

Notice of a public meeting of

Audit and Governance Committee

To:	Councillors J Burton (Vice-Chair), Hollyer (Chair), Fisher, Leigh (Independent Member), Mason, Melly, Rose and Whitcroft and Mr J Leigh (Independent Member)
Date:	Wednesday, 8 November 2023
Time:	5.30 pm
Venue:	The Snow Room - Ground Floor, West Offices (G035)

AGENDA

The Council is working towards net zero targets for 2030. Reducing the amount of paper we print is one contributory factor. Therefore, printed copies of agenda will only be available for some meetings at the moment, with the exception of a few printed copies being made available at all public meetings for members of the public. Please view or access agenda for our public meetings on line, wherever possible. **Anyone with disability or impairment needs preventing or restricting access or viewing on line should contact the Democracy Officer for the meeting.**

1. **Declarations of Interest** (Pages 1 - 2)

At this point in the meeting, the Executive Member is asked to declare any disclosable pecuniary interest, or other registerable interest, they might have in respect of business on this agenda, if they have not already done so in advance on the Register of Interests. The disclosure must include the nature of the interest.

An interest must also be disclosed in the meeting when it becomes apparent to the member during the meeting.

[Please see attached sheet for further guidance for Members].

2. Exclusion of Press and Public

To consider the exclusion of the press and public from the meeting during consideration of the following:

Annexes 4 to 7 to Agenda Item 12 on the grounds that it contains information relating to the financial or business affairs of any particular person. This information is classed as exempt under paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by The Local Government (Access to Information) (Variation) Order 2006).

3. Minutes & Action Log (Pages 3 - 18)

To approve and sign the minutes of the meeting held on 12 September 2023.

4. Public Participation

At this point in the meeting members of the public who have registered to speak can do so. Members of the public may speak on agenda items or on matters within the remit of the Executive.

Please note that our registration deadlines are set as 2 working days before the meeting, in order to facilitate the management of public participation at our meetings. The deadline for registering at this meeting is **5:00pm on Monday, 6 November 2023**.

To register to speak please visit www.york.gov.uk/AttendCouncilMeetings to fill in an online registration form. If you have any questions about the registration form or the meeting, please contact Democratic Services. Contact details can be found at the foot of this agenda.

Webcasting of Public Meetings

Please note that, subject to available resources, this meeting will be webcast including any registered public speakers who have given their permission. The meeting can be viewed live and on demand at www.york.gov.uk/webcasts.

During coronavirus, we made some changes to how we ran council meetings, including facilitating remote participation by public speakers. See our updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

5. Corporate Governance Performance Report (Pages 19 - 68)

This report provides Members with updates in respect of:

- Responses and updates to queries and questions from Committee in July 2023;
- Corporate Governance Team (CGT) performance indicators update;
- Information Commissioners Office (ICO) enforcement notice;
- Ombudsmen updates;
- Covert surveillance training.

6. Report of the Monitoring Officer on suggested Constitutional Changes (Pages 69 - 350)

This report provides the first tranche of suggested constitutional changes to the Committee for consideration and discussion.

7. Publication of Internal Audit Reports (Pages 351 - 358)

This report provides the Committee with a greater understanding of the reasons for exempting Internal Audit ("IA") reports from publication.

8. Treasury Management Mid-Year Review and Prudential Indicators 2022/23 (Pages 359 - 380)

The purpose of the report is to provide a mid-year update to Audit & Governance Committee on treasury management activities for the first half of the year and to provide the latest update of the prudential indicators.

9. Update on No Purchase Order No Pay Process (Pages 381 - 392)

The report provides an update to members of Audit & Governance Committee about the review of No Purchase Order No Pay processes.

10. Monitor 2 2023/24 - Key Corporate Risks (Pages 393 - 430)

The purpose of this paper is to present Audit & Governance Committee (A&G) with an update on the key corporate risks (KCRs) for City of York Council (CYC), which is included at Annex A.

