of this Constitution;
- 1.5 'the Deputy Mayor for Policing and Crime' means the person appointed by the Mayor in respect of PCC functions, pursuant to Section 18 of the Police Reform and Social Responsibility Act 2011, as modified by the York and North Yorkshire Combined Authority Order 2023;
- 1.6 'the Y&NYCA' means the York and North Yorkshire Combined Authority;
- 1.7 'the Y&NYCA Orders' means: -
  - (a) the York and North Yorkshire Combined Authority Order 2023 as amended<sup>1</sup> ('the 2023 Order');
  - (b) Such other orders made by the Secretary of State in relation to Y&NYCA pursuant to the 2009 Act;
- 1.8 'The Mayor' means the person elected as mayor by the local government electors for the Combined Area;
- 1.9 'Mayoral functions' means any function of the Y&NYCA which is exercisable only by the Mayor (or the Mayor's delegatee) by virtue of the Y&NYCA Order or any other enactment (whenever passed or made).
- 1.10 'Mayoral general function' means a mayoral function which is not a PCC function.

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<sup>1</sup> S.I. No. [2023/XXXX]

- 1.11 'PCC function' means a function of a Police and Crime Commissioner which is exercisable by the Mayor pursuant to and subject to any modifications in the 2023 Order.
- 1.12 the Scrutiny Order' means the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.
- 1.13 The Constitution sets out how the York and North Yorkshire Combined Authority (hereafter referred to as 'Y&NYCA') operates, how decisions are made and the procedures that are followed to ensure that Y&NYCA operates efficiently, effectively and is both transparent and accountable.
- 1.14 The Constitution is made up of eleven Parts.

## **2. Functions of the Y&NYCA**

- 2.1 The Y&NYCA was established pursuant to the Order on [ ] 2023 as the combined authority for the Combined Area.
- 2.2 The Y&NYCA is responsible for a range of functions across the Combined Area, including: -
- transport
  - economic development, regeneration and housing
  - strategic spatial planning
  - education, skills and training
  - police and crime
  - fire and rescue
- 2.3 The functions of the Y&NYCA are those functions conferred or imposed on it by the Y&NYCA Order or any other enactment (whenever passed or made) or as may be delegated to it by or under the Y&NYCA Order or any other enactment (whenever passed or made).
- 2.4 The Y&NYCA will exercise all its powers and duties in accordance with the law and this Constitution.
- 2.5 This Constitution is the Constitution of the Y&NYCA.
- 2.6 The Y&NYCA will monitor and evaluate the operation of the Constitution as set out at Article 12 below.

### **3. Members of the Y&NYCA**

- 3.1 Each of the Constituent Councils appoint two of its elected members to be a Member of the Y&NYCA.
- 3.2 Each of the Constituent Councils must designate one of the members appointed at Article 3.1 above as the lead member.
- 3.3 In addition, each Constituent Council will appoint two named elected members for each member appointed at Article 3.1 above, one of whom is to act as a Member of the Y&NYCA in the absence of the member appointed under Article 3.1 ('the Substitute Members').
- 3.4 The Mayor will also appoint 8 Non-Elected Members to the Business Committee in accordance with the Business Committee Terms of Reference.
- 3.5 There shall be a Mayor for the area of the Y&NYCA elected by the local government electors of the area, and the Mayor by virtue of that office is a member of the Y&NYCA.
- 3.6 The Mayor must appoint one of the members of the Y&NYCA to be the Deputy Mayor.
- 3.7 Except to the extent that various functions are to be exercised only by the Mayor (or may be exercised by the Mayor's delegatee) all Members will:
  - (a) collectively be the ultimate policy makers of the Y&NYCA
  - (b) bring views of their communities into the Y&NYCA's decision-making process; and
  - (c) maintain the highest standards of conduct and ethics.
- 3.8 Members will at all times observe the Code of Conduct for Members set out in Part 7 of this Constitution.
- 3.9 Members will be entitled to receive travel and subsistence allowances, and the Mayor will be entitled to receive the mayoral allowance in accordance with the Member's Allowances Scheme set out in Part 8 of this Constitution.
- 3.10 The independent members of the Audit and Governance Committee, and the Non-Elected Members of the Business Committee will be entitled to receive allowances, including allowances for travel and subsistence, in accordance with the Member's Allowances Scheme set out in Part 8 of this Constitution.

- 3.11 Each Member will be allocated a portfolio of responsibilities by the Mayor at the Annual Meeting of the Y&NYCA, and the various portfolios will be published on the Y&NYCA's website.

#### **4. Chairing the Y&NYCA**

- 4.1 The Mayor shall be Chair of the Y&NYCA.
- 4.2 The Y&NYCA may appoint at least two and no more than three of its Members as Vice-Chair(s).
- 4.3 The procedure for the appointment of the Vice-Chair(s) is set out in the Y&NYCA Procedure Rules in Part 5 of this Constitution.

#### **5. Meetings and Procedure**

- 5.1 The Y&NYCA usually meets every month, but additional meetings may take place within the monthly period should the need arise.
- 5.2 There are three types of Y&NYCA meeting:
- (a) the annual meeting;
  - (b) ordinary meetings; and
  - (c) extraordinary meetings;

and they will be conducted in accordance with the Y&NYCA Rules of Procedure set out in Part 5 of this Constitution.

#### **6. Responsibility for functions**

- 6.1 Only the Y&NYCA will exercise the functions set out in Part 3 Section A of this Constitution.
- 6.2 Only the Mayor will exercise the functions set out in Part 3, Section B I and those PCC functions reserved to the Mayor in Part 9 of this Constitution.
- 6.3 The Y&NYCA may delegate the discharge of the Y&NYCA's functions which are not reserved to the Y&NYCA to committees, sub-committees, officers, joint committees or other local authorities, pursuant to section 101 of the Local Government Act 1972.
- 6.4 The Mayor may delegate the discharge of mayoral general functions (which are not reserved under Article 6.2) to the Deputy Mayor or any member or officer of the Y&NYCA or, in the case of fire and rescue functions to the Deputy Mayor for Policing and Crime or a Fire Committee (such arrangements may not have effect concurrently), provided that:-

- (a) the Mayor's political adviser (as appointed under article [5] of the 2023 Order) is not to be treated as an officer for the purpose of this Article, and
  - (b) the Mayor may only delegate to the Deputy Mayor for Policing and Crime the discharge of PCC functions and fire and rescue functions (and not the discharge of general functions other than fire and rescue)
- 6.5 The Y&NYCA has delegated the discharge of the Y&NYCA functions to committees and officers in accordance with the scheme of delegation contained in Part 3, sections C, D, E and F of this Constitution.
- 6.6 The Mayor has delegated the discharge of mayoral general functions in accordance with the scheme of delegation contained in Part 3, of this Constitution.
- 6.7 The Mayor has delegated the discharge of PCC functions in accordance with Part 9 of this Constitution.
- 6.8 The Y&NYCA and the Mayor will review their scheme of delegation annually.

## **7. Committees of the Y&NYCA**

- 7.1 The Y&NYCA must establish an Audit and Governance Committee to discharge the roles and functions set out in Schedule 5A of the 2009 Act and Section A of Part 4, of this Constitution and to assist the Y&NYCA in its duty to promote and maintain high standards of conduct by Members of the Y&NYCA pursuant to section 27 of the Localism Act 2011.
- 7.2 The Y&NYCA must appoint an Overview and Scrutiny Committee to discharge the roles and functions set out in Schedule 5A of the 2009 Act, the Scrutiny Order and Section D of Part 4 of this Constitution.
- 7.3 The Y&NYCA will establish a Business Committee to discharge the functions set out in Section B of Part 4, of this Constitution.
- 7.4 The Y&NYCA will establish a Transport and Place Committee to discharge the functions set out in Section C of Part 4, of this Constitution
- 7.5 The Y&NYCA may establish such other committees as it thinks fit to discharge its functions.

- 7.6 Committees established under Articles 8.1 to 8.5 may include as voting members any elected member of a Constituent Council even if such members are not members of Y&NYCA.

## **8. Joint Arrangements**

- 8.1 The Y&NYCA has power pursuant to Section 101(5) of the Local Government Act 1972 to make arrangements with other local authorities to discharge their functions jointly.
- 8.2 Such arrangements may involve the discharge of those functions by a joint committee of such authorities or by an officer of one of them.
- 8.3 The Mayor may enter into arrangements jointly with the Y&NYCA and with the Constituent Councils in accordance with Section 101(5) of the Local Government Act 1972 for the discharge of the (transport related) functions listed in Schedule [ ] to the 2023 Order.
- 8.4 Where a joint transport committee is established in accordance with Article 8.3 the members of the joint committee must be appointed in accordance with the following requirements:
- (a) The members appointed by the Y&NYCA must be members or substitute members of the Y&NYCA or members of the Constituent Councils.
  - (b) The members appointed by the Constituent Councils must be members of those councils.
  - (c) The members appointed by the Mayor must be members of the Y&NYCA or of the Constituent Councils.
  - (d) In appointing members to the joint transport committee—
    - (i) the Mayor, the Y&NYCA and the Constituent Councils must ensure that: the number of members of the committee does not exceed twenty-three and members are appointed to act as substitute members of the joint transport committee in the absence of members of the committee; and
    - (ii) the Y&NYCA and the Constituent Councils must ensure that the members of the committee appointed from among the members of the Y&NYCA and the Constituent Councils, and any substitute committee members acting in place of those members, taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the Constituent Councils.



- (e) Questions relating to the apportionment of membership under Article 8.4 (d)(ii) require a unanimous vote in favour by all members, or substitute members acting in place of those members, of the Y&NYCA to be carried.

8.5 Where a joint transport committee is established in accordance with Article 8.3:

- (a) the Mayor must in each year appoint the chair of the joint transport committee from among the members of that committee; and
- (b) if a vacancy arises in the office of the chair, the Mayor must make an appointment to fill the vacancy at the next ordinary meeting of the joint transport committee, or, if that meeting is to be held within the period of 14 days beginning with the day on which the vacancy arose, at the meeting following that meeting.

## **9. Officers**

### **9.1 Statutory Officers**

The Y&NYCA must appoint a Head of Paid Service, a [Post to be determined] and a Monitoring Officer, whose responsibilities and delegations are as set out in Part 3 of this Constitution.

### **9.2 Chief Officers**

Chief Officers for the purposes of Part 3 (Scheme of Delegation of Functions to Chief Officers) of this Constitution means the Head of Paid Service, the [Post to be determined], the Monitoring Officer and the Chief Fire Officer.

### **9.3 Secretary**

The Y&NYCA will appoint a Secretary whose responsibilities and delegations are as set out in Part 3 of this Constitution.

### **9.4 Scrutiny Officer**

The Y&NYCA must designate one of its officers as the Scrutiny Officer, whose responsibilities and functions are set out in Section D of Part 5 of this constitution. They may not be an officer of a Constituent Council.

### **9.5 Data Protection Officer**

The Y&NYCA must appoint a Data Protection Officer in accordance with the UK General Data Protection Regulation.

#### **9.6 Head of Internal Audit**

The Y&NYCA must appoint a Head of Internal Audit in order to comply with its internal audit obligations contained in the Accounts and Audit Regulations 2015.

#### **9.7 General**

The Y&NYCA may engage such staff (referred to as officers), as it considers necessary to carry out its functions.

9.8 Officers will comply with the Code of Conduct for Officers set out in Part 7 of this Constitution.

### **10. DECISION MAKING**

#### **10.1 Responsibility for decision making**

The Y&NYCA and the Mayor will issue and keep up to date a record of what part of the Y&NYCA or which individual has responsibility for particular types of decisions or decisions relating to particular functions. This record is set out in Part 3 of this Constitution.

#### **10.2 Principles of decision making**

All decisions of the Y&NYCA should be made in accordance with the following principles:

- (a) Proportionality (meaning the action must be proportionate to the results to be achieved);
- (b) Due consultation (including the taking of relevant professional advice);
- (c) Respect for human rights;
- (d) Presumption in favour of openness;
- (e) Clarity of aims and desired outcomes;
- (f) Due consideration to be given to alternative options;

#### **10.3 Types of decision**

##### **(a) Decisions reserved to the Y&NYCA**

Decisions relating to the functions listed in Part 3, section A of this Constitution will be made by the Y&NYCA and not delegated. The Y&NYCA meeting will follow the Y&NYCA Rules of Procedure set out in Part 5 of this Constitution when considering any matter.

**(b) Decisions reserved to the Mayor**

Decisions relating to the Mayor's general functions listed in Part 3, Section B I of this Constitution and decisions relating to the Mayor's PCC functions specified as being reserved to the Mayor in Part 9 of this Constitution will be made by the Mayor and not delegated.

**(c) Decision making by Committees and Joint Committees established by the Y&NYCA**

Committees and Joint Committees established by the Y&NYCA will follow those parts of the Y&NYCA Rules of Procedure set out in Part 5 of this Constitution as apply to them.

**(d) Decision making by Officers**

Officers will exercise their delegated authority in accordance with the Scheme of Delegation to Officers set out in Part 3 of this Constitution and other provisions of this Constitution.

## **11. FINANCE, CONTRACTS AND LEGAL MATTERS**

### **11.1 Financial management**

The management of the Y&NYCA's financial affairs in relation to non-PCC functions will be conducted in accordance with the Financial Procedures set out in Part 6 of this Constitution and in relation to PCC functions in accordance with the Financial Procedures in Part 9 of this Constitution.

### **11.2 Legal proceedings**

- (a) The Monitoring Officer 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 Y&NYCA or in any case where the Monitoring Officer considers that such action is necessary to protect the Y&NYCA's interests.
  
- (b) Any notices to be served on the Y&NYCA are to be sent to the Monitoring Officer at County Hall, Northallerton, North Yorkshire DL7 8AD, which for the purposes of section 231 of the Local Government Act 1972 and any other enactment shall be regarded as the principal office of the Y&NYCA.

### **11.3 Authentication of documents**

- (a) Where any document is necessary to any legal procedure or proceedings on behalf of the Y&NYCA, it will be signed by the Monitoring Officer or some other person duly authorised by the Y&NYCA or the Monitoring Officer, unless any enactment otherwise authorises or requires.
- (b) Any contract with a value exceeding £50,000 entered into by the Y&NYCA shall be made in writing. Such contracts must be signed by a duly authorised officer of the Y&NYCA or made under the Common Seal of the Y&NYCA attested by an authorised officer. Any contract which in the opinion of the Monitoring Officer should be sealed must be made under the Common Seal of the Y&NYCA attested by an authorised officer.

#### **11.4 Common Seal of the Y&NYCA**

The Common Seal of the Y&NYCA will be kept in a safe place in the custody of the Monitoring Officer. A decision of the Y&NYCA, or 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 Monitoring Officer should be sealed. The affixing of the Common Seal will be attested by the Monitoring Officer, or some other person authorised by the Monitoring Officer.

## **12. REVIEW AND REVISION OF THE CONSTITUTION**

- 12.1 The Monitoring Officer will monitor and review the operation of the Constitution.
- 12.2 Changes to the Constitution will only be approved by the full Y&NYCA after consideration of the proposal by the Monitoring Officer and in accordance with the Y&NYCA Rules of Procedure in Part 5 of this Constitution, provided that such delegations made by the Mayor as are included in Part 3, 4 and 9 of this Constitution appear for information only and may be revised by the Mayor following consultation with, and having given written notice to, the Monitoring Officer.

## PART 2

### FUNCTIONS OF THE Y&NYCA

#### A INTRODUCTION

1. The functions of the Y&NYCA are those functions conferred or imposed on it by the Y&NYCA Order or by any other enactment or as may be delegated to it by or under the Y&NYCA Order or any other enactment.
2. All functions are functions of the Y&NYCA, but some functions are only exercisable by the Mayor. Part 3 of this Constitution sets out the responsibility for functions.
3. The functions of the Y&NYCA derive from a wide range of sources, in particular: -
  - Functions transferred to the Y&NYCA by the Y&NYCA Order from the former York and North Yorkshire Local Enterprise Partnership which body was then abolished;
  - Transport functions statutorily delegated (and effectively transferred) to the Y&NYCA from the Constituent Councils;
  - Functions of the Constituent Councils which pursuant to the Y&NYCA Order are exercisable by the Y&NYCA concurrently with the Constituent Councils;
  - Functions of other public authorities (including the Secretary of State) which are exercisable in the Y&NYCA area which pursuant to the Y&NYCA Order are exercisable by the Y&NYCA concurrently with the public authority;
  - Functions corresponding to those functions exercisable by other public authorities outside the Y&NYCA area (e.g. in London) which pursuant to the Y&NYCA Order are exercisable by the Y&NYCA in relation to the Y&NYCA area;
  - Consequential and incidental provisions in the Y&NYCA Order conferring functions on the Y&NYCA;
  - Functions conferred on combined authorities by general local authority legislation;
  - Functions voluntarily delegated to the Y&NYCA by the Constituent Councils.
4. All functions conferred on the Y&NYCA by any enactment are functions of the Y&NYCA, notwithstanding that an enactment may provide that certain functions may be exercised only by the Mayor (or the Mayor's delegatee).

5. The Y&NYCA's responsibilities which can be grouped under the following broad headings:

- Transport
- Economic Development, Housing and Regeneration
- Strategic spatial planning
- Education Skills and Training
- Police and Crime Commissioner Functions
- Fire and Rescue

## **B TRANSPORT**

### **1. Transport Functions of the Constituent Councils transferred to the Y&NYCA**

1.1 In consequence: -

- (a) The Y&NYCA is the local transport authority ('LTA') and integrated transport authority ('ITA') for the Combined Authority Area and has all the functions of an LTA and ITA.
- (b) Without prejudice to the generality of the above, the Y&NYCA is responsible for the discharge of the functions of an LTA and an ITA that are conferred or imposed by the Transport Acts 1968, 1983, 1985 and 2000, the Local Government Act 1972, the Transport and Works Act 1992, the Local Transport Act 2008, the Bus Services Act 2017, and the 2009 Act.
- (c) The Y&NYCA must develop policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within their area, and must prepare and publish a local transport plan containing its policies and proposals for their implementation.
- (d) The Y&NYCA has the power in a transport context under sections 99 and 102A of the Local Transport Act 2008 to take any action to achieve the promotion or improvement of the economic, social and environmental well-being of its area, and persons resident and present in, or travelling in or through the area.

### **2. Transport Functions of the Constituent Councils statutorily delegated to the Y&NYCA**

2.1 Pursuant to the 2023 Order, the following transport functions of the Constituent Councils are delegated to the Y&NYCA: -

- (a) The functions of the Constituent Councils under section 65 (placing of traffic signs) of the Road Traffic Regulation Act 1984 so far as it relates to traffic signs that are traffic light signals;
- (b) The functions of the Constituent Councils under section 23 (pedestrian crossings) of the Road Traffic Regulation Act 1984 so far as it relates to Pelican and Puffin crossings as defined by regulation 3(1) of the Zebra, Pelican and Puffin Crossings Regulations 1997; and

- (c) The functions of the Constituent Councils under section 2 of the Road Traffic Reduction Act 1997 (duty of principal councils to make reports).
- 2.2 In consequence of subparagraphs (a) and (b) of paragraph 2.1 above the Y&NYCA, in the discharge of the functions delegated to it by those provisions, is to be treated as a highway authority for the purposes of sections 62 and 278 of the Highways Act 1980.
- 2.3 For the purposes of subparagraph (a) of paragraph 2.1 above 'traffic light signal' means a traffic sign of the size, colour and type prescribed by regulation 33, 34, 37, 39, 41, 44, 45, 46, 47, 48, 49 or 52 of the Traffic Signs Regulations 2002 or another traffic sign of a like nature prescribed by those Regulations as from time to time amended or by any regulations for the time being replacing those Regulations.
- 2.4 The costs incurred by the Y&NYCA in discharging the functions in paragraph 2.1 above shall, except so far as the Constituent Councils agree otherwise, be defrayed by the Y&NYCA.
- 2.5 The costs so defrayed under paragraph 2.4 above shall, for the purposes of section 74(10) of the Local Government Finance Act 1988, fall to be treated as expenses attributable to the exercise of the Y&NYCA's functions relating to transport.
- 2.6 Whilst the delegations given effect by paragraph 2.1 above remain in force, the functions delegated are not exercisable by the Constituent Councils either concurrently or instead of the Y&NYCA, except so far as the Y&NYCA sub-delegates any such function back to a Constituent Council.
- 2.7 In the application of section 101 of the Local Government Act 1972 (arrangements for the discharge of functions) to the Y&NYCA the functions delegated to the Y&NYCA by paragraph 2.1 above are to be treated as if they were functions of the Y&NYCA.
- 2.8 The Y&NYCA and the Constituent Councils will draw up and agree detailed Protocols in relation to the discharge of the transport functions set out at paragraphs 2.1 above, and paragraph 3.1 below.
- 2.9 The Y&NYCA and the Constituent Councils will keep the Protocols referred to at paragraph 2.8 above under regular review and may revise them from time to time, such revisions to be agreed by the Head of Paid Service of the Y&NYCA and the Head of Paid Services of the Constituent Councils.



2.10 Protocols drawn up, agreed, or revised under paragraphs 2.8 and 2.9 above will not in themselves constitute arrangements for the discharge of functions made in accordance with Section 101 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.

**3. Transport Functions to be exercised by the Y&NYCA concurrently with the Constituent Councils or the Secretary of State pursuant to the 2023 Order.**

3.1 The following transport functions are exercisable by the Y&NYCA concurrently with the Constituent Councils:

- (a) Powers under section 6 of the Highways Act 1980 to enter into agreements with the Secretary of State or Highways England relating to the exercise of functions with respect to trunk roads
- (b) Powers under section 8 of the Highways Act to enter into agreements with local highway authorities or Highways England for the doing of certain works
- (c) Functions under section 39(2) and (3) of the Road Traffic Act 1988 to prepare and carry out a programme of measures designed to promote road safety and carry out studies into accidents.

3.2 The Y&NYCA has a function in relation to its area corresponding to the function of the Secretary of State under section 154 of the Transport Act 2000 to make grants to operators of eligible bus services operating within its area. Such grants must be calculated in accordance with any regulations made or conditions determined, by the Secretary of State.

**4. Transport Functions Conferred on the Y&NYCA, and Transport Functions Made Mayoral Functions, by the 2023 Order**

4.1 Pursuant to the 2019 Order the Y&NYCA has in relation to the Combined Area the functions contained in the following provisions that the Constituent Councils have in relation to that area:

- (a) Section 149(1) of the Transport Act 2000 (reimbursement of operators);
- (b) Section 150(1) and (2) of the Transport Act 2000 (procedure for reimbursement arrangements determined by authority)
- (c) Sections 88 to 92 and 93(6) of the Transport Act 1985; and

- (d) Section 9A (4) to (7) of the Transport Act 1968 (general functions of Authorities and Executives).
- 4.2 The functions set out at paragraph 4.1 above are exercisable by the Y&NYCA. They are Mayoral Functions to the extent that they are listed in paragraph 4.3 below.
- 4.3 [ ] 2023 Order also provides that the following transport functions of the Y&NYCA are to be Mayoral Functions:
- (a) the functions contained in section 9A (4) to (7) of the Transport Act 1968 (general functions of Passenger Transport Authorities and Executives) to the extent that such functions relate to bus services;
  - (b) The functions contained in the following provisions of the Transport Act 1985:
    - (i) section 88 (expenditure on public passenger transport services);
    - (ii) section 89 (obligation to invite tenders for subsidised services);
    - (iii) section 90 (provisions supplementary to section 89);
    - (iv) section 91 (exceptions from section 89);
    - (v) section 92 (general provisions with respect to the exercise of service subsidy functions);
    - (vi) section 93(1) (travel concession schemes); and
    - (vii) section 93(6).
  - (c) The functions contained in the following provisions of the Transport Act 2000:
    - (i) section 113C (1) to (11) (advanced quality partnership schemes); (ii) section 113D (1) to (4) (advanced quality partnership schemes: registration restrictions);
    - (iii) section 113G (1) to (4) (notice and consultation requirements);
    - (iv) section 113H (1) to (11) (making of scheme);
    - (v) section 113I (1) to (5) (postponement of scheme or of provision of particular facilities, taking of particular measures or provision of particular standards of service);
    - (vi) section 113J (1) to (7) (effect of scheme);
    - (vii) section 113L (1) to (4) (variation or revocation of schemes);
    - (viii) section 123G (4) (response to consultation);
    - (ix) section 123H (1) to (10) (making and publication of scheme);

- (x) section 123I (1) to (4) (postponement of local service contracts); (xi) section 123J (6) (effect of local service contracts: registration requirements and provision of service);
- (i) section 123K (1) and (6) (local service contracts);
- (ii) section 123L (1) to (2) (exceptions to section 123K);
- (iii) section 123M (1) to (9) (variation of scheme);
- (iv) section 123N (1) to (8) (revocation of scheme);
- (v) section 123O (1) to (9) (interim services and replacement services);
- (vi) section 123P (1) and (2) (service permits);
- (vii) section 123Q (1) to (7) (application for service permit);
- (viii) section 123R (1) to (9) (conditions);
- (ix) section 123S (1) to (5) (revocation and suspension);
- (x) section 134C (1) to (11) (advanced ticketing schemes);
- (xi) section 134D (1) to (4) (notice and consultation requirements);
- (xii) section 134E (1) to (8) (making of scheme);
- (xiii) section 138A (1) to (14) (enhanced partnership plans and schemes);
- (xiv) section 138F (1) to (12) (preparation, notice and consultation);
- (xv) section 138G (1) to (11) (making of plans and schemes); (xxvii) section 138I (1) to (6) (postponement of scheme or part of scheme);
- (xxviii) section 138J (1) to (10) (effect of plans and schemes);
- (xxix) section 138K (1) to (8) (variation);
- (xxx) section 138L (1) to (10) (variation: preparation, notice and consultation);
- (xxxi) section 138M (1) to (9) (variation: making the variation);
- (xxxii) section 138O (1) to (12) (revocation);
- (xxxiii) section 139(1) to (6) (information about bus services); (xxxiv) section 140(1) to (4) (duty of authority to make information available);
- (xxxv) section 143(1) to (6) (power to obtain information about local services);
- (xxxvi) section 143A (1) to (10) (power to obtain information: franchising schemes);
- (xxxvii) section 143B (1) to (11) (power to obtain information about local services: enhanced partnership schemes);
- (xxxviii) section 149(1) (mandatory concessions: supplementary); and
- (xxxix) section 150(1) and (2) (procedure for reimbursement arrangements determined by authority).

## **C. ECONOMIC DEVELOPMENT, REGENERATION AND HOUSING**

### **1. Economic Development Housing and Regeneration Functions to be exercised by the Y&NYCA concurrently with the Constituent Councils pursuant to the Y&NYCA Orders.**

1.1 The following economic development, housing and regeneration functions of the Constituent Councils are to be exercised by the Y&NYCA concurrently with the Constituent Councils: -

- (a) The power under section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
- (b) The duty under section 8(1) of the Housing Act 1985 (duty of local housing authorities to consider housing conditions in their district and the needs of the district with respect to the provision of further housing accommodation);
- (c) The duties under section 82 of the Environment Act 1995 (duty to cause a review to be conducted of air quality for the time being, and likely future quality within the relevant period, of air within the authority's area and associated duties);
- (d) The duty under section 83 of the Environment Act 1985 (duty to designate air quality management areas);
- (e) The duties under section 84 of the Environment Act 1985 (duties in relation to designated area);
- (f) The power under section 2 of the Local Government Act 2000 (promotion of well-being);
- (g) The duty under section 69 of the 2009 Act (duty to prepare an assessment of economic conditions).
- (h) The power under section 17 of the Housing Act 1985 to acquire land compulsorily or by agreement for housing purposes
- (i) The duties under section 18 of the Housing Act 1985 with respect of land acquired for housing purposes
- (j) The following functions under Part IX of the Town and Country Planning Act 1990 in relation to the acquisition of land for development and other planning purposes: -
  - (i) section 226 (compulsory acquisition of land for development and other planning purposes)
  - (ii) section 227 (acquisition of land by agreement)
  - (iii) section 229 (appropriation of land forming part of a common)
  - (iv) section 230 (i)(a) (acquisition of land for purposes of exchange)
  - (v) section 232 (appropriation of land for planning purposes)
  - (vi) section 233 (disposal of land held for planning purposes)
  - (vii) section 235 (development of land held for planning purposes)

- (viii) section 236 (extinguishment of rights over compulsorily acquired land)
  - (ix) sections 238, 239, and 241 (use and development of consecrated land, burial grounds and open space)
2. Housing and Regeneration Functions to be exercised concurrently with the Homes and Communities Agency (HCA) pursuant to the 2016 Order.
- 2.1 The following functions of the HCA under Part 1 of the Housing and Regeneration Act 2008 are exercisable by the Y&NYCA in its area concurrently with the HCA: -
- (a) Section 5 (powers to provide housing or other land)
  - (b) Section 6 (powers for regeneration, development or effective use of land)
  - (c) Section 7 (powers in relation to infrastructure)
  - (d) Section 8 (powers to deal with land)
  - (e) Section 9 (acquisition of land compulsorily or by agreement)
  - (f) Section 10 (restrictions on disposal of land)
  - (g) Section 11 (main powers in relation to acquired land)
  - (h) Section 12 (powers in relation to statutory undertakers)
- 2.2 The functions in paragraph 2.1 must be exercised for the purposes of or for purposes incidental to the following objects: -
- (a) To improve the supply and quality of housing in the area
  - (b) To secure the regeneration and development of land or infrastructure in the area
  - (c) To support in other ways the creation, regeneration or development of communities or their continued well being
  - (d) To contribute to the achievement of sustainable development and good design.
3. Functions corresponding to the Functions of the Mayor of London

### **Mayoral Development Corporations**

- 3.1 The Y&NYCA has in relation to its area functions corresponding to the functions of the Mayor of London under Part 8 of the Localism Act 2011 in relation to the designation of mayoral development areas and in relation to mayoral development corporations consequently established by order of the Secretary of State.

### **Spatial Development Strategy**

- 3.2 The Y&NYCA has in relation to its area functions corresponding to the functions of the Mayor of London under part VIII (Planning)

of the Greater London Authority Act 1999 in relation to the preparation and publication of a spatial development strategy.

4. Any requirement in any enactment for a Constituent Council to exercise any of the functions set out in paragraph 1 above may be fulfilled by the exercise of that function by the Y&NYCA
5. The Y&NYCA and the Constituent Councils will draw up and agree detailed Protocols in relation to the discharge of the economic development and regeneration functions set out in paragraph 1 above.
6. The Y&NYCA and the Constituent Councils will keep the Protocols referred to at paragraph 5 above under regular review and may revise them from time to time, such revisions to be agreed by the Head of Paid Services of the Constituent Councils and the Head of Paid Service of the Y&NYCA.
7. Protocols drawn up, agreed, or revised under paragraphs 5 and 6 above will not in themselves constitute arrangements for the discharge of functions made in accordance with Section 101 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of functions) (England) Regulations 2012.

## **D. EDUCATION, SKILLS, TRAINING AND CULTURE**

1. Pursuant to the 2023 Order, the following functions of the Constituent Councils in relation to education, skills and training are exercisable concurrently by the Y&NYCA: -
  - (a) The duties under section 15ZA, 15ZB, 15ZC, 17A and 18A (1)(b) of the Education Act 1996 and the powers under sections 514A and 560 of that Act (duties and powers relating to the provision of education and training for persons over compulsory school age)
  - (b) Section 51A of the Further and Higher Education Act 1992 (duty to provide for named individuals)
  - (c) Section 13A of the Education Act 1996 (duty to promote high standards and fulfilment of potential)
  - (d) Section 15A of the Education Act 1996 (powers in respect of education and training for 16 to 18 year olds)
  - (e) Section 15B of the Education Act 1996 (functions in respect of education for persons over 19)
  - (f) The following functions under the Education and Skills Act 2008:
    - (i) Section 10 (local authority to promote fulfilment of duty under section 2, i.e., for 16 and 17 year-olds to participate in education and training)
    - (ii) section 12 (duty to make arrangements to identify persons not fulfilling the section 2 duty)
    - (iii) section 68, 70, 71 (functions in respect of support services)
2. Pursuant to the 2023 Order, the functions of the Constituent Councils under section 145 of the Local Government Act 1972 (provision of entertainments) are exercisable concurrently by the Y&NYCA.
3. Any requirement in any enactment for a Constituent Council to exercise any of the functions set out in paragraphs 1 and 2 above may be fulfilled by the exercise of that function by the Y&NYCA.
4. The Y&NYCA and the Constituent Councils will draw up and agree detailed Protocols in relation to the discharge of the functions set out at paragraph 1 and 2 above, and the case of concurrent duties will enter into a formal operating agreement.
5. The Y&NYCA and the Constituent Councils will keep the Protocols referred to at paragraph 4 above under regular review and may revise them from time to time, such revisions to be agreed by the Head of Paid Services of the Constituent Councils and the Head of Paid Service of the Y&NYCA.



6. Protocols drawn up, agreed, or revised under paragraphs 4 and 5 above will not in themselves constitute arrangements for the discharge of functions made in accordance with Section 101 of the Local Government Act 1972 and the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012.
7. Adult Education functions of the Secretary of State transferred to the Y&NYCA pursuant to the Adult Education Order
  - 7.1 The functions of the Secretary of State set out in the following provisions of the Apprenticeships, Skills, Children and Learning Act 2009 are exercisable by the Combined Authority in relation to the Area instead of the Secretary of State —
    - (a) section 86 (education and training for persons aged 19 or over and others subject to adult detention)
    - (b) section 87 (learning aims for persons aged 19 or over: provision of facilities); and
    - (c) section 88 (learning aims for persons aged 19 or over: payment of tuition fees)
8. Adult Education functions of the Secretary of State to be exercisable concurrently with the Y&NYCA pursuant to the Adult Education Order
  - 8.1 The functions of the Secretary of State set out in the following provisions of the Apprenticeships, Skills, Children and Learning Act 2009 are exercisable by the Combined Authority concurrently with the Secretary of State in relation to the Area —
    - (a) section 90 (encouragement of education and training for persons aged 19 or over and others subject to adult detention); and
    - (b) section 100(1) (provision of financial resources)
9. The Y&NYCA must adopt rules of eligibility for awards by an institution to which it makes grants, loans or other payments under section 100 of the Apprenticeships, Skills, Children and Learning Act 2009 Act in accordance with any direction given by the Secretary of State.
10. In exercising the functions mentioned in paragraphs 7 and 8 above, the Y&NYCA must have regard to guidance issued by the Secretary of State for the purpose of Article 5 of the Adult Education Order.



## **E. FIRE AND RESCUE**

1. Fire and Rescue Functions of the former Office of the Police, Fire and Crime Commissioner ('OFPC') for North Yorkshire are transferred to the Y&NYCA with effect from 6 May 2024.
  - 1.1 Pursuant to the 2023 Order, the former OFPC for North Yorkshire will be abolished on 6 May 2024 and the functions transferred to the Y&NYCA as Mayoral Functions.
  - 1.2 In consequence the Y&NYCA will be the Fire and Rescue Authority for the purposes of the Fire and Rescue Services Act 2004 ('the FRA 2004') with effect from 6 May 2024 and will be responsible for the discharge of all the functions of a fire and rescue authority conferred or imposed by the FRA 2004 and any other enactment.

## **F. POLICE AND CRIME COMMISSIONER (PCC) FUNCTIONS**

- 1.1 Police and Crime Commissioner Functions of the former PCC transfer to the Y&NYCA to be exercisable by the Mayor pursuant to the 2023 Order.
- 1.2 The post of Police Fire and Crime Commissioner for North Yorkshire will be abolished as from 6 May 2024
- 1.3 The Mayor is to be treated with effect from 6 May 2024, in relation to PCC functions, as a Police and Crime Commissioner for the purposes of all PCC enactments (whenever passed or made) subject to the modifications in Schedule 1 of the PCC Order.
- 1.4 'PCC enactments' means any functions conferred on Police and Crime Commissioners by or under Part 1 of the Police and Social Responsibility Act 2011, or any other Act (whenever passed).

## **G INCIDENTAL PROVISIONS PURSUANT TO THE Y&NYCA ORDER**

1. The following provisions have effect as if the Y&NYCA were a local authority for the purposes of these provisions: -

- (a) Section 113 of the Local Government Act 1972 (the power to place staff at the disposal of other local authorities);
- (b) Section 142(2) of the Local Government Act 1972 (the power to arrange for publication of information etc. relating to the functions of the authority);
- (c) Section 144 of the Local Government Act 1972 (the power to encourage visitors and provide conference and other facilities);
- (d) Section 145 of the Local Government Act (the power to provide and support cultural activities and entertainments);
- (e) Section 222 of the Local Government Act 1972 (the power to instigate and defend legal proceedings);

1.1 The Y&NYCA shall have the power to exercise any of the functions described in subsection 1(a) and (b) of section 88 of the Local Government Act 1985 (research and collection of information) whether or not a scheme is made under that section.

1.2 Section 13 of the Local Government and Housing Act 1989 shall have effect as if in subsection (4) after paragraph (h) there were inserted: –

'(i) subject to subsection (4A), a committee appointed by the York and North Yorkshire Combined Authority.'

And after subsection (4) there were inserted:

'(4A) A person who is a member of a committee falling within paragraph (i) of subsection (4) or a sub-committee appointed by such a committee shall for all purposes be treated as a non-voting member of that committee or sub-committee unless that person is a member of one of the constituent councils.'

1.3 The Y&NYCA is to be treated as a local authority, relevant authority or local enforcing authority (as appropriate) and have similar powers and duties as the Constituent Councils for the purposes of data sharing and the disclosure of information under the following provisions:-

- (a) Section 17A (sharing of information) and section 115 (disclosure of information) of the Crime and Disorder Act 1998

- (b) Section 113 of the Environment Act 1995 (disclosure of information)
  - (c) Section 122 of the Apprenticeships, Skills, Children and Learning Act 2009 (sharing of information for education and training purposes)
  - (d) The following sections of the Education and Skills Act 2008: -
    - (i) Section 14 (educational institutions – duty to provide information)
    - (ii) Section 16 (supplying of information by public bodies)
    - (iii) Section 17 (sharing and use of information held for purposes of support services)
    - (iv) Section 77 (supply of information by public bodies)
- 1.4 The Y&NYCA has the function of making grants to the Constituent Councils under section 31 of the Local Government Act 2003. Such function is a mayoral function exercisable concurrently with the Secretary of State.

## **H. FUNCTIONS CONFERRED ON A COMBINED AUTHORITY BY LOCAL GOVERNMENT LEGISLATION**

- 1.1 The Y&NYCA shall have such other powers and duties as are conferred on a combined authority by any enactment.
- 1.2 Without prejudice to the generality of the above, such powers and duties include:
  - (a) The duty to appoint a Head of Paid Service, a Monitoring Officer, an officer with responsibility for the administration of Y&NYCA 's financial affairs, a Scrutiny Officer and a Data Protection Officer;
  - (b) The power to borrow money for a purpose relevant to its functions;
  - (c) The power to appoint staff and to enter into agreements with other local authorities for the secondment of staff;
  - (d) The power to acquire land by agreement or compulsorily for the purpose of any of its functions and to dispose of such land;
  - (e) The power to pay subscriptions to the funds of local authority associations;
  - (f) The duty (without prejudice to any other obligation) to exercise its functions with due regard to the need to prevent crime and disorder, the misuse of drugs and alcohol or re-offending in its area;
  - (g) The power under Section 99 of the Local Transport Act 2008 to promote the economic, social and environmental well-being of its area;
  - (h) The power under section 113A of the Local Democracy, Economic Development and Construction Act 2009 to do anything it considers appropriate for the purpose of carrying out any of its functions.
- 1.3 The Y&NYCA is a local authority for the purpose of Section 101 of the Local Government Act 1972 (arrangements for the discharge of functions by local authorities).
- 1.4 The Y&NYCA is a best value authority for the purpose of Section 1 of the Local Government Act 1999.

- 1.5 The Y&NYCA is a public body for the purpose of the Freedom of Information Act 2000.
- 1.6 The Y&NYCA is a public authority for the purposes of the Equality Act 2010.
- 1.7 The Y&NYCA is a local authority for the purpose of the power of a Minister of the Crown to pay grants.

## **I MISCELLANEOUS ROLES OF THE Y&NYCA**

### **1. Transport for the North**

1.1 The Y&NYCA is a member of Transport for the North (TfN) which is a statutory body established under the Sub-national Transport Body (Transport for the North) Regulations 2018.

1.2 The Regulations give TfN various general functions:

- To prepare a transport strategy for its area
- To provide advice to the Secretary of State ('SoS') about the exercise of transport functions in relation to its area (whether exercisable by the SoS or others)
- To co-ordinate the carrying out of transport functions that are exercisable by different constituent authorities, with a view to improving efficiency and effectiveness
- To make proposals to the SoS about the role and functions of TfN, including proposals to transfer further functions to TfN

1.3 The Regulations confer on TfN various local transport functions which can be exercised concurrently with local authorities or, where relevant, TfGM. These include: -

- (a) the power to make capital grants to fund facilities for public passenger transport under section 56 (2) of the Transport Act 1968
- (b) the power to make ticketing schemes under sections 134C and 135 of the Transport Act 2000
- (c) the right to be consulted on rail franchises affecting its area and the power to enter into agreements with the SoS in connection with rail services within its area under section 13 of the Railways Act 2005
- (d) various powers under the Highways Act 1980, namely: -
  - Section 8 (power to enter agreements with local highways authorities and Highways England for doing certain works)
  - Section 24(2) (power to construct new highways)
  - Sections 25 and 26 (powers to enter into agreements for creation of footpaths)
  - Various functions relating to the acquisition of land for highways purposes

- 1.4 The Regulations also provide that TfN will be able to exercise certain highways functions jointly with the SoS and / or Highways England, namely: -
- Entering into agreements for works relating to trunk roads
  - Functions relating to environmental impact assessments
  - Functions relating to acquisition of land for trunk roads
- 1.5 The Y&NYCA must appoint one of its elected members to be a voting member of TfN, being either the Mayor or the elected member with responsibility for transport.
- 1.6 In addition, the Y&NYCA must appoint another of its elected members to be a voting member of TfN in the absence of the member appointed under Article 6.3 ('Substitute Member').
- 1.7 The Y&NYCA is entitled to appoint one member of the authority to be a member of TfN's scrutiny committee.
- 1.8 The Y&NYCA is also entitled to appoint one member of the authority to be a member of the scrutiny committee in the absence of the person appointed under Article 6.5 ('Substitute Member').