11. Audit and Governance Work Plan 2023/24 (Pages 431 - 434)

To consider the Committee's work plan for the 2023/24 municipal year.

12. Audit & Counter Fraud Progress Report (Pages 435 - 518)

This report provides an update on the delivery of the internal audit work programme for 2023/24 and on counter fraud activity undertaken so far in the year. It also informs Members of the outcome of Veritau's recent external quality assessment.

13. Urgent Business

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer:

Name: Louise Cook

Telephone: (01904) 551031

Email: louise.cook@york.gov.uk

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

- Registering to speak
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above.

Declarations of Interest – guidance for Members

- (1) Members must consider their interests, and act according to the following:

Type of Interest	You must
Disclosable Pecuniary Interests	Disclose the interest, not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Directly Related) OR Non-Registrable Interests (Directly Related)	Disclose the interest; speak on the item <u>only if</u> the public are also allowed to speak, but otherwise not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.
Other Registrable Interests (Affects) OR Non-Registrable Interests (Affects)	Disclose the interest; remain in the meeting, participate and vote <u>unless</u> the matter affects the financial interest or well-being: (a) to a greater extent than it affects the financial interest or well-being of a majority of inhabitants of the affected ward; 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. In which case, speak on the item <u>only if</u> the public are also allowed to speak, but otherwise do not participate in the discussion or vote, and leave the meeting <u>unless</u> you have a dispensation.

- (2) Disclosable pecuniary interests relate to the Member concerned or their spouse/partner.
- (3) Members in arrears of Council Tax by more than two months must not vote in decisions on, or which might affect, budget calculations,

and must disclose at the meeting that this restriction applies to them. A failure to comply with these requirements is a criminal offence under section 106 of the Local Government Finance Act 1992.

City of York Council

Committee Minutes

Meeting	Audit and Governance Committee
Date	12 September 2023
Present	Councillors J Burton (Vice-Chair), Hollyer (Chair), Fisher, Leigh (Independent Member), Mason (from 6:29 pm), Melly, Rose and Whitcroft Mr Leigh (Independent Member) (from 5:36pm)
Officers in Attendance	Mark Kirkham, Partner, Mazars Mark Outterside, Senior Manager, Mazars Bryn Roberts, Director of Governance and Monitoring Officer Helen Malam, Principal Accountant (from 5:30 pm to 6:35 pm) Debbie Mitchell, Chief Finance Officer & Section 151 Officer Max Thomas, Head of Internal Audit, Veritau Connor Munro, Assistant Director of Audit Assurance, Veritau Jonathan Dodsworth, Assistant Director of Corporate Fraud, Veritau

13. **Declarations of Interest (5:31 pm)**

Members were asked to declare any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests which they may have in respect of business on the agenda. None were declared.

14. **Exclusion of Press and Public (5:31 pm)**

Resolved: That Agenda Item 10, Urgent Business, be brought forward to enable the press and public to be excluded from the meeting during the consideration of Annex 3 to Agenda Item 9 on the grounds that they relate to the financial or business affairs of any particular person (including the authority holding that information). This information is classed as exempt under Paragraph 3 of Schedule 12A to Section 100A of the Local Government Act 1972 (as revised by the

Local Government (Access to Information)
(Variation) Order 2006).

15. Minutes & Action Log (5:32 pm)

Resolved: That the minutes of the meeting held on 19 July 2023 be approved and then signed by the Chair as a correct record subject to including:

- An additional resolution to minute item 5, Corporate Governance Report:
 - (iv) That the full Key Performance Indicator range be split by directorates and circulated to Committee Members.
- In resolution ii, of minute item 9, Report of the Monitoring Officer, a specific point in the Constitution regarding incoming new Leaders of the Council.

In answer to questions raised regarding sourcing a second Independent Member, and the action log, the Director of Governance confirmed that:

- An advert was currently being prepared and the position would be advertised shortly.
- The action log could be reviewed to demonstrate a clearer control process.