**PART 3**

**RESPONSIBILITY FOR FUNCTIONS**

## 1. INTRODUCTION

Responsibility for the discharge of Mayoral functions and the delegation of such responsibility rests with the Mayor. References to delegations of Mayoral General functions below are set out for reference only. The Mayor's delegations in relation to his Police and Crime Commissioner functions (the Mayor's PCC functions) are set out in Part 9 of the Constitution.

### A FUNCTIONS RESERVED TO THE Y&NYCA

Only the Y&NYCA will exercise the following functions:

1. Adopting and changing the Y&NYCA Constitution;
2. The preparation of a local economic assessment under section 69 of the Local Democracy, Economic Development and Construction Act 2009;
3. The approval of the Non-Mayoral Y&NYCA budget;
4. In relation to the Mayor's General Budget:
  - (a) the approval the draft budget (or revised draft budget), or
  - (b) the decision to veto the draft budget (or revised draft budget) and approve the Mayor's draft budget incorporating the Y&NYCA's recommendations as to the relevant amounts and calculations;
5. The issuing of the Mayoral combined authority precept stating separately the Police and Crime Commissioner component and the general component.
6. The approval of borrowing limits of the Y&NYCA;
7. Insofar as the Y&NYCA 's functions in respect of transport are concerned, this includes determining the borrowing limits of the Y&NYCA in relation to transport matters pursuant to section 3 of the Local Government Act 2003
8. Approval of the treasury management strategy and the investment strategy of the Y&NYCA.
9. Subject to the Financial Regulations in Part 6 of this Constitution, approving the capital programme of the Y&NYCA and approving new transport schemes.

10. The approval of capital schemes within the agreed capital programme and the agreed budget (including schemes for the purpose of the provision, improvement or development of facilities for public passenger transport, pursuant to Section 56(2) of the Transport Act 1968);
11. The acceptance of arrangements to delegate the functions of any person to the Y&NYCA;
12. Questions relating to road user charging;
13. Making decisions in relation to the establishment and remuneration of posts whose remuneration is, or is proposed to be, £100,000 and above (or pro rata thereto);
14. Making decisions in relation to severance packages of £95,000 and over;
15. The determination of collective terms and conditions of staff.

## **B. Y&NYCA FUNCTIONS RESERVED TO THE MAYOR**

### **Section B I**

#### **1. Budget**

1.1 The following functions are exercisable only by the Mayor:

- (a) functions in relation to the setting of the Y&NYCA budget for the Mayor's general functions, as provided for in the Combined Authorities (Finance) Order 2017 [budget related functions reserved to the Mayor in relation to the Mayor's PCC functions are set out in Part 9 below].

#### **2. Transport**

2.1 The following functions are exercisable only by the Mayor:

- (a) developing policies for the promotion and encouragement of safe, integrated, efficient and economic transport to, from and within York and North Yorkshire under s108 (1) (a) of the Transport Act 2000 (the 2000 Act);
- (b) The adoption, approval, amendment, modification, revision, variation, withdrawal or revocation of a local transport plan (LTP) under section 108(3) of the Transport Act 2000;
- (c) The duty to keep the local transport plan under review and alter it if considered appropriate to do so including replacing the plan under section 109 (1) or (2) of the Transport Act 2000;
- (d) the following provisions of the 2000 Act, to the extent that they apply in relation to functions exercisable by the Mayor—
  - (i) section 108(1) (b);
  - (ii) section 108(2ZA) and (2ZB);
  - (iii) section 108(3B);
  - (iv) section 112 (plans and strategies: supplementary).

2.2 PROVIDED THAT:

- (a) Any exercise by the Mayor of the functions under section 108(1) (a), 108(3) and section 109(1) or (2) of the 2000 Act requires a vote in favour by at least [ ] members of the Y&NYCA or substitute members acting in place of those members, present and voting on that question at a meeting of

the Y&NYCA, in accordance with the voting arrangements set out at Part 5 of this Constitution.

- (b) Amendment of the following plans require a vote in favour by at least [ ] members or substitute members acting in place of those members, appointed by the constituent councils present and voting on that question at a meeting of the Y&NYCA: -
  - (i) a draft policy or a draft local transport plan prepared by the Mayor under sections 108(1) (a) or (3) (local transport plans) of the 2000 Act; or
  - (ii) a draft alteration or replacement of the local transport plan prepared under sections 109(1) and (2)

### **3. Compulsory Purchase Powers**

3.1 The following functions are exercisable only by the Mayor:

- (a) Compulsory acquisition of land under section 9(2) of the Housing and Regeneration Act 2008
- (b) Compulsory acquisition of land for development and other planning purposes under section 226 of the Town and Country Planning Act 1990
- (c) Compulsory acquisition of land for housing purposes under section 17 of the Housing Act 1985.

3.2 PROVIDED THAT:

Exercise of the functions specified at 3.1 above requires the consent of all members of the Y&NYCA appointed by the Constituent Councils whose area contains any part of the land subject to the proposed compulsory acquisition or substitute members acting in place of those members (such consent to be provided at a meeting of the Y&NYCA.)

### **4. Spatial Development Strategy**

4.1 The following functions are exercisable only by the Mayor:

- (a) Functions corresponding to those set out in sections 334 to 342 (public participation); (withdrawal); (publication); (examination in public); (review of matters affecting the strategy); (reviews of the strategy); (alteration or replacement); (matters to which the Mayor is to have regard)) and 346 (monitoring and data collection) of the Greater London Act 1999 ('the 1999 Act')

PROVIDED THAT:

The exercise by the Mayor of the functions corresponding to the functions specified in sections 335 (public participation), 336 (withdrawal), 337 (publication) and 341 (alteration or replacement) of the 1999 Act requires a unanimous vote in favour by all members of the Y&NYCA appointed by the Constituent Councils or substitute members acting in place of those members at a meeting of the Y&NYCA.

## 5. **Mayoral Development Areas**

5.1 The following functions corresponding to functions contained in the provisions in the Localism Act 2011 (the 2011 Act), that the Mayor of London has in relation to Greater London are exercisable only by the Mayor —

- (b) section 197 (designation of Mayoral development areas ('MDAs');
- (c) section 199 (exclusion of land from Mayoral development areas);
- (d) section 200 (transfers of property etc. to a Mayoral development corporation ('MDC'));
- (e) section 202 (functions in relation to Town and Country Planning);
- (f) section 204 (removal or restriction of planning functions);
- (g) section 214 (powers in relation to discretionary relief from non-domestic rates);
- (h) section 215 (reviews);
- (i) section 216 (transfers of property, rights and liabilities);
- (j) section 217 (dissolution: final steps);
- (k) section 219 (guidance by the Mayor);
- (l) section 220 (directions by the Mayor);
- (m) section 221 (consents);
- (n) paragraphs 1-4, 6 and 8 of Schedule 21

PROVIDED THAT:

The exercise by the Mayor of the functions corresponding to the functions contained in section 202(2) to (4) of the 2011 Act in respect of any MDA requires the consent of: -

- (a) The North York Moors National Park Authority if the proposal relates to the area of the North York Moors National Park Authority
- (b) The Yorkshire Dales National Park Authority if the proposal relates to the area of the Yorkshire Dales National Park Authority
- (c) Each member of the Y&NYCA appointed by a constituent council, or a substitute member acting in place of that member, whose Council's area contains the whole or any part of the area in respect of which is proposed to exercise the functions, such consent to be given at Y&NYCA Meeting.

5.2 A proposal by the Mayor to:

- (a) Designate any area of land as an MDA;
- (b) Alter the boundaries of an MDA to exclude an area of land;
- (c) Decide that a Mayoral Development Corporation (MDC) should be the local planning authority (LPA) for the purposes set out in section 202 (2) to (4) of the Localism Act 2011,

requires the consent of all members of the Y&NYCA (or substitute members acting in their place) whose local government area contains any part of the area to be designated or excluded or in respect of which the Mayor wishes to decide that the MDC should be the LPA such consent to be provided at a meeting of the Y&NYCA.

- 5.3 A proposal of the Mayor under paragraph 6.2 above may be rejected by the Y&NYCA in accordance with the provisions of section 197 of the Localism Act 2011 as modified by the [ ] Order, but only if a motion to reject has been considered at a meeting of the Y&NYCA and agreed to by two--thirds of the Y&NYCA members (or substitute members acting in their place) present and voting on that motion.

**6. Bus Franchising**

- 6.1 The following functions in relation to bus franchising may only be exercised by the Mayor individually:

- (1) the function of deciding whether to make a proposed franchising scheme (including in a case where the decision is to make a scheme jointly with one or more other franchising authorities).
- (2) the function of deciding whether to make a proposed variation to a franchising scheme (including in a case where the decision is to act jointly to vary a scheme).

- (3) the function of deciding whether to make a proposed revocation of a franchising scheme (including in a case where the decision is to act jointly to revoke a scheme).

**7. Fire**

7.1 The following functions are reserved to the Mayor individually:

- (a) the power to enter into a reinforcement scheme with fire and rescue authorities under section 13 of the Fire and Rescue Services Act 2004 (FRSA);
- (b) the power to enter into arrangements under section 15 FRSA with a person who employs fire-fighters for securing the provision by that person of assistance for the purpose of the discharge of a function under section 7, 8 or 9 of the FRSA;
- (c) The power to enter into arrangements under section 16 of the FRSA for the discharge of a function under section 7, 8, 9 or 11 of the FRSA;
- (d) appointing, suspending or dismissing, the Chief Fire Officer;
- (e) approving the terms of appointment of the Chief Fire Officer;
- (f) holding the Chief Fire Officer to account for managing the fire and rescue service;
- (g) approving: -
  - (i) the community risk management plan, and
  - (ii) the fire and rescue declaration;
- (h) approving plans, modifications to plans and additions to plans for the purpose of ensuring that: -
  - (i) so far as is reasonably practicable, the Y&NYCA is able to continue to perform fire and rescue functions if an emergency occurs, and
  - (ii) the Y&NYCA is able to perform its functions so far as necessary or desirable for the purpose of preventing an emergency, or reducing, controlling or mitigating the effects of an emergency, or taking other action in connection with it; and
- (i) approving any arrangements for the co-operation of the Y&NYCA in relation to its fire and rescue functions and other Category 1



responders and Category 2 responders in respect of the performance of the Y&NYCA's duty as a fire and rescue authority under section 2 of the Civil Contingencies Act 2004 and any duties under regulations made in exercise of powers under that Act.

## **Section B II**

### **8. Power to Pay Grants**

Functions under section 31 of the Local Government Act 2003 (grants to constituent councils) are exercisable only by the Mayor or his delegate.

### **9. Grants to Bus Operators**

The following functions in relation to buses are exercisable only by the Mayor or his delegate:

- 9.1 Functions under section 154 (1) of the Transport Act 2000 (grants to bus operators).

## **C. COMMITTEES**

The terms of reference and the delegations to Y&NYCA Committees are set out in Part 4 of this Constitution.

**D. JOINT COMMITTEES**

[Need to clarify if there are any Joint Committees proposed]

## **E. DEPUTY MAYOR FOR POLICING AND CRIME (Fire and Rescue Functions)**

1. The Mayor delegates all fire and rescue functions to the Deputy Mayor for Policing and Crime to exercise on the Mayor's behalf in accordance with the Y&NYCA 's Constitution, with the exception of:
  1. those functions that cannot be delegated by virtue of article 45 of the 2023 Order (set out at Part 3 Section B1 paragraph 7 of the constitution), and
  2. the functions delegated to Chief Officers under the Scheme of Delegation to Chief Officers and the Schedule of Proper Officers, contained in Part 3 Section F of the Constitution (prepared in accordance with section 101 of the Local Government Act 1972, and section 107D (3) of the Local Democracy, Economic Development and Construction Act 2009).
2. The Mayor will exercise any fire and rescue functions delegated to the Deputy Mayor for Policing and Crime in the absence of the Deputy Mayor for Policing and Crime or where Deputy Mayor for Policing and Crime has a conflict of interest.

## **F SCHEME OF DELEGATION OF FUNCTIONS TO CHIEF OFFICERS, OTHER OFFICERS AND SCHEDULE OF PROPER OFFICERS**

### **1. Introduction**

- 1.1 This Scheme of Delegation to Chief Officers and Schedule of Proper Officers for various functions has been prepared in accordance with section 101 of the Local Government Act 1972 (the 1972 Act), which enables the Y&NYCA to delegate functions to officers and section 107D (3) of the Local Democracy, Economic Development and Construction Act 2009 which enables the Mayor to delegate Mayoral general functions. The Mayor's Delegations in relation to his PCC functions are set out in Part 9 below. The Y&NYCA is also required by section 100G of the 1972 Act to maintain a list for public inspection specifying those powers of the Y&NYCA which, for the time being, are exercisable from time to time by officers of the Y&NYCA and stating the title of the officer in question by whom the powers are exercisable.
- 1.2 Chief Officers in the context of this Part means the Head of Paid Service, the [Post to be determined], the Monitoring Officer and the Chief Fire Officer. Officers who are not Chief Officers for the purpose of this part of the Constitution include the Head of Paid Services of the Constituent Councils.
- 1.3 The delegated powers of Chief Officers set out in this Scheme may be exercised by other officers authorised by the Chief Officer with the delegated power to act on their behalf and in their name, provided that administrative procedures are in place to record the authorisation and monitor decisions taken.
- 1.4 The exercise of delegated powers by officers is required to be in accordance with:
- a. Statute or other legal requirements, including the principles of public law, the Human Rights Act 1998, statutory guidance and statutory codes of practice;
  - b. The Constitution, the Y&NYCA's Rules of Procedure including Access to Information Rules in Part 5 and the Financial Regulations set out Part 6 currently in force;
  - c. The revenue and capital budgets of the Y&NYCA, subject to any variation thereof which is permitted by the Y&NYCA's Financial Regulations; and
  - d. Any policy or direction of the Y&NYCA, or any Committee acting in exercise of powers delegated to that Committee by the Y&NYC.

- 1.5 Officers may not exercise delegated powers where –
  - a. The matter is reserved to the Y&NYCA or the Mayor by law or by the Y&NYCA's Constitution;
  - b. The matter is a function which cannot by law be discharged by an officer;
  - c. The Y&NYCA, a Committee, Sub-Committee or Joint Committee to which Y&NYCA is a party, or (in the case of a mayoral function) the Mayor has determined that the matter should be discharged otherwise than by an officer;
  - d. The Head of Paid Service has directed that the officer concerned should not exercise a delegated function in special circumstances.
- 1.6 Before exercising delegated powers, particularly on matters involving the reputation of the Y&NYCA, officers should consider the advisability of consulting the Head of Paid Service and/or the Chair of the Y&NYCA.
- 1.7 Any reference in this Scheme of Delegation to any enactment shall include a reference to any amendment or re-enactment of the same.
- 1.8 Where, in relation to an item before the Y&NYCA or a Committee, a Chief Officer is given specific authority to determine a particular matter, the officer should ensure that there is an appropriate audit trail to evidence such determination.

## **2. General Delegations to all Chief Officers**

These functions may be Mayoral or non-Mayoral depending on the circumstances.

- 2.1 The day to day routine management, supervision and control of services provided for the Y&NYCA or the Mayor by staff under their control in accordance with the Rules of Procedure and Financial Regulations of the Y&NYCA set out in Part 6 of this Constitution in relation to Y&NYCA and the Mayor's non PCC functions and in accordance with the Financial Regulations applicable in relation to the Mayor's PCC functions contained in Part 9 below.
- 2.2 Subject to Financial Regulations, to accept tender(s) or bid(s) for the carrying out of works for the Y&NYCA, the purchase, leasing or hiring of goods, materials and equipment by the Y&NYCA, or

the supply of services to the Y&NYCA, where the estimated contract value does not exceed £250,000 or where it does exceed £250,000 with the agreement of the [Post to be determined] provided in all cases that budget provision is available.

- 2.3 Subject to Financial Regulations, to enter into contract documentation following tender/bid acceptance. To negotiate and agree price increases where a contract provides for price increases to be negotiated and agreed by the parties, subject to the agreement of the [Post to be determined].
- 2.4 Where a contract contains provision for the extension to the contract period, the exercise of such extensions, subject to the agreement of the [Post to be determined].
- 2.5 Agreeing the assignment or novation of a contract.
- 2.6 Subject to Financial Regulations, to bid and tender for and enter into contract documentation for the supply of works, goods or services to other bodies where provided for in the relevant Business Plan.
- 2.7 Virement between heads of revenue and capital expenditure in accordance with Financial Regulations.
- 2.8 Subject to the agreement of the [Post to be determined]: -
  - a. the writing off of debts which are irrecoverable or losses due to burglaries, etc.; and
  - b. the writing off or making adjustments in respect of deficiencies or surpluses of stock, equipment, etc.
- 2.9 To exercise the responsibilities assigned to Chief Officers in Part 6 of this Constitution (Financial Regulations and Contract Procurement Rules)
- 2.10 In relation to staff and staffing matters within their direct or indirect line management responsibility:
  - a. Day to day management of staff.
  - b. Determination of the payment of removal expenses, lodging allowances or travelling allowances.
  - c. Discipline, suspension and/or dismissal of employees.
  - d. Determination of staff grievances.
  - e. The filling of vacant posts within approved establishments
  - f. The determination of applications for paid and unpaid leave:
    - (i) for trade union training

- (ii) for health and safety training
  - (iii) for paid leave for an employee to discharge her/his duties of the office of President of a Trade Union
  - (iv) for an employee to attend meetings etc. with pay as a member of a local authority or similar public body on condition that the employee only receives the difference between pay and any amount receivable under the Local Government Regulations etc. This does not include an employee attending such a body in their official capacity which would be as part of their official duties
  - (v) for personal or domestic reasons
  - (vi) for maternity and paternity pay
- g. Determination of requests for the reimbursement of post-entry training and examination fees
  - h. Determination of proposals to attend training courses

### **3. Delegations to the Head of Paid Service**

These functions may be Mayoral functions or non-Mayoral functions depending on the circumstances

- 3.1 To discharge the functions of the Head of Paid Service in relation to the Y&NYCA as set out in Section 4 of the Local Government and Housing Act 1989. The duties of the Head of Paid Service are to report to the Y&NYCA where appropriate setting out proposals with respect to the coordination of the Mayor's or Y&NYCA's functions, the number and grades of staff required and the organisation, appointment and proper management of the Y&NYCA's staff.
- 3.2 To discharge any function of the Y&NYCA or the Mayor which is neither the statutory responsibility of nor been specifically delegated to another officer, Committee or reserved to the Y&NYCA or the Mayor under this Constitution or by law and may direct any officer not to exercise a delegated function in special circumstances unless they are required to do so by law.
- 3.3 Take any action which is required as a matter of urgency in the interests of the Y&NYCA, in consultation (where practicable) with the Chair of the Y&NYCA.
- 3.4 Take preliminary steps to protect the rights and interests of the Y&NYCA subject to consultation with the Chair of the Y&NYCA in relation to any Bill or Statutory Instrument or Order in Parliament.
- 3.5 To conduct before either House of Parliament any proceedings (including the retention of Parliamentary Agents and Counsel)



connected with the passage of any Private Bill which the Y&NYCA has resolved to promote or oppose, including the negotiation and agreement of amendments to any such Bill, and the negotiation and approval of any terms, agreement or undertaking offered in consideration of the Y&NYCA not opposing any Private Bill.

- 3.6 Nominate, appoint and remove, in consultation with the Chair and Vice-Chairs of the Y&NYCA, Y&NYCA representatives on the board of companies, trusts and other bodies, of which the Y&NYCA is a member, and to agree constitutional arrangements for such companies, trusts and other bodies and give any necessary consent required within relevant constitutions.
- 3.7 To provide a comprehensive policy advice service to the Mayor and the Y&NYCA and to advise on the Mayor's or the Y&NYCA's plans and strategies, including the sustainable community strategy and the local transport plan.
- 3.8 Control and co-ordinate press and media relations, the organisation of press conferences, publicity and public relations within prescribed policy including approval of the issue of all official Y&NYCA publicity and official publications.
- 3.9 To approve the provision of reasonable hospitality to representatives of joint authorities, local authorities, organisations etc.
- 3.10 To authorise the attendance of officers at conferences or seminars which are appropriate to the work of the Y&NYCA and within any policy framework from time to time laid down by the Y&NYCA.
- 3.11 To be the authorised representative of the Y&NYCA (in the absence of any other officer being appointed) in respect of any company or organisation of which Y&NYCA is a member, including attending and voting at general meetings of the company or organisation or nominating a member or officer of Y&NYCA to do so.
- 3.12 To be the authorised representative of the Y&NYCA on the board of Transport for the North.
- 3.13 To manage investments made by the Y&NYCA, which fall outside of the approved Treasury Management strategy, in consultation with the Portfolio Holder for Finance and Investments and the [Post to be determined] and subject to subsequent reporting to the Y&NYCA.

3.14 Except where delegated to the Chief Fire Officer:

- a. Establishment of new and additional posts at grades up to Grade 11 or equivalent, subject to funding being available.
- b. In consultation with the [Post to be determined] determination of requests or recommendations for acting-up/honoraria/additional payments, subject to funding being available.
- c. In exceptional circumstances granting acceleration of increments for any staff within their substantive grade for merit and ability.
- d. Determination of extensions of sickness allowance in consultation with the [Post to be determined].
- e. Responsibility for the maintenance of an industrial relations framework.
- f. In consultation with the [Post to be determined], the agreement of severance packages up to the value of £60,000.

### **Estate Management**

3.15 Except where delegated to the Chief Fire Officer:

- a. To acquire by agreement, land and property (including freehold chief rents) SUBJECT always to the purchase price, or the purchase price when added to other transactions in respect of the same project, being within the estimate of costs included in the Y&NYCA's capital programme.
- b. To accept any offer or tender and agree and arrange for, the disposal of land or property and other interests in land or property provided the offer or tender does not exceed £500,000 and is the best consideration that can reasonably be obtained.
- c. In consultation with the relevant Portfolio Holder, to dispose of any interest in land at less than best consideration where the disposal will help the Y&NYCA to secure the promotion or improvement of the economic, social or environmental well-being of the Y&NYCA's area.
- d. Management of land, property, accommodation and facilities owned by the Y&NYCA.

### **Investment Funds**

3.16 In consultation with the relevant Portfolio Holder the variation of loans approved by the Y&NYCA by up to 10% of the loan amount and to vary other loan conditions provided that the loan is to the same borrower on substantially the same terms.

### **Mayoral Development Corporations - Acquisition of Land**

- 3.17 To discharge the function corresponding to the function contained in Section 207 Acquisition of land) subsection 3 of the Localism Act 2011 in respect of Mayoral Development Corporations, in consultation with the Mayor and with the member(s) (or substitute member(s) acting in place of that member(s)) of the Y&NYCA appointed by the Constituent Council(s) whose area(s) contain(s) any part of the land subject to the proposed compulsory acquisition.

In the absence of the Head of Paid Service, the above delegations may be exercised by the [Post to be determined].

#### **4. DELEGATIONS TO THE [POST TO BE DETERMINED]**

These functions may be Mayoral functions or non-Mayoral functions depending on the circumstances.

- 4.1 To effect the proper administration of the Y&NYCA's financial affairs particularly in relation to financial advice, procedures, records and accounting systems, internal audit and financial control generally.
- 4.2 The taking of all action required on borrowing, investment and financing subject to the submission to the Audit Committee and the Y&NYCA of an annual report of the [Post to be determined] on treasury management activities and at six-monthly intervals in accordance with CIPFA's Code of Practice for Treasury Management & Prudential Codes.
- 4.3 To effect all insurance cover required in connection with the business of the Y&NYCA and to settle all claims under such insurances arranged for the Y&NYCA's benefit.
- 4.4 The preparation of manuals of financial and accounting procedures to be followed by Officers of the Constituent Councils working on Y&NYCA matters.
- 4.5 To accept grant offers on behalf of the Y&NYCA, subject to all the terms and conditions set out by the grant awarding body.
- 4.6 The submission of all claims for grant to the UK Government or the European Community (EC).
- 4.7 To make grants to outside bodies and organisations in accordance with grant procedures in place at the time of making the grant.
- 4.8 To make all necessary banking arrangements on behalf of the Y&NYCA, to sign all cheques drawn on behalf of the Y&NYCA or

make arrangements for cheques to be signed by other officers or to arrange for such cheques to bear the facsimile signature of the [Post to be determined].

- 4.9 To monitor capital spending and submit a report to the Y&NYCA at not more than quarterly intervals. This report will separately identify the capital expenditure relating to schemes promoted by the Y&NYCA and those via Transport for the North.
- 4.10 In relation to revenue expenditure under the control of officers, to consider reports of officers on any likely overspending, and to approve transfers between expenditure heads up to a maximum of £25,000, provided that, where it is not possible to finance an overspending by such a transfer, the matter shall be referred to the Y&NYCA for consideration of a supplemental estimate.
- 4.11 The approval of contracts and agreements proposed to be entered into by Transport for the North provided that, subject to any other requirement of this Constitution, the [Post to be determined] may give a general consent to Transport for the North to enter into contracts or agreements the value of which does not exceed £5,000,000.
- 4.12 The collection of all money due to the Y&NYCA and the writing-off of bad debts.
- 4.13 To supervise procedures for the invitation, receipt and acceptance of tenders.
- 4.14 To administer the scheme of Members' allowances.
- 4.15 To make all necessary arrangements to ensure the payment of staff employed by the Y&NYCA.
- 4.16 To exercise the functions of the authority in relation to pensions and (without prejudice to the generality of this):
  - a. to be the person specified to determine disputes in the first instance arising from the decisions of the Authority as scheme employer under the Local Government Pension Regulations, and
  - b. to determine the treatment of pensions for employees of contractors engaged to provide waste services to Y&NYCA in situations where admission to the North Yorkshire Pension Fund is appropriate and to agree guarantees for Admission Agreements under the Local Government Pension scheme regulations.
- 4.17 To discharge the functions of the 'responsible financial officer' under the Accounts and Audit Regulations 2015 including the

requirement under Regulation 9 to sign and date the statement of accounts and certify that it presents a true and fair view of the financial position of the Y&NYCA at the end of the year to which it relates and of the Y&NYCA's income and expenditure for that year.

- 4.18 To discharge the functions of the Y&NYCA under the Accounts and Audit Regulations 2015 (except for those functions required to be exercised under these Regulations by the Y&NYCA).
- 4.19 To sign certificates under the Local Government (Contracts) Act 1997.
- 4.20 To be the officer nominated, or to nominate in writing another officer, as the person to receive disclosures of suspicious transactions for the purposes of the Proceeds of Crime Act 2002 and any regulations made thereunder.
- 4.21 To determine an amount (not exceeding the sterling equivalent of 5,000 euros) being the maximum sum which the Y&NYCA will receive in cash without the express written consent of the [Post to be determined].
- 4.22 To exercise the responsibilities assigned to the [Post to be determined] in the Financial Regulations and the Contract Procurement Rules.
- 4.23 In respect of the North Yorkshire Pension Fund
  - a. To exercise Local Government Pension Scheme Pensions discretions in line with agreed Y&NYCA Pensions Discretion Statement.
  - b. To authorise the adoption and implementation of pay awards made nationally or locally under procedures recognised by the Y&NYCA.
  - c. To Implement the Y&NYCA's Flexible and Early Retirement Policy.
- 4.24 To act as the Y&NYCA's Senior Information Risk Owner and to arrange for the determination of requests under the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and data protection legislation, including dealing with internal reviews, complaints and data sharing or data processing.
- 4.25 The [Post to be determined] is designated as the Y&NYCA's Chief Finance Officer for the purposes of Section 73 of the Local Government Act 1985. The functions of the Chief Finance Officer include:

- (i) responsibility for the administration of financial affairs under section 73 of the Local Government Act 1985
- (ii) exercise of the duties of the Chief Finance Officer under Section 114, 115 & 116 of the Local Government Finance Act 1988 and Section 25 of the Local Government Act 2003, namely ensuring lawfulness and financial prudence of decision-making.

In the absence of the [Post to be determined], the above delegations may be exercised by [      Need clarification on this point]

## **5. DELEGATIONS TO THE MONITORING OFFICER**

These functions may be Mayoral functions or non-Mayoral functions depending on the circumstances

The functions of the Monitoring Officer shall be as follows:

- 5.1 Should at any time it appears to the Monitoring Officer that any proposal, decision or omission by the Y&NYCA has given rise to or is likely to give rise to unlawfulness or maladministration, he/she will prepare a report to the Y&NYCA with respect to that proposal, decision or omission.
- 5.2 Contribute to the promotion and maintenance of high standards of conduct through provision of support to the Audit and Governance Committee. The Y&NYCA has delegated to the Monitoring Officer the following powers to deal with matters of conduct and ethical standards in accordance with the requirements of the Localism Act 2011:
  - (i) To act as the Y&NYCA's Proper Officer to receive complaints that Y&NYCA Members have failed to comply with the Y&NYCA's Code of Conduct for Members;
  - (ii) To determine, after consultation with the Independent Person and in accordance with the Y&NYCA's Arrangements for dealing with Complaints that Y&NYCA Members have failed to comply with the Y&NYCA's Code of Conduct for Members ("the Y&NYCA's Arrangements") whether to reject, informally resolve or investigate a complaint;
  - (iii) To seek informal resolution of complaints that Y&NYCA Members have failed to comply with the Y&NYCA's Code of Conduct for Members wherever practicable;
  - (iv) To refer decisions dealing with a complaint against a Y&NYCA Member to the Y&NYCA's Audit and Governance Committee in exceptional circumstances;

- (v) To arrange for the appointment of an Investigating Officer to investigate a complaint where the Monitoring Officer (in consultation with the Independent Person) determines that a complaint merits formal investigation;
- (vi) To issue guidance to be followed by an Investigating Officer on the investigation of complaints;
- (vii) To confirm, after consultation with the Independent Person and in accordance with the Y&NYCA's Arrangements, an Investigating Officer's finding of no failure to comply with the Y&NYCA's Code of Conduct for Members;
- (viii) Where an Investigating Officer's report finds that the Subject Member has failed to comply with the Y&NYCA's Code of Conduct for Members, to determine, after consultation with the Independent Person and in accordance with the Y&NYCA's Arrangements, either to seek a local resolution or to send a matter for local hearing.

#### **Y&NYCA's Register of Member's Interests**

- 5.3 In conjunction with the Head of Paid Service to prepare and maintain the Y&NYCA Register of Member's Interests to comply with the requirements of the Localism Act 2011 and the Y&NYCA's Code of Conduct for Members and ensure that it is available for inspection and published on the Y&NYCA's website as required by the Act.

#### **Dispensations**

- 5.4 To grant dispensations from section 31(4) of the Localism Act 2011 in consultation with the Independent Person if, having had regard to all relevant circumstances, the Monitoring Officer: -
  - i) considers that without the dispensation the number of persons prohibited by section 31(4) of the Localism Act 2011 from participating in any business would be so great a proportion of the body transacting the business as to impede the transaction of the business; or
  - ii) considers that without the dispensation the representation of different political groups on the body transacting any business would be so upset as to alter the likely outcome of any vote relating to the business; or
  - iii) considers that granting the dispensation is in the interests of persons living in the Y&NYCA's area; or



- iv) considers that it is otherwise appropriate to grant a dispensation.
- 5.5 Provide advice on the scope of powers and authority to take decisions, maladministration, financial impropriety, probity, budget and policy framework issues to all members of the Y&NYCA.
- 5.6 To act as the Solicitor to the Y&NYCA.
- 5.7 To institute, conduct, prosecute and defend any legal proceedings on behalf of the Y&NYCA, as may be necessary to protect and promote the Y&NYCA's interests in accordance with any general policy laid down by the Y&NYCA, subject to consultation with the Chair in any case where the matter is of significance to the Y&NYCA's reputation or where the Y&NYCA is to appeal to the Court of Appeal or the Supreme Court.
- 5.8 To settle, if appropriate, and in the interests of the Y&NYCA, any actual or threatened legal proceedings.
- 5.9 To instruct Counsel and professional advisers, where appropriate.
- 5.10 To give undertakings on behalf of Y&NYCA.
- 5.11 To supervise the preparation and sealing or signature of legal documents.
- 5.12 To authorise other officers to seal documents in accordance with Article 11.4 of the Y&NYCA Constitution, or to sign documents which are not required to be under seal.
- 5.13 To complete all property transactions and contractual arrangements where terms have been agreed by the Y&NYCA or Committees or Chief Officers acting under the Scheme of Delegation.
- 5.14 To determine exemptions under Section 36 of the Freedom of Information Act 2000.
- 5.15 To accept on behalf of the Y&NYCA the service of notices, orders and legal procedures.
- 5.16 Under Section 223 of the Local Government Act 1972 to authorise officers who are not admitted solicitors to appear in Magistrates' Court on behalf of the Y&NYCA.
- 5.17 To be responsible for determinations in relation to and maintenance of the list of politically restricted posts.



- 5.18 Be the Proper Officer for ensuring the maintenance of public access to information in relation to Y&NYCA documents, reports and background papers.

**6. MAYOR'S DELEGATIONS TO THE CHIEF FIRE OFFICER**

- 6.1 All matters associated with the day-to-day operation of the Fire and Rescue Service ('the Service').
- 6.2 The authorisation of employees to exercise statutory powers under section 44 of the Fire and Rescue Services Act 2004 (powers of fire-fighters etc. in an emergency etc.).
- 6.3 The appointment of authorised officers to exercise statutory powers under sections 45 and 46 of the Fire and Rescue Services Act 2004 (obtaining of information and investigating fires).
- 6.4 The powers of the Mayor in relation to fire safety and health and safety at work and any other legislation for which the Mayor has responsibility for enforcement.
- 6.5 The signature and service of any document or notice, and the issue, amendment, transfer, cancellation and revocation of licences for fireworks and the grant or non-grant of storage certificates for petroleum.
- 6.6 The appointment of authorised officers and inspectors under legislation relating to fire safety and health and safety at work and any other legislation for which the Mayor has responsibility for enforcement, identifying the powers each authorised officer or inspector is empowered to exercise (including, but not limited to, the signature and service of documents and notices, powers of entry, inspection, procuring of samples, testing, requests for information and records).
- 6.7 The appointment of authorised officers to inspect premises for Fire Service purposes at the request of Constituent Councils in connection with applications received by them for licences or approvals under all relevant statutory provisions including those for which Constituent Councils are responsible and in connection with which requests for assistance are received.
- 6.8 The authorisation of appropriate persons to accompany inspectors on inspections carried out under the Health & Safety at Work etc. Act 1974.

- 6.9 The authorisation of appropriate persons to sign and serve any document or notice, and to issue, grant, not grant, amend, transfer, cancel and revoke licences, storage certificates and consents for fireworks, explosives, petroleum and flammable stacks.
- 6.10 The issuing of formal cautions under fire safety and Health and safety at Work for which the Mayor has responsibility for enforcement.
- 6.11 In consultation with the Monitoring Officer the institution of legal proceedings in relation to fire safety and health and safety at work and any other legislation for which the Mayor has responsibility for enforcement.
- 6.12 In relation to the use of vehicles in accordance with any policy which may be laid down by the Mayor -
- a) the approval of the use of official cars by flexible-duty officers for social purposes and restricted journeys whilst away from duty but 'on call'; and
  - b) the approval of the use of official transport for attendance within the UK at events promoting learning and improvement
- 6.13 The raising of charges:
- a) for any item of equipment lost or damaged through negligence or carelessness on the part of Fire Service personnel;
  - b) for any item of personal uniformed equipment held after replacement, the amount of charge (if any) to be determined, considering the age and condition of the article at the time of loss, damage or replacement.
- 6.14 After consultation with the [Post to be determined], the determination within the policy adopted by the Mayor of charges for special services carried out by the Service and the waiving or modification of any such charges.
- 6.15 In accordance with the policy adopted by the Mayor determination of the occasions and the conditions under which fire appliances, personnel and equipment may be used to participate in processions, displays or other events organised by Constituent Councils or other bodies.
- 6.16 In consultation with the [Post to be determined], variations in the charges which may be prescribed in the annual review of

charges to be made to other fire and rescue authorities and outside organisations for the training of personnel.

- 6.17 In accordance with the Firefighters' Pension Schemes, the determination of questions relating to the retirement of members of the Service on grounds of ill health and the payment of ordinary, ill health and the special pensions as appropriate, the counting of past service and the extension of service by not more than six months.
- 6.18 Within policy adopted by the Mayor, the determination of applications from uniformed members of the Service to take up employment outside their normal duties.
- 6.19 The nature/type of uniform and the application of scales of uniform issue.
- 6.20 The amendment of the scale of issue of uniform to all roles when necessary.
- 6.21 The attendance of uniformed Service personnel on training courses at the Fire Service College for periods not exceeding 26 consecutive weeks.
- 6.22 The approval of secondments of officers as instructors at the Fire Service College, provided the conditions of secondment are in accordance with recommendations of the relevant government department and the policy of the Mayor.
- 6.23 The making of reimbursements, in accordance with Part E NJC Scheme of Conditions of Service for Local Authority Fire and Rescue Services, to any driver who, following an investigation of an accident, is adjudged by the Chief Fire Officer to be blameless or where there are strong extenuating circumstances, provided that where, in the Chief Fire Officer's opinion, there exists an element of doubt about the extenuating circumstances surrounding any claim for reimbursement, a report be presented to the Mayor for a decision thereon.
- 6.24 After consultation with the [Post to be determined], the approval of increases in the scale of allowances for fire officers undress uniform to take account of inflation.
- 6.25 In relation to Fire and Rescue Service Staff within the Chief Fire Officer's direct or indirect line management responsibility:
  - (a) Establishment of new and additional posts at grades up to Grade 11 or equivalent, subject to funding being available.

- (b) in consultation with the [Post to be determined] determination of requests or recommendations for acting-up/honoraria/additional payments, subject to funding being available
  - (c) In exceptional circumstances granting acceleration of increments for any staff within their substantive grade for merit and ability
  - (d) Determination of extensions of sickness allowance (in consultation with the [Post to be determined])
  - (e) Responsibility for the maintenance of an industrial relations framework
- 6.26 Management of land, property, accommodation and facilities owned by the Y&NYCA in connection with fire and rescue functions

In the absence of the Chief Fire Officer, the above delegations may be exercised by the Deputy Chief Fire Officer.

## **7. SCHEDULES OF PROPER OFFICERS**

- 7.1 Section 112(1) of the Local Government Act 1972 provides that the Y&NYCA shall appoint such officers as it thinks necessary for the appropriate discharge by the Y&NYCA of such of its functions as fall to be discharged by them.
- 7.2 There are a number of specific references in enactments affecting the Y&NYCA, which call for functions to be undertaken by what is termed the 'Proper Officer'. The following Schedules list such references and identify the Chief Officers responsible for their discharge:

### **HEAD OF PAID SERVICE**

The Head of Paid Service is appointed the Proper Officer for the purpose of any enactment (including the York and North Yorkshire Combined Authority Order 2023), other than an enactment in respect of which the Y&NYCA or this Constitution has designated another officer as Proper Officer.

### **[POST TO BE DETERMINED]**

The [Post to be determined] to the Y&NYCA is appointed the Proper Officer in relation to the following:

Local Government Act 1972

Section 115 (2)	Receipt of money due from Officers
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Local Government Act 1985

Section 73	Administration of the financial affairs of the Y&NYCA
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**MONITORING OFFICER**

The Monitoring Officer to the Y&NYCA is appointed the Proper Officer in relation to the following:

Local Government Act 1972

Section 100B (2)	Determination of those reports which should be available for public inspection prior to a meeting of the Y&NYCA and any Committee of the Y&NYCA and those which are likely to be heard in private and consequently which should not be released to the public.
Section 100B (7)	Provision of documents to the press, additional to Committee reports.
Section 100C (2)	Preparing written summaries of proceedings.
Section 100D (1)	Making arrangements for list of, and background papers to reports, to be made available for public inspection.
Section 100F (2)	Determination of documents disclosing exempt information which may not be inspected by Members.
Section 146 (1) (a) and (b)	Declaration and Certificates with regard to securities.
Section 225 (1)	Deposit of Documents
Section 229 (5)	Certifications of photographic copies of documents.
Section 234 (1) & (2)	Issuing and signing of formal notices.

Section 236 (9) & (10)	Serving copies of Byelaws.
Section 238	Certification of Byelaws.

Schedule 12 para 4 (2) (b)	Signature of Summonses to the Y&NYCA
Schedule 12 para 4 (3)	Receipt of notices regarding address to which Summons to meetings of the Y&NYCA is to be sent

**GENERAL**

All Officers in whose name reports are submitted to the Y&NYCA via the Monitoring Officer and the [Post to be determined] are appointed the proper officers in relation to the following: -

Local Government Act 1972

Section 100 D (1) (a)	Compilation and retention of lists of background papers and copies of the relevant documents and reports; and
Section 100 D (5)	Identifying and determining what are background papers

**PART 4**  
**COMMITTEES**

## **PART 4**

### **COMMITTEES**

#### **Introduction**

1. To facilitate the discharge of certain of its functions the Y&NYCA has established the following committees under Section 102 of the Local Government Act 1972:
  - BUSINESS COMMITTEE
  
2. To meet the requirements of Schedule 5A of the Local Democracy, Economic Development and Construction Act 2009 and the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 the Y&NYCA has established the following committees:
  - AUDIT AND GOVERNANCE COMMITTEE
  - TRANSPORT & PLACE COMMITTEE
  - Y&NYCA OVERVIEW AND SCRUTINY COMMITTEE



o **A. AUDIT & GOVERNANCE COMMITTEE**

The Y&NYCA Audit and Governance Committees oversees all aspects of Y&NYCA including Mayoral functions. The Mayor has also established an Audit Panel which oversees the control environment of the Chief Constable.

**1. Statement of Purpose**

- 1.1 The Audit and Governance Committee is a key component of corporate governance providing an independent, high-level focus on the audit, assurance and reporting framework underpinning financial management and governance arrangements. Its purpose is to provide independent review and assurance to Members on governance, risk management and control frameworks. It has delegated power to approve the annual accounts and it oversees year-end financial reporting, the Annual Governance Statement process and internal and external audit, to ensure efficient and effective assurance arrangements are in place.
- 1.2 The Constitution makes the Y&NYCA's [Post to be determined] responsible for discharging the functions of the 'responsible financial officer' under the Accounts and Audit Regulations 2015, including ensuring risk is appropriately managed.
- 1.3 The Audit and Governance Committee is to deal with matters relating to member conduct and ethical standards.

**2. Composition and Procedure**

2.1 Membership

The Audit and Governance Committee shall be appointed by the Y&NYCA and shall have a total of nine members, comprising:

- Four co-opted elected members of the Constituent Councils of the Y&NYCA (who are not also Members or Substitute Members of the Y&NYCA or Assistant Portfolio Holders);
- The Y&NYCA will also appoint two substitute co-opted elected members who may be invited to attend as full members of the Audit and Governance Committee when apologies have been received. Substitute members will be appointed from the nominations received from constituent councils following their annual meetings and will be politically inclusive.

- Four co-opted members, who are Independent Persons.
- One co-opted Independent Standards Person to attend the Committee to deal with matters relating to member conduct and ethical standards.

All members of the Committee save the Independent Standards Member will have voting rights.

## 2.2 Independent Person

For the purposes of paragraph 2.1 above an individual is an Independent Person if that person:

- (i) is not a member, substitute member, co-opted member or officer of the Y&NYCA or the Constituent Councils;
- (ii) is not a relative, or close friend, of a person within (i) above; and
- (iii) was not at any time during the 5 years ending with their appointment to the Audit and Governance Committee a member, substitute member, co-opted member or officer of the Y&NYCA.

[For the purposes of paragraph 2.2(ii) above 'relative' has the meaning contained in Article 2(2) of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.]

## 2.3 Political Balance

In appointing co-opted elected members to the Audit & Governance Committee the Y&NYCA must ensure that the members of the committee taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the Constituent Councils when taken together, in accordance with Rule 15.3 of the Y&NYCA Procedure Rules set out in Section A of Part 5 of this Constitution.

## 2.4 Chairing the Committee

The Y&NYCA will appoint the Chair of the Committee. In the absence of the appointed Chair, the Committee will be chaired as determined by the Committee.

## 2.5 Quorum

At least two-thirds of the total number of members of the Audit & Governance Committee (i.e., six members) must be present at a meeting of the Committee before any business may be

transacted, except in relation to the matters referred to in paragraphs 10.1(f) to (i) below where at least one member must be the Co-opted Independent Standards Person (provided that the Co-opted Independent Member is not prevented or restricted from participating by virtue of the Y&NYCA's Code of Conduct).

## 2.6 Voting

Each member to have one vote, no member is to have a casting vote. The co-opted Independent Standards member has no vote.

## 3. Role and Function

The overarching roles the Y&NYCA's Audit & Governance Committee are:

- 3.1 Reviewing and scrutinising the Y&NYCA's accounting framework.
- 3.2 Reviewing and assessing the Y&NYCA's risk management, internal control and corporate governance arrangements.
- 3.3 Reviewing and assessing the economy, efficiency and effectiveness with which resources have been used in discharging the Y&NYCA's functions.
- 3.4 Making reports and recommendations to the Y&NYCA in relation to reviews conducted under paragraphs 3.1 to 3.3 above.
- 3.5 To require Members, including the Mayor or Officers the Y&NYCA to attend before the Committee to answer questions on relevant items.

The functions of the Y&NYCA's Audit & Governance Committee are:

## 4. Approval of Accounts

- 4.1 Approve under delegated powers the annual statement of accounts for Y&NYCA and Chief Constable of North Yorkshire Police.

## 5. Governance, Risk and Control

- 5.1 Review corporate governance arrangements against the Code of Corporate Governance and the good governance framework.

- 5.2 Review the Annual Governance Statement (AGS) prior to approval to ensure it properly reflects the risk environment and supporting assurances.
- 5.3 Review the effectiveness of arrangements to secure value for money.
- 5.4 Ensure the assurance framework adequately addresses risks and priorities including governance arrangements in significant partnerships.
- 5.5 Monitor the Y&NYCA's risk and performance management arrangements including review of the risk register, progress with mitigating action and the assurance map.
- 5.6 Consider reports on the effectiveness of internal controls.
- 5.7 Monitor the anti-fraud strategy, risk-assessment and any actions.
- 5.8 Receive the annual report of the Chair of the Joint Independent Audit Panel – Police and Crime and the minutes of meetings of the Panel as, amongst other things, a means of providing assurance with regard to North Yorkshire Police's internal control environment and risk management framework for the management of operational risk.

## **6. Internal audit**

- 6.1 Approve the Internal Audit Charter.
- 6.2 Oversee Internal Audit's effectiveness including strategy, planning and process and ensure conformance with Public Sector Internal Audit Standards (PSIAS).
- 6.3 Approve (but not direct) the risk-based internal audit plan including resources, the reliability of other sources of assurance and any significant in-year changes.
- 6.4 Consider reports and assurances from the Head of Audit and Assurance in relation to:
  - Internal Audit performance including key findings and actions from audit assignments, significant non-conformance with PSIAS and the Quality Assurance and Improvement Programme.
  - Annual Assurance Opinion on the adequacy and effectiveness of the framework of governance, risk management and control.

- Risk management and assurance mapping arrangements.
  - Progress to implement recommendations including concerns or where managers have accepted risks.
  - Provision of assurances over the effectiveness of internal audit functions assuring the internal control environments of the Chief Constable for North Yorkshire Police.
- 6.5 Consider and comment on the [Post to be determined]' Annual Review of the Effectiveness of the System of Internal Audit.
- 6.6 Develop effective communication with the Head of Audit and Assurance and senior audit staff.

**7. External audit**

- 7.1 Consider reports including the Annual Audit Letter, assess the implications and monitor managers' response to concerns.
- 7.2 Comment on the nature and scope of work to ensure it gives value for money.
- 7.3 Advise on the effectiveness of relationships between external and internal audit and other inspection agencies or relevant bodies.

**8. Financial reporting**

- 8.1 Consider whether accounting policies were appropriately followed and any need to report concerns to the Y&NYCA.
- 8.2 Consider the [Post to be determined]' arrangements for the maintenance of the Police Fund and the Mayoral General Fund.
- 8.3 Consider any issues arising from external audit's audit of the accounts.
- 8.4 Ensure there is effective scrutiny of the treasury management strategy and policies in accordance with CIPFA's Code of Practice.
- 8.5 Make recommendations to the [Post to be determined] and Monitoring Officer in respect of Part 6 of the Y&NYCA's Constitution (Financial Procedures).

**9. Accountability arrangements**

- 9.1 Report the Committee's findings, conclusions and recommendations to the Y&NYCA and the Mayor, as appropriate, on the effectiveness of governance, risk management and internal controls, financial reporting and internal and external audit functions.

**10. Member Conduct and Ethical Standards.**

10.1 The Y&NYCA has delegated to the Audit & Governance Committee the following powers to deal with matters of conduct and ethical Standards, and the Committee has the following role and functions:

- (a) to promote and maintain high standards of conduct by Y&NYCA Members and co-opted members of the Y&NYCA's committees;
- (b) to assist Y&NYCA Members and co-opted members of the Y&NYCA's committees to observe the Y&NYCA's Code of Conduct for Members;
- (c) to advise the Y&NYCA on the adoption, revision or replacement of the Y&NYCA's Code of Conduct for Members and the Y&NYCA's Arrangements for Dealing with Complaints that Y&NYCA Members or voting co-opted members have failed to comply with the Y&NYCA's Code of Conduct for Members ('the Y&NYCA's Arrangements');
- (d) to monitor the operation of the Y&NYCA's Code of Conduct for Members and the Y&NYCA's Arrangements;
- (e) to advise, train or arrange to train Y&NYCA Members and co-opted members on matters relating to the Y&NYCA's Code of Conduct for Members and other issues relating to standards and conduct;
- (f) to determine in accordance with the Y&NYCA's Arrangements whether a Y&NYCA Member or voting co-opted member has failed to comply with the Y&NYCA's Code of Conduct for Members and, if so, to determine what action (if any) to take;
- (g) to take decisions in respect of a Y&NYCA Member or voting co-opted member who is found on a hearing held in accordance with the Y&NYC's Arrangements to have failed to comply with the Y&NYCA's Code of Conduct for Members ("the Subject Member"), such actions to include –
  - consideration of publication of findings in respect of the Subject Member's conduct;

- reporting such findings to the Y&NYCA for information;
  - recommending to the Y&NYCA that the Subject Member should be censured;
  - instructing the Y&NYCA's Monitoring Officer to arrange training for the Subject Member;
  - recommending to the Y&NYCA that the Subject Member should be removed from all appointments to which the Subject Member has been appointed or nominated by the Y&NYCA;
  - placing such restrictions on the Subject Member's access to staff, buildings or parts of buildings provided by, or for the use of, the Y&NYCA as may be reasonable in the circumstances;
- (h) to determine appeals against the Y&NYCA Monitoring Officer's decision on the grant of dispensations;
- (i) to deal with reports of the Monitoring Officer regarding breaches of the protocols/guidance to Members accompanying the Y&NYCA's Code of Conduct for Members which do not in themselves constitute a breach of that Code;
- (j) to report from time to time to the Y&NYCA on ethical governance within the Y&NYCA.
- (k) to overview the Y&NYCA's whistle blowing policy;
- (l) to consider the Y&NYCA's Code of Corporate Governance.

## **11. Delegation**

- 11.1 The Audit & Governance Committee may appoint one or more sub-committees for the purpose of discharging any of the Committee's functions. Any such sub-committee shall be chaired as determined by the Committee and shall have a quorum of three, except in relation to the matters referred to in paragraphs 10.1 (f) to (i) above. In respect of those specified matters the quorum will be four, of whom at least one member must be the Co-opted Independent Standards Member (provided that the Co-opted Independent Standards Member is not prevented or restricted from participating by virtue of the Y&NYCA's Code of Conduct).

## **B. BUSINESS COMMITTEE**

The Business Committee of the Y&NYCA integrates the former Board of the York and North Yorkshire Local Enterprise Partnership (LEP) into the Y&NYCA in accordance with the terms of the 2023 Order. The LEP was formerly a private sector led voluntary partnership between local authorities and businesses instigated by the Department of Business Innovation and Skills to help determine local economic priorities and lead economic growth and job creation within York and North Yorkshire.

### **1. Purpose.**

The purpose of the Business Committee is

- 1.1 to advise on strategy and policy that will unlock the region's economic potential and stimulate growth and prosperity.
- 1.2 to assist the Y&NYCA in bidding for public funding made available by government in support of economic growth.
- 1.3 to ensure policy and decisions of the Y&NYCA receive the input and views of key business leaders and take account of the views of the wider business community.
- 1.4 to engage with local, national and international businesses to understand the needs of different sectors and markets.
- 1.5 to engage business, opinion former and policy makers at a national and international level in promoting economic growth in the region.

In pursuit of this role the Business Committee will:

- 1.6 capture and communicate requirements for changes to, and development of, economic policy.
- 1.7 work collaboratively with all partners, including local authorities and other public and third sector bodies to address barriers to growth and to drive efficiency.
- 1.8 bring together intelligence and expertise to identify priorities and develop solutions to maximise private sector investment in the region and secure sustainable growth.
- 1.9 work to create an environment for business growth ensuring appropriate mechanisms exist through which, as a co-



ordinated voice the private sector can inform and influence the shape and future direction of local and national government policy.

- 1.10 advocate on behalf of the business sector at regional, national and international levels.

To ensure the Business Committee is effective in this role it has the authority to:

- 1.11 engage in dialogue with Government and advise the Mayor on responses to policy, proposals and opportunities to bid for funding in support of economic growth.
- 1.12 engage with investors, businesses and advisors to investigate growth opportunities.
- 1.13 to advise and consult on regional economic policy, programmes and interventions designed to maximise growth in the region.
- 1.14 to provide advice to the Mayor and the Y&NYCA on leadership in key themes and priorities to promote growth including policy development.
- 1.15 to review policy performance and assist the Mayor in ensuring that the work of the Y&NYCA is providing maximum support to businesses.

## **2. Legal Status.**

- 2.1 The Business Committee is an advisory committee of the Y&NYCA. Unless specifically delegated by the Y&NYCA it does not have the authority to take any decisions on behalf of the Y&NYCA and does not have legal status to enter into contracts.

## **3. Role of Members/Accountability**

- 3.1 It is the duty of the Business Committee members to act in the best interests of the region and in accordance with the policy of the Y&NYCA.
- 3.2 All private sector members of the Business Committee act in their individual capacity and not as representatives of their respective organisations. [The only exceptions to this are the representatives for Higher Education, Further Education, Chambers of Commerce and the Trade Union Congress.]

- 3.3 All Business Committee members are expected to discharge their duties in line with the Nolan Principles for Standards of Public Life. All members must sign and comply with the Y&NYCA Members' Code of Conduct.

**4. Membership.**

- 4.1 The Business Committee will comprise of [four] public sector members and [eight] private sector members. Private Sector Members will form the majority of the Board. In addition, the Chair can co-opt up to five additional private sector members with specialist knowledge for specific purposes. Co-opted members will not be counted in the private sector majority.
- 4.2 The Mayor will appoint a Chair from the private sector members who will provide strategic leadership on business growth for the region. The Chair will assist the Mayor in building the reputation and influence of the region at national and international levels.
- 4.3 The Chair will be a non-voting member of the Cabinet of the Y&NYCA. The Vice Chair will be appointed to act as substitute who will act in the absence of the Chair.
- 4.4 The Mayor will appoint one Vice Chair from the private sector who will provide day to day support to the Chair and Business Committee Members. The Vice Chair will assist the Mayor and the Chair on leading on business relations within the region, including engaging with the SME business community and will deputise for the Chair.
- 4.5 Private Sector representation on the Business Committee will be made up of business leaders who are either currently or recently in leading positions within business or who have specific sectoral or other experience relevant to the work of the Y&NYCA. [The Business Committee will also include a representative from the region's Higher and Further Education sectors and a Trade Union representative.]
- 4.6 All private sector members of the Business Committee, [except for the representatives for Higher Education, Further Education, Chambers of Commerce and the Trade Union Congress] act in their individual capacity and substitute Members will not be allowed to attend meetings should any Committee Member be unavailable.

4.7 Private Sector Committee Members will be appointed based on their experience, leadership skills and commitment to the achievement of the aims and objectives of the Y&NYCA.

4.8 All members of the Business Committee will be required to complete a Register of Interests and complete all relevant documentation in respect of registering gifts and hospitality as required by the Y&NYCA's Code of Conduct.

#### **4.9 Diversity**

4.10 The Y&NYCA is committed to diversity will have regard to ensuring the Business Committee has diverse representation, which is reflective of the local business community, including gender, ethnicity, geographical spread, business size, protected characteristics and sector experience. The Y&NYCA's commitment to diversity is articulated through its Diversity Policy.

### **5. Co-opting**

5.1 Where specific skills or abilities are required which are not available among existing members or which the Business Committee requires to be supplemented co-optees may be appointed to the Business Committee. The appointment will be made by the Y&NYCA in consultation with the Mayor. Co-opted members will not have voting rights and will not count towards the quorum of the private sector majority.

### **6. Recruitment, Appointment & Termination of Private Sector Membership.**

#### **Recruitment.**

6.1 Recruitment will be undertaken in line with the Y&NYCA Diversity Policy and made through an open, transparent, competitive and non-discriminatory process.

6.2 An Appointments Committee will be convened by the Y&NYCA, and a formal interview panel formed, comprising one member from each Constituent Authority and the Mayor.

6.3 Interview panels will be advised by the Head of Paid Service.

6.4 Remuneration will be as set out in the Members' Allowances Scheme.

#### **Appointment.**

- 6.5 On appointment Business Committee members are required to sign a declaration affirming their understanding and commitment to the Y&NYCA's Members' Code of Conduct.

**Termination.**

- 6.6 Where a Business Committee Member is no longer able to meet the conditions of Business Committee membership as defined by these terms of reference and any associated guidance issued by Government, the Mayor of the Y&NYCA following consultation with the Chair and the Head of Paid Service, may terminate a member's appointment to the Business Committee before the expiry of his/her period of appointment, with immediate effect.
- 6.7 Business Committee members who miss three or more of the scheduled Committee meetings in a 12-month period will be reviewed by the Chair and their membership may be terminated by the Mayor in consultation with the Chair.
- 6.8 Failure to declare interests at meetings and to complete a register of interests will also be grounds for an appointment to the Business Committee to be terminated.
- 6.9 A Business Committee member may resign at any time by giving notice to the Mayor in writing, having immediate effect.

**7. Term of Appointment.**

- 7.1 The term of office for a Private Sector Business Member will be 3 years. This may be extended by the Mayor by up to a further term of three years. In exceptional circumstances, with a clear rationale, Members may be appointed by the Mayor for a further term not exceeding three years.
- 7.2 The Chair, once appointed, will remain in role for a term of three years or until they choose to step down from the position within that term or if removed from the position of Chair by a majority of the Business Committee with the consent of the Mayor. In exceptional circumstances, an extension of a further term may be agreed by the Mayor.

**8. Public Sector Appointments.**

- 8.1 The term of office for any Constituent Authority representative appointed by a Constituent Authority (or their substitute) is at the discretion of their appointing authority; Constituent

Authorities may terminate their appointment or appoint a representative at any time, by notification in writing to the Y&NYCA's Monitoring Officer.

**9. Performance.**

9.1 Private Sector Business Committee Members are expected to attend all Business Committee meetings and any relevant meetings including any working groups to which they are appointed.

9.2 All Business Committee members will also be governed by the Constitution and Codes of Conduct of the Y&NYCA and associated legal and government policy requirements.

**10. Frequency of Meetings**

10.1 The Business Committee will meet quarterly.

**11. Attendance.**

11.1 Private Sector Business Committee members who miss three or more of the scheduled Committee meetings in a 12-month period will be reviewed by the Mayor and their membership may be terminated.

**12. Quorum**

12.1 Meetings of the Business Committee will be quorate when at least one quarter of the Private Sector Members and at least one quarter of the constituent Public Sector members are present.

12.2 A Member who is obliged to withdraw under the Code of Conduct for Members shall not be counted towards the quorum.

12.3 For the purposes of determining whether a quorum is present, a Business Committee Member may be counted in the quorum if they are able to participate in the proceedings of the meeting by remote means e.g. telephone or video line (or equivalent) and remain so available throughout the discussion and decision for each item for which they are counted as part of the quorum.

**13. Voting**

13.1 The Business Committee shall operate on a consensus model, wherever possible. Where a consensus is not achieved, a

matter shall be carried by a majority of votes of the members of the Business Committee present and voting.

**14. Conflicts of Interests.**

**Register of Interests.**

14.1 It is the responsibility of Committee members to ensure an up-to-date Register of Interests is maintained. A member must, within 28 days of becoming aware of any change in their interests, provide written notification of this. These will be published on the website and is a condition of appointment.

**Declaration of Interests at a meeting.**

14.2 It is a responsibility of Committee members to declare any personal, prejudicial or pecuniary interest on any item of business being conducted at a Committee or other Y&NYCA meeting. Where a “pecuniary interest” is declared, Members will leave the meeting, where a “non-pecuniary” interest is declared, Members may remain at the meeting but not participate in business.

**15. Urgency Procedure.**

15.1 In order to ensure that the Y&NYCA can progress its business in an efficient manner, comments on urgent matters may be sought by the Head of Paid Service or other Statutory Officer outside the meeting cycle.

15.2 Members will receive email notification which identifies:

- Details of the matter requiring comment and/or advice and the reason for urgency (including an explanation as to why an emergency meeting is not proposed to be held to conduct the business)
- The date responses are required by
- The name of the person or persons making or putting forward the proposal.

15.3 Actions taken and advice provided will be retrospectively reported to the next meeting of the Business Committee.

**16. <sup>[OBJ]</sup> Working Groups**

16.1 With the approval of the Mayor and the Chair, the Business Committee may establish a working group to assist it to meet its remit.

16.2 Any such subordinate body set up by the Business Committee shall include one or more Business Committee Members, as nominated by the Committee. With the consent of the Chair and the Mayor, any such group may also co-opt onto it any person with the relevant expertise on the issues within the remit of these groups.

16.3 The remit and terms of reference for any such subordinate body shall be approved by the Mayor and the Business Committee.

## **17. [OBJ] Transparency**

### **Agendas and Reports**

17.1 Agendas and reports for the Business Committee will be available on the website at least five clear working days before the meeting to which they relate.

### **Access to Information**

17.2 Reports will be released with the agenda, except in those cases where the information contained in the reports is exempt from disclosure under The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 or under Schedule 12A of the Local Government Act 1972.

## **18. [OBJ] Amendments to Terms of Reference.**

18.1 These terms of reference will be reviewed annually in line with the review of the Assurance Framework and the Annual Governance Review. Any changes will be approved by the Y&NYCA.

[ **C. TRANSPORT and PLACE COMMITTEE**

Terms of Reference to be Determined] [OBJ]

**1. Purpose**

**2. Composition**

2.1 Membership

2.2 Political Balance

2.3 Chairing the Committee

2.4 Quorum

2.5 **Voting**

**3. Role and Function**



## **D. OVERVIEW AND SCRUTINY COMMITTEE**

### **1. Purpose**

- 1.1 The Y&NYCA must establish one or more overview and scrutiny committees.
- 1.2 The Y&NYCA has determined to establish one overview and scrutiny committee with the remit set out in paragraph 4 below.
- 1.3 The scrutiny procedure rules set out in section 5C give details on how this committee operates.

### **2. Composition**

#### **2.1 Membership**

The overview and scrutiny committee will be composed of [12 members] appointed by the Y&NYCA from the elected members of the Constituent Councils. Each Constituent Council will appoint 6 members to the Committee. A Member of the Y&NYCA (including a Substitute Member) or an Assistant Portfolio Holder may not be a member of the overview and scrutiny committee.

The overview and scrutiny committee will have a least one member from each Constituent Council.

In making appointments to the overview and scrutiny committee the Y&NYCA will have regard to any nominations made by Constituent Councils.

The Y&NYCA will also appoint up to [12] substitute members who may be invited to attend as full members of the overview and committee when apologies have been received. Substitute members will be appointed from the nominations received from constituent councils following their annual meetings and will be politically inclusive.

#### **2.2 Political Balance**

In appointing the members of the overview and scrutiny committee the Y&NYCA must ensure that the members of the committee taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing among members of the Constituent Councils when taken together.

### 2.3 Chairing the Committee

The overview and scrutiny committee will appoint its own chair, subject to meeting the requirement that the Chair is a member of the committee who is an 'appropriate person' that is a member of one of the Constituent Councils.

### 2.4 Appropriate person

An 'appropriate person' means:

- a person who is not a member of a registered political party of which the Mayor is a member;
- [or, where the Mayor is not a member of a registered political party, a person who is not a member of a registered political party which has the most representatives among the members of the Constituent Councils on the Y&NYCA or, where two or more parties have the same number of representatives, a member of any of those parties.] [To be determined]

### 2.5 Quorum

At least two-thirds of the total number of members of an overview and scrutiny committee (i.e., [8] members) must be present at a meeting of the overview and scrutiny committee before any business may be transacted.

### 2.6 Voting

Each member to have one vote, no member is to have a casting vote

## 3. Role and Function

The scrutiny procedure rules in section 5C of this constitution set out these roles and functions in more detail.

- 3.1 The overview and scrutiny committee shall, within the scope of its remit, exercise the overview and scrutiny functions set out in Schedule 5A of the Local Democracy, Economic Development and Construction Act 2009 and the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017 ("the Scrutiny Order") and in particular shall have the following powers and responsibilities (to be exercised in accordance with the Overview and Scrutiny Procedure Rules set out in Section C of Part 5 of this Constitution):

- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the Y&NYCA;
- (b) to make reports or recommendations to the Y&NYCA with respect to the discharge of any functions that are the responsibility of the Y&NYCA;
- (c) to make reports or recommendations to the Y&NYCA on matters that affect the Y&NYCA's area or the inhabitants of the area;
- (d) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the Mayor of any general (but not Police and Crime Commissioner nor fire and rescue) functions;
- (e) to make reports or recommendations to the Mayor with respect to the discharge of any general (but not Police and Crime Commissioner nor fire and rescue) functions;
- (f) to make reports or recommendations to the Mayor on matters that affect the Y&NYCA's area or the inhabitants of the area;
- (g) when exercising the power under (a) or (d) above, to have the power to:
  - direct that a decision is not to be implemented while it is under review or scrutiny by the overview and scrutiny committee; and
  - recommend that the decision be reconsidered;
- (h) to publish details of how it proposes to exercise its powers under (g) above and its arrangements in connection with the exercise of those powers, having obtained the consent of the Y&NYCA to the proposals and arrangements;
- (i) to consider matters referred to the committee by one of its members, by a Member of the Y&NYCA or a member of a Constituent Council, in accordance with Article 6 of the Scrutiny Order;
- (j) to consider matters referred to the committee by the Y&NYCA or the Mayor;
- (k) to require the Members (including the Mayor and the Deputy Mayor) or officers of the Y&NYCA to attend before the overview and scrutiny committee to answer questions;

- (l) to invite other persons to attend meetings of the overview and scrutiny committee; and
- (m) to appoint one or more overview and scrutiny sub-committees and arrange for the discharge of any of the overview and scrutiny committee's functions by any such sub-committee.

#### **4. Overview and Scrutiny Committee Remit**

##### 4.1 Y&NYCA Overview and Scrutiny Committee

The remit of the overview and scrutiny committee includes: -

- To review and evaluate the performance of the Mayor and Y&NYCA and the way it works with its partners to deliver for local people;
- To contribute to policy development in respect of high profile, complex issues affecting the whole of York and North Yorkshire;
- To investigate complex cross-cutting issues with a particular focus on the delivery of the Combined Authority Strategy.

**PART 5**  
**RULES OF PROCEDURE**

## **SECTION A - Y&NYCA PROCEDURE RULES**

### **1. Interpretation, Suspension and Chair's Ruling**

- 1.1 These Rules apply to meetings of the Y&NYCA and, where appropriate, to meetings of Committees and Sub Committees of the Y&NYCA.
- 1.2 References in these Rules to the 'Chair' mean the Member of the Y&NYCA for the time being presiding at the meeting of the Y&NYCA and, where appropriate, to the member presiding at a meeting of a Committee or Sub Committee of the Y&NYCA.
- 1.3 These Rules should be read in conjunction with other parts of the Y&NYCA's Constitution.
- 1.4 \*\*\*These Rules are subject to any statute or other enactment whether passed before or after these Rules came into effect.
- 1.5 The ruling of the Chair on the interpretation of these Rules in relation to all questions of order and matters arising in debate shall be final.

### **2. Suspension and Revocation of Y&NYCA Procedure Rules**

- 2.1 \*\*\*Except for the Rules marked by an asterisk (\*\*\*) any Rule may be suspended at a meeting of the Y&NYCA either by a motion included on the agenda or by a motion put to the meeting without notice and passed by a majority of those present and voting. A motion to suspend any Rules will not be moved without notice unless at least 3 Members of the Y&NYCA are present.
- 2.2 Rules may be changed by the Y&NYCA either at the Annual Meeting or by a motion on notice made at a meeting of the Y&NYCA.

### **3. Membership of the Y&NYCA**

- 3.1 \*\*\*Each Constituent Council shall appoint two of its elected members to be a Member of the Y&NYCA.
- 3.2 \*\*\*Each Constituent Council shall appoint two named elected members for each Member to act as a Member of the Y&NYCA in the absence of the Member appointed under Rule 3.1 above ('the Substitute Member').

- 3.3 \*\*\*A person shall cease to be a Member or a Substitute Member of the Y&NYCA if they cease to be a member of the Constituent Council that appointed them.
- 3.4 \*\*\*A person may resign as a Member or Substitute Member of the Y&NYCA by written notice served on the proper officer of the Constituent Council that appointed them (who for the purposes of this Rule 3.4 shall be the Monitoring Officer of the Constituent Council that appointed them) and the resignation shall take effect on receipt of the notice by the proper officer.
- 3.5 \*\*\*Where a Member or Substitute Member of the Y&NYCA's appointment ceases by virtue of Rule 3.3 or 3.4, the Constituent Council that made the appointment must, as soon as practicable, give written notice of that fact to the Secretary and appoint another of its elected Members in that person's place.
- 3.6 \*\*\*A Constituent Council may at any time terminate the appointment of a Member or Substitute Member appointed by it to the Y&NYCA and appoint another of its elected members in that person's place.
- 3.7 \*\*\*Where a Constituent Council exercises its power under Rule 3.6, it must give written notice of the new appointment and the termination of the previous appointment to the Secretary and the new appointment shall take effect and the previous appointment terminate at the end of one week from the date on which the notice is given (or such longer period as is specified in the notice).
- 3.8 \*\*\*For the purposes of this Rule 3, an elected Mayor of a Constituent Council shall be treated as a Member of the Constituent Council.

**4. Chair and Vice-Chairs**

- 4.1 \*\*\* The Mayor shall be the Chair of Y&NYCA.
- 4.2 \*\*\*At least 2 and no more than 3 Vice-Chairs will be appointed annually by the Y&NYCA from among its Members.
- 4.3 The Vice-Chairs will be appointed in accordance with the following principles:
  - a. the Deputy Mayor will be appointed as one of the Vice-Chairs
  - b. [if more than one political group is represented on the Y&NYCA, no one political group may hold all the vice-chair positions;

- c. if less than 3 political groups are represented, the Y&NYCA may decide only to appoint two vice-chairs;
- d. if at least 3 political groups are represented, the Y&NYCA must appoint 3 vice-chairs and the three largest political groups will be entitled to one vice-chair;
- e. for the purposes of (c) above, where two or more political groups have an equal number of seats on the Y&NYCA, the group which also hold(s) the larger number of Council seats in York and North Yorkshire will be regarded as being the larger political group;
- f. for the purposes of this Rule, a single member may constitute a political group.] [This is the model from Greater Manchester and consideration needs to be given as to whether to incorporate into Y&NYCA.]

4.4 \*\*\*The appointment of the Vice-Chairs shall be the first business transacted at the Annual Meeting of the Y&NYCA.

4.5 \*\*\*On a vacancy arising in the office of Vice-Chair(s) for whatever reason, the Y&NYCA shall make an appointment to fill the vacancy at the next ordinary meeting of the Y&NYCA held after the date on which the vacancy occurs, or, if that meeting is held within 14 days after that date, then not later than the next following meeting. The Member appointed shall hold such office for the remainder of the year in which such vacancy occurred.

4.6 \*\*\*Subject to these Rules, anything authorised or required to be done by, or in relation to, the Chair, may be done by, or in relation to, the Vice-Chairs.

## 5. Portfolios

5.1 Each Member of the Y&NYCA will be allocated a portfolio of responsibilities by the Mayor at the annual meeting of the Y&NYCA.

5.2 Details of the portfolios and the Y&NYCA members to whom they have been allocated will be published on the Y&NYCA's website.

## 6. [Assistant Portfolio Holders

6.1 Subject to Rules 6.2 and 6.3 each Y&NYCA member appointed by a constituent council may appoint an elected member of another constituent council to act as an assistant portfolio holder whose duties will be to provide support and assistance to the Y&NYCA member in the carrying out of that member's duties in respect of the portfolio responsibilities allocated by the Mayor. Appointments will be made in accordance with a process (including provision for applications and nominations) to be agreed by the Mayor and the Vice-Chairs.



- 6.2 The person appointed as Assistant Portfolio Holder will be of a different gender from the Y&NYCA member who appoints the Assistant Portfolio Holder.
- 6.3 An Assistant Portfolio Holder may not serve on an Overview and Scrutiny Committee or the Audit Committee.
- 6.4 Assistant Portfolio Holder will have a standing invitation to attend meetings of the Y&NYCA, including parts of the meeting where exempt matters are being discussed, and will be entitled to speak (but not vote).] [The Greater Manchester model has Assistant Portfolio Holders and it is suggested that this is removed initially and later consideration can be given when the Mayor is appointed.]

## **7. Meetings**

- 7.1 \*\*\*The Annual Meeting of Y&NYCA shall be held in June on a date and at a time determined by the Y&NYCA. This will usually be the last Friday in June.
- 7.2 \*\*\*Ordinary meetings of the Y&NYCA for the transaction of general business shall be held on such dates and at such times as the Y&NYCA shall determine. This will usually be the last Friday of the month but may be varied to accommodate bank holidays and to ensure the effective transaction of Y&NYCA business.
- 7.3 \*\*\*An Extraordinary Meeting of the Y&NYCA may be called at any time by the Chair.

## **8. Admission of the Public**

- 8.1 \*\*\*All meetings of the Y&NYCA, its Committees and Sub-Committees shall be open to the public (including the press) except to the extent that they are excluded whether during the whole or part of the proceedings either:
  - a. In accordance with Section 100A (2) of the Local Government Act 1972; or
  - b. By resolution passed to exclude the public on the grounds that it is likely, in view of the nature of the proceedings, that if members of the public were present there would be disclosure to them of exempt information as defined in Section 100I of the Local Government Act 1972. Any such Resolution shall identify the proceedings or the part of the proceedings to which it applies and state the description, in terms of Schedule 12A to the Local Government Act 1972 of the exempt information giving rise to the exclusion of the public.

**9. Notice of Meetings**

- 9.1 At least five clear days before a meeting of the Y&NYCA:
- a. notice of the time and place of the intended meeting shall be published by the Secretary and posted at [INSERT POSTING PLACE HERE];
  - b. a summons to attend the meeting, specifying an agenda for the meeting, shall be sent by electronic mail to the usual email address of each Member, or any other email address notified to the Secretary by a Member
- 9.2 \*\*\*Lack of service on a Member of the Y&NYCA of the summons shall not affect the validity of a meeting of the Y&NYCA.
- 9.3 The following persons who are not members of the Y&NYCA will have a standing invitation to attend meetings of the Y&NYCA, including parts of the meeting where exempt matters are discussed: -
- a. the Substitute Members of the Y&NYCA
  - b. [the Assistant Portfolio Holders (see also Rule 6)] [To delete]
  - c. the Deputy Mayor for Policing and Crime
  - d. the Chair of the Audit and Governance Committee
  - e. the Chair(s) of the Overview and Scrutiny Committee(s)
  - f. the Chair of the Police Fire and Crime Panel
- 9.4 Except where otherwise entitled under this Constitution, (for example, see Rules 3.2, 6.1), such persons are not entitled to vote and may only speak at the discretion of the Chair.

**10. Cancelling Meetings**

- 10.1 The Secretary may cancel or postpone any meeting, in consultation with the meeting Chair, prior to the issue of the agenda or subsequently in the event of an emergency or if there is no business to be transacted.

**11. Meeting Agendas**

- 11.1 The Chair of the Y&NYCA will decide upon the agenda for the meetings of the Y&NYCA. The Chair may put on the agenda of any meeting any matter which the Chair wishes.
- 11.2 \*\*\*Any Member of the Y&NYCA may require the Secretary to make sure that an item is placed on the agenda of the next available meeting of the Y&NYCA for consideration.

- 11.3 Any item proposed to be included on the agenda for any meeting of the Y&NYCA in accordance with Rules 11.1 and 11.2 above, which is not submitted before 5 days of the meeting shall not be included on the agenda for that meeting unless it is agreed by the Chair in consultation with the Secretary. In this case the amended agenda for the meeting will state the reason for the late acceptance of any such item.
- 11.4 The Secretary shall set out in the agenda for each meeting of the Y&NYCA the items of business requested by Members (if any) unless the Member concerned has given prior written notice to the Secretary prior to the issue of the agenda for the meeting, for it to be withdrawn. If the Member concerned is not present at the meeting when an item of which they have given notice comes up for discussion, this item shall, unless the Y&NYCA decides otherwise, be treated as withdrawn.

### **Previous Decisions and Motions (Six Months Rule)**

- 11.5 Decisions of the Y&NYCA made within the last six months may not be changed, unless this Rule is suspended. (see Rule 2.1).
- 11.6 A motion or amendment in similar terms to one that has been rejected at a meeting of the Y&NYCA in the past six months cannot be moved, unless this Rule is suspended.
- 11.7 \*\*\*Except in the case of business required by these Rules to be transacted at a meeting of the Y&NYCA, and other business brought before the meeting as a matter of urgency, (and of which the Secretary shall have prior notice and which the Chair considers should be discussed at the meeting), no business shall be transacted at a meeting of the Y&NYCA other than that specified in the agenda for the meeting.

## **12 Chair of Meeting**

- 12.1 \*\*\*At each meeting of the Y&NYCA the Mayor, if present, shall preside.
- 12.3 \*\*\*If the Mayor is absent from a meeting of the Y&NYCA, the Deputy Mayor, if present, shall preside.
- 12.3 If both the Mayor and Deputy Mayor are absent from a meeting of the Y&NYCA, one of the other Vice-Chairs, if present, shall preside.
- 12.4 \*\*\*If all of Mayor, Deputy Mayor and Vice-Chairs of the Y&NYCA are absent from a meeting of the Y&NYCA, the Secretary shall invite the Members

present to elect a Member to preside for the duration of the meeting or until such time as the Mayor, Deputy Mayor or a Vice-Chair joins the meeting.

12.4 Any power or function of the Chair in relation to the conduct of a meeting shall be exercised by the person presiding at the meeting.

### **13. Quorum**

13.1 No business shall be transacted at any meeting of the Y&NYCA unless at least 3 of the Members are present to include a representative from each of the constituent authorities.

13.2 If at the time for which a meeting is called, and for 15 minutes thereafter, a quorum is not present, then no meeting shall take place.

13.3 If during any meeting of the Y&NYCA the Chair, after counting the number of Members present, declares that there is not a quorum present, the meeting shall stand adjourned to a time fixed by the Chair. If there is no quorum and the Chair does not fix a time for the reconvened meeting, the meeting shall stand adjourned to the next ordinary meeting of the Y&NYCA.

### **14. Order of Business**

14.1 At every meeting of the Y&NYCA the order of business shall be to select a person to preside if the Mayor, Deputy Mayor or Vice-Chair(s) are absent and thereafter shall be in accordance with the order specified in the agenda for the meeting, except that such order may be varied -

- a. by the Chair at his/her discretion, or
- b. on a request agreed to by the Y&NYCA.

14.2 The Chair may bring before the Y&NYCA at their discretion any matter that they consider appropriate to bring before the Y&NYCA as a matter of urgency.

### **15. Committees**

15.1 \*\*\* The Y&NYCA must appoint an Audit and Governance Committee and one or more Overview and Scrutiny Committee(s) in accordance with the Scrutiny Order and Part 4 of this Constitution.

15.2 The Y&NYCA will appoint a Business Committee, and a Transport and Place Committee in accordance with Part 4 of this Constitution.

- 15.3 \*\*\* Appointments of the above committees must be made so that the members of the committee drawn from the Constituent Councils taken as a whole reflect so far as reasonably practicable the balance of political parties for the time being prevailing amongst the Constituent Councils when taken together. Where members of the committee are to be appointed from the members of the Y&NYCA it may not be practicable to achieve political balance.

**16. Proceedings of any Committee or Sub-Committee of Y&NYCA**

- 16.1 Except where a Committee or any Committee or Sub-Committee of the Y&NYCA, is acting under delegated authority, the Minutes of any Committee or Sub-Committee of the Y&NYCA, shall be submitted to the Y&NYCA for confirmation. Confirmation by the Y&NYCA of those Minutes shall constitute approval of any Committee or Sub-Committee of the Y&NYCA.
- 16.2 The Chair of any Committee or Sub-Committee of the Y&NYCA, (or any Committee or Sub-Committee of the Y&NYCA acting in their place), shall deal with matters arising during any debate by the Y&NYCA on the proceedings of any Committee or Sub-Committee of the Y&NYCA.
- 16.3 The Chair of the Committee or any Committee or Sub-Committee of the Y&NYCA, (or any Committee or Sub-Committee of the Y&NYCA acting in their place), may, with the consent of the Y&NYCA, withdraw any item on the Minutes of any Committee or Subcommittee of the Y&NYCA, or correct any factual inaccuracy, which might otherwise result in the Y&NYCA being misinformed on any item in the Minutes of any Committee or Sub-Committee of the Y&NYCA.
- 16.4 Where any Committee or Sub-Committee of the Y&NYCA is acting under delegated authority, the Minutes of the proceedings of any Committee or Sub-Committee of the Y&NYCA shall be submitted to the Y&NYCA for information.

**17 Rules of Debate**

- 17.1 Motion or amendment shall not be discussed unless it has been proposed and seconded.
- 17.2 A Member shall address the Chair and direct any speech to the question under discussion. If two or more Members indicate they wish to speak, the Chair shall call on one to speak first.
- 17.3 An amendment shall be relevant to the Motion and shall be either: -

- a. to leave out words from the Motion;
- b. to leave out words from, and insert or add others to, the Motion;
- c. to insert words in, or add words to, the Motion;

but such omission, insertion or addition of words shall not have the effect of introducing a new proposal into or negating the original Motion before the Y&NYCA.

17.4 A Member shall not speak for longer than five minutes on any matter without the consent of the Chair.

17.5 A Member may claim to speak on a point of order or in personal explanation and shall be entitled to be heard. A point of order must relate only to an alleged breach of a specified statutory provision or the Y&NYCA Constitution or these Rules of Procedure and the way in which the Member raising it considers that it has been broken. A personal explanation shall be confined to some material part of a former speech by the Member in the current debate which may appear to have been misunderstood. The ruling of the Chair on a point of order, or on the admissibility of a personal explanation, shall not be open to discussion.

17.6 If an amendment is rejected, other amendments may be moved on the original Motion. If an amendment is carried, the Motion as amended shall take the place of the original Motion and shall become the substantive Motion upon which any further amendment may be moved.

17.7 A further amendment shall not be moved until the Y&NYCA has disposed of every amendment previously moved, provided that the Chair shall have discretion to allow debate to take place on two or more amendments.

17.8 A Member at the conclusion of a speech of another Member may move without comment:

- a. that the question be now put;
- b. that the debate be adjourned;
- c. that the Y&NYCA proceed to the next business;
- d. that this meeting of the Y&NYCA be adjourned.

17.9 If such a Motion is seconded, the Chair shall, subject to the mover's right to reply, put the Motion to the vote, and if it is carried –

- i. in case (a) the Motion then before the Y&NYCA shall, subject to the right to reply, be put to the vote; or

- ii. in case (b) the debate on the Motion then before the Y&NYCA shall stand adjourned until the next ordinary meeting of the Y&NYCA; or
- iii. in case (c) the Motion then before the Y&NYCA shall be regarded as lost and the Y&NYCA shall proceed to the next item on the agenda, if any; or
- iv. in case (d) the meeting shall stand adjourned.