16. Public Participation (5:36 pm)

It was reported that there had been two registrations to speak at the meeting under the Council's Public Participation Scheme.

Gwen Swinburn thanked the Chief Finance Officer for supporting the statutory accounts process but noted her concerns with the Annual Governance Statement, which included, delays in the process, the responses, and that no new priorities were listed. She highlighted good governance by North Yorkshire Council, and suggested a press release be issued to support the Independent Member recruitment. She thanked the Chair for regularizing the transparency of the internal audits, and she asked officers to upload any hidden reports.

Brian Watson spoke on the role of the Civic Party. He highlighted the importance of wearing the robes, the chains of

office and having use of a civic carriage for all events. He noted that some lost events, due to the pandemic, required recovering, and he addressed some staff issues within the service. He suggested that a specific Civic Advisory Group could be convened to consider how the Civic Party were serviced and promoted.

17. Review of the final draft of the Annual Governance Statement (5:46 pm)

Members considered a report that presented the draft Annual Governance Statement (AGS) for 2022/23.

The Director of Governance noted that as the draft statement was not available until later in July, the accounts inspection period was extended to meet the statutory 30 working days requirement for the accounts being open for inspection by residents. The draft AGS was attached at Annex A of the report, and in future, it would be published with the annual accounts. The AGS would continue to be updated for any further comments or issues and a final version would be presented to the Chief Operating Officer and the Leader, as well as this Committee.

In answer to questions raised, officers confirmed that:

- The AGS generally reported on events that were relevant to that financial year, although on some occasions, the event occurred after 31 March. For example, the preparation for the local elections took place within the financial year but were not actioned until May 2023.
- They had discussed the transparency of the planned list of audits with Veritau and a report would be prepared that focused on implementing good practices in transparency, reporting, and audit, to deliver effective accountability.
- The independent assessment of the Internal Audit Function had taken place and Members would be updated at the next meeting of this Committee.

The Director of Governance apologised for the delay in publishing the draft AGS and he confirmed that following discussions with the Section 151 Officer, the AGS would be programmed into an earlier part of the preparation process for the annual accounts. This would allow the initial draft to be created, so it could then be published at the same time of the Statement of Accounts.

Resolved: That the draft Annual Governance Statement, attached at Annex A to the report, be noted.

Reason: To ensure that Members had the opportunity to review the draft Annual Governance Statement.

18. Monitor 1 2023/24 - Key Corporate Risks (5:54 pm)

Members considered a report that provided an update on the key corporate risks (KCRs) for City of York Council (CYC).

The Principal Accountant provided a general overview noting that as part of the council's risk management process, this Committee was required to consider the twelve key corporate risks that officers had highlighted within Annex A to the report.

It was noted that the KCRs were also considered by the Corporate Management Team (CMT) and Executive CMT, where it had been questioned if extreme weather events should be added to the register as a separate KCR. Officers confirmed that they had not at this stage created a separate risk but had updated KCR 12 to include the fact that there was an increasing frequency of extreme weather events. Following discussion, officers agreed to investigate what processes the council currently had in place for urgent extreme weather incidents and Members generally felt that extreme weather events may not necessarily require its own KCR but that officers could consider expanding KCR 12 to include the impacts extreme weather incidents had on communities and people's wellbeing.

The longer term strategic view and the financial forecasts were also discussed. Officers confirmed that the long term forecasts would be closely monitored, along with, the council's statutory responsibilities, and potential mitigations, which would include reviewing the capital programme, and reducing interim and agency staff. Members also noted that Corporate Directors had been instructed to monitor the impacts on the workforce within their departments.

The current national trends recently reported, government funding and how the council generated income were also considered, and officers confirmed:

- Students were exempt from paying council tax and they would investigate if there were any government schemes in place to recover that lost income.

- They would consider the project management of the Castle Gateway Project and York Central to enable improved consultation and engagement with the general public. (KCR 7).
- They would modify the wording used in relation to the adoption date of the Local Plan. (KCR 8).