17.10 If the Chair is of the opinion that the matter before the Y&NYCA has been sufficiently discussed the Chair may put the Motion that the question now be put.

17.11 The Chair shall decide all questions of order and any ruling by the Chair upon such questions and the interpretation of these Rules of Procedure and upon matters rising in debate shall be final and shall not be open to discussion.

17.12 A Motion to exclude the press and public in accordance with Section 100A of the Local Government Act, 1972 may be moved, without notice, at any meeting of the Y&NYCA during an item of business whenever it is likely that if members of the public were present during that item there would be disclosure to them of confidential or exempt information as defined in Section 100A of the 1972 Act.

## **18. Voting**

18.1 \*\*\*Subject to Rules 18.5 to 18.11, any questions that are to be decided by the Y&NYCA are to be decided by a majority of the Members or Substitute Members, acting in place of Members, present and voting on that question at a meeting of the Y&NYCA.

18.2 \*\*\*Each Member of the Y&NYCA, or Substitute Member acting in that Member's place, is to have one vote and no Member of the Y&NYCA or Substitute Member is to have a casting vote.

18.3 Whenever a vote is taken at meetings of the Y&NYCA it shall be by a show of hands. On the requisition of any member of the Y&NYCA, supported by two other Members who signify their support by rising in their places, and before the vote is taken, the voting on any question shall be recorded to show whether each Member present gave their vote for or against that question or abstained from voting.

18.4 \*\*\*A Member of the Y&NYCA, or Substitute Member acting in that Member's place may demand that his/her vote be recorded in the Minutes of the meeting.

- 18.5 \*\*\*Questions that are to be decided by the Y&NYCA relating to the following matters require that at least 3 Members of the Y&NYCA, or Substitute Member(s) acting in place of Member(s), vote in favour for any vote to be carried: -
- a. the adoption, approval, amendment, modification, revision, variation, withdrawal or revocation of a plan or strategy of the following descriptions:
    - i. a sustainable community strategy;
    - ii. approving the capital programme of the Y&NYCA and approving new transport schemes;
    - iii. such other plans and strategies as may be determined by the Y&NYCA from time to time.
  - b. The preparation of a local economic assessment under section 69 of the Local Democracy, Economic Development and Construction Act 2009 (LDEDCA);
  - c. the approval of the budget of the Y&NYCA;
  - d. the approval of borrowing limits, the treasury management strategy and the investment strategy;
  - e. the setting of a transport levy;
  - f. the acceptance of arrangements to delegate the functions or budgets of any person to the Y&NYCA;
  - g. the amendment of these Rules of Procedure of the Y&NYCA;
  - h. the approval of a transport policy developed by the Mayor under section 108 (1) (a) of the Transport Act 2000
  - i. the approval of a local transport plan prepared by the Mayor under section 108 (3) of the Transport Act 2000
  - j. the approval of the alteration or replacement of a local transport plan as proposed by the Mayor under section 109 (1) or (2) of the Transport Act 2000
- 18.6 \*\*\*Questions that are to be decided by the Y&NYCA relating to road user charging require that all 5 Members of the Y&NYCA, or Substitute Members(s) acting in place of Member(s), vote unanimously in favour for any vote to be carried.
- 18.7 \*\*\*The following plans may be amended by a vote in favour by at least 3 members (excluding the Mayor), or substitute members acting in their place, present and voting on that question at a meeting of the Y&NYCA:-
- i. draft policy or draft local transport plan prepared by the Mayor under section 108 (1) (a) or (3) of the Transport Act 2000, or
  - ii. a draft alteration or replacement of the local transport plan under sections 109 (1) and (2) of the Transport Act 2000



18.8\*\*\*In order to be carried questions relating to functions exercised pursuant to section 93(1) of the Transport Act 1985 (travel concession schemes) require a vote in favour:

- a. by at least 3 members, or substitute members acting in place of those members, present and voting on that question at a meeting of the Y&NYCA; and
- b. by the Mayor (or the Deputy Mayor acting in place of the Mayor).

18.9\*\*\*Where the costs of expenditure reasonably incurred by the Mayor in, or in connection with, the exercise of the functions specified in Schedule 1 of the 2023 Order are to be required to be met by the Constituent Councils (because the Mayor has decided not to fully meet those costs from other resources available to the Mayor) and it is proposed that, rather than apportioning such costs between the Constituent Councils in accordance with the proportion to the total resident population of the Y&NYCA which resides in the area of each Constituent Council at the relevant date as estimated by the Statistics Board, some alternative apportionment of costs between the Constituent Councils is to instead be applied, then the members of the Y&NYC , or substitute members acting in place of those members, must unanimously agree to such an alternative apportionment.

18.10\*\*\*Questions relating to the (politically balanced) apportionment of membership of a joint transport committee under Article XXX of the 2023 Order require a unanimous vote in favour by all members, or substitute members acting in place of those members, of the Y&NYCA to be carried.

18.11 Questions relating the following functions in connection with the spatial development strategy (SDS), exercised pursuant to [Part 8 of the Greater London Authority Act 1999] as applied by the Y&NYCA Orders require a unanimous vote in favour by all members (or substitute members acting in their place), appointed by the constituent councils to be carried: -

- a. Section 335 (preparation of draft SDS)
- b. Section 336 (withdrawal of proposed SDS)
- c. Section 337 (publication of the SDS)
- d. Section 341 (alteration or replacement of the SDS)

18.12 \*\*\*Questions relating to expenditure in respect of the following matters require at least 3 votes (excluding the Mayor) in favour by members (or substitute members acting in their place) to be carried:

- a. amounts payable under the arrangements made under article 14(4)(a) of the Order;

b. amounts payable under the arrangements made under article 12(4)(a) of the Order.

18.13 \*\*\*Questions relating to the use of 'earn back' budget cannot be carried without the vote of the Mayor or the deputy mayor acting in the place of the Mayor.

18.14 \*\*\*Any decision to veto the Mayor's draft general budget (or revised general budget) and approve the Mayor's draft budget incorporating the Y&NYCA's recommendations must be decided by a two-thirds majority of the members of the Y&NYCA (excluding the Mayor), or substitute members acting in their place, present and voting on the question at a meeting of the Y&NYCA.

18.15 \*\*\*A proposal by the Mayor to acquire land compulsorily pursuant to: -

- a. Section 17 of the Housing Act 1985
- b. Section 226 of the Town and County Planning Act 1990, or
- c. Section 9 (2) of the Housing and Regeneration Act 2008 requires the consent of all members of the Y&NYCA (or substitute members acting in their place) whose area contains any part of the land subject to the CPO, such consent to be provided at a meeting of the Y&NYCA.

18.16 \*\*\* A proposal by the Mayor to: -

- a. Designate any area of land as a mayoral development area (MDA)
- b. Alter the boundaries of an MDA to exclude an area of land, or
- c. Decide that a mayoral development corporation (MDC) should be the local planning authority for the purposes set out in section 20 (2) to (4) of the Localism Act 2011

requires the consent of all members of the Y&NYCA (or substitute members acting in their place) whose local government area contains any part of the area to be designated or excluded or in respect of which the Mayor wishes to decide that the MDC should be the local planning authority, such consent to be provided at a meeting of the Y&NYCA. [Insert reference to National Parks.]

18.17 \*\*\* A proposal of the Mayor under Rule 18.16 (a) may be rejected by the Y&NYCA in accordance with the provisions of section 197 of the Localism Act 2011 as modified by the [ ]Order, but only if a motion to reject has been considered at a meeting of the Y&NYCA and agreed to by two-thirds of the Y&NYCA members (or substitute members acting in their place) present and voting on that motion.

18.18 \*\*\*The proceedings of Y&NYCA are not invalidated by any vacancy among its Members or Substitute Members or by any defect in the appointment or qualifications of any Member or Substitute Member

**19. Conduct of Members**

19.1 If the Chair is of the opinion that at a meeting any Member of the Y&NYCA, or Substitute Member acting in that Member's place, has misconducted, or is misconducting him or herself by persistently disregarding the ruling of the Chair, or by behaving irregularly, improperly or offensively, or by wilfully obstructing the business of the Y&NYCA, the Chair may notify the meeting of that opinion and may take any of the following actions either separately or in sequence:

- a. the Chair may direct the Member to refrain from speaking during all or part of the remainder of the meeting of the Y&NYCA;
- b. the Chair may direct the Member to withdraw from all or part of the remainder of the meeting of the Y&NYCA;
- c. the Chair may order the Member to be removed from the meeting of the Y&NYCA; and
- d. the Chair may adjourn the meeting of the Y&NYCA for such period as they consider expedient.

19.2 In the event of general disturbance, which in the opinion of the Chair, renders the orderly dispatch of business impossible the Chair, in addition to any other power vested in the Chair may, without question put, adjourn the meeting of the Y&NYCA for such period as the Chair considers expedient.

**20. Disturbance by Members of the Public**

20.1 If a member of the public interrupts the proceedings at any meeting of the Y&NYCA the Chair shall warn him or her. If they continue the interruption the Chair shall order his or her removal from the room. In the case of general disturbance in any part of the room open to the public the Chair shall order that part to be cleared.

**21. Notification and Declaration of Interests**

21.1 In this Rule: -

'the Code' means the Conduct of Conduct for Members adopted by the Y&NYCA under Section 28 of the Localism Act 2011;

'disclosable pecuniary interest' means an interest specified in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 and set out in paragraph 4 of the Code;

'Member of the Y&NYCA' includes a Substitute Member when acting as a Member of the Y&NYCA, and a voting co-opted member of a committee or sub-committee of the Y&NYCA.

'other registrable interest' for the purpose of Rule 21.2 means an interest described in paragraph 5 to Appendix B of the Code,

'Non registrable interest' means an interest described in paragraphs 6, 7 or 8 to Appendix B of the Code;

- 21.2 Members of the Y&NYCA must within 28 days of their election or appointment to office notify the Y&NYCA Monitoring Officer in writing of the details of their disclosable pecuniary interests (including, where required, interests of their partner) and their other registrable interests.
- 21.3 Where a member of the Y&NYCA is present at a meeting and has a disclosable pecuniary interest or, an interest described in paragraphs 5, 6, 7 or 8 to Appendix B of the Code in any matter to be considered at the meeting, they must disclose the interest to the meeting.
- 21.4 Where a member of the Y&NYCA has a disclosable pecuniary interest or, an interest described in paragraphs 5, 6, or 8 to Appendix B of the Code in any matter being considered at a meeting, they must not participate or vote on the matter and must withdraw from the room of the meeting while the matter is being considered.

## **22. Records**

- 22.1 The Secretary shall ensure that the names of the Members of the Y&NYCA present at any meeting of the Y&NYCA, and any Substitute Member acting in a Member's place, shall be recorded in the Minutes of the meeting concerned.
- 22.2 The Minutes of the proceedings of a meeting of the Y&NYCA are to be kept in such form as the Y&NYCA may from time to time determine.
- 22.3 The Minutes of the proceedings of a meeting of the Y&NYCA shall be signed at the next suitable meeting of the Y&NYCA by the person presiding at the meeting of the Y&NYCA to which the Minutes relate.
- 22.4 Any minute purporting to be signed as mentioned in Rule 22.3 shall be received in evidence for the purposes of any legal proceedings without further proof.

- 22.5 Until the contrary is proved, a meeting of the Y&NYCA, a Minute of whose proceedings has been signed in accordance with this Rule is deemed to have been duly convened and held, and all the Members of the Y&NYCA present at the meeting, and any Substitute Member acting in a Member's place, are deemed to have been duly qualified.
- 22.6 For the purposes of this Rule the next suitable meeting of the Y&NYCA is the next meeting of the Y&NYCA.

## **SECTION B – ACCESS TO INFORMATION PROCEDURE RULES**

### **1. Scope**

- 1.1 Except as otherwise indicated, Rules 3 to 13 of these Procedure Rules apply to all meetings of the Y&NYCA or its committees, including any committees established by the Mayor to discharge Mayoral general functions (together called “meetings”). Rules 14 to 18 apply in respect of any decision by a decision-maker (as defined in Rule 2.1(b)) that is a key decision. Rules 19 and 20 apply exclusively to decisions made by individual decision-makers. Rules 21 to 23 set out the specific rights of access to information applying to members of overview and scrutiny committees and the general rights of access to information applying to Members of the Y&NYCA.
- 1.2 These Rules do not affect any more specific rights to information contained elsewhere in this Constitution or the law.

### **2. Definitions**

- 2.1 In these Rules:
  - (a) “committee” includes a committee established by the Mayor to discharge general functions;
  - (b) “decision-maker” means the decision-making body by which, or the individual by whom, a decision is taken;
  - (c) “individual” in Rule 2.1(b) includes the Mayor and, when exercising delegated functions, other Members of the Y&NYCA and officers of the Y&NYCA (including Transport for the North acting as an officer of the Y&NYCA);
  - (d) “mayoral decision” means a decision made or to be made by a decision-maker in connection with the discharge of a mayoral function (as defined in paragraph 1.10 of Part 1 of this Constitution);
  - (e) “non-mayoral decision” means a decision made or to be made by a decision maker in connection with the discharge of a function of the Y&NYCA that is not a mayoral function;
  - (f) “key decision” has the meaning given in Rule 14;
  - (g) “political adviser” means a person appointed pursuant to Article 5 of the Order;
  - (h) “private meeting” means a meeting, or part of a meeting, during which the public are excluded under Rule 10;

- (i) “public meeting” means a meeting which is open to the public in accordance with Rule 3.

### **3. Rights to Attend Meetings**

- 3.1 Members of the public may attend all meetings subject only to the exceptions in Rule 10.
- 3.2 While a meeting is open to the public any member of the public attending may report on that meeting by:
  - (a) filming, photographing or making an audio recording of proceedings at a meeting;
  - (b) using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
  - (c) reporting or providing commentary, in writing, on proceedings at a meeting so that the report or commentary is available as the meeting takes place or later to persons not present (oral reporting or commentary is not permitted during a meeting but may be provided outside or after the meeting).

### **4. Notices of Meetings**

- 4.1 The Y&NYCA will give at least five clear days’ notice of any meeting by posting details of the meeting at the offices of the Y&NYCA and on the Y&NYCA's website.
- 4.2 Where the meeting is convened at shorter notice, notice of the meeting will be posted at the time the meeting is convened.

### **5. Access to Agenda and Reports Before the Meeting**

- 5.1 Subject to Rule 11 a copy of the agenda and any report for a meeting will be available for public inspection at the offices of the Y&NYCA and on the Y&NYCA's website.
- 5.2 Any document which is required by Rule 5.1 to be available for public inspection must be available for at least 5 clear days before the meeting except that -
  - (a) where the meeting is convened at shorter notice, a copy of the agenda and associated reports must be available for inspection when the meeting is convened, and

- (b) where an item which would be available for public inspection is added to the agenda, copies of the revised agenda and any report relating to the item must be available for inspection when the item is added to the agenda;

but nothing in this Rule 5.2 requires copies of any agenda, item or report to be open to inspection by the public until copies are available to members of the Y&NYCA.

## **6. Supply of Copies**

6.1 The Y&NYCA will supply copies of:

- (a) any agenda and reports which are open to public inspection;
- (b) any further statements or particulars, if any, as are necessary to indicate the nature of the items in the agenda; and
- (c) if the Secretary thinks fit, copies of any other documents supplied to Members in connection with an item;

to any person (including any newspaper) on payment of a charge for postage, copying and any other costs.

6.2 A reasonable number of copies of the agenda and reports for the public part of the meeting will be available for the use of members of the public present at the meeting.

6.3 The Y&NYCA will also supply copies of documents available for public inspection under Rule 7 and Rule 8.2 to any person (including any newspaper) on payment of a charge for postage, copying or any other costs.

## **7. Access to Minutes etc After the Meeting**

7.1 The Y&NYCA will make available at the Y&NYCA's offices and on the Y&NYCA's website as soon as reasonably practicable after a meeting copies of the following:

- (a) the minutes of the meeting, excluding any part of the minutes of proceedings when the meeting was not open to the public or which disclose exempt or confidential information;
- (b) a summary of any proceedings not open to the public where the minutes open to inspection would not provide a reasonably fair and coherent record;
- (c) the agenda for the meeting; and



(d) reports relating to items when the meeting was open to the public.

7.2 The above documents will be retained by the Y&NYCA and be open to inspection for six years after the meeting.

## **8. Background Papers**

8.1 List of background papers

The relevant Chief Officer will set out in every report and with every written statement made under Rule 20.1 a list of those documents (called background papers) relating to the subject matter of the report which in his/her opinion:

- (a) disclose any facts or matters on which the report or an important part of the report is based; and
- (b) which have been relied on to a material extent in preparing the report but does not include published works or those which disclose exempt or confidential information (as defined in Rule 10).

8.2 Public inspection of background papers

The Y&NYCA will make available for public inspection at the Y&NYCA's offices, and in the case of delegated decisions falling within Rule 20.1 on the Y&NYCA's website, one copy of each of the documents on the list of background papers. Such papers will be available from the time the report or written statement (to which they are background papers) is available until four years after the date of the meeting or the date of the individual decision.

## **9. Summary of Public's Rights**

9.1. A written summary of the public's rights to attend meetings and to inspect and copy documents must be kept at and be available to the public at the Y&NYCA's offices.

## **10. Exclusion of Access by the Public to Meetings**

10.1 Confidential information - requirement to exclude public

The public must be excluded from meetings whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that confidential information would be disclosed.

10.2 Meaning of confidential information

Confidential information means information given to the Y&NYCA by a Government Department on terms which forbid its public disclosure or information which cannot be publicly disclosed by reason of a Court Order or any enactment.

10.3 Exempt information - discretion to exclude public

The public may be excluded from meetings by a resolution passed by the meeting whenever it is likely in view of the nature of the business to be transacted or the nature of the proceedings that exempt information would be disclosed.

10.4 Meaning of exempt information

- (a) Exempt information means information falling within the following 7 descriptions (subject to any qualifications).

	<b>Description</b>	<b>Qualification</b>
<b>1.</b>	Information relating to any individual	Information within paragraph 1 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
<b>2.</b>	Information which is likely to reveal the identity of an individual.	Information within paragraph 2 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
<b>3.</b>	Information relating to the financial or business affairs of any person (including the authority holding that information).	Information within paragraph 3 is not exempt information if it is required to be registered under- (a) the Companies Acts (as defined in section 2 of the Companies Act 2006); (b) the Friendly Societies Act 1974; (c) the Friendly Societies Act 1992; (d) the Co-operative and Community Benefit Societies Act 2014; (e) the Building Societies Act 1986; or (f) the Charities Act 2011.

		Subject to the above, Information within paragraph 3 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
4.	Information relating to any consultations or negotiations, or contemplated consultations or negotiations, in connection with any labour relations matter arising between the authority or a Minister of the Crown and employees of, or office holders under, the authority.	Information within paragraph 4 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
5.	Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.	Information within paragraph 5 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
6.	Information which reveals that the authority proposes – (a) to give under any enactment a notice under or by virtue of which requirements are imposed on a person; or (b) to make an order or direction under any enactment.	Information within paragraph 6 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
7.	Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.	Information within paragraph 7 is exempt information if and so long, as in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

(b) Information is not exempt information if it relates to proposed development for which the local planning authority may grant itself planning permission pursuant to regulation 3 of the Town and Country Planning General Regulations 1992.

10.5 A member or members of the public may be excluded from a public meeting by use of a lawful power to maintain orderly conduct or prevent misbehaviour at a meeting.

**11. Exclusion of Access by the Public to Reports**

- 11.1 If the Secretary thinks fit, the Y&NYCA may exclude access by the public to the whole or part of any reports which in his or her opinion relate to items during which, in accordance with Rule 10, the meeting is likely not to be open to the public.
- 11.2 Where the whole or any part of a report is not available for public inspection by virtue of Rule 11.1:
  - (a) every copy of the whole report or part of the report must be marked "Not for Publication" and
  - (b) there must be stated on every copy of the report:
    - (i) that it contains confidential information; or
    - (ii) by reference to Schedule 12A of the Local Government Act 1972, the description of the exempt information by virtue of which the public are likely to be excluded during consideration of the item.

**12. Business Containing Exempt Information**

- 12.1 A member of the public may request the Chief Officer who wrote a report to be considered at any meeting of the Y&NYCA, its Committees or Sub-Committees to:
  - (a) recommend that an item of business containing exempt information should be taken in public; and/or,
  - (b) allow him/her to inspect the report or any background document to a report.
- 12.2 Such a request must be made at least 48 hours before the meeting.
- 12.3 If such a request is refused, the Chief Officer must give a reason for the decision together with details of the appeals procedure under Rule 13.1
- 12.4 A decision by a Chief Officer under Rule 12.3 will remain valid unless altered on appeal to the meeting which is to consider the item concerned.

**13. Public Rights of Appeal**

- 13.1 The procedure for appealing against a Chief Officer's decision in accordance with Rule 12.3 is as follows:
  - (a) The appellant must write to the Head of Paid Service giving details of the item concerned together with the reason(s) for his / her request at least 24

hours before the meeting in question. The time of receipt of the appeal must be recorded as any received after this time will be invalid.

- (b) The appeal will be dealt with in private as the first item on the agenda.
- (c) Initially, only the Chief Officer (or representative) who refused the original request, the Head of Paid Service's representative and the members concerned may be present.
- (d) The Chief Officer will report the matter to the meeting giving his/her reasons for the decision and members will be allowed to ask questions.
- (e) The appellant will then be called into the meeting and the chair will summarise the reasons given for the refusal.
- (f) The appellant will give his / her reason(s) for the request and members will be allowed to ask questions of the appellant and the Chief Officer but having regard to the confidentiality of the item.
- (g) Both parties will withdraw, and the meeting will then consider and determine the appeal.

13.2 Where an appeal relates to the inspection of an exempt document and is not dealt with under Rule 13.1 (being made either after the meeting in question or less than 24 hours before), the following procedural timetable will apply:

- (a) The appellant must submit the appeal in writing to the Head of Paid Service within 10 working days of the refusal by the Chief Officer;
- (b) The relevant body will determine the appeal within 8 weeks of its receipt.

#### **14. Key Decisions**

14.1 A "key decision" means a decision of a decision-maker which is likely:

- (a) to result in the Y&NYCA or the Mayor incurring significant expenditure, or the making of significant savings, having regard to the Y&NYCA's budget for the service or function to which the decision relates; or
- (b) to be significant in terms of its effects on persons living or working in an area comprising two or more wards in the Y&NYCA.

14.2 For the purposes of 14.1(a) above the meaning of "significant expenditure" or "significant savings" is to be construed in accordance with any definition that has been agreed by the Y&NYCA's overview and scrutiny committee(s) and reported by the committee(s) to the Y&NYCA. A financial threshold for

key decisions under paragraph (a) of expenditure or savings by the Y&NYCA of more than £500,000 has been set.

14.3 The following categories of delegated decisions by officers do not constitute key decisions as in each case they concern the implementation of a previous key decision agreed by the Y&NYCA and/ or the Mayor, which scrutiny has had the opportunity to review:

- (i) any decision to borrow money to meet the short-term borrowing requirements of the Y&NYCA, to fund the approved capital programme, to refinance maturing debt or to restructure the long-term borrowing of the Y&NYCA in line with the provisions of the Treasury Management Strategy;
- (ii) any decision to invest funds in accordance with the Treasury Management Strategy approved by the Y&NYCA;
- (iii) the acceptance of tenders for contracts wholly or mainly involving capital expenditure where the Y&NYCA's approval to the detailed capital scheme has previously been issued.

The Y&NYCA's financial threshold of £500,000 for key decisions excludes decisions in the following categories:

- (i) the settlement of any actual or threatened legal proceedings in the interests of the Y&NYCA, subject to the Overview and Scrutiny Committee receiving a report at its next suitable meeting in the event of such a settlement;
- (ii) the payment of 'passported' grants from central government whose grant conditions include express instructions on how and where monies are spent, so that the Y&NYCA or the Mayor are unable to vary any aspect of the payment of that grant.

Note: Currently the Bus Service Operators Grants fall within this category.

14.4 For the purposes of these Rules no decision that involves the discharge of a PCC function is to be treated as a key decision.

## **15. Publicity and Procedure in Connection with Key Decisions**

15.1 Subject to Rule 16 (General Exception) and Rule 17 (Special Urgency), where a decision-maker intends to make a key decision, that decision must not be made unless at least 28 clear days before it is made:

- (a) a document is published containing the information set out in Rule 15.2, and
- (b) that document is made available at the offices of the Y&NYCA and published on the Y&NYCA's website.

15.2 The document published under rule 15.1 must state -

- (a) that a key decision is to be made in relation to the discharge of functions which are the responsibility of the Y&NYCA;
- (b) the matter in respect of which the decision is to be made;
- (c) the decision-maker's name, and title if any;
- (d) the date on which, or the period within which, the decision is to be made;
- (e) 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) the address from which, subject to any prohibition or restriction on their disclosure, copies of, or extracts from, any document listed is available;
- (g) that other documents relevant to those matters may be submitted to the decision-maker; and
- (h) the procedure for requesting details of those documents (if any) as they become available.

15.3 The document referred to above must not contain any confidential or exempt information or particulars of the advice of a political adviser but should contain particulars of the matter to be decided.

## **16. General Exception**

16.1 Subject to Rule 17 (Special Urgency), where the publication of the intention to make a key decision under Rule 15 is impracticable, the decision may still be made but only if:

- (a) the Monitoring Officer has informed the chair of the Overview and Scrutiny Committee or if there is no such person, each member of that committee by notice in writing, of the matter about which the decision is to be made;
- (b) the Monitoring Officer has made a copy of that notice available to the public at the offices of the Y&NYCA, and published it on the Y&NYCA's website; and
- (c) at least 5 clear days have elapsed since the Monitoring Officer complied with (a) and (b).

16.2 As soon as reasonably practicable after the Monitoring Officer has complied with Rules 16.1 (a) and (b), he or she must make available at the Y&NYCA's

offices a notice setting out the reasons why compliance with Rule 15 is impracticable and publish that notice on the Y&NYCA's website.

**17. Special Urgency**

17.1 Where the date by which a key decision must be made, makes compliance with Rule 16 impracticable, the decision may only be made where the decision-maker has obtained agreement from:

- (a) the Chair of the Overview and Scrutiny Committee; or
- (b) if there is no such person, or if the chair of the Overview and Scrutiny Committee is unable to act, the Chair of the Y&NYCA; or
- (c) where there is no chair of either the Overview and Scrutiny Committee or of the Y&NYCA, one of the vice-chairs of the Y&NYCA,

that the making of the decision is urgent and cannot reasonably be deferred.

17.2 As soon as reasonably practicable after the decision-maker has obtained such agreement under Rule 17.1, the decision-maker must make available at the offices of the Y&NYCA a notice setting out the reasons that the making of this decision is urgent and cannot reasonably be deferred and publish that notice on the Y&NYCA's website.

**18. Reports to the Y&NYCA**

18.1 When an Overview and Scrutiny Committee can require a report

Where a decision has been made and:

- (a) was not treated as a key decision; and
- (b) the Overview and Scrutiny Committee are of the opinion that the decision should have been treated as a key decision,

the Overview and Scrutiny Committee may require the decision-maker to submit a report to Y&NYCA within such reasonable period as the committee may specify (which shall normally be the next scheduled meeting of the Y&NYCA).

18.2 Decision-maker's report to the Y&NYCA

A report under Rule 18.1 must include details of:

- (a) the decision and the reasons for the decision;



- (b) the decision-maker by whom which the decision was made; and
- (c) if the decision-maker is of the opinion that the decision was not a key decision, the reasons for that opinion.

18.3 Reports on special urgency decisions

The Monitoring Officer will submit reports to the Y&NYCA on the decisions taken in the circumstances set out in Rule 17 (special urgency) in the preceding cycle. The report will include the particulars of decisions so taken and a summary of the matters in respect of which those decisions were taken.

**19. Recording of Mayoral Decisions Made by Individuals**

- 19.1 As soon as reasonably practicable after the Mayor or another Member of the Y&NYCA has made a mayoral decision, that Member must produce or instruct the Secretary to produce a written statement of that mayoral decision which includes the information specified in Rule 19.3.
- 19.2 As soon as reasonably practicable after an officer has made a decision which is a mayoral decision, the officer must produce a written statement including the information specified in Rule 19.3.
- 19.3 The statement referred to in Rules 19.1 and 19.2 should include –
  - (a) a record of the decision including the date it was made;
  - (b) a record of the reasons for the decision;
  - (c) details of any alternative options considered and rejected when making the decision;
  - (d) a record of any conflict of interest declared by any member who is consulted by the member or officer which relates to the decision; and
  - (e) in respect of any declared conflict of interest, a note of dispensation granted by the Head of Paid Service.
- 19.4 Any written statement produced in accordance with this Rule, and any report considered by the individual Member or officer relevant to a decision will be available for public inspection at the Y&NYCA's offices and on the Y&NYCA's website.

19.5 Decisions made by the Mayor will also be reported to the Y&NYCA at its next meeting (except where the decision concerned was taken openly by the Mayor while sitting within a formal meeting of the Y&NYCA).

19.6 Nothing in this Rule shall require the disclosure of confidential information or exempt information as defined in these Rules.

**20. Recording of non-Mayoral Decisions made by Officers**

20.1 As soon as reasonably practicable after an officer has made a non-mayoral decision of the type referred to in Rule 20.2, the officer must produce a written statement including the information specified in Rule 20.3.

20.2 The non-mayoral decisions referred to in Rule 20.1 are those taken:

- (a) under a specific express authorisation; or
- (b) under a general authorisation and the effect of the decision is to:
  - (i) grant a permission or licence;
  - (ii) affect the rights of an individual; or
  - (iii) award a contract or incur expenditure which materially affects the Y&NYCA's financial position.

20.3 The statement referred to in Rule 20.1 should include:

- (a) a record of the decision including the date it was made;
- (b) a record of the reasons for the decision;
- (c) details of any alternative options considered and rejected when making the decision;
- (d) where the decision is taken under a specific express authorisation, the name of any member of the Y&NYCA who has declared a conflict of interest in relation to the decision.

20.4 Any written statement produced in accordance with this Rule will be available for public inspection at the Y&NYCA's offices and on the Y&NYCA's website.

20.5 Nothing in this Rule shall require the disclosure of confidential information or exempt information as defined in these Rules.

**21. Overview and Scrutiny Committee(s) Access to Documents**

21.1 Rights to copies

Subject to Rule 21.3 below, a member of an overview and scrutiny committee or a sub-committee of such a committee is entitled to a copy of any document which is in the possession or under the control of the Y&NYCA or the Mayor and which contains material relating to: -

- (a) any business that has been transacted at a meeting of a decision-making body of the Y&NYCA; or
- (b) any decision that has been made by an individual member of the Y&NYCA; or
- (c) any decision made by an officer under delegated powers.

21.2 Where a member of an Overview and Scrutiny Committee or a sub-committee of such a committee requests a document under Rule 21.1, the Y&NYCA or the Mayor must provide that document as soon as reasonably practicable and, in any case, no later than 10 clear working days after the Y&NYCA or the Mayor receives the request.

21.3 Limit on rights

A member of an Overview and Scrutiny Committee or of a sub-committee of such a committee will not be entitled to: -

- (a) any document or part of a document that is in draft form;
- (b) any document or part of a document that contains exempt or confidential information, unless that information is relevant to an action or decision they are reviewing or scrutinising or any review contained in any programme of work of such a committee or sub-committee of such a committee; or
- (c) any document containing the advice of a political adviser.

21.4 Where the Y&NYCA or the Mayor determines that a member of an Overview and Scrutiny Committee is not entitled to a copy of a document or part of any such document the Y&NYCA, or the Mayor must provide the Overview and Scrutiny Committee with a written statement setting out the reasons for that decision.

**22. Additional Rights of Access for Members**

22.1 Subject to Rule 22.2, any document which:

- (a) is in the possession or under the control of the Y&NYCA, and

- (b) contains material relating to any business to be transacted at a meeting of the Y&NYCA or a committee or sub-committee of the Y&NYCA;

shall, subject to Rule 22.2 below, be available for inspection by any Member of the Y&NYCA.

22.2 Rule 22.1 does not require a document to be available for inspection if:

- (a) it contains confidential information (see Rule 10.2);
- (b) it appears to the Monitoring Officer to disclose exempt information under paragraph 1, 2, 4, 5 or 7 of Schedule 12A to the Local Government Act 1972 (see Rule 10.4); or
- (c) it appears to the Monitoring Officer to disclose exempt information under paragraph 3 of Schedule 12A, but only to the extent that the information relates to any terms proposed or to be proposed by or to the Y&NYCA during negotiations for a contract.

[NB: documents containing exempt information by virtue of paragraph 3 where 22.2 (c) does not apply or by virtue of paragraph 6 of Schedule 12A will be available under this Rule]

22.3 The above rights are in addition to any other right that a member of a combined authority may have.

### **23. Rights of Members – ‘Need to Know’**

23.1 In addition to rights under Rule 22, Members will be entitled to access to documents and to attend the confidential part of meetings of committees and subcommittees where they can demonstrate a “need to know” to perform their duties as Members.

23.2 Subject to Rule 23.3 below, the circumstances where a “need to know” will be treated as arising will include -

- (a) Where the matter relates to a sub-committee of a committee of which the Member is a member;
- (b) Where the Y&NYCA is required to approve the decisions or recommendations of committees or sub-committees;
- (c) Where the matter has been delegated to a committee or sub-committee, but significantly affects the reputation of the whole Y&NYCA;

- (d) Where the matter relates specifically to the area of the Constituent Council that appointed the Member to the Y&NYCA.
- 23.3 There will not be a “need to know” if a Member is acting in bad faith or in pursuance of a personal pecuniary or non-pecuniary interest or merely out of curiosity.
- 23.4 A Member wishing to see confidential or exempt Y&NYCA, committee or subcommittee documents or to attend the confidential part of a meeting should make a written application to the Head of Paid Service, setting out the reasons why the document and/or attendance at the meeting is necessary in order to enable the Member properly to perform his/her duties.
- 23.5 Where access to documents or a meeting is refused by the Head of Paid Service, there will be a right of appeal to the relevant body.
- 23.6 Where a matter or document is confidential or exempt, Members exercising the above rights will be asked to sign an agreement to preserve the confidentiality of the information.

## **SECTION C – OVERVIEW AND SCRUTINY COMMITTEE PROCEDURE RULES**

### **1. Establishment**

- 1.1 Legislation requires that the Y&NYCA must establish one or more overview and scrutiny committees.
- 1.2 The Y&NYCA has determined to establish one overview and scrutiny committee whose remit is set out in Section D of Part 4 of this Constitution. The Y&NYCA may choose to review the scope and titles of this committee periodically.
- 1.3 In these scrutiny procedure rules, any provisions referring to an overview and scrutiny committee also apply to any sub-committees established by an overview and scrutiny committee.

### **2 Membership**

- 2.1 The Y&NYCA will appoint to the committee annually following the annual meetings of its constituent councils.
- 2.2 The overview and scrutiny committee shall comprise twenty members appointed by the Y&NYCA from the elected members of the constituent councils.
- 2.3 The committee will have at least one member from each constituent council.
- 2.4 In appointing members to the overview and scrutiny committee the Y&NYCA will have regard to any nominations made by constituent councils and also endeavour to ensure that the membership reflects the conurbation's diverse population.
- 2.5 The Y&NYCA must ensure that the members of the committee reflect (as far as reasonably practicable) the balance of political parties among members of the constituent councils across the whole Y&NYCA area.
- 2.6 The Y&NYCA will also appoint up to twenty substitute members who may be invited to attend as full members of the overview and scrutiny committee when apologies have been received. Substitute members will be appointed from the nominations received from constituent councils following their annual meetings and will be politically inclusive.

### **3 Committee Chair**

- 3.1 The committee's Chair will be appointed from amongst its members.

- 3.2 The Chair must be a member of the committee who is an ‘appropriate person’ who is a member of one of the Constituent Councils. This requirement is set out in legislation.
- 3.3 An ‘appropriate person’ means:
- a person who is not a member of a registered political party of which the Mayor is a member;
  - or, where the Mayor is not a member of a registered political party, a person who is not a member of a registered political party which has the most representatives among the members of the Constituent Councils on the Y&NYCA or, where two or more parties have the same number of representatives, a member of either of those parties.
- 3.4 The overview and scrutiny committee may choose to appoint a vice chair, the vice chair should also be an appropriate person as described in rule 3.3 above.

#### **4 Sub-Committees**

- 4.1 The overview and scrutiny committee may establish one or more overview and scrutiny sub-committees to discharge its functions.
- 4.2 The overview and scrutiny committee shall determine the membership of the sub-committee, subject to meeting the requirements relating to political balance and chairing by an appropriate person (rules 2.5 and 3.2).
- 4.3 These rules also apply to any sub-committee established.

#### **5 Meeting Frequency**

- 5.1 The Overview and scrutiny committee will schedule regular meetings, of sufficient frequency to effectively discharge their function.
- 5.2 Additional meetings may be requested by the chair of the overview and scrutiny committee, or by any 5 members of the committee or by the Monitoring Officer. Notification of any additional meeting will be made by the Head of Paid Service.

#### **6 Quorum**

- 6.1 The quorum for the overview and scrutiny committee shall be two thirds of its total membership, 14 members. This is set out in legislation.
- 6.2 The quorum requirement also applies to any sub-committees established.
- 6.3 No business shall be transacted unless there are 14 members present
- 6.4 The meeting must start no later than 15 minutes after its advertised starting time, if there are not 10 members present then no meeting can take place.

- 6.5 If a meeting is inquorate those members present may still wish to informally discuss any issues which were due to be discussed at the meeting. However, this informal meeting cannot transact any formal business, its discussions cannot be minuted, and any issues which members wish to bring to a decision makers attention would need to be raised again at a formally constituted meeting of that scrutiny committee.

## **7 Voting**

- 7.1 Each member of the overview and scrutiny committee has one vote.
- 7.2 No member is to have a casting vote.
- 7.3 Whenever a vote is taken at a meeting it shall be by a show of hands and voting will be recorded.

## **8 Overview And Scrutiny Committee Work Programme**

- 8.1 The Overview and scrutiny committee and any sub-committees will be responsible for setting their own work programme, taking into account the wishes of members of that committee or sub-committee.
- 8.2 The overview and scrutiny committee shall also accommodate requests from the Y&NYCA and/or the Mayor to review areas of activity as soon as their work programme permits.
- 8.3 To assist with their work the overview and scrutiny committee will be provided with a copy of the Register of Key Decisions each time it is updated.
- 8.4 Legislation also requires the Y&NYCA to allow:
- a. Any member of an overview and scrutiny committee or sub-committee
  - b. Any member of the Y&NYCA
  - c. Any member of a Constituent Council to refer matters to an overview and scrutiny committee by notifying the Head of Paid Service in writing.
- 8.5 Matters to be referred must be:
- i. relevant to the functions of the committee and ii. not an excluded matter<sup>2</sup>
- 8.6 The Chair of the overview and scrutiny committee in consultation with the Monitoring Officer will determine whether a matter is an 'excluded matter'.

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<sup>2</sup> An excluded matter is one which is a local crime and disorder matter within the meaning of section 19 of the Police and Justice Act 2006 or a matter of any description specified in an order made by the Secretary of State for the purposes of section 9FC of the Local Government Act 2000.



- 8.7 On receipt of a notice under Rule 8.4 the matter will be included on the agenda of the next meeting the committee or sub-committee provided it meets the statutory publication requirements.
- 8.8 When the overview and scrutiny committee considers a referred matter it must have regard to any representations made by the member referring the item as to whether it would be appropriate to exercise its powers in relation to the matter being referred.
- 8.9 If the committee decides not to exercise its powers in relation to the referred matter, it must notify the member who referred the matter of their decision and the reasons for it.

## **9 Procedure at Overview and Scrutiny Committee Meetings**

- 9.1 Where the overview and scrutiny committee conducts investigations (e.g., with a view to policy development), the committee may also ask people to attend to give evidence at committee meetings.
- 9.2 Following any investigation or review, the committee/sub-committee shall prepare a report, for submission to the Y&NYCA and/or the Mayor as appropriate and shall make its report and findings public.
- 9.3 The overview and scrutiny committee or sub-committee may make proposals to the Y&NYCA and/or the Mayor about any policy developments that fall within the committee's remit.
- 9.4 They may use choose to use different investigative methods, including task and finish groups to discharge this policy review function.

## **10 Reports and recommendations of the overview and scrutiny committee**

- 10.1 The Y&NYCA 's overview and scrutiny committee may publish a report or make recommendations which may require the Y&NYCA or Mayor to:
  - (a) consider the report or recommendations made by the committee;
  - (b) respond to the overview and scrutiny committee indicating what (if any) action the Y&NYCA or Mayor proposes to take;
  - (c) publish their response to the overview and scrutiny committee's report or recommendations;
  - (d) if the committee's report or recommendations were made in response to a matter referred by a member under rule 8.4 that member must also be provided with the response.
- 10.2 The Y&NYCA or the Mayor must respond to the committee's report or recommendations as soon as is practicable, but no later than two months from the date on which the Y&NYCA or the Mayor received the reports or recommendations.

- 10.3 The agenda for Y&NYCA meetings shall include the minutes of the previous month's scrutiny meetings which will highlight any recommendations for the Y&NYCA to consider.
- 10.4 Where the Mayor has delegated decision making power to another Member of the Y&NYCA, and the overview and scrutiny committee wishes to make recommendations regarding this decision they will submit a copy of their report to that delegated decision-maker (i.e. the Member of the Y&NYCA) for consideration as well as the Head of Paid Service and the Mayor.
- 10.5 If the Member with delegated decision-making power does not accept the recommendations of the overview and scrutiny committee then they must refer the matter to the Mayor for consideration before responding to the scrutiny committee in writing. This response will also be copied to the Head of Paid service.
- 10.6 Where a report or recommendation of the overview and scrutiny committee or a response of the Y&NYCA or the Mayor's response is published any confidential information must be excluded and any relevant exempt information may be excluded in line with the provisions of Article 8 of the Combined Authorities (Overview and Scrutiny Committees, Access to Information and Audit Committees) Order 2017.

## **11 Rights of Overview and Scrutiny Committee Members to Documents**

- 11.1 Members of the overview and scrutiny committee have the additional right to documents, and to notice of meetings as set out in the Access to Information Procedure Rules in Section B of Part 5 of this Constitution.
- 11.2 There may also be more detailed liaison between the Y&NYCA and/or the Mayor and overview and scrutiny committee as appropriate depending on the matter under consideration.
- 11.3 Additionally, the Chair of the Y&NYCA's overview and scrutiny committee has a standing invitation to attend meetings of the Y&NYCA including parts of the meeting where exempt items are discussed.

## **12 Members and Officers Giving Account**

- 12.1 The overview and scrutiny committee or any sub-committee may scrutinise and review decisions made or actions taken in connection with the discharge of any Y&NYCA function (including any mayoral general functions), within the remit of the committee.
- 12.2 As well as reviewing documentation, in fulfilling the scrutiny role, it may require any Member of the Y&NYCA (including the Mayor) or officer of the Y&NYCA to attend before it to explain in relation to matters within their remit:
  - (a) any particular decision or series of decisions;

- (b) the extent to which the actions taken implement Y&NYCA policy; and/or
- (c) their performance; and it is the duty of those persons to attend if so required.

12.3 Where, in exceptional circumstances, the Member or officer is unable to attend on the required date, then the overview and scrutiny committee shall, in consultation with the member or officer, arrange an alternative date for attendance.

### **13 Attendance by Others**

13.1 The overview and scrutiny committee may invite people other than members of the Y&NYCA and/or the Mayor to support their deliberations on a matter. It may for example, wish to hear from residents, stakeholders and members and officers in other parts of the public sector or partner organisations.

### **14 Call-In Of Decisions**

14.1 Call-in is one of a range of tools that scrutiny can use to influence decision-making.

14.2 Members appointed to the Y&NYCA's Scrutiny Committee have the power to call-in: The decisions made by:

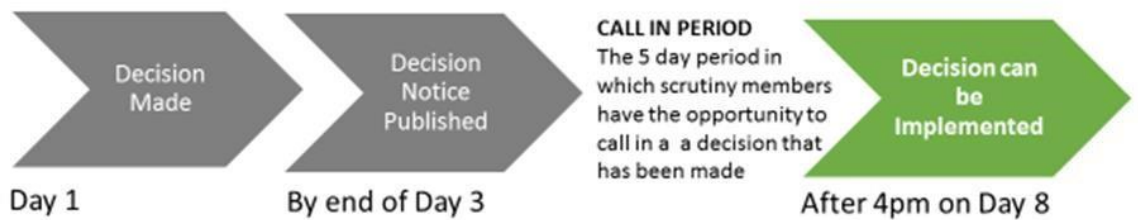
- a. York and North Yorkshire Combined Authority (Y&NYCA)
- b. York and North Yorkshire Elected Mayor (for decisions relating to his general functions only but excluding fire and rescue functions) The decisions made under delegated powers by:
  - c. A Member of the Y&NYCA exercising delegated mayoral general functions
  - d. A Committee of the Y&NYCA
  - e. A Committee established by the Mayor to exercise mayoral general functions.
  - f. [Transport and Place Committee,]
- and key decisions made under delegated powers by:
  - g. Officers of the Y&NYCA, (as set out in Part 3 Section F of the Constitution).

14.3 When the Y&NYCA or any of its committees (with delegated decision-making powers), makes a decision; or when the mayor makes decision relating to his/her mayoral general functions, a decision notice will be published which sets out the decision(s) that have been made. This notice will also be made available at the offices of the Y&NYCA. The decision notice should be usually published within working 2 days of the decision being made.

14.4 It is the responsibility of the Secretary to send electronic copies of the records of all such decisions to all members of the Y&NYCA and all members of the Y&NYCA's overview and scrutiny committee and any scrutiny sub committees (if established). This notice will enable members of the scrutiny committee to review the decisions that have been made and consider whether they would like any further information about them.

- 14.5 Each decision notice will bear the date on which they are published and will specify the date that the decision will come into force. Decisions may be implemented from 4.00 pm on the fifth day after the day on which the decision was published, unless before that time three members of the committee decide to call it in. The members must give notice in writing to the Head of Paid Service that they wish to call-in the decision, stating their reason(s) why the decision should be scrutinised.
- 14.6 The period between the publication of the decision notice and the time a decision may be implemented is the call-in period. The diagram below illustrates

**Decision Making Timeline**



NOTE: For Key Decisions there is an additional requirement to publish an intention to make a decision on the Register of Key Decisions 28 clear days in advance (in practice this means 30 days)

- 14.7 A decision may not be called in if the overview and scrutiny committee has already made recommendations to the decision-maker and those recommendations have been accepted by the decision-maker either in whole or without significant addition or modification.
- 14.8 Budget Scrutiny

Provided that the views and recommendations (if any) of the Y&NYCA Overview & Scrutiny Committee on the proposals for the Transport levy and statutory contributions, non-mayoral Y&NYCA Budget, Mayor’s draft General Budget and Mayoral combined authority precept have been formally reported to both the Mayor and the Y&NYCA and considered by them, the decisions of the Y&NYCA to set the annual budgets, levies and precept shall not be susceptible to call in. A report shall be provided to the next suitable meeting of the Y&NYCA Overview & Scrutiny Committee if its recommendations are not substantially accepted.

**15 Call-in Procedure**

- 15.1 The purpose of call in is to give the overview and scrutiny committee the opportunity to consider whether they should ask the decision maker to review their decision. If three members of the overview and scrutiny committee request to call-in a decision the Head of Paid Service must notify the relevant decision-maker of the call-in except where paragraph 16.4 applies.

- 15.2 The Head of Paid Service must then convene a meeting of the overview and scrutiny committee on such date as he/she may determine, where possible after consultation with the chair of the overview and scrutiny committee.
- 15.3 The meeting must be convened within ten working days of the decision to call-in. If it is not possible to convene a quorate scrutiny meeting within this period such a meeting must instead be convened as soon as practicable to consider the call in. The decision-maker will have the right to attend the meeting to explain the reasons for the decision and to answer questions at the meeting. At the scrutiny meeting in which the call-in is reviewed the overview and scrutiny committee will consider the reasons for call-in and the decision-maker's response to any questions the committee may agree to. The committee may decide to:
- a. Make no recommendations (in which case the decision will stand and may be implemented with immediate effect); or
  - b. Refer the matter back to the decision-maker with a recommendation that the decision-maker: changes aspects of the decision; reconsiders the decision in light of the committee's views; or does something else before the final decision is made.
- 15.4 If a decision is referred by a meeting of the overview and scrutiny committee the decision-maker must reconsider the original decision before adopting a final decision. After reconsidering their decision, the decision maker must write to the overview and scrutiny committee and set out if they have amended their decision or explain the reasons why their decision stands.

## **16 Urgent decisions: Call-in**

- 16.1 In York & North Yorkshire the grounds for a decision to be considered as urgent (and therefore not subject to call-in) are that if any delay likely to be caused by the calling in process would seriously prejudice the legal or financial position of the Y&NYCA or the constituent councils, or the interests of the residents of York and North Yorkshire.
- 16.2 The chair of the overview and scrutiny committee must agree both that the making of the decision is urgent, cannot reasonably be deferred and that it can be treated as a matter of urgency. In the absence of the chair of the overview and scrutiny committee, the chair of the Y&NYCA must agree the grounds of urgency, or in the absence of the chair of the Y&NYCA, the vice chair of the Y&NYCA may agree the grounds for urgency.
- 16.3 As soon as agreement has been obtained by the decision maker that the making of the decision is urgent the decision maker must publish a notice in its offices and on its website which states the reason why the decision is urgent and cannot reasonably be deferred.

- 16.4 Where a decision is exempted from call-in it will become effective immediately or (if later) as soon as the agreement of the chair of the overview and scrutiny committee (or of the chair or vice chair of the Y&NYCA) has been obtained.
- 16.5 Decisions taken as a matter of urgency must be reported to the next meeting of the Y&NYCA, together with the reasons for urgency.
- 16.6 The operation of the provisions relating to call-in and urgency shall be monitored annually, and a report submitted to the Y&NYCA with proposals for review if necessary.

## **17 Scrutiny Officer**

- 17.1 The Y&NYCA must designate one of its officers as the scrutiny officer of the overview and scrutiny committee(s) to discharge the following functions:
- (a) to promote the role of the overview and scrutiny committee(s);
  - (b) to provide support and guidance to the overview and scrutiny committee(s) and to members of such committees; and
  - (c) to provide support and guidance to Members of the Y&NYCA and to the Mayor in relation to the functions of the overview and scrutiny committee(s).
- 17.2 The Y&NYCA may not designate as the scrutiny officer any officer of a Constituent Council.

# **PART 6**

# **FINANCIAL PROCEDURES**

**PART 6 SECTION A – Y&NYCA FINANCIAL REGULATIONS THESE REGULATIONS APPLY TO ALL OFFICERS CONDUCTING Y&NYCA MATTERS INCLUDING GENERAL MAYORAL MATTERS BUT EXCLUDING THOSE SPECIFIC MATTERS RELATING TO MAYORAL POLICE AND CRIME COMMISSIONER FUNCTIONS WHERE THE REGULATIONS IN PART 9 WILL APPLY.**

CONTENTS

1	General
2	Staffing
3	Accounting Arrangements
4	Banking and Cheques
5	Budgetary Control
6	Capital and Revenue Budgets
7	Control of Expenditure
8	Virements
9	Balances, Reserves and Provisions
10	Borrowing and Investments
11	Contracts
12	Estates and Property
13	Assets for Disposal
14	Income
15	Insurance
16	Risk Management
17	CIPFA Treasury Management Code of Practice 2011
18	Internal Audit
19	Requisitions and Purchase Orders
20	Payments
21	Petty Cash
22	Taxation
23	Internal Control
24	Stocks and Stores
25	Security
26	Purchase Cards
27	Bids for External Funding



**1. General**

- 1.1. These Regulations shall be read in conjunction with the Rules of Procedure (see Part 5A) and the Responsibility for Functions (see Part 3) where Y&NYCA general functions reserved to the Mayor are set out.
- 1.2. These Regulations lay down for the guidance of Members and officers, principles to be followed in securing the proper administration of the Y&NYCA's financial affairs and shall be reviewed at intervals of not more than three years.
- 1.3. The [Post to be determined], as the officer responsible for the proper administration of the Y&NYCA's financial affairs, shall report to the Y&NYCA any significant failure to comply with these Regulations which comes to his/her attention.
- 1.4. The Head of Paid Service and the [Post to be determined] shall be responsible for the accountability and control of all resources managed by them on behalf of the Y&NYCA.
- 1.5. For the purposes of complying with these Regulations, the [Post to be determined] shall be provided with any information he/she may require and shall have access to any documents and records as necessary.
- 1.6. Whenever any matter arises which may involve financial irregularity the [Post to be determined] shall be notified immediately, and if an irregularity is disclosed the matter shall, at the discretion of the [Post to be determined] consultation with the Head of Paid Service, be referred by them to the Y&NYCA Further, in a case where the Head of Paid Service advises that there is prima facie evidence of a criminal offence having been committed, the matter shall be reported to the Police forthwith.

**2. Staffing**

- 2.1. The Head of Paid Service will be responsible for providing overall management to staff employed by the Y&NYCA.
- 2.2. The Head of Paid Service and the [Post to be determined] will be responsible for ensuring that there is proper use of evaluation or other agreed systems for determining remuneration.
- 2.3. The [Post to be determined] will:
  - 2.3.1. Ensure that budget provision exists for all existing and new employees.
  - 2.3.2. Ensure that appropriate mechanisms are in place to support the payment of salaries and any other related expenses to staff.

- 2.3.3. Set out and issue a staff expenses scheme to be followed where staff incur personal expenses when carrying out their duties on behalf of the Y&NYCA.
- 2.4. Chief Officers must ensure that appointments are made in accordance with the approved establishment and scales of pay and the adequate budget provision is available. Officers must produce an annual staffing budget (including on costs and overheads) which should be an accurate forecast of staffing levels and associated costs.
- 2.5. Payroll documents must be retained and stored for the defined period in accordance with guidance issued by the [Post to be determined].
- 2.6. The payment of all pensions to former firefighters and their dependents shall be made by the [Post to be determined] or under arrangements approved by him.
- 2.7. Chief Officers shall notify the [Post to be determined] of all matters affecting payment to employees - including appointments, resignations, dismissals, suspensions, secondments and pay awards, absences from duty for sickness and other reasons affecting pay, information necessary to maintain records of service for pension purposes, income tax and national insurance.
- 2.8. Claims for payments of car allowances, subsistence allowances, travelling and incidental expenses shall be certified by managers in accordance with policies approved by the [Post to be determined].

### **3. Accounting Arrangements**

- 3.1. The [Post to be determined] shall prepare a manual of financial and accounting procedures to be operated by officers working on Y&NYCA matters.
- 3.2. All accounting and financial arrangements shall be determined by the [Post to be determined] who shall be consulted before any system, form or document of a financial or costing nature is introduced.
- 3.3. The [Post to be determined] shall be responsible for the submission of all claims for grant to Government Departments and other organisations. Chief Officers must ensure expenditure is compliant with relevant grant conditions.
- 3.4. At the end of the financial year Chief Officers must supply the [Post to be determined] with information in such form and by such date as he/she may determine to enable him/her to close the Y&NYCA's Accounts promptly.
- 3.5. The Accounts must be approved by the Audit Committee, which has delegated power to carry out this function from Y&NYCA, within the statutory deadlines.
- 3.6. If the Auditor's Report requires any material amendment to be made to the Accounts, this must be then reported to the Audit Committee, which has delegated power to carry out this function from Y&NYCA, as soon as practicable after the receipt of the audit report.

#### **4. Banking Arrangements and Cheques**

- 4.1. All arrangements with the Y&NYCA's bankers, including the ordering and safe custody of cheques, shall be made by the [Post to be determined] who shall be authorised to operate such banking accounts, as he/she considers necessary.
- 4.2. All cheques drawn on behalf of the Y&NYCA shall be signed by, or bear the facsimile of the [Post to be determined], or the signature of any other duly authorised officer.
- 4.3. The [Post to be determined] will maintain a schedule of signatories for each bank account.

#### **5. Budgetary Control**

- 5.1. The detailed form of the programme of capital expenditure and revenue estimates shall be determined by the [Post to be determined] after consultation with appropriate Chief Officers, in accordance with any general directions of the Y&NYCA and the Mayor for the Mayoral General Functions.
- 5.2. It is the responsibility of Chief Officers to ensure business plans reflect agreed budget estimates. Chief Officers are responsible for the continuous exercise of budgetary control and service performance throughout the year and are responsible for reporting on variations to the [Post to be determined].
- 5.3. Where the Y&NYCA operates in partnership or similar arrangements, Chief Officers must set out the roles and responsibilities of all parties including a sound framework of internal controls. All proposed financial arrangements must be subject to prior approval of the [Post to be determined] and subject to compliance checks as deemed necessary.

#### **6. Capital and Revenue Budgets**

##### **6.1. Y&NYCA Budget**

- 6.1.1. The [Post to be determined], in consultation with appropriate Chief Officers and the Head of Paid Service of TfN, shall prepare an annual programme of capital expenditure for submission to the Y&NYCA, together with proposals for financing that programme. The programme will separately identify capital expenditure relating to both schemes promoted by the Y&NYCA and those via TfN.
- 6.1.2. The [Post to be determined], in consultation with appropriate Chief Officers and the Head of Paid Service of TfN, shall prepare annual estimates of revenue expenditure and income, indicating the levy (in relation to the Y&NYCA's transport functions) and additional amounts payable by the Constituent Councils (in relation to the Y&NYCA's non transport functions) necessary to finance the net expenditure for the next financial year.

##### **6.2. Mayor's General Budget**

- 6.2.1. The [Post to be determined], in consultation with appropriate Chief Officers and the Mayor shall prepare annual estimates of revenue expenditure and income and a capital programme associated with the Mayor's General Functions, indicating the general component of the Mayor's Precept to be levied and any associated borrowing requirement.
- 6.2.2. The Mayor will submit the draft Mayor's General Budget, the general component of the Mayor's Precept and associated borrowing requirement to Y&NYCA for consideration and approval.
- 6.2.3. Y&NYCA may approve the draft Mayor's General Budget.
- 6.2.4. Y&NYCA may veto the draft Mayor's General Budget, the general component of the Mayor's Precept and associated borrowing and propose changes to the Mayor who may then submit a revised draft budget for consideration and approval.
- 6.2.5. Y&NYCA will approve the revised draft Mayor's General Budget, the general component of the Mayor's Precept incorporating any Y&NYCA recommendations as to the relevant amounts and any associated borrowing requirements.

## **7. Control of Expenditure**

### **7.1. Capital Schemes**

- 7.1.1. Before a capital scheme for which provision is made may proceed, Chief Officers must prepare a fully costed scheme report for presentation to the Y&NYCA and the Mayor as appropriate, justifying the need for the expenditure. The [Post to be determined] will report on the revenue implications of the scheme.
- 7.1.2. After a capital scheme has been approved in detail by the Y&NYCA or the Mayor, Chief Officers and the Head of Paid Service of TfN shall inform the [Post to be determined] as soon as practicable of any likely overspending and the [Post to be determined] will report to the Y&NYCA or the Mayor as appropriate. If the overspending is likely to exceed the approved capital cost, the revised estimates shall be referred to the Y&NYCA or the Mayor along with proposals for further funding if appropriate.
- 7.1.3. Where no borrowing is required to finance a capital scheme, the capital budget of the Y&NYCA and/or TfN may be increased in-year on the following basis:
  - 7.1.3.1. in relation to Y&NYCA's capital budget, by up to £500,000 with the approval of the [Post to be determined];

7.1.3.2. in relation to TfN's capital budget, –

7.1.3.2.1. by up to £100,000, if wholly funded by TfN's own resources, or

7.1.3.2.2. between £100,000 - £500,000 with the approval of the [Post to be determined];

7.1.3.3. in relation to Y&NYCA's general and transport capital budget and TfN's capital budget, over £500,000 with the approval of the Y&NYCA;

7.1.4. Where borrowing will be required to fund planned capital expenditure prior approval from the Y&NYCA is needed before any increase can be made to the capital programme.

## 7.2. Y&NYCA Revenue Budget

7.2.1. The Y&NYCA will determine the amounts to be allocated to Y&NYCA Functions. The Head of Paid Service in conjunction with Chief Officers will monitor expenditure against this approval, and report on a regular basis agreed with the [Post to be determined] to the Y&NYCA showing forecast variations from the budget allocated. It will be a matter for the Y&NYCA to determine from this information whether expenditure priorities should be changed within the funding envelopes available.

7.2.2. For revenue expenditure any likely overspending shall be reported by Chief Officers as soon as practicable to the [Post to be determined]. Where it is not possible to finance an overspending by a transfer between expenditure heads (see virements below), the matter shall be referred to the Y&NYCA for consideration.

7.2.3. The Y&NYCA will determine guidelines for carrying forward of surplus and deficits on budget headings. The [Post to be determined] will administer the scheme of carry forward within the guidelines approved by the Y&NYCA.

7.2.4. Where additional external funding is awarded after the annual revenue budget has been approved by Y&NYCA, the Y&NYCA and/or TfN budget may be increased in-year on the following basis:

7.2.4.1. In relation to Y&NYCA's revenue budget, by up to £500,000 with the approval of the [Post to be determined];

7.2.4.2. In relation to TfN's revenue budget -

7.2.4.2.1. by up to £100,000, if wholly funded by TfN's own resources, or

7.2.4.2.2. between £100,000 - £500,000, with the approval of the [Post to be determined];

7.2.4.3. In relation to Y&NYCA's general and transport revenue budget and TfGM's revenue budget, over £500,000 with the approval of the Y&NYCA

### 7.3. Mayor's General Revenue Budget

7.3.1. The Head of Paid Service in conjunction with Chief Officers will monitor expenditure against the approved Mayor's General Revenue Budget, and report on a regular basis agreed with the [Post to be determined] to the Mayor showing forecast variations from the budget allocated. It will be a matter for the Mayor to determine from this information whether expenditure priorities should be changed within the funding envelopes available.

7.3.2. For revenue expenditure any likely overspending shall be reported by Chief Officers as soon as practicable to the [Post to be determined]. Where it is not possible to finance an overspending by a transfer between expenditure heads (see virements below) the matter shall be referred to the Mayor for consideration.

7.3.3. The Mayor will determine guidelines for carrying forward of surplus and deficits on budget headings. The [Post to be determined] will administer the scheme of carry forward within the guidelines approved by the Mayor.

7.4. Grants for capital or revenue purposes to outside organisations and persons for which provision is made in the appropriate budget shall not be paid except by agreement with the [Post to be determined] who shall make such arrangements as he/she considers necessary for this purpose. The [Post to be determined] shall keep a register of grants to outside organisations excluding Y&NY Districts.

## 8. Virements

8.1. The [Post to be determined] shall be authorised to approve virements between expenditure heads within the limits as set out in these Regulations. Anything more than these limits shall be reported for approval to the Y&NYCA or Mayor as appropriate.

Virements are deemed to be:

8.1.1. Revenue - A transfer of budget for a different purpose to that set out in the approved Budget;

8.1.2. Capital - a movement of budget between approved capital schemes.

- 8.2. In accordance with the scheme of virement and associated thresholds, the [Post to be determined] is responsible for considering reports submitted by Chief Officers in respect of virement proposals for revenue and capital expenditure.
- 8.3. In conjunction with Chief Officers, the [Post to be determined] is to report to and seek the prior approval of the Y&NYCA or the Mayor for any revenue expenditure where it is funded by a release of earmarked sums from reserves or will have an adverse impact on a priority within the approved budget.
- 8.4. The [Post to be determined] is to report and seek the approval of the Head of Paid Service (in consultation with the Chair of the Y&NYCA) to the exercise of the virement powers of the Y&NYCA where a matter is urgent.
- 8.5. Appropriate Officers are to ensure compliance with the scheme of virement (see tables below).

### Revenue Budgets

Threshold	Y&NYCA Function	Mayoral General Function
<b>Up to £50,000</b>	Chief Officers to exercise virements on budgets under their control during the year following approval by the [Post to be determined].	Chief Officers to exercise virements on budgets under their control during the year following approval by the [Post to be determined].
<b>Above £50,000</b>	Requests must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial year. Requests must be notified to the [Post to be determined] who will report and seek approval from the Y&NYCA.	Requests must specify the proposed expenditure and the source of funding and must explain the implications in the current and future financial year. Requests must be notified to the [Post to be determined] who will report and seek approval from the Mayor.

### Capital Programme

Threshold	Y&NYCA Capital	Mayoral General Capital	TfN Capital
Up to £100,000	Chief Officers to exercise in year virement on budgets under their control following approval by the [Post to be determined].	Chief Officers to exercise in year virement on budgets under their control following approval by the [Post to be determined].	TfN to exercise in year virement on budgets under their control provided they are wholly funded by TfN resources, otherwise following approval by the

			[Post to be determined].
Above £100,000	Requests must specify the proposed expenditure and the source of funding; Requests must be notified to the [Post to be determined] who will report and seek approval from the Y&NYCA	Requests must specify the proposed expenditure and the source of funding; Requests must be notified to the [Post to be determined] who will report and seek approval from the Mayor	Requests must specify the proposed expenditure and the source of funding; Requests must be notified to the [Post to be determined] who will report and seek approval from the Y&NYCA

## 9. Maintenance of Balances/Reserves/Provisions

- 9.1. The [Post to be determined] will ensure that there are clear protocols for the establishment and use of balances/reserves/provisions and, in consultation with Chief Officers, will establish reserves and/or provisions and provide guidance on how to incur expenditure from balances/reserves/provisions.
- 9.2. The [Post to be determined] is to seek Y&NYCA or Mayoral, as appropriate, approval the use of balances, reserves or provisions in addition to those already approved in setting the original budget.
- 9.3. Chief Officers must ensure that the use of reserves or provisions when approved is planned into the budget and used only for the purposes for which they were intended.

## 10. Borrowing and Investments

- 10.1. The [Post to be determined] shall be the Y&NYCA's registrar of stocks, bonds, bills and mortgages and all borrowings shall be made by, or under the supervision, of the [Post to be determined] in the name of the Y&NYCA.
- 10.2. The [Post to be determined] shall maintain records of all monies borrowed and shall be responsible for the day-to-day administration of borrowed monies.
- 10.3. The [Post to be determined] shall ensure that the CIPFA Treasury Management Code of Practice and the Prudential Code are complied with and shall, as



recommended by the Codes of Practice, periodically submit relevant reports to the Y&NYCA in relation to the Y&NYCA's treasury management activity.

## 11. CIPFA Treasury Management Code of Practice 2011

11.1. In line with CIPFA recommendations, the Y&NYCA has adopted the following four clauses:

11.1.1. This organisation will create and maintain, as the cornerstones for effective ~~to be~~ treasury and investment management:

11.1.1.1. a treasury management policy statement stating the policies, objectives and approach to risk management of its treasury management activities;

11.1.1.2. suitable Treasury Management Practices (TMPs) setting out the way the organisation will seek to achieve those policies and objectives, and prescribing how it will manage and control those activities;

11.1.1.3. Investment Management Practices (IMPs) for investments that ~~to be~~ are not for treasury management purposes.

The content of the policy statement, TMPs and IMPs will follow the recommendations contained in Sections 6, 7 and 8 of the TM Code, subject only to amendment where necessary to reflect the circumstances of this organisation. Such amendments will not result in the organisation materially deviating from the TM Code's key principles.

11.1.2. This organisation (i.e., full Y&NYCA) will receive reports on its treasury and investment management policies, practices and activities, including, as a minimum, an annual strategy and plan in advance of the year, a mid-year review and an annual report after its close in the form prescribed in its TMPs ~~to be~~ and IMPs.

11.1.3. This organisation delegates responsibility for the implementation and regular monitoring of its treasury management policies and practices to the Audit Committee, and for the execution and administration of treasury management decisions to the [Post to be determined], who will act in accordance with the organisation's policy statement, TMPs and IMPs, and if they are a CIPFA member, CIPFA's Standard of Professional Practice on treasury management.

11.1.4. This organisation nominates the Audit and Governance Committee to be responsible for ensuring effective scrutiny of the treasury management strategy and policies.

## 12. Contracts

- 12.1. All contracts on behalf of the Y&NYCA shall be subject to the Y&NYCA's Rules of Procedure in Part 5, Section A of this Constitution and the Responsibility for Functions in Part 3 of this Constitution.
- 12.2. The [Post to be determined] shall be informed as soon as possible by Chief Officers of all contracts, agreements, awards or other instruments involving the payment or receipt of money on behalf of the Y&NYCA and shall carry out such checks as he/she considers necessary during the currency of a contract. Contracts entered into by TfN are subject to TfN Standing Orders and are not covered by this Regulation.
- 12.3. Payment to contractors on account shall be authorised only on certified documents signed by a duly authorised Officer, showing the total amount of the contract, value of the work executed to date, retention money, amount paid to date and the amount now certified.
- 12.4. Every variation of a contract or addition to the original specification shall be authorised, in writing, by a duly authorised Officer. Any such variation or addition which necessitates an increase in the amount of an accepted tender or estimate shall be reported to the [Post to be determined] as soon as possible as follows:
  - 12.4.1. Increase of £2,500 on projects up to £30,000, or
  - 12.4.2. Increase of 10% or £100,000 (whichever is lower) on projects over £30,000, or
  - 12.4.3. Substantial modification of a scheme.

No order shall be placed, nor any payment certified, in respect of any such variation or addition until this has been approved by the [Post to be determined].
- 12.5. The final certificate on a contract or accepted estimate shall be issued by the duly authorised Officer after he/she has submitted to the [Post to be determined] a detailed statement of account, together with such vouchers or documents as he/she may require.
- 12.6. In the case of contracts for works entered into by the Y&NYCA and supervised and managed by architects or persons other than the Y&NYCA's own officers, the agreement with the person having control of the work shall provide that he/she furnish to the Y&NYCA for inspection by their officers, all documents and vouchers relating to prime costs, provisional sums, etc. Subject to the rights of other parties to the contract, the final certificate shall not be issued, nor the balance under such contract paid until:
  - (a) The [Post to be determined] with the assistance of any appropriate officer has had the opportunity to examine the accounts, vouchers and documents, and
  - (b) If any question of propriety of payment arises, the Y&NYCA shall have authorised payment.

- 12.7. Claims received from contractors in respect of matters clearly not within the terms of the appropriate contract shall be referred to the Head of the Paid Service for consideration of the Y&NYCA's legal liability and to the [Post to be determined] for financial consideration, before settlement is negotiated.

### **13. ASSETS, ESTATES AND PROPERTY, ASSETS FOR DISPOSAL, STOCKS AND STORES**

#### **Assets**

- 13.1. Chief Officers are responsible for the care and custody of all current and fixed assets of the relevant service (including stocks, stores, inventory items and all other items used for the Authority's purposes, including property). These items must only be used for the authorised purposes of the Authority. Assets must be recorded in the Authority's Asset Register, in accordance with the CIPFA Code of Practice.
- 13.2. Chief Officers shall ensure that records and assets are properly maintained and securely held. They shall also ensure that contingency plans for the security of assets and continuity of service in the event of disaster or system failure are in place.

#### **Asset Register**

- 13.3. The [Post to be determined] must ensure that an Asset Register in accordance with agreed auditing standards is maintained. This will include all land and property.
- 13.4. Each Chief Officer must immediately notify the [Post to be determined] of the acquisition of any asset having a value of £10,000 or more.
- 13.5. Each Chief Officer must immediately notify the [Post to be determined] of the disposal (or transfer to another Service) of any asset (or part of any asset) which is included on the Asset Register.
- 13.6. The [Post to be determined] is to approve and keep records of all leases entered into by the Authority
- 13.7. In respect of any item acquired by lease the inventory must be marked with the name of the leasing company and the date of expiry of the lease agreement. When requested by the leasing company the item must be suitably marked as the property of that company.

#### **Estates and Property**

- 13.8. The Head of Paid Service must ensure that the detailed record of all land and property owned by the Y&NYCA is included in the Y&NYCA's Asset Register.

13.9. The Monitoring Officer shall be responsible for the safe custody of all legal documents under secure arrangements agreed with the [Post to be determined].

### **Assets for Disposal**

13.10. The disposal of assets is subject to statutory provisions, in particular the overriding duty under section 123 of the Local Government Act 1972 to obtain the [Obj] best consideration that can be reasonably obtained for the disposal of land which includes the granting of leases for more than 7 years.

13.11. The General Disposal Consent (England) 2003 gives a Local Authority the ability to dispose of assets, or grant a lease for more than 7 years for less than the best consideration reasonably obtainable, where: -

- (a) The Authority considers that the purpose for which the land and property is to be disposed is likely to contribute to the promotion or improvement of the economic, social or environmental well-being of the whole or any part of its area or any person's resident or present in its area; and
- (b) The difference between the full market value and the actual consideration payable does not exceed £2m.

13.12. The disposal method for all assets including plant, vehicles and machinery will be appropriate to each disposal and may range from seeking formal quotations, electronic auctions to using public auctions. The [Post to be determined] will be consulted on the appropriate disposal method for all disposals by Chief Officers.

13.13. Leased items should only be disposed of in accordance with the instructions of the [Obj] lessor.

### **Stock and Stores**

13.14. Each Chief Officer shall be responsible for the care and custody of stocks and stores within his area of responsibility.

13.15. The [Post to be determined] shall arrange for periodic checks of stocks by persons other than storekeepers and shall ensure that all stocks are checked at least once in every year.

13.16. Chief Officers will dispose of surplus materials, stores or equipment by competitive tender, public auction, e-bay type auction or in a manner approved by the [Post to be determined].

13.17. Adjustments which may be necessary for surpluses or deficiencies of stock shall be subject to the approval of the [Post to be determined], or delegated officer.

13.17 The [Post to be determined] shall be authorised to write off or make adjustments in respect of deficiencies or surpluses of stock. Requests to write off items more than £50,000 must be reported to the Y&NYCA for information.

## **14. Income**

- 14.1 The collection of all money due to the Y&NYCA shall be under the supervision of the [Post to be determined].
- 14.2 All money received by an officer on behalf of the Y&NYCA shall, without delay, be paid intact to the [Post to be determined] or, as they may direct, to the Y&NYCA bank account.
- 14.3 Chief Officers will provide the [Post to be determined] details in connection with work completed, goods supplied, or services rendered and of all other amounts due as may be required to record correctly all sums receivable by the Y&NYCA and to ensure prompt rendering of accounts for the collection of income.
- 14.4 Chief Officers will notify the [Post to be determined] promptly of all money due to the Y&NYCA and of contracts, leases and other agreements and arrangements entered into which involve the receipt of money by the Y&NYCA.
- 14.5 All receipt forms, books, tickets and other such items shall be ordered and supplied to departments by the [Post to be determined] who shall satisfy himself/herself as to the arrangements for their control.
- 14.6 The [Post to be determined] shall be authorised to write off bad debts. Requests to write off any individual debt more than £100,000 must be referred to the Y&NYCA for information.
- 14.7 Every transfer of official money from one officer to another shall be evidenced in the records of the departments concerned by the signature of the receiving officer.

## **15 Insurance**

- 15.1 The [Post to be determined] shall, subject to any general direction of the Y&NYCA, arrange such insurances in the name of the Y&NYCA as considered necessary, and shall inform Chief Officers annually of the insurances in force in respect of the Y&NYCA.
- 15.2 Chief Officers shall give prompt notification to the [Post to be determined] of all new risk, properties or vehicles which require to be insured and of any alterations affecting existing insurances.
- 15.3 Chief Officers shall inform the [Post to be determined] promptly in writing of any event which may involve the Y&NYCA in a claim on the Y&NYCA's insurers.
- 15.4 Indemnities on behalf of the Y&NYCA can only be given by the Head of Paid Service.

## **16 Risk Management**

- 16.1 The Y&NYCA shall approve the risk management strategy and shall review the effectiveness of risk management. The [Post to be determined] shall prepare and promote the risk management strategy and develop appropriate risk management controls.
- 16.2 Chief Officers shall be responsible for the identification, classification and control of all risks falling within their areas of responsibility. The risks identified shall be included in the Corporate Risk Register which will be subject to periodic review. Chief Officers should notify the [Post to be determined], in writing of any loss, liability or damage or any event likely to lead to a claim.
- 16.3 Chief Officers shall take responsibility for risk management within their areas of responsibility, having regard from relevant advice from specialists (e.g., fire safety, health and safety, insurance) and shall undertake regular reviews of risk within their own business areas.

## **17 Internal Audit**

- 17.1 The [Post to be determined] shall, so far as they consider necessary:
  - 17.1.1 Arrange for the provision of an internal audit service in line with the Accounts and Audit (England) Regulations 2015. The internal audit function will be independent in its planning and operation and will conform with the United Kingdom Public Sector Internal Audit Standards (PSIAS) and associated guidance on PSIAS published by CIPFA.
  - 17.1.2 Supervise security arrangements and the custody and safeguarding of Y&NYCA moneys and property, including any funds entrusted to the Y&NYCA or its officers.
  - 17.1.3 Undertake investigations to ensure that value for money is obtained and loss through wastage minimised.
- 17.2 The [Post to be determined] will make arrangements so that internal auditors have the authority:
  - 17.2.1 To have access to Y&NYCA premises at reasonable times.
  - 17.2.2 To have access to documents, records and equipment in the possession of the Y&NYCA.
  - 17.2.3 To require any officer of the Y&NYCA to account for cash, stores or any other Y&NYCA asset under their control.
  - 17.2.4 Where possible, to have access to records belonging to third parties, such as contractors, when required
  - 17.2.5 To receive information concerning any matter under investigation.

17.2.6 To have access to the Head of Paid Service and the Audit Committee.

17.3 Chief Officers must inform the [Post to be determined], as soon as possible, of any matter which involves irregularities or any suspected irregularity concerning cash, stores, other property or any irregularity in the exercise of the functions of the Y&NYCA. The [Post to be determined] may investigate and report on any matter which he believes involves or may involve irregularities concerning cash, stores or other property of the Y&NYCA or any suspected irregularity in the exercise of the functions of the Y&NYCA.

## **18 Requisitions and Purchase Orders for Work, Goods & Services**

18.1 The Y&NYCA Contract Procurement Rules set out at Part 6 Section B of the Y&NYCA Constitution will apply.

18.2 Requisitions and Purchase orders for works, goods and services are to be approved by the Chief Officer or their delegated officer up to £250,000 and by the [Post to be determined] or delegated officer over £250,000.

## **19 Payment of Accounts**

19.1 Chief Officers shall be responsible for the certification and submission of invoices and other claims to the [Post to be determined] who shall make safe and efficient arrangements for the payment of such accounts.

## **20 Petty Cash**

20.1 The [Post to be determined] shall make such arrangements as they consider necessary for defraying petty cash and other expenses by means of an imprest system.

## **21 Taxation**

21.1 The [Post to be determined] is;

21.1.1 Responsible for ensuring that taxation advice is available to Chief Officers to ensure compliance with relevant legislation.

21.1.2 Responsible for maintaining the Council's tax records, making all tax payments, receiving tax credits and submitting tax returns by their due date as appropriate.

21.1.3 To complete all HM Revenue and Customs returns regarding Pay As You Earn (PAYE).

21.1.4 To complete a monthly return of VAT inputs and outputs to HM Revenue and Customs.

21.1.5 To provide details to the HM Revenue and Customs of deductions made under the Construction Industry Tax Deduction Scheme.

21.1.6 To maintain an up-to-date register of VAT de minimis payments in accordance with the VAT Act 1994.

21.2 Chief Officers are to:

21.2.1 Ensure that the correct VAT liability is attached to all income due and that all claims for VAT recoverable on purchases complies with HM Revenue and Customs regulations and all output tax is properly identified and recorded.

21.2.2 Ensure that, where construction and maintenance works are undertaken, the contractor fulfils the necessary construction industry tax deduction requirements.

21.2.3 Ensure that the Authority is not put at risk in any funding arrangements by identifying the correct VAT treatment in accordance with the VAT Act 1994.

21.2.4 Ensure that all persons employed by the Council are added to the Council's payroll and that tax is deducted from any payments, except where the individuals are bona fide self-employed or are employed by a recognised staff agency.

21.2.5 Follow any guidance on taxation that may be issued by the [Post to be determined].

## **22 Internal Control**

22.1 The [Post to be determined] is responsible for ensuring that the financial management of the Y&NYCA is adequate and effective and that there is a sound system of internal control and sound procedures for the management of risk. The responsibility for maintaining and reviewing the system of internal control rests with the Y&NYCA.

22.2 The [Post to be determined] is responsible for advising on effective systems of internal control. These arrangements shall ensure compliance with all applicable statutes and regulations, and other relevant statements of best practice.

## **23 Security**

22.3 Chief Officers are responsible for maintaining proper security at all times for buildings, stocks, stores, furniture, equipment, cash, documentation and information under their control.

22.4 Each Chief Officer shall be responsible for maintaining proper security and privacy of information and data held, as required by the Data Protection legislation.



- 22.5 All staff shall comply with the standards and principles set out in the Y&NYCA's ICT Security policies.

### **Purchase Cards**

- 22.6 Purchase Cards shall be operated strictly within the procedures and policy determined by the [Post to be determined] and Y&NYCA respectively.
- 22.7 Contravention of the procedures or policy will result in the rescinding of the Purchase Card facility.

## **23 Bids for External Funding**

- 23.1 Where third parties invite Y&NYCA to bid for additional resources (e.g., capital grants), care should be taken to ensure that the costs and risks associated with preparing a bid do not outweigh the benefits of receiving additional funding. All costs associated with bidding should be financed from the relevant service budget unless Y&NYCA or the Mayor has specifically approved alternative financing arrangements. Successful bids typically require Y&NYCA to deliver specific outcomes or provide additional matched funding. Failure to meet these obligations could result in the clawback of funding from the donor organisation. Any decision to bid for external funding must take account of the costs, risks and obligations associated with the bid being accepted by the provider of the funding.
- 23.2 The [Post to be determined] shall be notified by Chief Officers of all external bids for additional resources and any additional confirmed funding. Copies of original correspondence confirming funding allocations shall also be forwarded by Chief Officers to the [Post to be determined].

**PART 6 SECTION B - Y&NYCA CONTRACT PROCUREMENT RULES AND GRANT RULES**

**THESE RULES APPLY TO ALL Y&NYCA PROCUREMENTS INCLUDING GENERAL MAYORAL PROCUREMENTS BUT EXCLUDING SPECIFIC PROCUREMENTS RELATING TO MAYORAL POLICE AND CRIME COMMISSIONER FUNCTIONS WHERE THE RULES IN PART 9 WILL APPLY AND TO Y&NYCA GRANTS**

**CONTENTS**

**A BRIEF GUIDE TO CONTRACT PROCUREMENT RULES AND GRANT RULES**

**SCOPE OF CONTRACT PROCUREMENT RULES**

- RULE 1: BASIC PRINCIPLES
- RULE 2: OFFICER RESPONSIBILITIES
- RULE 3: EXEMPTIONS, COLLABORATIVE AND E-PROCUREMENT ARRANGEMENTS
- RULE 4: RELEVANT CONTRACTS
- RULE 5: STEPS PRIOR TO PURCHASE
- RULE 6: RECORDS
- RULE 7: ADVERTISING AND FRAMEWORK AGREEMENTS
- RULE 8: COMPETITION REQUIREMENTS FOR PURCHASE AND PARTNERSHIP ARRANGEMENTS
- RULE 9: PRE-TENDER MARKET RESEARCH AND CONSULTATION
- RULE 10: STANDARDS AND AWARD CRITERIA
- RULE 11: INVITATIONS TO TENDER / QUOTATIONS
- RULE 12: SHORTLISTING
- RULE 13: SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS
- RULE 14: CLARIFICATION PROCEDURES
- RULE 15: EVALUATION
- RULE 16: POST TENDER NEGOTIATIONS
- RULE 17: AWARD OF CONTRACTS AND FRAMEWORK AGREEMENTS AND DEBRIEFING CANDIDATES
- RULE 18: CONTRACT DOCUMENTS
- RULE 19: BONDS AND PARENT COMPANY GUARANTEES
- RULE 20: MANAGING CONTRACTS
- RULE 21: RISK ASSESSMENT AND CONTINGENCY PLANNING
- RULE 22: CONTRACT MONITORING, EVALUATION AND REVIEW
- RULE 23: TRANSPARENCY, AWARD CRITERIA, GRANT AGREEMENTS, MONITORING EVALUATION AND REVIEW

## DEFINITIONS

### A BRIEF GUIDE TO CONTRACT PROCUREMENT RULES AND GRANT RULES

1. These Contract Procurement Rules (issued in accordance with section 135 of the Local Government Act 1972), are intended to promote good purchasing practice (including the delivery of social value and the application of ethical procurement principles) and public accountability and deter corruption.
2. Officers responsible for purchasing must comply with these Contract Procedure Rules. They lay down minimum requirements and a more thorough procedure may be appropriate for a particular contract. (For example, if Rule 8.1 would normally require that quotes be obtained, it might be appropriate in particular circumstances to seek additional quotations in writing or tender submissions).
3. For the purposes of these rules, where there is a requirement for communication to be in writing, this shall be deemed to include electronic as well as hard copy.
4. Key considerations for officers engaged in purchasing works, goods and services include:
  - Follow the rules if you purchase goods or services or order building work;
  - Take all necessary legal, financial and professional advice;
  - Declare any personal financial interest in a contract. Corruption is a criminal offence;
  - Conduct any Best Value review and appraise the purchasing need;
  - Check whether there is an existing Y&NYCA Contract, OGC Buying Solutions/Crown Commercial Service agreement, AGMA and other joint purchasing arrangements you can make use of before undergoing a competitive process;
  - Normally allow at least four weeks for submission of bids (not to be submitted by email unless allowed for in the Invitation to Tender documents);
  - Keep bids confidential;
  - Complete a written contract or Y&NYCA order before the supply or works begin;
  - Identify a contract manager with responsibility for ensuring the contract delivers as intended;
  - Keep records of dealings with suppliers;
  - Assess each contract afterwards to see how well it met the purchasing need and Value for Money requirements.
5. Y&NYCA is committed to meeting needs for goods, services and works in a way that achieves value for money on a whole life basis in terms of generating benefits to society and the economy of York and North Yorkshire whilst maximising environmental sustainability.