Resolved:

- (i) That the KCRs included at Annex A, and summarised at Annex B of the report, be considered.
- (ii) That feedback be received on any further information that Members may wish to see on future committee agendas.
- (iii) That Members received feedback on the current processes in place for urgent extreme weather incidents.
- (iv) That officers consider expanding KCR 12 to include the impacts extreme weather incidents had on communities and people's wellbeing
- (v) That officers investigate if there were any government schemes in place to recover any lost council tax income.
- (vi) That the project management of the Castle Gateway Project and York Central be considered by officers to enable improved consultation and engagement with the general public. (KCR 7).
- (vii) That the wording used in relation to the adoption date of the Local Plan be modified. (KCR 8).

Reason: To provide assurance that the authority was effectively understanding and managing its key risks

19. Treasury Management Monitor 1 (6:20 pm)

Members considered the Treasury Management Quarter 1 review and Prudential Indicators for 2023/24, and they noted that Annex 1 to the report would also be presented to Executive on 14 September 2023.

The Chief Finance Officer provided an overview stating that the Audit & Governance Committee were responsible for ensuring effective scrutiny of the Treasury Management Strategy and policies. She addressed the treasury position to date, and

highlighted the inflationary pressures, where Members were informed that:

- No new borrowing had been undertaken in the year so far.
- Officers continued to invest in line with the three priorities; security, liquidity and yield.
- Officers continued to closely monitor the inflation interest rates and inter authority borrowing.

The impact of the current interest rates were discussed, and in answer to questions raised, officers explained the reasoning behind the gaps and spikes within the Debt Maturity Profile

Resolved:

- (i) That the Treasury Management Review and Prudential Indicators 2023/24, at Annex A of the report, be noted.
- (ii) That treasury management be included in the Member training schedule.

Reason: That those responsible for scrutiny and governance arrangements were updated on a regular basis to ensure that those implementing policies and executing transactions had properly fulfilled their responsibilities with regard to delegation and reporting.

20. Audit and Governance Work Plan 2023/24 (6:28 pm)

Members considered the work plan for the 2023/24 municipal year.

The Director of Governance provided an update on the new combine authority arrangements. He noted that central government were currently drafting the order and he was hopeful the creation of the combine authority would transpire around January. Officers had been assured that there would be no impact on the intended election day in May 2024. In the meantime, a report highlighting how the governance would dovetail with City of York Council and North Yorkshire Council would be considered by the Corporate Services, Climate Change and Scrutiny Management Committee.

Resolved: To receive a report that focused on implementing good practices in transparency, reporting, and audit, to deliver effective accountability.

Reason: To ensure the Committee maintained a programme of work for 2023/24.

An adjournment took place between 6:32 pm and 6:41 pm

21. Audit & Counter Fraud Progress Report (6:56 pm)

Members considered a report that provided an update on the delivery of the internal audit work programme for 2023/24 and on counter fraud activity undertaken so far in the year.

The Head of Internal Audit provided an overview and noted the annexes to the report. He confirmed that they had received good cooperation from council officers and had progressed with no significant issues.

The Assistant Director for Audit Assurance discussed the delivery of the internal audit services for City of York Council. He informed Members that since the last meeting, Veritau had finalised eight audits, which also included the addition of insurance and risk management reports, reducing the outstanding audits to three. The appendices, to Annex 1 of the report, were then brought to the attention of the Committee.

The Assistant Director of Corporate Fraud provided an overview of the corporate fraud service, as noted within Annex 2 to the report. He confirmed that the team had received 126 reports of suspected fraud and had completed 41 investigations to date. The Assistant Director highlighted a typo within Appendix A, to Annex 2, where the second column of the first chart and the first column of the second chart should read 2023/24.

At 7:05 pm the meeting closed to press and public and Members received an overview on the Jewson managed stores contract.

Resolved: That the progress made in delivering the 2023/24 internal audit work programme, and current counter fraud activity, be noted.

Reason: To enable Members to consider the implications of audit and fraud findings.

22. Urgent Business (6:41 pm)

The Director of Governance highlighted that the council, over the last 30 months, had accumulated a backlog of 261 Freedom of Information (FOI) cases which the Information Governance (IG) Team had no record of a response. The Director explained, that as of the end of August 2023, officers had since identified that some responses had been sent by some departments but that the IG Team had not been copied in.

Members noted that the numerical backlog was such that following discussion with the Information Commissioner's Office (ICO), the ICO had indicated that it intended to issue an enforcement notice, in the near future, requiring that the council resolves the backlog. As part of the ICO's response they would also require an action plan that demonstrated how the backlog would be managed.

The Director highlighted the progress made to date stating that the Information Governance Team, with significant assistance from officers across the council, had issued 82 responses of those 261 requests.

Members were also informed that the council's procedures would be revised and strengthened to ensure this setback was not repeated, and an action plan was currently being devised and would be published, as was required by the ICO.

The Director recognised that this was not an acceptable position, and he personally apologised for the unacceptable failure of service.

Members expressed their concerns and in answer to questions raised regarding the impact this had on the council, and the strategy to clear the backlog, the Director confirmed that:

- The responses made so far were a combination of replying from scratch and locating the response.
- Officers continued to liaise with departments for responses and were working on the assumption that the remaining outstanding cases would most likely have to be responded to from the start.

- The deadline period set by the ICO was generally six months.
- Having more published information on the council's website and York Open Data platform would reduce the amount of FOI requests received. As part of that process, navigating the council's website would be reviewed.
- There was a dedicated officer working on any new FOI requests to stop any further backlog.
- FOI requests were submitted through various portals, which could be a challenge for the IG Team to track.
- Officers would consider establishing a bi-weekly meeting with senior officers involved to address the outstanding requests to keep on top of the progress and drive things forward.
- Training for staff could be included in the action plan.

It was noted that officers were confident the backlog would be cleared well within the deadline set by the ICO, and Members thanked the Director for the update.

Resolved: That an initial response be provided to Committee Members on the strategy to clear the backlog and then an update, from the Information Governance Team, be provided at the next meeting.

Reason: To ensure Committee Members were properly updated to monitor the progress.

Cllr Hollyer, Chair
[The meeting started at 5.31 pm and finished at 7.16 pm].

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Action Log

Action Number	Date of Meeting	Title	Action	Action Owner	Status/ Outcome	To be completed by	Completed
1	29/06/22	Issuing of Parking Permits	That the Committee request that CCSMC review how the Council issues parking permits.	Bryn Roberts	This has been referred to the Scrutiny Work Planning meeting, with a request that it be considered for inclusion on the forward work plan.		Yes
2	07/09/22	KCR updates	<p>Updates to the Committee be provided on:</p> <p>KCR 1 (financial pressures): Information was requested on the impact of inflation on business rates and council tax payments, the potential impact of the care cap, and any indications of additional government support.</p> <p>KCR 9 (communities): A suggestion was made to include relationships with parish councils in this KCR.</p> <p>KCR 12 (major incidents): It was suggested that an explanatory note be added against the new risk (relating to commercial power outages).</p>	Debbie Mitchell	Information requested has been included in the KCR3 report being presented to A&G on the 18th January.	Helen Malam	Yes
3	07/09/22	Code of Conduct Training	That Members' comments regarding the training programme currently in preparation by officers be fed into the process, and that the committee have sight of the programme prior to the election period.	Bryn Roberts	Members' comments have been taken into account, and a report outlining the Members Induction Programme is to be considered by the Committee on 18 January 2023.		Yes
4	30/11/22	Final Statement of Accounts	Delegated authority to the Chair in consultation with the Vice Chair to approve and sign the final Statement of Accounts	Debbie Mitchell	We are awaiting the outcome of technical discussions before the accounts can be finalised and approved.	Emma Audrain	Yes
8	07/02/23	LGA Recommendations Report	That the Council undertake a three year review reporting to the Audit and Governance Committee to review the Council's performance against the ten recommendations outlined by the LGA and to report on the progress of Member training	Claire Foale	Officers reviewing how to operate the review and would bring proposals to the first meeting of the Committee post the upcoming local elections. This will be reported at the A & G meeting on 29 November	29-Nov-23	No