## CONTRACTS OR GRANTS

### Distinguishing between a contract and a grant

It is important to distinguish whether obligations arise as a result of a grant or a contract because different legal frameworks apply to grants and to contracts. The description given to the relationship by the parties will not necessarily be decisive. The outcome will depend on all the circumstances.

There is no one factor that determines whether an arrangement is a grant agreement or a contract. The arrangement must be considered as a whole.

The question of whether an obligation arises as a result of a grant or a contract is one that affects state entities providing funds, usually to not-for-profit or third sector organisations (which can include charities), to facilitate outcomes.

**NB – Advice can be obtained from the Procurement Section**

### **Contract**

Usually, a contract will be entered into following a procurement process (often an Invitation to Tender or Request for Quotation):

The provider will be contractually bound to provide the services, works or goods.

The commissioner will be contractually bound to pay the provider for the services, works or goods.

There will be a detailed specification drawn up to meet the Y&NYCA's requirements setting out the services the provider is to carry out the works to be performed or the goods to be provided.

There will be, among others, provisions in the contract:

- setting out what happens if either party does not comply with the terms of the contract;
- determining what will happen if the contract is terminated; and
- dealing with whether the provider can subcontract the services or the provision of the works or goods.

### **Breach of Contract**

A breach of contract occurs whenever a party fails to perform a contractual duty as required by its terms. The principal remedy in English law for breach of contract is an award of damages.

### **Grant**

A grant is a gift of funds for a specific purpose. Under a grant agreement, the funder makes a payment to the recipient for a specific purpose. The recipient is not obliged to deliver any goods or services to the funder (so no liability for damages will arise by the recipient failing to perform),

although the funder may claw back grant which has not been spent for that specific purpose or is misapplied.

Usually, under a grant agreement:

- The funder will give money to the recipient to assist it to meet the recipient's objectives. The funds are to be used to undertake activities that are not being undertaken for the direct benefit of the Y&NYCA.
- The recipient organisation has the choice of either undertaking the funded services or activities or handing back the money without incurring further costs.
- The only material obligation placed on the Y&NYCA under the grant agreement will be to pay the grant to the recipient.

\* The recipient organisation must return any unspent grant to the Y&NYCA.

A grant agreement may not be suitable, for example, where the Y&NYCA has a statutory duty to provide a service as a grant agreement would not secure the delivery of the services because the organisation is not contractually bound to provide services to the Y&NYCA.

### **Breach of Grant Agreement**

Grant agreements normally enable the funder to withhold or suspend payment of the grant and/or require repayment of all or part of the grant if the recipient organisation:

- Misuses the grant
- Fails to comply with the terms and conditions of the grant agreement
- Acts negligently in delivering the project
- Obtains duplicate funding from a third party
- Provides the funder with misleading or inaccurate information
- Commits fraud or bribery
- Ceases to operate, is wound up, dissolved or becomes insolvent

### **Contracting authorities as grant recipients**

Contracting authorities which receive grant monies to fund contracts will be subject to the procurement rules in terms of how they spend that grant. A failure to comply may result in grant funding being clawed back.

## **SCOPE OF CONTRACT PROCUREMENT RULES**

### **1. Basic Principles**

All purchasing and disposal procedures must:

- Achieve Best Value for public money spent;
- Be consistent with the highest standards of integrity;

- Ensure fairness in allocating public contracts;
- Comply with all legal requirements;
- Ensure that Non-Commercial Considerations do not influence any Contracting Decision;
- Support the Y&NYCA's corporate aims and policies;
- Comply with the Y&NYCA's corporate Procurement Strategy and other relevant policies;
- Include considerations of social value in line with the Y&NYCA's policy and the Public Services (Social Value) Act 2012;

## 2. Officer Responsibilities

### 2.1 Officers

2.1.1 Officers responsible for purchasing or disposal must comply with these Contract Procurement Rules, the Y&NYCA's Financial Regulations, the Y&NYCA's Social Value Policy, the Y&NYCA's Code of Conduct for Employees and with all applicable legal requirements, including

- The Public Contracts Regulations 2015
- The Concession Contracts Regulations 2016
- The Public Services (Social Value) Act 2012

2.1.2 Officers must:

- Have regard to the Y&NYCA's Purchasing Guidance including any relevant Gateway procedures;
- Check whether a suitable Y&NYCA contract exists before seeking to let another contract; where a suitable Y&NYCA contract exists, this must be used unless there is an auditable reason not to;
- Keep the records required by Rule 6;
- Take all necessary legal, financial and professional advice.

2.1.3 When any employee either of the Y&NYCA or of a service provider may be affected by any transfer arrangement, Officers must ensure that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE) issues are considered and obtain legal and personnel advice before proceeding with inviting Tenders or Quotations.

### 2.2 Chief Officers

2.2.1 Chief Officers must:

- Ensure their staff comply with Rule 2.1;
- Keep registers of:
  - Contracts completed by signature rather than by the Y&NYCA's seal (see Rule 18.3) and arrange their safekeeping on Y&NYCA premises;

- Exemptions recorded under Rule 3.2.
  - Provide an electronic copy of all contracts and exemptions to Procurement Section.
- 2.3 The Officer must comply with the Y&NYCA Code of Conduct for Employees and must not invite or accept any gift or reward in respect of the award or performance of any contract. It will be for the Officer to prove that anything received was not received corruptly. High standards of conduct are obligatory. Corrupt behaviour will lead to dismissal and is a crime under the Bribery Act 2010.
- 2.4 Officers shall comply with section 117 of the Local Government Act 1972 in relation to the declaration of interest in contracts.

### 3. Exemptions, Collaborative and E-Procurement Arrangements

- 3.1 The Y&NYCA has power to waive any requirements within these Contract Procedure Rules for specific projects unless it would be unlawful to do so.
- 3.2 A Chief Officer may (subject to [Post to be determined]’ written approval where the Total Value is likely to exceed £50,000) waive any requirements within these Contract Procedure Rules, where they are satisfied:
- Goods are to be bought at auction and the Y&NYCA’s best interest will be served by purchase through auction and has agreed an upper limit for bids; or
  - Only one contractor can provide the goods, services or works required and there is no reasonable alternative contractor; or
  - The need for the goods, services or works is so urgent that the time needed to comply with these Contract Procedure Rules would be prejudicial to the Y&NYCA’s interests, or
  - There are value for money reasons justifying a waiver

Applications to waiver any requirement shall be made using the waiver template documentation available from the Procurement Team.

- 3.3 Where a proposed contract or agreement is subject to the Statutory Procedure, a Chief Officer and the [Post to be determined] have no delegated powers. No exemption under Rules 3.1 and 3.2 can be used if the Statutory Procedure applies.
- 3.4 All exemptions, and the reasons for them, must be recorded by the Chief Officer. The [Post to be determined] will monitor use of exemptions.
- 3.5 In order to secure Value for Money, the Y&NYCA may enter into collaborative procurement arrangements with local authorities, government departments, public bodies, public sector buying organisations and may use Framework Agreements let by local authorities, government departments, public bodies or Central Purchasing Bodies.

- 3.6 All purchases made via a public sector buying organisation are deemed to comply with these Contract Procedure Rules and no exemption is required. However, purchases above the Statutory Threshold must be let under the Statutory Procedure, unless the consortium or Central Purchasing Body has satisfied this requirement already by letting its agreement in accordance with the Statutory Procedures on behalf of the Y&NYCA or specifying the Y&NYCA as a potential user.
- 3.7 Advice must be sought from the Procurement Team prior to entering into a contract through collaboration with local authorities or other public bodies to ensure compliance with the procurement rules.

#### 4. **Relevant Contracts**

- 4.1 All Relevant Contracts and Framework Agreements must comply with these Contract Procurement Rules. A Relevant Contract is any arrangement made by the Y&NYCA for the carrying out of works or for the supply of goods, works or services. These include arrangements for:
- The carrying out of construction and engineering works;
  - The supply or disposal of goods;
  - The hire, rental or lease of goods or equipment; and
  - The delivery of services.
- 4.2 Relevant Contracts do not include:
- Contracts of employment which make an individual a direct employee of Y&NYCA; or
  - Agreements relating to the acquisition, disposal or transfer of land which do not form part of a wider transaction under which the Y&NYCA procures works, goods or services.
  - Instruction of counsel

### COMMON REQUIRMENTS

#### 5. **Steps Prior to Purchase**

- 5.1 The Officer must appraise the purchase, in a manner commensurate with its complexity and value, and taking into account any guidance in the Purchasing Guidance, by:
- Satisfying themselves that they have the necessary authority to deal with the purchase and that there is budget provision for the purchase;
  - Taking into account the requirements from any relevant Best Value review appraising the need for the expenditure and its priority defining the objectives of the purchase;
  - Assessing the risks associated with the purchase and how to manage them;



- In consultation with the Procurement Team considering what procurement method is most likely to achieve the purchasing objectives, including internal or external sourcing, partnering, packaging strategy and collaborative procurement arrangements with another local authority, government department, statutory undertaker or public service purchasing consortium;
- Consulting users as appropriate about the proposed procurement method, social value opportunities, contract standards and performance and user satisfaction monitoring, terms and conditions that are to apply to the proposed contract;
- Setting out these matters in writing if the Total Value of the purchase exceeds £50,000.

5.2 and by confirming that:

- There is Y&NYCA Member or delegated approval for the expenditure and the purchase accords with the approved policy framework and Scheme of Delegation as set out in the Y&NYCA Constitution.

## 6. Records

6.1 Where the Total Value is below £10,000 a purchase order is sufficient record, unless additional records are deemed appropriate having taken into account considerations in Rule 5.1

6.2 Where the Total Value is £10,000 to £49,999, the following records must be kept:

- A unique reference number for the contract (obtained from the Procurement Section) and the title of the contract;
- Invitations to quote or tender and Quotations or Tenders;
- A record:
  - of any exemptions and the reasons for them;
  - of any Contracting Decision and the reasons for it including the evaluation of the Quotation or Tender;
- Written records of communications with the successful contractor or an electronic record if a written record of the transaction would not normally be produced.

6.3 Where the Total Value exceeds £50,000 the Officer must record:

- A unique reference number for the contract (obtained from the Procurement Section) and the title of the contract;
- The method for obtaining bids (see Rule 8.1);
- Any Contracting Decision and the reasons for it;
- Any exemption under Rule 3 together with reasons for it;
- The Award Criteria;
- Invitation to Tender documents sent to and Tender documents received from Candidates;
- Pre-tender market research (if any);

- Clarification and post-tender negotiation (to include minutes of any meetings);
- The contract documents – an electronic copy to be provided to Procurement Section;
- Post-contract evaluation and monitoring;
- Communications with Candidates and with the successful contractor throughout the period of the procurement.

6.3 Records required by this rule must be kept for six years after the end of the contract.

## **7. Advertising**

### **7.1 Identifying and Assessing Potential Candidates**

7.1.1. Officers shall ensure that, for Relevant Contracts or Framework Agreements a sufficiently accessible advertisement is published. Examples of where such advertisements may be placed include:

- The Y&NYCA's website;
- E portals specifically created for contract advertisements such as the UK Government Contracts Finder;
- A local or national newspaper or specialist publication;
- National official journals, or the Official Journal of the European Union (OJEU)/Tenders Electronic Daily (TED) where applicable (even if there is no requirement within the Statutory Procedure).

7.1.2. Officers are responsible for ensuring that all Candidates for a Relevant Contract have necessary:

- Economic and financial standing; and
- Technical ability and capacity;

to fulfil the requirements of the Y&NYCA.

## **CONDUCTING PURCHASES**

### **8. Competition Requirements for Purchase and Partnership Arrangements**

The Officer must calculate the Total Value.

The following procedures apply where there are no other procedures which take precedence. Other procedures may include agency agreements with government. If in doubt, Officers must seek the advice of the Monitoring Officer.

#### **8.1 Purchasing – Competition Requirements**

8.1.1. Where the Total Value for a purchase is within the values in the first column below, the procedure in the second and third columns must be followed.

Total Value	Procedure	Advert Placement
Up to £9,999.99	One written quotation	
£10,000 to £49,999.99	At least three written quotations	
£50,000 – Statutory Threshold (Including VAT)	Invitation to Tender by advertisement to at least three Candidates	E portal and the UK Government Contracts Finder
Above Statutory Threshold (including VAT)	Statutory Procedure	E portal and the UK Government Contracts Finder

8.1.2. Irrespective of Rule 8.1.1 Relevant Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF–GN-1-004) as amended from time to time.

8.1.3. An Officer must not enter into separate contracts nor select a method of calculating the Total Value in order to minimise the application of these contract procedure rules.

8.1.4. Where the Total Value exceeds £50,000 the Procurement Team should be consulted prior to the commencement of the procedure.

## 8.2 Providing Services to External Purchasers

8.2.1. The [Post to be determined] must be consulted where contracts to work for other organisations are contemplated and any bid, tender and contract for work shall be made in accordance with the Financial Regulations.

## 8.3 Collaborative and Partnership Arrangements

8.3.1. Collaborative and partnership arrangements where services/goods/works are supplied to the Y&NYCA are subject to all applicable procurement legislation and must follow these contract procedure rules. If in doubt, Officers must seek the advice of the Monitoring Officer and the [Post to be determined].

## 8.4 The Appointment of Consultants to Provide Professional Services

8.4.1. Consultants shall be selected, and commissions awarded in accordance with the procedures detailed within these contract procedure rules and as outlined below.

Total Value	Procedure	Advert Placement
Up to £30,000	One written quotation	
£30,001 – Statutory Threshold	Three written quotations	E portal up to £50,000 then E portal and UK Government Contracts Finder
Above Statutory Threshold	Statutory Procedure	E portal and UK Government Contracts Finder

Agreements shall be completed as specified in Rule 18.2 (Contract Formalities)

8.4.2. Irrespective of Rule 8.4.1 Relevant Contracts and Framework Agreements that are subject to European Union grant funding requirements shall be advertised in accordance with published guidance, ERDF National Procurement Requirements (ERDF–GN-1-004) as amended from time to time.

8.4.3. The engagement of a Consultant shall follow the agreement of a brief that adequately describes the scope of the services to be provided and shall be subject to completion of a formal letter or contract of appointment.

8.4.4. Records of consultancy appointments shall be maintained in accordance with Rule 6.

8.4.5. Consultants shall be required to provide evidence of and maintain appropriate professional indemnity insurance policies for the periods specified in the respective agreement.

8.4.6. The instruction of the Authority's External Auditors for additional pieces of work must only be carried out by the [Post to be determined].

8.4.7. The instruction of external legal advisers must only be carried out by the Monitoring Officer.

8.4.8. The instruction of counsel shall not be subject to the requirements of Rules 8.4.1 – 8.4.4 (inclusive).

## 9. PRE-TENDER MARKET RESEARCH AND CONSULTATION

9.1 The Officer responsible for the purchase:

- may consult potential suppliers prior to the issue of the Invitation to Tender in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any potential Candidate, but
- must not seek or accept technical advice on the preparation of an Invitation to Tender or Quotation from anyone who may have a commercial interest in them, if this may prejudice the equal treatment of all potential Candidates or distort competition.

## 10. STANDARDS AND AWARD CRITERIA

10.1 The Officer must ascertain the standards necessary to properly describe the subject matter of the contract having regard to any relevant British, European or international standards.

10.2 The Officer must define Award Criteria that are appropriate to the purchase and designed to secure an outcome giving Value for Money for the authority. The basic criteria shall be one of the following:

- 'most economically advantageous', where considerations of quality, price, social value and other relevant factors apply, or
- 'lowest price' where payment is to be made by the Y&NYCA (provided that lowest price is not permissible under the Statutory Procedure),

If the first criterion is adopted (most economically advantageous) it must be further defined by reference to sub-criteria which may refer only to relevant considerations. These may include price, service, quality of goods, running costs, technical merit, previous experience, delivery date, cost effectiveness, quality, relevant social value and environmental considerations, aesthetic and functional characteristics (including security and control features), safety, after-sales services, technical assistance and any other relevant matters.

Supplier suitability assessment questions may also be asked by the Y&NYCA provided such are relevant to the subject matter of the procurement, are proportionate and are used to assess whether candidates meet requirements or minimum standards of suitability, capability, legal status and financial standing. Officers shall have regard to the Purchasing Guidance when defining the Award Criteria.

10.3 Award Criteria must not include:

- Non-Commercial Considerations that are prohibited under UK law

NB - This does not prevent the Y&NYCA from exercising any function with reference to a non-commercial matter to the extent that it is necessary or expedient to do so to enable or facilitate compliance with a duty imposed on the Y&NYCA by section 1 of the Public Services (Social Value) Act 2012.

## **11. INVITATIONS TO TENDER/QUOTATIONS**

- 11.1 The Invitation to Tender shall state that the Y&NYCA reserves the right to reject a Tender that is not received by the date and time stipulated in the Invitation to Tender. No Tender delivered in contravention of this requirement shall be considered without the [Post to be determined]' prior approval and shall not be considered under any circumstances when it is received after the other Tenders have been opened.
- 11.2 All Invitations to Tender shall include the following:
- 11.2.1. A specification that describes the Y&NYCA's requirements in sufficient detail to enable the submission of competitive offers.
  - 11.2.2. A requirement for tenderers to declare that the Tender content, price or any other figure or particulars concerning the Tender have not been disclosed by the tenderer to any other party (except where such a disclosure is made in confidence for a necessary purpose).
  - 11.2.3. A requirement for tenderers to complete fully and sign all Tender documents including a form of Tender and certificates relating to canvassing and non-collusion.
  - 11.2.4. Notification that Tenders are submitted to the Y&NYCA on the basis that they are compiled at the tenderer's expense.
  - 11.2.5. A description of the Award Procedure and, unless defined in a prior advertisement, a definition of the Award Criteria in objective terms.
  - 11.2.6. Unless the Tender is sought in accordance with an electronic tendering process which is approved by the [Post to be determined] and Monitoring Officer and/or which is permitted by the Invitation to Tender documents, a statement that any Tenders submitted by fax or other electronic means shall not be considered.
- 11.3 All Invitations to Tender or Quotations must specify the goods, service or works that are required, together with the terms and conditions of contract that will apply (see Rule 18).
- 11.4 The Invitation to Tender or Quotation may state that the Y&NYCA is not bound to accept any Quotation or Tender.

## **12. SHORTLISTING**

- 12.1 Shortlisting for contracts or agreements which are not subject to the Statutory Procedure may only be undertaken where permitted by UK law. Special rules apply to short listing for contracts or agreements which are subject to the Statutory Procedure, and these are set out in the Statutory Procedure.

### **13. SUBMISSION, RECEIPT AND OPENING OF TENDERS / QUOTATIONS**

- 13.1 Candidates must be given an adequate period in which to prepare and submit a proper Quotation or Tender, consistent with the complexity of the contract requirement. Normally at least four weeks should be allowed for submission of Tenders. The Statutory Procedure lays down specific time periods (see guidance in the Purchasing Guidance).
- 13.2 All Tenders must be returned in accordance with the Invitation to Tender.
- 13.3 Tenders received by any means (e.g., email) other than the electronic tendering process approved by the [Post to be determined] and Monitoring Officer must be rejected.
- 13.4 Each Tender must be:
- suitably recorded to verify the date and precise time it was received
  - adequately protected on receipt to guard against amendment of its contents

### **14. CLARIFICATION PROCEDURES**

- 14.1 Providing clarification of an Invitation to Tender to potential or actual Candidates or seeking clarification of a Tender, whether in writing or by way of a meeting, is permitted. However, discussions with tenderers after submission of a Tender and before the award of a contract with a view to obtaining adjustments in price, delivery or content (i.e., post-tender negotiations) are the exception rather than the rule. In particular, they must not be conducted in a Statutory Procedure where this might distort competition, especially with regard to price.

### **15. EVALUATION**

- 15.1 Apart from the debriefing required or permitted by these contract procedure rules, the confidentiality of Quotations, Tenders and the identity of Candidates must be preserved at all times and information about one Candidate's response must not be given to another Candidate.
- 15.2 Contracts must be evaluated and awarded in accordance with the Award Criteria. During this process, Officers shall ensure that submitted Tender prices are compared with any pre-tender estimates and that any discrepancies are examined and resolved satisfactorily.

- 15.3 The arithmetic in compliant Tenders must be checked. If arithmetical errors are found they should be notified to the tenderer, who should be requested to confirm or withdraw their Tender. Alternatively, if the rates in the Tender, rather than the overall price, were stated within the Invitation to Tender as being dominant, an amended Tender price may be requested to accord with the rates given by the tenderer.

## **16. POST TENDER NEGOTIATIONS**

- 16.1 Post tender negotiations under the Statutory Procedure can only be undertaken on the grounds allowing for such specified in the Statutory Procedure. For all other procedures if post-tender negotiations are necessary after a single-stage Tender process or after the second stage of a two-stage Tender process, then such negotiations shall only be undertaken with the tenderer who is identified as having submitted the best Tender and after all unsuccessful Candidates have been informed. During negotiations tendered rates and prices shall only be adjusted in respect of a corresponding adjustment in the scope or quantity included in the Tender documents. Officers appointed by the Chief Officer to carry out post-tender negotiations should ensure that there are recorded minutes of all negotiation meetings and that both parties agree actions in writing.
- 16.2 Post-tender negotiation must only be conducted in accordance with the guidance issued by the Monitoring Officer who, together with the [Post to be determined], must be consulted wherever it is proposed to enter into post-tender negotiation.
- 16.3 Where post-tender negotiation results in a fundamental change to the specification (or contract terms) the contract must not be awarded but re-tendered.

## **17. AWARD OF CONTRACTS AND FRAMEWORK AGREEMENTS AND DEBRIEFING CANDIDATES**

- 17.1 The Officer may accept quotations, tenders and bids received up to £50,000.00 in value in respect of proposed contracts and Framework Agreements, provided that they have been sought and evaluated fully in accordance with these contract procurement rules, and that budget provision is available.
- 17.2 The Officer may accept tenders or bids received:
- 17.2.1. in consultation with the relevant Director over £50,000 and up to £100,000 in value, and
- 17.2.2. in consultation with the relevant Director and the Head of Procurement over £100,000 and up to £250,000 in value

in respect of proposed contracts and Framework Agreements, provided they have been sought and evaluated fully in accordance with these contract procurement rules and, in respect of proposed contracts and Framework Agreements that are



expected to exceed £250,000 (relating to either expenditure or income) with the additional approval of the [Post to be determined].

17.3 For contracts and Framework Agreements subject to the Statutory Procedure, the Officer must notify all Candidates simultaneously and as soon as possible of the intention to award the contract or Framework Agreement to the successful Candidate and provide information required by the Statutory Procedure specifying the name(s) of the successful Candidate(s), the award criteria and the reasons for the decision including the score of the Candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful tender. The Officer must provide unsuccessful Candidates with a period of at least ten days in which to challenge the decision before the Officer awards the contract or Framework Agreement. If the decision is challenged by an unsuccessful Candidate, then the Officer shall not award the contract or Framework Agreement and shall immediately seek the advice of the Monitoring Officer. The requirement to notify candidates of the intention to award a contract or Framework Agreement in this Rule 17.3 does not apply to:

- contracts and Framework Agreements that are not subject to the Statutory Procedure (such as social and other specific services listed under the Statutory Procedure, or where the value is under the Statutory Threshold) and
- contracts subsequently called off and awarded based on a Framework Agreement that was let in accordance with the Statutory Procedure

17.4 If a Candidate requests in writing the reasons for a Contracting Decision relating to an unsuccessful Quotation or Tender it has submitted, the Officer must give in writing the name(s) of the successful Candidate(s), the award criteria and the reasons for the decisions including the score of the candidate being debriefed and the successful Candidate(s) and the characteristics and relative advantages of the successful tender.

## **CONTRACT AND OTHER FORMALITIES**

### **18. CONTRACT DOCUMENTS**

#### 18.1 Relevant Contracts

18.1.1. All Relevant Contracts that exceed £50,000 shall be in writing.

18.1.2. All Relevant Contracts, irrespective of value, shall clearly specify:

- what is to be supplied (i.e., the works, materials, services, matters or things to be furnished, had or done)
- the provisions for payment (i.e., the price to be paid and when)
- the time, or times, within which the contract is to be performed
- the provisions for the Authority to terminate the contract.

18.1.3. The Y&NYCA's standard terms and conditions or standard contract forms issued by a relevant professional body must be used wherever possible.

18.1.4. In addition, every contract or agreement must also state clearly as a minimum:

- that the contractor may not assign or sub-contract without prior written consent
- any insurance requirements
- health and safety requirements
- data protection requirements, if relevant
- Equality Act requirements
- Anti-bribery compliance
- Freedom of Information Act requirements
- a right of access to relevant documentation and records of the contractor for monitoring and audit purposes if relevant.
- that the Y&NYCA shall pay the contractor and the contractor shall pay its subcontractors within 30 days of an undisputed invoice.

18.1.5. The formal advice of the Monitoring Officer must be sought for the following contracts:

- those involving leasing arrangements
- where it is proposed to use a supplier's own terms or
- those that are complex in any other way.

## 18.2 Contract Formalities

18.2.1. Agreements shall be completed as follows:

<b>Total Value</b>	<b>Method of completion</b>	<b>By</b>
Up to £75,000	Signature	Authorised Signatory
Above £75,000	Sealing	See Rule 18.3

18.2.2. All contracts must be concluded formally in writing before the supply, service or construction work begins, except in exceptional circumstances.

## 18.3 Sealing

18.3.1. Where contracts are completed by each side as a deed, such contracts shall be executed by the fixing of the Y&NYCA's seal and must be witnessed by an Authorised Signatory.

18.3.2. Every Y&NYCA sealing will be consecutively numbered, recorded and signed by the person witnessing the seal.

18.3.3. A contract must be sealed where:

- the Y&NYCA may wish to enforce the contract more than six years after its end
- the price paid or received under the contract is a nominal price and does not reflect the value of the goods or services
- there is any doubt about the authority of the person signing for the other contracting party, or
- the Total Value exceeds £75,000 unless the Monitoring Officer does not consider that sealing is necessary.

#### 18.4 Signatures

Authorised Signatories may sign and witness the sealing of documents by way of ~~of~~ electronic signature.

### 19. BONDS AND PARENT COMPANY GUARANTEES

19.1 The Officer must consult the [Post to be determined] about whether a Parent Company Guarantee is necessary when a Candidate is a subsidiary of a parent company and:

- the Total Value exceeds £250,000, or
- selection and/or award is based on evaluation of the parent company, or
- there is some concern about the stability of the Candidate.

19.2 The Officer must consult the [Post to be determined] about whether a Bond is needed:

- where the Total Value exceeds £1,000,000, or
- where it is proposed to make stage or other payments in advance of receiving the whole of the subject matter of the contract and there is concern about the stability of the Candidate.

## CONTRACT MANAGEMENT

### 20. MANAGING CONTRACTS

20.1 Chief Officers are to name contract managers for all new contracts. All contracts must have a Y&NYCA contract manager for the entirety of the contract.

20.2 Contract managers must follow the procedures set out in the Y&NYCA's Purchasing Guidance.

20.3 Anyone awarding a contract must notify the [Post to be determined] of the details of that contract if for any reason the tender has not been issued via the Procurement Section.

20.4 The [Post to be determined] must maintain a central register of all contracts let with a value more than £50,000.

## **21. RISK ASSESSMENT AND CONTINGENCY PLANNING**

21.1 A business case must be prepared for all procurements with a potential value over the Statutory Threshold. Provision for resources for the management of the contract, for its entirety, must be identified in the business case.

21.2 For all contracts with a value of over £75,000, contract managers must consider maintaining a risk register during the contract period, undertake appropriate risk assessments and for identified risks ensure contingency measures are in place.

## **22. CONTRACT MONITORING, EVALUATION AND REVIEW**

22.1 The [Post to be determined] may require that a Y&NYCA-developed Gateway review process may be applied to all contracts deemed to be High Risk, High Value, or High Profile. This process must be applied at key stages of major procurements.

22.2 During the life of the contract, the Officer must monitor in respect of:

- Performance
- Compliance with specification and contract
- Cost
- Any Value for Money requirements
- Social value requirements
- User satisfaction and risk management.

## **23. GRANTS –TRANSPARENCY, AWARD CRITERIA, GRANT AGREEMENTS, MONITORING, EVALUATION AND REVIEW**

### **23.1 TRANSPARENCY - AWARD CRITERIA**

Where there is more than one likely possible grant recipient, grants should be awarded following an open, fair, transparent process.

The Officer must define award criteria that are appropriate to the grant programme.

Bids for grants must be evaluated and awarded in accordance with the award criteria.

All grant awards should be approved by the [Post to be determined].

Before awarding any grant, the officer shall ensure compliance with prevailing subsidy rules, adhering to the Y&NYCA Grant Award Procedure and seeking advice from the Procurement Team as appropriate.

### 23.2 GRANT AGREEMENTS

Grant agreements should specify that the Y&NYCA may withhold or suspend payment of the grant and require repayment of all or part of the grant if, among other matters, the recipient organisation:

- o Misuses the grant
- o Fails to comply with the terms and conditions of the grant agreement o Obtains duplicate funding from a third party
- o Provides the Y&NYCA with misleading or inaccurate information
- o Commits fraud or bribery
- o Ceases to operate, is wound up, dissolved or becomes insolvent

### 23.3 MONITORING EVALUATION AND REVIEW

During the life of the grant agreement, the Officer must monitor in respect of:

- Compliance with grant conditions
- Spend against profile
- Programme outcomes

### DEFINITIONS

Authorised Signatory	An officer authorised by the Monitoring Officer in accordance with the Y&NYCA's Constitution to sign a contract or witness the Y&NYCA's seal.
Award Criteria	The criteria by which the successful Quotation or Tender is to be selected (see further Rules 10 and 11.2.5).
Award Procedure	The procedure for awarding a contract as specified in Rules 8, 10 and 15.
Best Value	The duty, which Part I of the Local Government Act 1999 places on local authorities, to secure continuous improvement in the way in which functions are exercised, having regard to a combination of economy, efficiency and effectiveness as implemented by the Y&NYCA.
Candidate	Any person or organisation who applies for, asks or is invited to submit a Quotation or Tender.

Central Purchasing Body	Means a contracting authority which provides centralised purchasing activities, and which may also provide ancillary purchasing activities
Chief Officers	The Officers defined as such in the Y&NYCA Constitution.
Code of Conduct	The Code of Conduct for Employees as set out from time to time in the Y&NYCA Constitution.
Committee	A committee which has power to make decisions for the Y&NYCA.
Constitution	The constitutional document approved by the Y&NYCA of which those Contract Procedure Rules form part.
Consultant	Specialist advisers engaged to provide professional services to the Y&NYCA.
Contracting Decision	Any of the following decisions: <ul style="list-style-type: none"> <li>• withdrawal of Invitation to Tender</li> <li>• whom to invite to submit a Quotation or Tender</li> <li>• Shortlisting</li> <li>• award of contract or Framework Agreement</li> <li>• any decision to terminate a contract.</li> </ul>
Delegated Officer	The Officer authorised by the Chief Officer to approve requisitions and purchase orders.
Statutory Procedure	The procurement procedure required by UK law for goods, works and services where the Total Value exceeds the Statutory Threshold.
Statutory Threshold	The values at which the relevant UK public procurement law applies.
European Economic Area	The members of the European Union, and Norway, Iceland and Liechtenstein
Financial Regulations	The Y&NYCA's financial regulations outlining Officer responsibilities for financial matters prepared by the [Post to be determined] and becoming part of the Y&NYCA Constitution.
Framework Agreement	An agreement between one or more authorities and one or more economic operators, the purpose of which is to establish the terms governing contracts to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged.

Government Procurement Agreement	The successor agreement to the General Agreement on Trade and Tariffs. The main signatories other than those in the European Economic Area are the USA, Canada, Japan, Israel, South Korea, Switzerland, Norway, Aruba, Hong Kong, China, Liechtenstein and Singapore.
Head of Procurement	The Officer as designated by the [Post to be determined]
High Profile	A high-profile purchase is one that could have an impact on functions integral to Y&NYCA service delivery should it fail or go wrong.
High Risk	A high-risk purchase that is in the opinion of the [Post to be determined] one which presents the potential for substantial exposure on the Y&NYCA's part should it fail or go wrong.
High Value	A high-value purchase is where the value exceeds the Statutory Threshold values.
Invitation to Tender	Invitation to tender documents in the form required by these Contract Procedure Rules.
Monitoring Officer	As identified in the Y&NYCA Constitution
Non-Commercial Considerations	<ul style="list-style-type: none"> <li>(a) The terms and conditions of employment by contractors of their workers or the composition of the arrangements for the promotion, transfer or training of or the other opportunities afforded to, their workforces ('workforce matters').</li> <li>(b) Whether the terms on which contractors contract with their sub-contractors constitute, in the case of contracts with individuals, contracts for the provision by them as self-employed persons of their services only.</li> <li>(c) Any involvement of the business activities or interests of contractors with irrelevant fields of government policy.</li> <li>(d) The conduct of contractors or workers in industrial disputes between them or any involvement of the business activities of contractors in industrial disputes between other persons ('industrial disputes').</li> <li>(e) The country or territory of origin of supplies to, or the location in any country or territory of the business activities or interests of, contractors.</li> <li>(f) Any political, industrial or sectarian affiliations or interests of contractors or their directors, partners or employees.</li> </ul>



	<p>(g) Financial support or lack of financial support by contractors for any institution to or from which the Y&amp;NYCA gives or withholds support.</p> <p>(h) Use or non-use by contractors of technical or professional services provided by the authority under the Building Act 1984 or the Building (Scotland) Act 1959.</p> <p>Workforce matters and industrial disputes, as defined in paragraphs (a) and (d), cease to be non-commercial considerations to the extent necessary or expedient to comply with Best Value; or where there is a transfer of staff to which the Transfer of undertakings (Protection of Employment) Regulations 2006 (TUPE) may apply.</p>
Officer	The Officer designated by the Chief Officer to deal with the procurement and award of the contract in question.
Parent Company Guarantee	A contract which binds the parent of a subsidiary company whereby if the subsidiary company fails to do what it has promised under a contract with the Y&NYCA, the Y&NYCA can require the parent company to do so instead.
Procurement Strategy	The document setting out the Y&NYCA's approach to procurement and key priorities for the next few years.
Procurement Team	The Team under the [Post to be determined]' responsibility for Procurement Services.
Purchasing Guidance	Any guidance documents issued from time to time by the [Post to be determined] that support the implementation of these Contract Procurement Rules.
Quotation	A quotation of price and any other relevant matter (without the formal issue of an Invitation to Tender).
Relevant Contract	Contracts to which these contract procedure rules apply (see Rule 4).
Shortlisting	The process of selecting Candidates who are to be invited to quote or bid or to proceed to final evaluation.
Tender	A Candidate's offer submitted in response to a Y&NYCA Invitation to Tender.



Total Value	<p>The whole of the value (inclusive of VAT) or estimated value (in money or equivalent value) calculated as follows:</p> <ul style="list-style-type: none"> <li>(a) where the contract is for a fixed period, by taking the total price to be paid or which might be paid during the whole of the period</li> <li>(b) where the purchase involves recurrent transactions for the same type of item, by aggregating the value of those transactions in the coming 12 months</li> <li>(c) where the contract is for an uncertain duration, by multiplying the monthly payment by 48</li> <li>(d) in the case of framework agreements and dynamic purchasing systems, the maximum estimated value of all contracts envisaged for the total term of the framework agreement or the dynamic purchasing system.</li> </ul>
[Post to be determined]	As identified in the Y&NYCA Constitution.
<p>TUPE Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006 No.246)</p>	<p>Subject to certain conditions, the regulations applying where responsibility for the delivery of works or services for the Y&amp;NYCA is transferred from one organisation (e.g., private contractor, local authority in-house team) to another (e.g. following a contracting out or competitive tendering process) and where the individuals involved in carrying out the work are transferred to the new employer. These regulations seek to protect the rights of employees in such transfers, enabling them to enjoy the same terms and conditions, with continuity of employment, as existed with their former employer. Broadly, TUPE regulations ensure that the rights of employees are transferred along with the business.</p>
Value for Money	the most economically advantageous proposal that combines goods or services that fully meet your needs, with the level of quality required, delivery at the time you need it, and at an appropriate price.

# **PART 7**

# **CODES AND GUIDANCE**

## 1.1 Members Code of Conduct Members Model Code of Conduct

### Definitions

General principles of member conduct

Application of the Code of Conduct

Standards of member conduct

General Conduct

1. Respect
2. Bullying, harassment and discrimination
3. Impartiality of officers of the Y&NYCA
4. Confidentiality and access to information
5. Disrepute
6. Use of position
7. Use of Y&NYCA resources and facilities
8. Complying with the Code of Conduct Protecting your reputation and the reputation of the Y&NYCA
9. Interests
10. Gifts and Hospitality

Appendix A – The Seven Principles of Public Life Appendix B - Registering Interests

- Non-participation in case of disclosable pecuniary interest
- Disclosure of Other Registerable Interests
- Disclosure of Non-Registerable Interests
- Table 1 – Disclosable Pecuniary Interests
- Table 2 – Other Registrable Interests

## **Member Model Code of Conduct**

### **Definitions**

For the purposes of this Code of Conduct, a “member” means a member including the directly elected Mayor and substitute members, a co-opted member of the Y&NYCA including councillors from York and North Yorkshire Councils appointed to roles in which they act on behalf of the Y&NYCA. A “co-opted member” is defined in the Localism Act 2011 Section 27(4) as “a person who is not a member of the authority but who

- a) is a member of any committee or sub-committee of the authority, or;
- b) is a member of, and represents the authority on, any joint committee or joint sub- committee of the authority

For the purposes of this Code of Conduct, “local authority” includes county councils, district councils, London borough councils, parish councils, town councils, fire and rescue authorities, police authorities, joint authorities, economic prosperity boards, combined authorities and National Park authorities.

### **General principles of councillor conduct**

Everyone in public office at all levels; all who serve the public or deliver public services, including ministers, civil servants, councillors and local authority officers; should uphold the Seven Principles of Public Life, also known as the Nolan Principles.

Building on these principles, the following general principles have been developed specifically for the role of councillor.

In accordance with the public trust placed in me, on all occasions:

- I act with integrity and honesty
- I act lawfully
- I treat all persons fairly and with respect; and
- I lead by example and act in a way that secures public confidence in the role of councillor.

In undertaking my role:

- I impartially exercise my responsibilities in the interests of the local community
- I do not improperly seek to confer an advantage, or disadvantage, on any person
- I avoid conflicts of interest
- I exercise reasonable care and diligence; and
- I ensure that public resources are used prudently in accordance with my local authority’s requirements and in the public interest.

## **Application of the Code of Conduct**

This Code of Conduct applies to you as soon as you sign your declaration of acceptance of the office of Mayor or are appointed as a member and continues to apply to you until you cease to hold office/be a member of the Y&NYCA.

This Code of Conduct applies to you when you are acting in your capacity as a member which may include when:

- you misuse your position as a member
- your actions would give the impression to a reasonable member of the public with knowledge of all the facts that you are acting as a member

The Code applies to all forms of communication and interaction, including:

- at face-to-face meetings
- at online or telephone meetings
- in written communication
- in verbal communication
- in non-verbal communication
- in electronic and social media communication, posts, statements and comments

You are also expected to uphold high standards of conduct and show leadership at all times when acting as a member.

Your Monitoring Officer has statutory responsibility for the implementation of the Code of Conduct, and you are encouraged to seek advice from your Monitoring Officer on any matters that may relate to the Code of Conduct.

## **Standards of Member Conduct**

This section sets out your obligations, which are the minimum standards of conduct required of you as a member. Should your conduct fall short of these standards, a complaint may be made against you, which may result in action being taken.

### **General Conduct**

The general conduct guidance follows below:

#### **1. Respect**

**As a member:**

- 1.1 I treat other members and members of the public with respect.**
- 1.2 I treat Y&NYCA employees, employees and representatives of partner organisations and those volunteering for the Y&NYCA with respect and respect the role they play.**

Respect means politeness and courtesy in behaviour, speech, and in the written word. Debate and having different views are all part of a healthy democracy. As a member, you can express, challenge, criticise and disagree with views, ideas, opinions and policies in a robust but civil manner. You should not, however, subject individuals, groups of people or organisations to personal attack.

In your contact with the public, you should treat them politely and courteously. Rude and offensive behaviour lowers the public's expectations and confidence in members/councillors.

In return, you have a right to expect respectful behaviour from the public. If members of the public are being abusive, intimidatory or threatening you are entitled to stop any conversation or interaction in person or online and report them to the Y&NYCA, the relevant social media provider or the police. This also applies to fellow members, where action could then be taken under the Member Code of Conduct, and Y&NYCA employees, where concerns should be raised in line with the Y&NYCA's member - officer protocol.