9	07/02/23	LGA Recommendations Report	To recommend to the Chief Operating Officer and the Leader of the Council to engage the LGA about initiating a Corporate Peer Review	Bryn Roberts			No
10	19/07/23	Internal Audit Reports	That a report be brought to the Committee outlining the Council's process for determining what information should be kept exempt from the press and public in relation to internal audit reports.	Bryn Roberts	To close following the next meeting	08-Nov-23	No
11	19/07/23	Corporate Governance Report	That Q4 2022/23 data be included within the next Corporate Governance update report	Lorraine Lunt	Included in the report on 8th Nov	08-Nov-23	No
12	19/07/23	Corporate Governance Report	That Officers provide an update to Committee Members via email into the progress on responding to Adult and Children's Social Care complaints.	Lorraine Lunt	Update provided in the report on 8th Nov	08-Nov-23	No
13	19/07/23	Corporate Governance Report	That Officers review the ombudsman decisions and share with the Committee any additional decisions If not included within annex 3 to the report as intended.	Lorraine Lunt	Included in report on 8th Nov- confirming duplicate case in Annex 3 of July report and no additional decisions to include for that reporting period	08-Nov-23	No
14	19/07/23	Review of the Constitution	The Committee requested that Officers drafted a procedure for how budget amendment proposals are considered by Council for inclusion to the Constitution, as part of the Constitution review	Bryn Roberts	Ongoing as part of the Constitution review		No
15	19/07/20 23 and 12/09/23	Review of the Constitution	That the Monitoring Officer review, in the Constitution, the Public Participation Protocol, the language used and a specific point regarding incoming new Leaders of the Council, as part of the Constitution review;	Bryn Roberts	To close following the next meeting	08-Nov-23	No
16	19/07/23	Review of the Constitution	That Members of the Committee contact the Monitoring Officer about any areas of the Constitution they believe requires a review	Committee Members	Ongoing as part of the Constitution review		No
19	12/09/23	Minutes	That the full Key Performance Indicator range, discussed at the 19 July meeting, be split by directorates and circulated to Committee Members.	Lorraine Lunt			No

21	12/09/23	Monitor 1 23/24 - Key Corporate Risks	Investigate what processes the council currently had in place for urgent extreme weather incidents and inform the Committee	Helen Malam	Update to be provided by email or at the next meeting	08-Nov-23	No
22	12/09/23	Monitor 1 23/24 - Key Corporate Risks	Consider expanding Key Corporate Risk 12 to include the impacts extreme weather incidents had on communities and people's wellbeing	Helen Malam	Update to be provided by email or at the next meeting	08-Nov-23	No
23	12/09/23	Monitor 1 23/24 - Key Corporate Risks	Investigate if there were any government schemes in place to recover the lost council tax income, due to students being exempt.	Helen Malam	Update to be provided by email or at the next meeting	08-Nov-23	No
24	12/09/23	Monitor 1 23/24 - Key Corporate Risks	Consider the project management of the Castle Gateway Project and York Central to enable improved consultation and engagement with the general public. (KCR 7).	Helen Malam	Update to be provided by email or at the next meeting	08-Nov-23	No
26	12/09/23	Treasury Management Monitor 1	That treasury management be included in the Member training schedule.	Debbie Mitchell			No
27	12/09/23	Audit and Governance Work Plan	To receive a report that focused on implementing good practices in transparency, reporting, and audit, to deliver effective accountability.	Bryn Roberts	To close following the next meeting	08-Nov-23	No
28	12/09/23	Urgent Business	That an initial response be provided to Committee Members on the strategy to clear the Freedom of Information backlog and then an update, from the Information Governance Team, be provided at the next meeting.	IG Team / Bryn Roberts	Ahead of next CGT report on 8th Nov, the progress and improvement plan has been published on the council website https://www.york.gov.uk/freedom-information/information-commissioner's-office-ico-enforcement-notice-improvement-plan	08-Nov-23	No

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Completed Actions Archive

Action Number	Date of Meeting	Title	Action	Action Owner	Status/ Outcome	To be completed by	Completed
1	29/06/22	Issuing of Parking Permits	That the Committee request that CCSMC review how the Council issues parking permits.	Bryn Roberts	This has been referred to the Scrutiny Work Planning meeting, with a request that it be considered for inclusion on the forward work plan.		Yes
2	07/09/22	KCR updates	Updates to the Committee be provided on: KCR 1 (financial pressures): Information was requested on the impact of inflation on business rates and council tax payments, the	Debbie Mitchell	Information requested has been included in the KCR3 report being presented to A&G on the 18th January.	Helen Malam	Yes
3	07/09/22	Code of Conduct Training	That Members' comments regarding the training programme currently in preparation by officers be fed into the process, and that the committee have sight of the programme	Bryn Roberts	Members' comments have been taken into account, and a report outlining the Members Induction Programme is to be considered by the Committee on 18		Yes
4	30/11/22	Final Statement of Accounts	Delegated authority to the Chair in consultation with the Vice Chair to approve and sign the final Statement of Accounts	Debbie Mitchell	We are awaiting the outcome of technical discussions before the accounts can be finalised and approved.	Emma Audrain	Yes
5	18/01/23	KCR updates	That report be added to the Committee work plan to review KCRs 8 The Local Plan and 12 Major Incidents.	Bryn Roberts/ Debbie Mitchell	Added to work plan - 8th November, KCR Monitor 2 report, including review of KCR12 Major incidents and 31st January KCR Monitor 3 report including	Helen Malam	Yes
6	18/01/23	KCR updates	That KCR 2 Governance include a control that the Committee will make recommendations to a meeting of Council following the Local Governance Association's	Debbie Mitchell	This has been actioned, with a control added to the latest version of the risk register.	Helen Malam	Yes
17	19/07/23	Internal Audit Reports	That a report be added to the Committee work plan to review the policy and use of payment orders within the Council.	Debbie Mitchell	A report is included on the agenda for the November meeting	Debbie Mitchell	Yes
18	12/09/23	Minutes	That the action log be reviewed to demonstrate a clearer control process.	Bryn Roberts	To also include the completed actions archive in the agenda	Bryn Roberts/Dem Services	Yes
25	12/09/23	Monitor 1 23/24 - Key Corporate Risks	Modify the wording used in relation to the adoption date of the Local Plan. (KCR 8).	Helen Malam	Completed	Helen Malam	Yes

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Meeting:	Audit and Governance Committee
Meeting date:	8 November 2023
Report of:	Director of Governance
Portfolio of:	Cllr Douglas Leader, responsible for Strategy, Policy, and Partnerships

Audit and Governance Committee Report: Corporate Governance Performance Report

Subject of Report

1. This report provides Members with updates in respect of:
 - Responses and updates to queries and questions from Committee in July 2023;
 - Corporate Governance Team (CGT) performance indicators update;
 - Information Commissioners Office (ICO) enforcement notice;
 - Ombudsmen update including:
 - Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS) cases from the previous report in July 2023 to date of preparing this report on 26 October 2023;
 - Update on HOS;
 - Covert surveillance training.

Policy Basis

2. Having appropriate processes and procedures in place to ensure the council:
 - Investigates and responds to complaints (corporate, adults social care and children's social care), comments, compliments and concerns, and Ombudsmen cases;
 - Manages and monitors valid and in time responses to all FOI and EIR requests and other requests for information or information disclosure;

- Provides support, advice and guidance for data protection and privacy compliance;
 - Provides assurance to customers, employees, contractors, partners, and other stakeholders that all information, including confidential and personal information, is dealt with in accordance with legislation and regulations and its confidentiality, integrity and availability is appropriately protected.
3. Compliance is aligned to the current and draft Council Plan which is part of the council's corporate code of governance. This also then aligns with the 10-year Plan (York 2032) such as performance management and service planning.