## **2. Bullying, harassment and discrimination**

**As a member:**

**2.1 I do not bully any person.**

**2.2 I do not harass any person.**

**2.3 I promote equalities and do not discriminate unlawfully against any person.**

The Advisory, Conciliation and Arbitration Service (ACAS) characterises bullying as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means that undermine, humiliate, denigrate or injure the recipient. Bullying might be a regular pattern of behaviour or a one-off incident, happen face-to-face, on social media, in emails or phone calls, happen in the workplace or at work social events and may not always be obvious or noticed by others.

The Protection from Harassment Act 1997 defines harassment as conduct that causes alarm or distress or puts people in fear of violence and must involve such conduct on at least two occasions. It can include repeated attempts to impose unwanted communications and contact upon a person in a manner that could be expected to cause distress or fear in any reasonable person.

Unlawful discrimination is where someone is treated unfairly because of a protected characteristic. Protected characteristics are specific aspects of a person's identity defined by the Equality Act 2010. They are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The Equality Act 2010 places specific duties on local authorities. Members have a central role to play in ensuring that equality issues are integral to the Y&NYCA's performance and strategic aims, and that there is a strong vision and public commitment to equality across public services.

### **3. Impartiality of officers of the Y&NYCA**

#### **3.1 I do not compromise, or attempt to compromise, the impartiality of anyone who works for, or on behalf of, the Y&NYCA**

Officers work for the Y&NYCA as a whole and must be politically neutral (unless they are political assistants). They should not be coerced or persuaded to act in a way that would undermine their neutrality. You can question officers to understand, for example, their reasons for proposing to act in a particular way, or the content of a report that they have written. However, you must not try and force them to act differently, change their advice, or alter the content of that report, if doing so would prejudice their professional integrity.

### **4. Confidentiality and access to information**

**As a member:**

#### **4.1 I do not disclose information:**

- a. given to me in confidence by anyone**
- b. acquired by me which I believe, or ought reasonably to be aware, is of a confidential nature, unless**
  - i) I have received the consent of a person authorised to give it;**
  - ii) I am required by law to do so;**
  - iii) the disclosure is made to a third party for the purpose of obtaining professional legal advice provided that the third party agrees not to disclose the information to any other person; or**
  - iv) the disclosure is:**
    - 1. reasonable and in the public interest; and**
    - 2. made in good faith and in compliance with the reasonable requirements of the Y&NYCA, and**
    - 3. I have consulted the Monitoring Officer prior to its release.**

**4.2 I do not improperly use knowledge gained solely as a result of my role as a member for the advancement of myself, my friends, my family members, my employer or my business interests.**

**4.3 I do not prevent anyone from getting information that they are entitled to by law.**

Local authorities must work openly and transparently, and their proceedings and printed materials are open to the public, except in certain legally defined

circumstances. You should work on this basis, but there will be times when it is required by law that discussions, documents and other information relating to or held by the Y&NYCA must be treated in a confidential manner. Examples include personal data relating to individuals or information relating to ongoing negotiations.

## **5. Disrepute**

**As a councillor:**

### **5.1 I do not bring my role or local authority into disrepute.**

As a member, you are trusted to make decisions on behalf of your community and your actions and behaviour are subject to greater scrutiny than that of ordinary members of the public. You should be aware that your actions might have an adverse impact on you, other members and/or the Y&NYCA and may lower the public's confidence in you or the Y&NYCA's ability to discharge your/its functions. For example, behaviour that is considered dishonest and/or deceitful can bring the Y&NYCA into disrepute.

You can hold the Y&NYCA and fellow members to account and are able to constructively challenge and express concern about decisions and processes undertaken by the Y&NYCA whilst continuing to adhere to other aspects of this Code of Conduct.

## **6. Use of position**

**As a member:**

### **6.1 I do not use, or attempt to use, my position improperly to the advantage or disadvantage of myself or anyone else.**

Your position as a member of the Y&NYCA provides you with certain opportunities, responsibilities, and privileges, and you make choices all the time that will impact others. However, you should not take advantage of these opportunities to further your own or others' private interests or to disadvantage anyone unfairly.

## **7. Use of Y&NYCA resources and facilities**

**As a member:**

### **7.1 I do not misuse Y&NYCA resources.**

### **7.2 I will, when using the resources of the Y&NYCA or authorising their use by others:**

- **a. act in accordance with the Y&NYCA 's requirements; and**
- **b. ensure that such resources are not used for political purposes unless that use could reasonably be regarded as likely to facilitate,**



**or be conducive to, the discharge of the functions of the Y&NYCA or of the office to which I have been elected or appointed.**

You may be provided with resources and facilities by the Y&NYCA to assist you in carrying out your duties as a member.

Examples include:

- office support
- stationery
- equipment such as phones, and computers
- transport
- access and use of Y&NYCA/local authority buildings and rooms.

These are given to you to help you carry out your role as a member more effectively and are not to be used for business or personal gain. They should be used in accordance with the purpose for which they have been provided and the Y&NYCA's own policies regarding their use.

## **8. Complying with the Code of Conduct**

**As a member:**

- 8.1 I undertake Code of Conduct training provided by the Y&NYCA.**
- 8.2 I cooperate with any Code of Conduct investigation and/or determination.**
- 8.3 I do not intimidate or attempt to intimidate any person who is likely to be involved with the administration of any investigation or proceedings.**
- 8.4 I comply with any sanction imposed on me following a finding that I have breached the Code of Conduct.**

It is extremely important for you as a member to demonstrate high standards, for you to have your actions open to scrutiny and for you not to undermine public trust in the Y&NYCA or its governance. If you do not understand or are concerned about the Y&NYCA's processes in handling a complaint you should raise this with your Monitoring Officer.

**Protecting your reputation and the reputation of the local authority**

## **9. Interests**

**As a member:**

- 9.1 I register and disclose my interests.**

Section 29 of the Localism Act 2011 requires the Monitoring Officer to establish and maintain a register of interests of members of the authority.

You need to register your interests so that the public, Y&NYCA employees and fellow members know which of your interests might give rise to a conflict of interest. The register is a public document that can be consulted when (or before) an issue arises. The register also protects you by allowing you to demonstrate openness and a willingness to be held accountable. You are personally responsible for deciding whether you should disclose an interest in a meeting, but it can be helpful for you to know early on if others think that a potential conflict might arise. It is also important that the public know about any interest that might have to be disclosed by you or other members when making or taking part in decisions, so that decision making is seen by the public as open and honest. This helps to ensure that public confidence in the integrity of local governance is maintained.

You should note that failure to register or disclose a disclosable pecuniary interest as set out in **Table 1**, is a criminal offence under the Localism Act 2011. **Appendix B** sets out the detailed provisions on registering and disclosing interests. If in doubt, you should always seek advice from your Monitoring Officer.

## **10. Gifts and hospitality**

**As a member:**

- 10.1 I do not accept gifts or hospitality, irrespective of estimated value, which could give rise to real or substantive personal gain or a reasonable suspicion of influence on my part to show favour from persons seeking to acquire, develop or do business with the Y&NYCA or from persons who may apply to the local authority for any permission, licence or other significant advantage.**
- 10.2 I register with the Monitoring Officer any gift or hospitality with an estimated value of at least £100 within 28 days of its receipt.**
- 10.3 I register with the Monitoring Officer any significant gift or hospitality that I have been offered but have refused to accept.**

To protect your position and the reputation of the Y&NYCA, you should exercise caution in accepting any gifts or hospitality which are (or which you reasonably believe to be) offered to you because you are a member. The presumption should always be not to accept significant gifts or hospitality. However, there may be times when such a refusal may be difficult if it is seen as rudeness in which case, you could accept it but must ensure it is publicly registered. However, you do not need to register gifts and hospitality which are not related to your role as a member, such as Christmas gifts from your friends and family. It is also important to note that it is appropriate to accept normal expenses and hospitality associated with your duties as a member. If you are unsure, do contact your Monitoring Officer for guidance.

## **Appendix A – The Seven Principles of Public Life**

The principles are:

### **Selflessness**

Holders of public office should act solely in terms of the public interest.

### **Integrity**

Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions to gain financial or other material benefits for themselves, their family, or their friends. They must disclose and resolve any interests and relationships.

### **Objectivity**

Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias. Accountability Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

### **Openness**

Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

### **Honesty**

Holders of public office should be truthful.

### **Leadership**

Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

## Appendix B - Registering Interests

Within 28 days of becoming a member or your re-election or re-appointment to office you must register with the Monitoring Officer the interests which fall within the categories set out in **Table 1 (Disclosable Pecuniary Interests)** which are as described in "The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012". You should also register details of your other personal interests which fall within the categories set out in **Table 2 (Other Registerable Interests)**.

**"Disclosable Pecuniary Interest"** means an interest of yourself, or of your partner if you are aware of your partner's interest, within the descriptions set out in Table 1 below.

**"Partner"** means a spouse or civil partner, or a person with whom you are living as husband or wife, or a person with whom you are living as if you are civil partners.

1. You must ensure that your register of interests is kept up-to-date and within 28 days of becoming aware of any new interest, or of any change to a registered interest, notify the Monitoring Officer.
2. A 'sensitive interest' is as an interest which, if disclosed, could lead to the member, or a person connected with the member, being subject to violence or intimidation.
3. Where you have a 'sensitive interest' you must notify the Monitoring Officer with the reasons why you believe it is a sensitive interest. If the Monitoring Officer agrees they will withhold the interest from the public register.

### Non-participation in case of disclosable pecuniary interest

4. Where you have a Disclosable Pecuniary Interest, as set out in Table 1, in any matter to be considered or being considered at a meeting, you must disclose the interest, not participate in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest, just that you have an interest. Dispensation may be granted in limited circumstances, to enable you to participate and vote on a matter in which you have a disclosable pecuniary interest.

### Disclosure of Other Registerable Interests

5. Where a matter arises at a meeting which directly relates to the financial interest or wellbeing of one of your Other Registerable Interests (**as set out in Table 2**), you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting but otherwise must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a 'sensitive interest', you do not have to disclose the nature of the interest.

### Disclosure of Non-Registerable Interests

6. Where a matter arises at a meeting which directly relates to your financial interest or well-being (and is not a Disclosable Pecuniary Interest set out in Table 1) or a financial interest or well-being of a relative or close associate, you must disclose the interest. You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation. If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.
7. Where a matter arises at a meeting which affects –
- a. your own financial interest or well-being;
  - b. a financial interest or well-being of a relative or close associate; or
  - c. a financial interest or wellbeing of a body included under Other

**Registrable Interests as set out in Table 2**

you must disclose the interest. In order to determine whether you can remain in the meeting after disclosing your interest the following test should be applied.

8. Where a matter (referred to in paragraph 8 above) affects the financial interest or well-being:
- a. to a greater extent than it affects the financial interests of the majority of inhabitants of the ward affected by the decision and;
  - b. a reasonable member of the public knowing all the facts would believe that it would affect your view of the wider public interest

You may speak on the matter only if members of the public are also allowed to speak at the meeting. Otherwise, you must not take part in any discussion or vote on the matter and must not remain in the room unless you have been granted a dispensation.

If it is a ‘sensitive interest’, you do not have to disclose the nature of the interest.

This table sets out the explanation of Disclosable Pecuniary Interests as set out in the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012.

**Table 1: Disclosable Pecuniary Interests**

Subject	Description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.

Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the Y&amp;NYCA) made or provided within the 12 month period prior to notification of the interest in respect of any expenses incurred by you in carrying out duties as a Member, or towards your election expenses.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation Act) 1992.</p>
Contracts	<p>Any contract which is made between you or your partner (or a body in which you or your partner has a beneficial interest) and the Y&amp;NYCA:</p> <ul style="list-style-type: none"> <li>• a. under which goods or services are to be provided or works are to be executed: and,</li> <li>• b. which has not been fully discharged.</li> </ul>
Land and Property	<p>Any beneficial interest in land which is within the area of the Y&amp;NYCA. Land excludes an easement, servitude, interest or right in or over the land which does not give you or your partner (alone or jointly with another) a right to occupy or to receive income.</p>
Licence	<p>Any licence (alone or jointly with others) to occupy land in the area of the Y&amp;NYCA for a month or longer.</p>
Corporate Tenancies	<p>Any tenancy where (to your knowledge) -</p> <ul style="list-style-type: none"> <li>a. the landlord is the Y&amp;NYCA: and</li> <li>b. the tenant is a body in which you or your partner is a partner of or a director of or has a has a beneficial interest in the securities.</li> </ul>
Securities	<p>Any beneficial interest in securities of a body where:</p> <ul style="list-style-type: none"> <li>a. that body (to your knowledge) has a place of business or land in the area of the Y&amp;NYCA; and</li> <li>b. either - <ul style="list-style-type: none"> <li>i. the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</li> <li>ii. if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which you or your partner has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</li> </ul> </li> </ul>

For the purposes of the above table:

- a. 'a body in which you or your partner has a beneficial interest' means a firm in which you or your partner is a partner or a body corporate of which you or your partner is a director, or in the securities of which you or your partner has a beneficial interest;
- b. 'director' includes a member of the committee of management of an industrial and provident society;
- c. 'securities' means shares, debentures, debenture stock, loan stock, bonds, units of a collective investment scheme within the meaning of the Financial Services and Markets Act 2000 and other securities of any description, other than money deposited with a building society.

Table 2: Other Registrable Interests
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<p>You must register as an Other Registrable Interest:</p>
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- |  |
|--|
| <ul style="list-style-type: none"> <li>a) any unpaid directorships</li> <li>b) any body of which you are a member or are in a position of general control or management and to which you are nominated or appointed by your authority</li> <li>c) any body               <ul style="list-style-type: none"> <li>(i) exercising functions of a public nature</li> <li>(ii) directed to charitable purposes or</li> <li>(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a member or in a position of general control or management</li> </ul> </li> </ul> |
|--|

## **SECTION B: GIFTS AND HOSPITALITY GUIDANCE FOR MEMBERS**

### **1 General Introduction**

- 1.1** The Code of Conduct requires Members to notify the Monitoring Officer in writing of any gift or hospitality he/she receives which may be to the value of £100 or more. It is also a breach of the Code to act in such a way as to bring the Y&NYCA into disrepute or for a member to use his/her position as a member of the Y&NYCA improperly to confer on or secure for him/herself or any other person advantage or disadvantage.
- 1.2** The following guidance aims to assist members in complying with the Code of Conduct for Members but it also goes beyond these basic provisions and seeks to provide wider guidance so members can avoid any situation where their integrity may be brought into question as a result of gifts and hospitality.
- 1.3** The Audit and Governance Committee will review this guidance every two years, unless new legislation requires the guidance to be updated before the next scheduled review.

### **2 Legal Position**

- 2.1** The Bribery Act 2010 provides that it is a criminal offence for a Member to request, agree to receive, promise, offer or give any gift, loan, fee, reward or advantage for doing anything or showing favour or disfavour to any person in their official capacity. It is for the Member to demonstrate that any such rewards have not been corruptly obtained.

### **3 Gifts and Hospitality**

- 3.1** Members are advised to treat with extreme caution any offer or gift, favour or hospitality that is made personally to them. The person or organisation making the offer may be doing business or seeking to do business with the Y&NYCA or may be applying to the Y&NYCA for some sort of decision in respect of which it is imperative that the member's independence should not be compromised.
- 3.2** The following rules should be applied: Other than the exceptions listed in (b) below a member should refuse any gift offered to them or to an immediate relative of the member, by any person who has or may seek to have dealings with the Y&NYCA. It is recommended that members should notify the Monitoring Officer of all such refusals as soon as reasonably practicable regardless of the value of the offered gift (unless the gift falls within I or II below). The Monitoring Officer will maintain the register for this purpose.
- 3.3** The exceptions where it may be appropriate to accept a gift are set out below. Members should note that the Code of Conduct for Members requires all gifts and hospitality of one hundred pounds or more to be notified to the Monitoring Officer, who will maintain a register for this purpose.



- 3.4** The gift is of purely token, advertising value given to a wide range of people, e.g., pens, key rings and other promotional items. As such promotional gifts will usually be less than one hundred pounds in value generally there will be no need to register but in cases of doubt members should err on the side of caution and register the gift.
- 3.5** A small gift where refusal would cause needless offence and the giver is not currently seeking a decision or business from the Y&NYCA. If such gifts are of a small value generally there will be no need to register but in cases of doubt members should err on the side of caution and register the gift.
- 3.6** Cash or monetary gifts should always be refused without exception and the refusal notified to the Monitoring Officer as set out above.
- 3.7** Gifts given as prizes at exhibitions, conferences, seminars etc. as part of a free raffle or draw may be accepted but they belong to the Y&NYCA and should be registered with the Monitoring Officer as soon as reasonably practicable (notwithstanding that their value may be less than £100 as specified in the Code). The Monitoring Officer in consultation with the chair of the Audit and Governance Committee will determine whether it is appropriate to retain the gift in question.
- 3.8** Whilst it may be acceptable to accept a token or small gift on one occasion members should refuse repeated gifts, even if these are individually not of a significant value.

## **4 Hospitality**

- 4.1** It is increasingly the case that private companies offer hospitality e.g., free drinks, tickets to shows or hotel accommodation to persons with whom they do business or with whom they hope to do business in the future. Such hospitality could convey the impression that members' judgment would be influenced. It would however be too rigid to say that no hospitality can be accepted. Members are reminded that any hospitality of one hundred pounds or more is required by the Code of Conduct to be registered. However, members may wish to notify the Monitoring Officer of hospitality offered but refused and hospitality which is less than the one hundred pounds limit specified in the Code.
- 4.2** Some examples of hospitality which may be acceptable follow, but much may depend on the circumstances, for example who is providing the hospitality, why the member is there and the nature of the dealings between the Authority, the member and the provider of the hospitality:
- i. A working meal provided to allow parties to discuss or continue to discuss business.
  - ii. An invitation to attend a dinner or function of a Society, Institute or other non-commercial body with whom the Y&NYCA has contact.
  - iii. Invitations to attend functions where the member represents the Y&NYCA (opening ceremonies, public speaking events, conferences).

## **5 Unacceptable Hospitality**

**5.1** The following are examples of unacceptable hospitality:

- i. Holidays, including accommodation and travel arrangements
- ii. Offers of theatre tickets for the member and his family or free travel
- iii. Personal invitations for evenings out with representatives from a company or firm who have dealings with the Y&NYCA or who are likely to have dealings in the future.

**5.2** Members are again urged to err on the side of caution and if in any doubt as to the integrity of the offer / invite the member should consult the Monitoring Officer or refuse.

## **6 Notifications**

**6.1** Notifications of gifts and hospitality should be sent to the Head of Paid Service who will administer the register on behalf of the Monitoring Officer.

**6.2** A form for this purpose is available from the Head of Paid Service.

## **7 The Register**

**7.1** The Register referred to in this protocol will be subject to scrutiny by the Audit and Governance Committee and regular inspection by the Monitoring Officer, Internal Audit. The Register of Gifts and Hospitality of £100 or more should be available for public inspection. For consistency registrations as regards gifts & hospitality offered and refused, or gifts and hospitality of a value less than one hundred pounds will also be available for public inspection.

## **8 Gifts Which Cannot Be Retained**

**8.1** Where the Monitoring Officer in consultation with the Chair of the Standards Committee determines that it would not be appropriate for a member to retain a gift, that gift will be returned, utilised by the Y&NYCA or otherwise donated to an appropriate charitable organisation as determined appropriate by the Monitoring Officer and Chair of the Audit and Governance Committee.

## **9 Advice and Sanctions**

**9.1** Members are advised to seek the advice of the Monitoring Officer in cases where their position is unclear. Breaches of this guidance may result in a breach of the Code of Conduct for members.

**9.2** Breaches of this guidance which do not result in a breach of the Code of Conduct will be reported by the Monitoring Officer to the Audit and Governance Committee.

## SECTION C: OFFICER CODE OF CONDUCT

### 1. INTRODUCTION

- 1.1. The York and North Yorkshire Combined Authority is at the forefront of innovation in the delivery of devolved government and sub-regional co-operation to ensure the well-being and advancement of the community of the York and North Yorkshire region.
- 1.2. The residents of York and North Yorkshire, the constituent local authorities and public sector partners within it are entitled to expect the highest standards of behaviour and conduct from the employees of Y&NYCA.
- 1.3. The Y&NYCA Officer Code of Conduct sets out both expectations and standards of professional and personal behaviour from its officers in respect of colleagues, residents and the community in the delivery of these services. It expects that its employees will strive to ensure that they are courteous, respectful, efficient and impartial in the provision of services to all groups and individuals within that community.

### 2. SCOPE

- 2.1. This Code applies to all employees of the Y&NYCA. It is expected that where other professional codes of conduct apply to specific groups of staff, that compliance with this Code will be an additional requirement to any specific professional codes of conduct.
- 2.2. The Y&NYCA is committed to conduct of the highest standard such that public confidence in its integrity is maintained and as such expects all those who provide services to and on behalf of the Y&NYCA to adhere to the principles set out within this Code of Conduct. This includes contractors and secondees.

### 3. GENERAL PRINCIPLES

The key principles underpinning all employee's conduct are:

- ***Honesty, Integrity, Impartiality and Objectivity***  
*An employee must perform their duties with honesty, integrity, impartiality and objectivity.*
- ***Accountability***  
*An employee must be accountable for their actions*
- ***Respect for Others***  
*An employee must treat others with respect, not discriminate unlawfully against any person and treat all employees and elected members of the Authority professionally*
- ***Stewardship***  
*An employee must use any public funds entrusted to or handled by them in a responsible and lawful manner and not make personal use of property or facilities of the Authority unless properly authorised to do so.*

- **Personal Interests**

*An employee must not in their official capacity or personal capacity allow their personal interests to conflict with the Authority's requirements or use their position improperly to confer an advantage or disadvantage to any person.*

- **Declaration of Interests**

*An employee must comply with any requirements of the Authority to declare interests and hospitality, benefits or gifts received because of their employment.*

Employees will not, either in an official capacity or in any other circumstances conduct themselves in a manner which could reasonably be regarded as bringing the Y&NYCA into disrepute.

#### **4. EQUALITY**

- 4.1. Employees must ensure that Y&NYCA policies relating to equality and equal opportunities are followed and that all members of the community, customers and colleagues are treated with fairness and equity.
- 4.2. Additionally, all employees must make sure that they are aware of factors which result in discrimination against those with protected characteristics as defined by the Equality Act, 2010 (namely age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation) Employees must undertake their duties so as to seek to redress any equality and oppression experience by those with protected characteristics.
- 4.3. If employees themselves become victims of harassment at work, they should report it to their line manager at the earliest opportunity.
- 4.4. All employees with managerial and supervisory roles have a responsibility for the performance of other employees who they manage. Employees at all levels can expect to be directed in their work and held accountable for their performance by their manager.

#### **5. SERVICE PROVISION**

- 5.1. Each employee should make every effort to understand the law governing their service and inform their manager or the Y&NYCA's Monitoring Officer of any impropriety, breach of procedure, unlawfulness or maladministration.

#### **6. POLITICAL NEUTRALITY AND WORKING WITH MEMBERS**

- 6.1. Elected Members have a key role to play in the governance and management of the Y&NYCA. Both Officers and Elected Members are public servants and indispensable to one another in ensuring efficient and effective government. Mutual respect between officers and elected members of the Y&NYCA are essential to good local government.
- 6.2. It is essential that elected members and officers conduct their relationship with mutual respect and courtesy and that both parties avoid seeking to exert undue

influence over the other. Additionally, close personal familiarity can damage the relationship and prove embarrassing to both colleagues and elected members and should be avoided.

- 6.3.** Whether or not an employee's post is politically restricted, they must follow every lawfully expressed policy of the Y&NYCA and not allow their personal or political opinions to interfere with their work. Where they are required to give advice to elected members and colleagues, it should be done with impartiality except in circumstances where posts are political appointments and/or the level of political restriction applied is varied by regulations.

## **7. DEALING WITH THE PRESS AND MEDIA**

- 7.1.** Unless required to in the course of their work, an employee must not deal directly with the Press or the media.
- 7.2.** If canvassed by the Press in the course of their work employees must seek advice and authorisation from their line manager on providing any article, publication or interview on any aspect of the Y&NYCA 's work.

## **8. DISCLOSURE OF INFORMATION AND INFORMATION SECURITY**

- 8.1.** The Y&NYCA is committed to the principle of open government and will act in compliance with information rights legislation in promoting transparency and participation in the Authority's decision-making processes.
- 8.2.** Employees must ensure that the Authority's information assets are managed securely and protected against accidental and unauthorised disclosure, damage or loss.
- 8.3.** Employees must not:
- Prevent another person from gaining access to information to which they are lawfully entitled
  - Subject to the Authority's Whistleblowing Policy, they must not disclose information as set out below, unless they have the specific authority to do so
  - The above applies to
    - personal data about an individual, including employees protected by the Data Protection Act;
    - information given in confidence where there is a reasonable expectation that confidentiality will be maintained;
    - commercially sensitive information;
    - Confidential or exempt proceedings and any reports or other documents connected to these.

Employees must not use any information obtained in the course of their employment for personal gain or benefit, nor share it with others who might use it in this way.

## **9. PROPRIETY IN FINANCIAL/PROCUREMENT MATTERS**

**9.1. Contracts and Contractors**

An employee must not seek or accept any gift or personal inducement in connection with the procurement of works, goods or services.

**9.2. Relationships**

Employees should inform their manager about relationships of a business, private or personal nature with external contractors or potential contractors. If involved in the tendering process, they should ensure that it is open and above board, observing the rules related to separation of roles during tendering.

**9.3. Sponsorship**

Where the Y&NYCA wishes to sponsor an event, employees must ensure that they, their partner, or relative do not benefit in any way from such sponsorship without full disclosure to their manager or the Monitoring Officer.

**9.4. Hospitality/Gifts**

Invitations to social or sporting events should be accepted only where the Y&NYCA should be seen to be represented and with authorisation of the Head of Service. If the employee does accept hospitality, they should be mindful of all the circumstances. They should get advance authority and keep a record of such occasions and ensure that it is recorded on the Y&NYCA 's hospitality register. They should not accept any significant personal gifts from contractors and outside suppliers.

**10. DECLARATION OF INTERESTS**

**10.1.** Employees should not subordinate their duty to their private interests or put themselves in a position where duty and private interests' conflict. An employee must declare any financial interests which could conflict with the Y&NYCA 's interests to their manager or the Monitoring Officer. Non-financial interests should also be declared, where a conflict of interest could be involved e.g., membership of outside bodies in a personal capacity, other secondary employment, role as a volunteer with other organisations, any relevant convictions/offences that could impact on their employment.

**10.2.** Employees should be mindful not to place themselves in a situation where involvement in outside bodies could compromise their continuing professional duty to the interests of the Y&NYCA. When serving on outside bodies the employee will be expected to represent and promote the interests and policies of the Y&NYCA as circumstances dictate.

**10.3.** Employees should also declare membership of any organisation which is not open to the public, has no formal membership and has commitment of allegiance and which has secrecy about its rules, membership and conduct.

**11. PROPRIETY IN EMPLOYMENT MATTERS**

- 11.1. Employees involved in the recruitment process must ensure that all appointments are made on merit. It is unlawful for an employee to make an appointment which is based upon anything other than the ability of the candidate to undertake the duties of the post.
- 11.2. To avoid any possible accusation of bias, employees should not be involved in the recruitment process where they are related to an applicant or have a close personal relationship with that person, outside the workplace. In all such circumstances, a declaration of interest must be made by the panel member.
- 11.3. Similarly, employees should not be involved in decisions relating to promotion or pay adjustments for any other employee who is a relative, partner, or close personal friend.

## **12. INDEMNIFICATION OF EMPLOYEES**

- 12.1. Employees will be indemnified from personal legal action against them when acting in good faith in the discharge of their duties with the Y&NYCA.

## **13. BREACH OF CODE OF CONDUCT**

- 13.1. This Code sets out key expectations with regards to employee conduct. For avoidance of doubt where an employee is unclear about the application of this Code, they must seek advice from their line manager.
- 13.2. Breaches of this Code may lead to the formal disciplinary action depending on the circumstances. Serious breaches of this Code may lead to an employee being dismissed from the service of the Y&NYCA.

## **SECTION D MEMBER / OFFICER RELATIONS GUIDANCE**

### **1 Introduction and Principles**

- 1.1** The purpose of this guidance is to sets a framework for the conduct of member officer relations which will to ensure the smooth running of the business of the Y&NYCA. Its guidance should be heeded by Members of the Y&NYCA, its committees and joint committees and Officers of the Y&NYCA, and of constituent councils providing services to Y&NYCA, its committees and joint committees.
- 1.2** In this guidance, references to members of the Y&NYCA include references, where appropriate, to members of its committees and joint committees and, references to officers of the Y&NYCA include references where appropriate to officers of the constituent councils who provide services to the Y&NYCA, its committees and joint committees.
- 1.3** Given the variety and complexity of such relations, this guidance does not seek to be prescriptive or comprehensive. It simply offers guidance on some of the issues which most commonly arise. It is hoped, however, that the approach which it adopts to these issues will serve as a guide to dealing with other circumstances.
- 1.4** This guidance is a written statement of current practice and convention. It seeks to promote greater clarity and certainty. If the guidance is followed it should ensure that Members receive objective and impartial advice and that Officers are protected from accusations of bias and any undue influence from Members.
- 1.5** It also seeks to reflect the principles underlying the respective Codes of Conduct that apply to Members and Officers. The shared object of these codes is to enhance and maintain the integrity (real and perceived) of local government and the Codes, therefore, demand very high standards of personal conduct.
- 1.6** This guidance should be read in conjunction with the Members' and Employees' Codes of Conduct and any guidance issued by the Audit and Governance Committee and/or the Monitoring Officer.
- 1.7** This guidance relates to interactions and relations between Members and Officers both in-person and via digital and other means, including through Social Media.

### **2 General Points**

- 2.1** Both Members and Officers are servants of the public and they are indispensable to one another. But their responsibilities are distinct. Members are responsible to the electorate and serve only so long as their term of office lasts. Officers are responsible to the Y&NYCA, its committees and joint committees. Their job is to give advice to Members and to carry out work under the direction and control of the Y&NYCA, its committees and joint committees.



- 2.2 At the heart of this guidance is the importance of mutual respect. Member/Officer relationships should be conducted in a positive and constructive way. Therefore, it is important that any dealings between Members and Officers should observe reasonable standards of courtesy and that neither party should seek to take unfair advantage of their position or seek to exert undue influence on the other party.
- 2.3 A Member should not raise matters relating to the conduct or capability of an Officer at meetings held in public or before the press. This is a long-standing tradition in public service as an Officer has no means of responding to such criticisms in public. If a Member feels they have not been treated with proper respect, courtesy or has any concern about the conduct or capability of an Officer, and fails to resolve it through direct discussion with the Officer, they should raise the matter with the Head of Paid Service of the Y&NYCA who will then look into the facts and report back to the Member.
- 2.4 An Officer should not raise with a Member matters relating to the conduct or capability of another Officer in a manner that is incompatible with the overall objectives of this policy. Such matters should be raised with the Officer's immediate line manager or the Head of Paid Service.
- 2.5 Nothing in this guidance shall prevent an officer expressing a relevant concern under the Y&NYCA's Whistle Blowing Policy.
- 2.6 Where an Officer feels that they have not been properly treated with respect and courtesy by a Member, they should raise the matter with the Head of Paid Service of the Y&NYCA who will take appropriate action including approaching the individual Member concerned or discussing the matter with the Monitoring Officer where they consider there may be a breach of the Members' Code of Conduct.

### **3 Officer Support to Members: General Points**

- 3.1 Officers must act in the best interests of the Y&NYCA, its committees and joint committees as a whole and must not give politically partisan advice.
- 3.2 Members must respect the impartiality of officers and do nothing to compromise it, e.g., by insisting that an officer change their professional advice.
- 3.3 Close personal familiarity between individual Members and Officers can damage professional relationships and can prove embarrassing to other Members and Officers. Situations should be avoided therefore that could give rise to the appearance of improper conduct or behaviour.
- 3.4 Certain statutory officers – the Head of Paid Service of the Y&NYCA, the [Post to be determined] and the Monitoring Officer have specific roles. These are addressed in the Constitution. Their roles need to be understood and respected by all Members. Members are reminded of the duty under the Code of Conduct to have regard to any advice given by the [Post to be determined] or the Monitoring Officer.
- 3.5 The following key principles reflect the way in which Officers generally relate to Members:

- 3.6 Officers undertaking work for the Y&NYCA are accountable to the Y&NYCA through the Head of Paid Service.
- 3.7 Support from Officers is needed for all the Y&NYCA's functions. Day-to-day managerial and operational decisions should remain the responsibility of the Head of Paid Service of the Y&NYCA and other Officers.
- 3.8 On occasion, a decision may be reached which authorises named Officers to take action between meetings following consultation with a Member or Members. It should be recognised that in these circumstances it is the Officer, rather than the Member or Members, who legally takes the action and it is the Officer who is accountable for it. If this action is a key decision the officer must ensure that the procedures to publicly notify such decisions are followed as set out in the constitution.
- 3.9 Finally, it should be remembered that Y&NYCA Officers undertaking work for the Y&NYCA are accountable to the Head of Paid Service of the Y&NYCA and whilst Officers should always seek to assist a Member, they must not, in so doing go beyond the bounds of whatever authority they have been given by the Head of Paid Service.

#### **4 Officer Advice to Party Groups**

- 4.1 It must be recognised by all Officers and Members that in discharging their duties and responsibilities, Officers serve the Y&NYCA as a whole and not any political group, combination of groups or any individual Member of the Y&NYCA. The assistance provided by Senior Officers can take many forms ranging from a briefing meeting with a Member, Chair or other Members prior to a meeting, to a presentation, to a full political group meeting. It is an important principle that such assistance is available to all political groups and individual members.

#### **5 Attendance at Party Political Group Meetings**

- 5.1 There is now statutory recognition for 'party groups'. It is common practice for such groups to consider matters of Y&NYCA business in advance of such matters being considered by the relevant decision-making body. Senior Officers may properly be called upon to assist and contribute to such deliberations by party groups but must always maintain political neutrality. All Officers must, in their dealings with political groups and individual Members, treat them in a fair and even-handed manner.
- 5.2 Attendance at meetings of party groups is voluntary for Officers and must be authorised by the Head of Paid Service of the Y&NYCA.
- 5.3 Certain points must, however, be clearly understood by all those participating in this type of process, Members and Officers alike. In particular:
  - i. Officer assistance must not extend beyond providing information and advice in relation to matters of Y&NYCA business. Officers must not be

- involved in advising on matters of party business. Internal party debates and decision making should take place in the absence of Officers.
- ii. Party group meetings, whilst they form part of the preliminaries to Y&NYCA decision making, are not formal decision-making bodies of the Y&NYCA and are not empowered to make decisions on behalf of the Y&NYCA. Conclusions reached at such meetings do not therefore rank as Y&NYCA decisions and it is essential that they are not interpreted or acted upon as such; and
  - iii. Similarly, where Officers provide information and advice to a party group meeting in relation to a matter of Y&NYCA business, this cannot act as a substitute for providing all necessary information and advice to the relevant Y&NYCA decision making body when the matter in question is considered.

**5.4** Special care needs to be exercised whenever Officers are involved in providing information and advice to a party group meeting which includes persons who are not Members of the Y&NYCA. Such persons are not bound by the Y&NYCA's Code of Conduct for Members (in particular, the provisions concerning the declaration of interests and confidentiality). Officers would not be able to provide the same level of information and advice as they would to a Member only meeting.

**5.5** Officers must respect the confidentiality of any party group discussions at which they are present. When information is disclosed to an Officer during discussions with a party group that information should not be passed on to other groups. However, Members should be aware that this would not prevent officers from disclosing such information to other Officers of the Y&NYCA so far as that is necessary to performing their duties.

**5.6** Any particular cases of difficulty or uncertainty in this area of Officer advice to party groups should be raised with the Head of Paid Service of the Y&NYCA who will discuss them with the relevant group leader(s).

## **6 Members' Access to Information and to Authority Documents**

**6.1** Members have various statutory and common law rights to inspect Y&NYCA documents. The rights of members to inspect Y&NYCA documents are set out in the constitution in the Access to Information Procedure rules. Members and Officers should both be mindful of their obligations under data protection legislation.

**6.2** A Member must not disclose information given to them in confidence by anyone or information acquired which they believe is of a confidential nature, without the consent of a person authorised to give it, or unless they are required by law to do so and must not prevent another person from gaining access to information to which that person is entitled by law. A breach of these requirements is a breach of the code of conduct and actionable by way of complaint to the Y&NYCA's Audit and Governance Committee. If the breach is serious a civil action may be brought against the Member and / or the Y&NYCA for damages.

**6.3** The Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 brought additional rights and responsibilities regarding the

disclosure of information. A 'publication scheme' has been produced by the Y&NYCA and is available on the information bar under Data Protection and FOI which appears on every page of the Y&NYCA 's website.

## **7 Correspondence**

- 7.1** Correspondence between an individual Member and an Officer should not normally be copied (by the Officer) to any other Member. Where it is necessary to copy the correspondence to another Member, this should be made clear to the original Member. In other words, a system of 'silent copies' should not be employed.
- 7.2** Official letters on behalf of the Y&NYCA should normally be sent in the name of the appropriate Officer, rather than in the name of a Member. It will, however, be appropriate in certain circumstances (e.g., representations to a Government Minister) for a letter to appear in the name of a Member or the Chair. Letters which, for example, create legal obligations or give instructions on behalf of the Y&NYCA should never be sent out in the name of a Member.

## **8 Publicity and Press Releases**

- 8.1** In recent years, all authorities have increasingly used publicity to keep the public informed and to encourage public participation. The Government has issued a Code of Recommended Practice on Local Authority Publicity, and all local authorities must have regard to the provisions of any such Code in coming to any decision on publicity. Members and officers should note that during the election period special rules apply regarding local authority publicity.
- 8.2** Officers and Members of the Y&NYCA will, therefore, in making decisions on publicity, take account of the provisions of the Code of Recommended Practice on Local Authority Publicity and any further guidance issued by the Head of Paid Service of the Y&NYCA. If in doubt Officers and / or Members should seek advice from the Head of Paid Service or the Monitoring Officer.
- 8.3** All press releases are issued through the Head of Paid Service on behalf of the Y&NYCA. Press releases are not issued by the Y&NYCA on behalf of political groups. They can contain the comments of Members and Committee Chairs where they are speaking in connection with the roles given to them by the Y&NYCA. Officer's comments can be included on professional and technical issues.

## **9 Officer / Member Guidance Review and Interpretation**

- 9.1** Monitoring compliance with this guidance is the responsibility of the Audit and Governance Committee and the Monitoring Officer. This guidance will be reviewed by the Audit and Governance Committee every two years, unless changes to legislation necessitate an update before the next scheduled review.
- 9.2** Questions of interpretation of this guidance will be determined by the Monitoring Officer. [OBJ]

## SECTION E CODE OF CORPORATE GOVERNANCE

### 1 INTRODUCTION

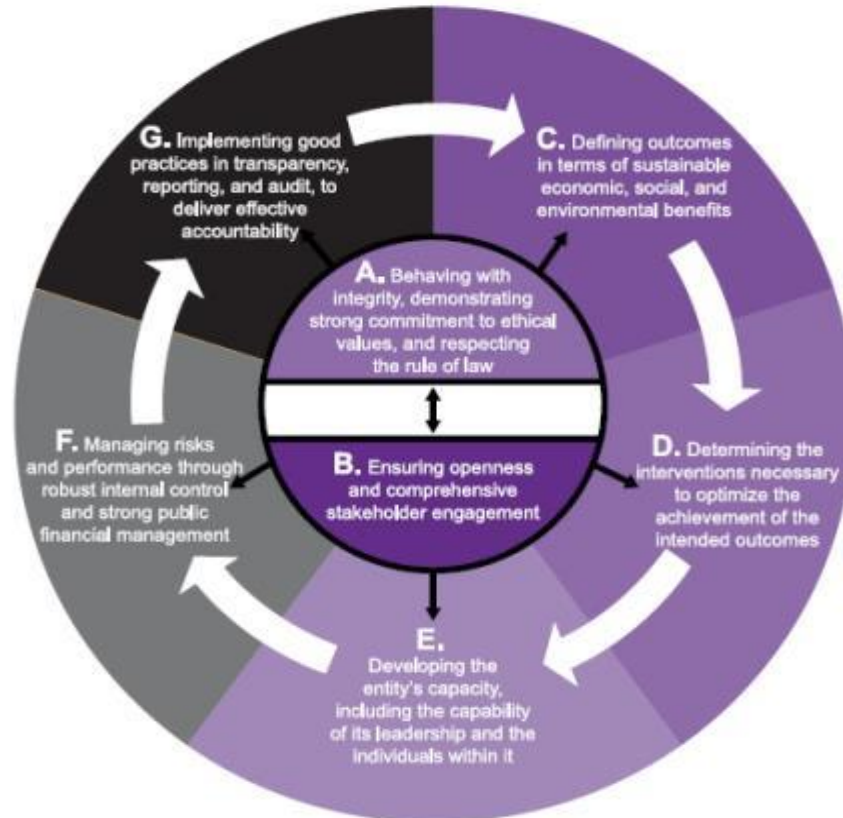
- 1.1 This Code of Corporate Governance sets out the Y&NYCA governance standards. 'Corporate governance' describes how the Y&NYCA directs and controls what it does.
- 1.2 Good governance provides the conditions for the Y&NYCA and its partners to work effectively, economically and ethically. The Y&NYCA should carry out its functions in a way that demonstrates accountability, transparency, effectiveness, integrity, and inclusivity. Good governance will support the Y&NYCA to pursue its vision and secure its agreed objectives.
- 1.3 The Y&NYCA's governance framework comprises the legislative requirements, principles, management systems and processes – including the Y&NYCA's Constitution, Operating Agreement and Protocols – and cultures and values through which the Y&NYCA exercises its leadership, fulfils its functions, and by which it is held accountable for its decisions and activities.
- 1.4 This Code is a public statement that sets out the way in which the Y&NYCA and its attendant structures will fulfil these principles in practice and demonstrate its commitment to good corporate governance. The business of the Y&NYCA will be conducted in accordance with the Seven Principles of Public Life identified in The Nolan Committee Report (1995), namely: selflessness; integrity; objectivity; accountability; openness; honesty; and leadership.
- 1.5 This Code will be reviewed annually to ensure it continues to be fit for purpose and relevant. The Y&NYCA will review the effectiveness of its governance arrangements and internal control systems and publish the review outcomes in an annual governance review. These standards ensure the Y&NYCA is doing the right things, in the right way in a timely, inclusive, open, effective, honest and accountable manner.
- 1.6 The governance of the combined area of York and North Yorkshire is subject to a series of Parliamentary orders which continue to provide the legislative framework in which the Y&NYCA and the elected mayor operate.

### 2 What is Good Governance

- 2.1 [International Framework: Good Governance in the Public Sector](#) (CIPFA/IFAC) describes governance as the:

*arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved.... To deliver good governance in the public sector, both governing bodies and individuals working for [an authority] must try and achieve their authority's objectives while acting in the public interest at all times.*

**2.2** The diagram below illustrates the principles of good governance, which is seen as dynamic process involving continuous evaluation and review and improvement. The following sections of this document describe how the Y&NYCA fulfils the requirements set out in the seven principles good governance described in the diagram.



## 1 **A. BEHAVING WITH INTEGRITY, DEMONSTRATING STRONG COMMITMENT TO ETHICAL VALUES, AND RESPECTING THE RULE OF LAW.**

- 1.1 The Y&NYCA fosters a culture of behaviour based on shared values, ethical principles and good conduct that is put into practice by members and officers alike.
- 1.2 The leadership of the Y&NYCA embodies these values and creates a climate of openness, support and respect that covers the whole organisation. It establishes, monitors and maintains the organisation's ethical standards and performance.
- 1.3 One of the challenges of working across the combined area of York and North Yorkshire is being clear about the relationships and roles between City of York and North Yorkshire Councils and the Y&NYCA.

### **Behaving With Integrity**

- 1.4 The Y&NYCA is committed to maintaining its values and integrity and operates a [whistle-blowing policy](#) to ensure that individuals who draw attention to factors that compromise the Y&NYCA integrity are adequately protected and supported in doing so. The Policy is regularly updated to ensure that it remains up-to-date and is compliant with legislation. Information on how to report concerns can be located on both the external facing Y&NYCA website and the staff intranet.

### **Demonstrating Strong Commitment to Ethical Values**

- 1.5 The leadership of the Combined Authority has put in place robust policies and procedures which put its values into practice; these include:
- 1.6 A Standards Committee, which is integrated into the Audit and Governance Committee, composed of elected Members and an independent co-opted member, with responsibility for promoting and maintaining high standards of conduct; assisting Members to observe the Member Code of Conduct; overseeing the Authority's Whistleblowing Policy and monitoring the Member/Officer Protocol.
- 1.7 A Member Code of Conduct and arrangements for determining allegations of a Member acting in breach of the Authority's Member Code of Conduct as required by the Localism Act 2011. The Code of Conduct is reviewed annually by the Audit and Governance Committee.
- 1.8 A Code of Conduct for Officers which makes it clear what standards are expected from staff across the organisation in the performance of their duties.
- 1.9 A Register of Member's Interests records members' interests in other bodies or land or assets in the Combined Authority's area and also outlines the process for

registering gifts and hospitality. Each member's recorded register of interests can be found on their individual member pages on the Y&NYCA website.

- 1.10** Systems for reporting and dealing with any incidents of wrongdoing including fraud, corruption, bribery and money laundering.

### **Respecting the Rule of Law**

- 1.11** The Y&NYCA has a Monitoring Officer who is a member of the Y&NYCA's Senior Management Team (SMT). The Monitoring Officer ensures that decisions are taken in a lawful and fair way and agreed procedures are followed and that all applicable statutes, regulations and procedure rules are complied with.

- 1.12** The Y&NYCA uses its legal powers to promote its values and priorities to the full benefit of the citizens and communities across York and North Yorkshire. The Y&NYCA has full regard to the extent of its powers and does not act beyond them, and will observe specific requirements in legislation as well as general responsibilities of public law.

- 1.13** The Y&NYCA's decision making process will adhere to the principles of good administrative law, respect human rights and demonstrate rationality, legality and natural justice.

### **Dealing With Breaches of Legal and Regulatory Power**

- 1.14** The Y&NYCA appoints Statutory Officers that have the skills, resources and support necessary to perform effectively in their roles. These statutory officers include:

Head of the Paid Service  
Monitoring Officer  
([Post to be determined] - Section 73 officer)

- 1.15** The officers working on Y&NYCA business support these statutory officers as well as other key post holders and elected members to fulfil their responsibilities within legislative and regulatory requirements.

## **2 B. ENSURING OPENNESS AND COMPREHENSIVE STAKEHOLDER ENGAGEMENT**

### **Openness**

- 2.1** The Y&NYCA sets out its commitment to openness in this Code, the Constitution and Annual Governance Statement.

- 2.2** Decisions taken by the Y&NYCA subject to limited exemptions, are made in public, [minuted](#) (alongside the reasons and the evidence considered) and information relating to those decisions is made available to the public. This



includes access through live webcasts of the public part only of the Authority, Police Fire and Crime Panel and Overview and Scrutiny meetings which remain online for six months.

- 2.3** The Authority ensures that, subject to limited exemptions, its most significant decisions are recorded and that information relating to such decisions is made available to the public. The Authority publishes its intention to take key decisions through the Y&NYCA's Register of Key Decision's which is published monthly along with Y&NYCA's papers. Decisions taken at each meeting of the Y&NYCA are published on the web page relating to that meeting and are also circulated by email to members of the Y&NYCA Scrutiny Committee(s).
- 2.4** The Y&NYCA has established one overview and scrutiny committee. The overarching purpose of this structure is to improve the quality of decisions made by the Y&NYCA and elected Mayor. The committees will do this by:
- Reviewing the work and decisions of the Y&NYCA and the elected Mayor, and
  - By acting as a critical friend in the development of policy and new work streams.
- 2.5** The Y&NYCA's approach is consistent with the requirements of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012. The Authority holds its key meetings in public with the agenda and public reports available on the Y&NYCA's website. However, certain exclusions apply where there is a need to comply with confidentiality laws. The Authority informs, consults and involves residents in significant decisions and their views are submitted to those making decisions for consideration.
- 2.6** The York and North Yorkshire Combined Authority Order 2023 transferred all property, rights and liabilities of the former Police and Crime Commissioner for North Yorkshire to the Y&NYCA and made the functions of the police and crime commissioner in North Yorkshire, functions exercisable by the Mayor.
- 2.7** In accordance with the legislation, the Mayor has arranged for the Deputy Mayor for Policing and Crime to exercise PCC functions and he has made a Mayor's PCC Scheme of delegation as set out in the Police and Crime Commissioner Functions - Governance Documents contained in Part 9 of the GMCA Constitution. The provision of this Code of Corporate Governance apply to all officers, including those operating, in whole or in part, any of the Mayor's PCC functions.
- 2.8** The Police, Fire and Crime Panel, is a joint committee of the Constituent Councils, is responsible for providing a check and balance as to the performance of what was the Police, Fire and Crime Commissioner. Following the passing in parliament of the York and North Yorkshire Combined Authority Order 2023, the Y&NY Mayor was permitted to incorporate fire and rescue into the functions exercised by the Y&NY Deputy Mayor. Membership of the Police, Fire and Crime Panel may no longer include members or substitute members of the Y&NYCA.

The role of the Y&NYPCP is to scrutinise and review decisions made or actions taken by the Mayor, the Deputy Mayor for Policing and Crime and any other person who exercises any PCC function of the Mayor.

### **Engaging Comprehensively with Institutional Stakeholders**

- 2.9** The Authority develops and maintains relationships with leaders of other organisations across the private, public and voluntary sector. They to help deliver the shared vision for the city region through formal governance structures and through partnership working.
- 2.10** The police and crime plan clearly sets out the strategic direction and objectives of North Yorkshire Police and is monitored and reviewed regularly in conjunction with the Deputy Mayor for Policing and Crime.

### **Engaging With Individual Citizens and Service Users Effectively**

- 2.11** The Y&NYCA consults communities, individuals, service users and other stakeholders whenever there is a legal duty to do so. The Authority informs, consults and involves residents on strategic matters and issues of interest to them. This dialogue is sustained and encouraging through a number of channels, including the live streaming of Y&NYCA meetings and through an active social media presence on platforms such as Facebook, and X (formerly Twitter).
- 2.12** The Authority is committed to considering and acting upon feedback from residents and stakeholders. A transparent complaints handling procedure is in place which enables the Authority to learn effectively from the complaints it has received.

## **3 C. DEFINING OUTCOMES IN TERMS OF SUSTAINABLE ECONOMIC, SOCIAL, AND ENVIRONMENTAL BENEFITS**

### **Defining Outcomes**

- 3.1** The long-term nature and impact of many of the Y&NYCA responsibilities mean that they should seek to define and plan outcomes and that these should be sustainable. Decisions should contribute to delivery of the intended benefits and outcomes within the organisational strategy.
- 3.2** The Y&NYCA strategic plan is jointly owned by the Y&NYCA and the Y&NY Local Enterprise Partnership.
- 3.3** The Strategy sets out Y&NYCA's ambitions for the area and both bodies are jointly responsible for ensuring that the ambitions contained within these plans are delivered.
- 3.4** To enable the Y&NYCA and Y&NY LEP to understand performance across all strategic priorities, headline progress measures, targeted indicators and

qualitative assessments will form the basis of the comprehensive performance framework and progress monitoring of the delivery of the Y&NY Strategy.

- 3.5** The Police and Crime Plan which is a requirement of the Police Reform and Social Responsibility Act 2011 defines the police and crime objectives and outcomes and the strategic direction for policing. The Mayor, when exercising their PCC functions, must have regard to the priorities during the development and lifespan of the Police and Crime Plan, which set the limits of authority and resources. Input from all groups of stakeholders, including citizens, service users and officers is vital to the success of this process and in balancing competing demands when determining priorities for the finite resources available.
- 3.6** Collaboration agreements will set out those areas of the Mayor's PCC functions which will be undertaken jointly with other forces, local policing bodies and partners and other emergency services, in order to reduce cost, increase capability and/or increase resilience to protect local people.

### **Sustainable Economic, Social and Environmental Benefits**

- 3.7** The York and North Yorkshire Strategy's vision for the conurbation is predicated on developing a modern and productive economy, where residents are able to contribute to and benefit from growth, and where social and environmental objectives are delivered alongside York and North Yorkshire's economic ambitions. All of its priorities are focused on delivering this vision and ensuring that everyone in York and North Yorkshire realises their potential and all parts of York and North Yorkshire become thriving places.
- 3.8** An Equalities Impact Assessment has been undertaken for the new York and North Yorkshire Strategy, with no significant adverse impacts identified against any groups with protected characteristics.
- 3.9** The work of the Combined Authority will be informed by the Equality Act (2010) to ensure that:
- Y&NY's key strategic initiatives proactively embed the principles of promoting equalities, inclusion and cohesion within their design (and in so doing fulfil the requirements of the general equality duty);  
As an employer the Y&NYCA integrates the consideration of equalities, inclusion and cohesion into its day-to-day business and adopts best practice to fulfil the aims of the general equality duty.
- 3.10** Finally, the Y&NYCA has been proactive in using Social Value as an enabler to deliver additional benefits for suppliers and partners across all procurement and commissioning activity. Y&NYCA understands that social value can be used to reinforce the core objectives of the Y&NY strategy and to increase the spending power – in the widest sense of the word - of every pound spent in Y&NY. The Y&NYCA's funding is subject to the provisions of the Public Services (Social Value) Act 2012 and so has adopted a **Social Value Framework** whose objectives are:

- To provide the best employment that you can
- To keep the air clean in York and North Yorkshire
- To create the employment and skills opportunities that we need to build back better
- To be part of a strong local community
- To make your organisation greener
- To develop a local, Y&NY based and resilient supply chain

#### **4 Determining the Interventions Necessary to Optimise the Achievement of the Intended Outcomes**

##### **Determining Interventions**

- 4.1** The Y&NYCA provides decision makers with objective and rigorous analysis of options, covering intended outcomes, financial impact and associated risks supporting efficient service delivery. This is achieved by providing a mixture of legal, regulatory and practical interventions. Determining the right mix of these courses of action is a critically important strategic choice that the Y&NYCA has to make to ensure intended outcomes are achieved.
- 4.2** Robust decision-making mechanisms to ensure that their defined outcomes can be achieved in a way that provides the best trade-off between the various types of resource inputs while still enabling effective and efficient operations. Decisions made need to be reviewed continually to ensure that achievement of outcomes is optimised.

##### **Planning Interventions**

- 6.4** The Y&NYCA plans its activity through its budget and business planning cycle and does this in consultation with internal and external stakeholders to ensure that work delivered across different organisations and partners complement each other and avoid duplication.
- 6.5** This is facilitated by Y&NY's [comprehensive governance structures](#) which support the delivery of Y&NY's priorities across the conurbation and co-ordinate their activity. The effectiveness of interventions are monitored through the provision of regular performance reports to thematic meetings as well as the Y&NYCA itself.
- 6.6** Policy implementation usually involves choice about the approach, the objectives, the priorities and the incidence of the costs and benefits. The Y&NYCA must ensure that they have access to the appropriate skills and techniques to make these choices.

##### **Optimising Achievement of Intended Outcomes**

- 6.7** Y&NYCA is required to secure value for money as set out in the Code of Audit Practice 2010. The Y&NYCA has to put in place proper arrangements to:
- secure economy, efficiency and effectiveness in its use of resources
  - ensure proper stewardship and governance
  - review regularly the adequacy and effectiveness of these arrangements.
  - consider the Y&NYCA arrangements to secure economy, efficiency and effectiveness.
- 6.7** The Authority procures goods and services in compliance with UK and Authority regulations and ensure that value for money is obtained through a balanced consideration of social, economic and environmental impacts that can be derived from procurement spend.

## **5 E. DEVELOPING THE ENTITY'S CAPACITY, INCLUDING THE CAPABILITY OF ITS LEADERSHIP AND THE INDIVIDUALS WITHIN IT**

### **Developing the Organisation's Capacity**

- 5.1** The Y&NYCA monitors its governance and staffing to support the delivery of planned work programme. The Authority ensures that resources are directed to those activities that will make the greatest contribution to the conurbation's vision through its budget and business planning process.
- 5.2** Where possible the Authority seeks information about functions, expenditure and performance from comparator organisations and uses these findings to inform its own work. Where intelligence suggests different ways of doing things will lead to improved value for money these options are explored.
- 5.3** The Y&NYCA continues to develop all aspects of its approach to workforce planning and development.

### **Developing The Capability of the Organisation's Leadership and Other Individuals**

- 5.4** The roles and responsibilities of members and senior officers are clearly defined within the Y&NYCA Constitution, Policies and Protocols. The Constitution also sets out the Y&NYCA's scheme of delegation (see part 3 section D) and a protocol governing member/officer relations so that elected members and senior officers have a shared understanding of their respective roles.
- 5.5** The Y&NYCA is committed to developing the capability of people with governance responsibilities and ensuring that officers working on Y&NYCA business understand the importance of governance within their role. An induction and training programme for members and officers is tailored to individual needs and provides an opportunity to learn about new developments as well as their governance responsibilities.

- 5.6 The Authority has an open approach to external and peer review and inspection and actively considers constructive feedback.

## **6. F. MANAGING RISKS AND PERFORMANCE THROUGH ROBUST INTERNAL CONTROL AND STRONG PUBLIC FINANCIAL MANAGEMENT**

### **Managing Risk**

- 6.1 The Y&NYCA maintains a risk register, which supports the identification and management of key risks. Risk management, business continuity and internal control are important and integral parts of a performance management system and crucial to the achievement of outcomes. The risk register is regularly reviewed and informs decision making, protects the Y&NYCA's reputation and other assets and is compliant with statutory and regulatory obligations. The Y&NYCA's Corporate Risk Register names risk owners for each of its key strategic risks.

### **Managing Performance**

- 6.2 Regular performance reports are provided to the as well as the Y&NYCA itself.
- 6.3 Relevant, objective and reliable performance information is used to inform decision making, alongside the financial implications and risk information associated with each decision.

### **Effective Overview and Scrutiny**

- 6.4 The Y&NYCA believes that effective overview and scrutiny of decisions leads to improved decision making and improved public services. The Y&NYCA has established and maintains an effective Scrutiny function which is able to constructively challenge decision-makers, including those who work in partnership with the Authority, and policy makers.

### **Robust Internal Control**

- 6.5 Internal control systems support the Y&NYCA to achieve its objectives by managing its risks while complying with regulations and organisational policies. This safeguards the Y&NYCA's resources against loss, fraud, misuse and damage and safeguards the confidentiality and integrity of its ICT and information systems. The Y&NYCA maintains clear policies and arrangements in respect of counter fraud and anti-corruption.
- 6.6 The Y&NYCA's Audit and Governance Committee provides a further source of assurance of the Y&NYCA's approach to risk management and the control environment.

### **Managing Data**

- 6.7 The Y&NYCA is committed to safeguarding the personal data it holds and sharing this data only in circumstances permitted by law. Its approach to data protection is set out in its publication scheme. The Y&NYCA is committed to the safe-sharing of data -where appropriate- with other agencies where this supports the delivery of the York and North Yorkshire Strategy's priorities and vision.
- 6.8 The Y&NYCA complies with the [Local Government Transparency Code 2015](#) by publishing accurate data within appropriate time frames in the areas mandated by the Code on the Y&NYCA website. The Y&NYCA regularly reviews the quality and accuracy of the data it produces and uses in decision making and performance monitoring.

### **Strong Public Financial Management**

- 6.9 The Y&NYCA's approach to financial management ensures that public money is safeguarded at all times and used appropriately, economically, efficiently and effectively. Its approach supports both long term achievement of objectives and short term financial and operational performance.
- 6.10 The Section 73 Officer, the Y&NYCA's [Post to be determined], ensures that appropriate advice is given on all financial matters, proper financial records and accounts are kept, and oversees an effective system of internal financial control. The [Post to be determined] ensures well developed financial management is integrated at all levels of planning and control including management of financial risks and controls.
- 6.11 The Y&NYCA maintains a prudential financial framework; keeps its commitments in balance with available resources; and monitors income and expenditure levels to ensure that this balance is maintained and takes corrective action if necessary.

## **7. G. IMPLEMENTING GOOD PRACTICES IN TRANSPARENCY, REPORTING, AND AUDIT TO DELIVER EFFECTIVE ACCOUNTABILITY**

### **Implementing Good Practice in Transparency**

- 7.1 The Y&NYCA is committed to publishing information including reports in a manner which is accessible to residents and other stakeholders. The publication of information will strike a balance between satisfying the demands of transparency and becoming too onerous for users to understand.

### **Implementing Good Practices in Reporting**

- 7.2 The Y&NYCA seeks to demonstrate to its stakeholders that it has delivered its priorities. It publishes an Annual Report setting out how it has performed, charting the city region's progress towards delivering its vision. There is also an annual review of the effectiveness of its governance framework including its system of

internal control and an Annual Governance Statement which is published alongside its accounts.

### **Assurance and Effective Accountability**

- 7.3 The Y&NYCA welcomes peer challenge, internal and external review and audit, and inspections from regulatory bodies. Officers and relevant member bodies consider any recommendations made and put in place arrangements for the implementation of actions agreed to be taken as a result. There is clear oversight from the Y&NYCA and wider leadership team on the conclusions and resultant actions.
- 7.4 Accountability is about ensuring that those making decisions and delivering services are answerable for them. Effective accountability is concerned not only with reporting on actions completed but also ensuring that stakeholders are able to understand and respond as the organisation plans and carries out its activities in a transparent manner. Both external and internal audit contribute to effective accountability.
- 7.5 It is easy to pay lip service to the principles of accountability. Aspirations which are not followed through, and actions which are not explained to those who are affected by them, undermine confidence.

### **Monitoring and Review**

- 7.6 This Code is reviewed on an annual basis to ensure it is kept up to date. Where the review identifies that changes to the Code are necessary, the revised Code will be submitted to the Audit and Governance Committee for comments before being incorporated within the Y&NYCA's Constitution.
- 7.7 The Y&NYCA has a committee responsible for monitoring and reviewing corporate governance arrangements. This committee is:
- The Audit and Governance Committee – responsible for approving the Y&NYCA's annual accounts and responding to the auditor's annual management letter. It also oversees the effectiveness of the Y&NYCA's governance and risk management arrangements, the internal control environment and associated anti-fraud and anti-corruption arrangements and
  - for promoting and maintaining high standards of conduct amongst Members, for advising the Y&NYCA on the adoption and revision of the Code of Conduct for Members, and for monitoring the operation of the Code.
- 7.8 Full terms of reference for this Committee is included in the Y&NYCA's Constitution. The Y&NYCA's members are informed of the work of this Committee through minutes submitted to the Y&NYCA.



7.9 The Y&NYCA will ensure that corporate governance arrangements are kept under continual review by updating, as appropriate, this Committees on:

- The work of Internal and External Audit
- The opinion of other review agencies and inspectorates
- Opinions from the Y&NYCA 's Statutory Officers
- General matters relating to the implementation of the Code
- The production of the Annual Governance Statement and actions planned to address arising governance issues.

### **The Annual Governance Statement**

7.10 Each year the Y&NYCA publishes an Annual Governance Statement to accompany the Annual Accounts. The Statement provides an overall assessment of the Y&NYCA 's corporate governance arrangements and how it adheres to the governance standards set out in this Code. Evidence relating to the principles of this Code is reviewed and analysed to assess the robustness of the Y&NYCA 's governance arrangements.

7.11 The Statement includes an appraisal of the key controls in place to manage the Y&NYCA's principal governance risks and the effectiveness of systems and processes governing decision making and financial control. The Statement also provides details of where improvements need to be made. Actions to address significant governance issues are identified and recorded in an action plan. The Annual Governance Statement is audited by the Y&NYCA's external auditors as part of the audit of the annual accounts.

## **SECTION F ANTI-FRAUD & CORRUPTION POLICY**

### **1 Introduction**

- 1.1** The Y&NYCA [Post to be determined], in conjunction with Chief Officers, is responsible for the development and maintenance of Y&NYCA anti-fraud and corruption policies and fraud risk management processes.
- 1.2** The Y&NYCA Audit and Governance Committee is responsible for obtaining assurance over Y&NYCA corporate governance and risk management arrangements, the control environment and associated anti-fraud and corruption arrangements.
- 1.3** The Y&NYCA is committed to ensuring that the people of York and North Yorkshire can have complete confidence that the affairs of the Y&NYCA, and its committees and joint committees are conducted in accordance with the highest standards of probity and accountability. The Y&NYCA is consequently committed to combating fraud and corruption, wherever it may arise, in relation to any of the Y&NYCA's activities.
- 1.4** The Y&NYCA expects Members and employees to demonstrate the highest standards of honesty and integrity. This includes compliance with appropriate legislation, Member and Employee Codes of Conduct, Standing Orders, Financial Regulations, conditions of service, standards of appropriate professional bodies, and any other standards, guidelines or instructions which are relevant to the service or activity.
- 1.5** The Y&NYCA is committed to establishing and maintaining effective arrangements to prevent fraud and corruption. The Y&NYCA recognises however, that in any large complex organisation there is an inherent risk of fraud and corruption and so effective arrangements have been established to detect and investigate all incidents or situations where fraud and corruption is suspected.
- 1.6** The Y&NYCA will not tolerate dishonesty on the part of any of the Members or employees of the Y&NYCA or any persons or organisations involved in any way with the Y&NYCA. Where fraud or corruption is detected the Y&NYCA will rigorously pursue appropriate action against the persons concerned including legal and/or disciplinary action.
- 1.7** The Y&NYCA is committed to creating and maintaining an anti-fraud and corruption culture. This includes establishing arrangements which enable officers, or other persons, to express concerns and suspicions without fear or repercussions or intimidation and in the knowledge that the information will be treated confidentially and will be investigated fully and rigorously.
- 1.8** The Y&NYCA is committed to working constructively with the police and other relevant agencies in relation to combating fraud or corruption within the Y&NYCA or within the wider community.

**1.9** The Y&NYCA will seek to ensure that its stance on anti-fraud and corruption is widely publicised. All officers and Members of the Y&NYCA will be made aware of the anti-fraud and corruption policies and supporting procedures in respect of:

- Anti-Fraud and Corruption
- Anti-Bribery
- Anti-Money Laundering
- Whistleblowing

**1.10** Policies and procedures are available on the Y&NYCA website.

## **SECTION G COMPLAINTS AND WHISTLEBLOWING**

### **1 Introduction**

- 1.1** The Y&NYCA wants to provide high-quality services for all members of the public and is committed to the highest possible standards of openness, probity and public accountability in discharging its functions. The Y&NYCA takes this commitment seriously. It has robust procedures to deal with the serious concerns of employees and others set out in its approach to whistleblowing, and complaints from members of the public in its complaints procedure.
- 1.2** Detailed policies dealing with both of these matters are available on the Y&NYCA's website, including signposting to specific services which now fall within the Y&NYCA's remit: for instance the Police and Crime Commissioner functions of the Y&NYCA (exercisable only by the Mayor), matters concerning the Y&NYCA's Fire responsibilities, as well as transport and matters concerning the Local Enterprise Partnership.

### **2 Whistleblowing**

- 2.1** The York and North Yorkshire Combined Authority is committed to the highest possible standards of openness, probity and accountability. The Y&NYCA Whistleblowing Policy is a vital part of our governance arrangements and is designed to allow employees or others, with serious concerns about any aspect of the Y&NYCA's work or that of its partners, to come forward and voice those concerns without fear of reprisal.
- 2.2** The Y&NYCA will seek to protect individuals who make certain disclosures regarding any instances of malpractice or wrongdoing and to seriously consider and investigate them in the public interest.
- 2.3** If an individual becomes aware of activities which they believe to be illegal, improper, unethical or inconsistent with this Constitution, individuals are encouraged to report their concerns in line with procedures set out in the Whistleblowing policy.
- 2.4** There are separate whistleblowing policies and referral processes in place for Y&NYCA, NYFRS and NYP respectively and referrals should be made to the relevant body.
- 2.5** The detailed policies and procedures in relation to the above are made available on the Y&NYCA website. Referrals will be handled as follows:

York and North Yorkshire Combined Authority

- 2.6** Whistleblowing concerns related to the Y&NYCA functions, including North Yorkshire Fire and Rescue Service, will be referred to [need clarity on this point]
- 2.7** The Y&NYCA Audit and Governance Committee is responsible for reviewing the Whistleblowing Policies and approving any necessary changes. The Y&NYCA [Post to be determined] and relevant Chief Officer are responsible for monitoring

the effectiveness of the Whistleblowing Policy and process with periodic reports provided to the Audit and Governance Committee on the outcome of whistleblowing referrals.

#### North Yorkshire Police

- 2.8** There are separate whistleblowing policies and referrals processes in place for North Yorkshire Police. Whistleblowing concerns related to NYP matters will be referred to the Professional Standards Department via the Confidential Reporting Process.
- 2.9** The [Independent Police Ethics Panel] are responsible for reviewing the Whistleblowing Policies and approving any necessary changes. The Y&NYCA [Post to be determined] and Chief Constable are responsible for monitoring the effectiveness of the Whistleblowing Policy and process with periodic reports provided to Police Audit Panel on the outcome of whistleblowing referrals. The Y&NYCA encourages anybody, employees and others, with serious concerns about any aspect of the Y&NYCA 's work or its partners, to come forward and voice those concerns without fear of reprisal.
- 2.10** The Y&NYCA will seek to protect individuals who make certain disclosures regarding any instances of malpractice or wrongdoing and to seriously consider and investigate them in the public interest.
- 2.11** If an individual becomes aware of activities which they believe to be illegal, improper, unethical or inconsistent with this Code, a whistleblowing referral should be made to the relevant body, namely Fire, Police or Y&NYCA respectively. The relevant Whistleblowing Policy along with contact information for each body can be viewed on the Y&NYCA website.

### **3 Complaints**

- 3.1** The Y&NYCA needs to know when things go wrong with our service. We are committed to putting you first and providing quality customer service. This includes:
- Dealing with any complaint quickly and fairly;
  - Keeping the complainant informed about what is happening with their complaint;
  - Treat the information given to us in line with data protection legislation;
  - Explaining the reason for our decision;
  - Use the information gathered through dealing with complaints to review and improve the way we provide services.
- 3.2** There are three stages to the Y&NYCA 's complaints procedure:

Stage One - Informal Complaint: where possible, the Line Manager of the Service or Officer that is the subject of the complaint will endeavour to resolve the issue.

**Stage Two - Formal Complaint:** If the Line Manager has not been able to help put things right, or the complainant is not happy with the result, the next step is to make a formal complaint. The complaint will be handled by a senior manager in the team being complained about.

**Stage 3 - Complaint Review:** If a complainant has been through Stages 1 and 2 of the complaints procedure and is still not happy with the results of the investigations, the Y&NYCA's Monitoring Officer to review your complaint.

- 3.3** The Y&NYCA is committed to dealing with all complaints fairly and impartially, and to providing a high quality service to those who make them. However, there are occasions when contact from a complainant becomes too frequent or complex that it hinders our consideration of their complaints, or those made by other people. In such cases the Y&NYCA may take action to limit the contact the complainant has with the Y&NYCA . Such occurrences are rare, and the Y&NYCA will first write to the complainant to advise that their contact is no longer considered reasonable.

## **Section H: Y&NYCA International Visits Protocol**

### **Contents:**

1. Introduction
2. Determining an appropriate visit.
3. Seeking authorisation
4. Travel and subsistence
5. Following the visit

## 1. Introduction

- 1.1 The Y&NYCA has an ambition to be world renowned in many areas of its work, and therefore international visits may assist in achieving this outcome. The following protocol has been written to support officers and elected members to determine whether a visit is appropriate, understand the process for seeking authorisation and to be aware of the travel and subsistence allowance available.

## 2. Determining an appropriate visit

- 2.1 When considering an international visit, it is important to consider the following issues, even if the visit is being paid for by a third party organisation.
- Is the visit for the purpose of, or in connection to the discharge of functions for the Y&NYCA?
  - Consider and identify the relevant Combined Authority Officers and Members.
  - Does the visit support the Y&NYCA's low carbon ambitions? i.e. Could the same objectives be achieved through a telephone call or video call or is the trip essential?
  - Are there benefits to the Y&NYCA from the visit to the Y&NYCA's International Strategy from attending in person?
  - Determine who needs to attend in consultation with the Combined Authority Chair.
  - Identify budget from which the cost of the visit will be met
  - Use the Foreign Office website to check the latest travel advice to risk assess your visit i.e., are there political tensions, community unrest, areas to avoid etc.
  - Is the visit covered by the Y&NYCA travel insurance, if not, does there need to be an additional policy purchased?
  - Research which vaccinations and visas will be required.

## 3. Seeking authorisation

- 3.1 Elected members representing the Y&NYCA should seek authorisation from the Head of Paid Service and Y&NY Mayor for any international visits. This should be done in writing before the trip is arranged or any tickets purchased.
- 3.2 Officers of the Y&NYCA should first seek their Director's approval and then authorisation from the Head of Paid Service, in writing.
- 3.3 Upon presenting this request, the following details should be provided –
- Location
  - Length of trip
  - Purpose of trip
  - Choice of travel (and cost)
  - Choice of accommodation (and cost)
  - Overall budget required
  - Means by which costs will be paid, i.e., is cash required
  - Consideration of the issues outlined in section 2 above



- 3.4 The choice of travel and accommodation should be in accordance with the Y&NYCA's Constitution guidance on travel and subsistence as outlined in section 4 of this protocol.
- 3.5 If leading a large delegation, further authorisation should be sought for -
- The parameters for booking a conference venue
  - The budget allocation for providing a corporate dinner
  - Confirmation as to whether the Y&NYCA will cover any additional costs for visas, vaccinations, travel, accommodation, subsistence etc

#### **4. Travel and subsistence**

- 4.1 For international visits, the most appropriate, efficient, environmentally sustainable and economical mode of transport e.g., air, sea, rail should be sought with the costs & source of funding identified.
- 4.2 Required vaccinations and visas should be sought by the individual and claimed back through the expenses process at their constituent authority.
- 4.3 The following extract from the Y&NYC's Constitution applies where appropriate –

##### **Rail travel –**

- 4.4 Members are expected to travel by standard class rail. First class travel is considered acceptable only in the following circumstances:
- Additional space and privacy is required during the journey to work
  - Where the cost of discounted first-class travel is less than that of the cheapest available standard class ticket
- 4.5 Rail tickets are available from the Y&NYCA office; however, members wishing to make their own travel arrangements (other than by private car) may claim a sum equal to the cost of the rail fare or their actual expenses, whichever is the lesser.
- 4.6 Expenditure may be refunded for: (i) Pullman car, seat reservation, deposit or portorage of luggage; and (ii) sleeper reservation on overnight journeys; subject to a reduction by one third of any subsistence allowance payable for that night.

##### **Taxis -**

- 4.7 The rate for travel by taxi shall be: (i) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and (ii) in any other case, the amount of the fare for travel by public transport.

##### **Subsistence –**

- 4.8 Foreign travel may require higher levels of subsistence to reflect the cost of living or ensure the most appropriate location is selected for accommodation and dining, in line with the completed risk assessment. However, such requests

need to be outlined when seeking authorisation. In relation to day subsistence the Y&NYCA Constitution states:

- 4.9 Day subsistence rates are on a 'meals' basis, with eligibility based on the time of day the meal is taken and time away from home, as follows:
- Breakfast allowance (more than 4 hours away from normal place of residence before 11:00 am) £5.59
  - Lunch allowance (more than 4 hours away from normal place of residence including the period between 12 noon and 2:00 pm) £7.59
  - Tea allowance (more than 4 hours away from normal place of residence including the period between 3:00 pm to 6:00 pm) £3.06
  - Evening meal allowance (more than 4 hours away from the normal place of residence after 7:00 pm) £9.50
- 4.10 The cost of overnight accommodation will be paid where necessary at a reasonable rate for a 3-star hotel. The amount claimed should not be higher than the amount actually incurred and any reimbursement at a higher rate than is specified will only be permitted when prior agreement to the cost has been given by the Head of Paid Service Y&NYCA & TfN.
- 4.11 Meals provided free of charge. The rates specified above are to be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.
- 4.12 When main meals are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable cost of the meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.
- 4.13 Claims / Payments Claims for payments under this scheme shall be made in writing to the [Post to be determined] / Finance Officer of the Constituent Council which has nominated the member to serve on the Y&NYCA, on a quarterly basis, in arrears, or at more frequent intervals if the member so chooses. Payments shall be made by the nominating Constituent Council on the same basis. All payments are rechargeable to the Y&NYCA by the Constituent Councils, on a quarterly basis.
- 4.14 The protocol applies the Constitution's guidance as above to both elected members and officers of the Y&NYCA.

## **5. Following the visit**

- 5.1 In order to evaluate the outcomes of the visit it is important that feedback is provided to the relevant Director so that these can be measured against the original objectives of the visit and assurances can be provided for any future visits.

# **PART 8**

## **MEMBERS ALLOWANCES**

1. **The York and North Yorkshire Combined Authority Order 2023** enables the Y&NYCA to establish an Independent Remuneration Panel (“IRP”) which may make recommendations to the Y&NYCA and to the constituent councils regarding the allowances payable to—
  - (a) the Mayor;
  - (b) the Deputy Mayor provided that the Deputy Mayor is not a leader or elected mayor of a constituent council or the Chair of the Local Enterprise Partnership;
  - (c) the deputy mayor for policing and crime provided that the deputy mayor for policing and crime is not a leader or elected mayor of a constituent council; and
  - (d) independent members and the Independent person.
2. The IRP must consist of at least 3 members, none of whom: -
  - (a) is also a member of the Y&NYCA or committee or sub-committee of the Y&NYCA, or a member of a Constituent Council; or
  - (b) is disqualified from being or becoming a member of the Y&NYCA
3. Subject to paragraph 4 below no remuneration is to be payable by the Y&NYCA to its members other than allowances for travel and subsistence.
4. The Y&NYCA may pay an allowance to those named in paragraph 1 (a) to (d) above but only if it has considered report published by the IRP which contains recommendations for the payment of such an allowance. Where the IRP recommends the payment of an allowance, the Y&NYCA must pay an allowance not exceeding the allowance recommended by the IRP.
5. *[The IRP has recommended an allowance for the Mayor of £ a year (subject to annual indexation), and this recommendation has been accepted by the Y&NYCA.*
6. *The IRP has recommended:*
  - a. *an annual allowance of £ (£ - indexation 2022/23) be paid to the Independent Member appointed to the Y&NYCA Audit Committee;*
  - b. *an inclusive annual allowance of £ (£ - indexation 2023/24) be paid when the Chair of the Y&NYCA Audit and Governance Committee is an Independent Member;*
  - c. *[Need to consider position of Independent Member for Standards].*
  - d. *the Independent Person appointed under the Localism Act 2011 be paid the following annual allowance: £ (£ - indexation 2023/24).*
  - e. *That all these allowances be subject to annual indexation.] [Only to be added if an IRP meet and recommend, following approval by the Combined Authority.]*

## **[A. MEMBERS ALLOWANCES SCHEME**

### **1. Interpretation**

In this Scheme “Year” means the 12 months ending on the Sunday after the first Thursday in May.

### **2. Renunciation**

A member may by notice in writing given to the [Post to be determined] elect to forego any part of his or her entitlement to an allowance under this Scheme.

### **3. Claims/Payments**

All claims relating to subsistence and travelling expenses must be supported by receipts.

### **4. Amendments to Scheme**

Amendments to this scheme can be made by the Y&NYCA at any time.

## **B. Allowance Payable to Mayor**

The allowance payable to the Mayor shall be £[INSERT AMOUNT] a year and shall be index linked.

## **C. Allowances Payable to the Independent Members and Independent Person**

The allowances and remuneration paid to the Independent Members of the Audit and Governance Committee and the Standards Independent Person are indexed to the annual percentage cost of living increase that is applied each year as set by the National Joint Council for Local Government Services.

The allowances for Independent Members of the Audit and Governance Committee and the Standards Independent Person are paid from the date of their appointment in accordance with the provisions of the York and North Yorkshire Combined Authority Order 2023 that gives the Authority to pay such allowances including backdating.

## **D. Scheme of travel and subsistence allowance as authorised pursuant to the Order**

### **1. Definition of Qualifying Duties**

The definition of duties qualifying for the payment of travel and subsistence allowances shall include any duty carried out by any member of the Y&NYCA in accordance with a request, authorisation or designation by the Y&NYCA; or in accordance with a request by the Chief Officer for the purpose of, or in connection with the discharge of the functions of the Y&NYCA .

### **2. Travel**

- (a) Members are expected to travel by standard class rail. First class travel is considered acceptable only in the following circumstances:
- Additional space and privacy is required during the journey to work
  - Where the cost of discounted first class travel is less than that of the cheapest available standard class ticket
- (b) Rail tickets are available from the Y&NYCA office; however, members wishing to make their own travel arrangements (other than by private car) may claim a sum equal to the cost of the rail fare or their actual expenses, whichever is the lesser.
- (c) Expenditure may be refunded for:
- (i) Pullman car, seat reservation, deposit or portage of luggage; and
  - (ii) sleeper reservation on overnight journeys; subject to a reduction by one third of any subsistence allowance payable for that night.
- (d) The rate for travel by taxi shall be:
- (i) in cases of urgency or where no public transport is reasonably available, the amount of the actual fare and any reasonable gratuity paid; and
  - (ii) in any other case, the amount of the fare for travel by public transport.

### **3. Motor Mileage**

3.1 The authorised rate where members travel by their own car or van, or one belonging to a member of their family, or one otherwise provided for their use is [ ] per mile (all engine sizes) up to 10,000 miles per annum.

3.1 The above rates may be increased:

- (a) in respect of the carriage of passengers, not exceeding four, to whom a travel allowance would otherwise be payable, by [ ] pence per mile.
- (b) by the amount of any expenditure incurred on tolls, ferries or parking fees, including overnight garaging.

### **4. Bicycle**

Members who travel to approved duties by bicycle will be reimbursed at a rate of [ ] pence per mile.

### **5. Subsistence**

#### **Day Subsistence**

5.1 Day subsistence rates are on a 'meals' basis, with eligibility based on the time of day the meal is taken and time away from home, as follows:

- (a) Breakfast allowance (more than 4 hours away from normal place of residence before 11:00 am) [£5.59] [To be determined]
- (b) Lunch allowance (more than 4 hours away from normal place of residence including the period between 12 noon and 2:00 pm) [£7.59] [To be determined]
- (c) Tea allowance (more than 4 hours away from normal place of residence including the period between 3:00 pm to 6:00 pm) [£3.06] [To be determined]
- (d) Evening meal allowance (more than 4 hours away from the normal place of residence after 7:00 pm) [£9.50] [To be determined]

### **Overnight Accommodation**

- 5.2 The cost of overnight accommodation will be paid where necessary at a reasonable rate for a 3 star hotel.
- 5.3 The amount claimed should not be higher than the amount actually incurred and any reimbursement at a higher rate than is specified will only be permitted when prior agreement to the cost has been given by the Clerk to the Y&NYCA.

### **Meals provided free of charge**

- 5.4 The rates specified in 5.1 and 5.2 above are to be reduced by an appropriate amount in respect of any meal provided free of charge by an authority or body in respect of the meal or the period to which the allowance relates.

## **6. Meals on Trains**

When main meals are taken on trains during a period for which there is an entitlement to day subsistence, the reasonable cost of the meals (including VAT) may be reimbursed in full. In such circumstances, reimbursement for the reasonable cost of a meal would replace the entitlement to the day subsistence allowance for the appropriate meal period.

## **7. Claims / Payments**

Claims for payments under this scheme shall be made in writing to the [Post to be determined] of the Constituent Council which has nominated the member to serve on the Y&NYCA, on a quarterly basis, in arrears, or at more frequent intervals if the member so chooses. Payments shall be made by the nominating Constituent Council on the same basis. All payments are rechargeable to the Y&NYCA by the Constituent Councils, on a quarterly basis.]

# **PART 9**

## **POLICE AND CRIME COMMISSIONER FUNCTIONS AND FIRE AND RESCUE FUNCTIONS**

**[Currently officers are working collaboratively together to ensure the relevant functions are incorporated into the Constitution which may result in changes to the previous parts and an additional section added into this part. However these functions do not transfer until 7<sup>th</sup> May 2024 and therefore officers have more time to review the Constitution in totality to incorporate the PFCC functions.]**



**PART 10**  
**MANAGEMENT STRUCTURE**

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