Recommendation and Reasons

4. Members are asked:
- i. To note the details contained in this report.
 - ii. To provide any comments or feedback from this report.

Reason: So that members are updated with details of the corporate governance report.

Background

5. **Responses and updates from report in July**
- i. The figures for Q4 for 2022/2023 are included at Annex 1.
 - ii. I can confirm the one adult social care complaint (April to June 2021) shown as in progress was completed at the time and was only showing as being "in progress" for the end of that reporting period of April to June 2021.
 - iii. There are no additional Ombudsmen decisions to provide to Committee from the last report and that it was an error as complaint reference 23001684 was on the report twice.

6. Corporate Governance Performance Indicators Update

- i. The full performance indicators are available on York Open Data at <https://data.yorkopendata.org/group/transparency> and includes the indicators linked to the Council Plan – see below:
 - % Of Grade 1 4Cs Complaints responded to 'In Time' – which is available at <https://data.yorkopendata.org/dataset/kpi-ig22a>
 - FOI & EIR % Requests responded to In time - (YTD) – which is available at <https://data.yorkopendata.org/dataset/kpi-foi02-01a/resource/52928d4c-d274-4e11-bd27-198ec9b98364>
- ii. Please see the detailed performance indicators for the reporting periods covering Quarter 1 (Q1) – April to June 2023 and Quarter 2 (Q2) – July to September 2023 at Annex 2.
- iii. Complaints about council services are dealt with under the council's corporate procedure for Complaints, Concerns, Comments and Compliments (the 4Cs). This procedure was designed using the guidance and good practice specified in the statutory procedures and by the Local Government and Social Care Ombudsman (LGSCO) and Housing Ombudsman Service (HOS).
- iv. There has been a decrease in the total number of grade 1 and grade 2 corporate complaints received in Q2 compared to Q1 (364 compared to 480). But there has also been a reduced in time performance – from 96.12% to 93.75%. The Corporate Governance Team (CGT) are working to identify the issues or concerns that have contributed to this reduced in time performance and options for improvements including additional targeted support to service areas from CGT.
- v. There has been a decrease in Q2 compared to Q1 in complaints received and dealt with under both the adult and children's social care services legislation:
 - The Local Authority Social Services and National Health Service Complaints (England) Regulations 2009;
 - The Children Act 1989 Representations Procedure (England) Regulations 2006.

- vi. For adults' social care services complaints, there has been a significant improvement in Q2 in the number of these complaints responded to in time. It has increased from 50% in Q1 to 100% in Q2.
- vii. Similarly, for children's social care services complaints there has been an improvement in Q2 in the number of these complaints responded to in time. It has increased from 88.89% in Q1 to 100% in Q2.
- viii. The CGT will continue to work closely with these service areas to ensure that these improvements are maintained. Also we are working on providing for next Committee as that will be following on from the annual complaints report, the shared themes and lessons learned from complaints.
- ix. There has been a small decrease in the number of data subject access request to records (SAR) responded to in time in Q2 compared to Q1 and compared to the full year figures for the previous 3 years. This will in some part be due to the increased complexity of some SAR requests. To be able to determine the complexity of a request, we do have to be able to demonstrate and provide evidence of one or more of the below examples:
 - Technical difficulties in retrieving the information – for example if data is electronically archived;
 - Applying an exemption that involves large volumes of particularly sensitive information;
 - Clarifying potential issues around disclosing information;
 - Any specialist work involved in obtaining the information or communicating it to the requester in an intelligible form;
 - Clarifying potential confidentiality issues around the disclosure of sensitive medical information to an authorised third party;
 - Needing to obtain specialist legal advice but not if legal advice is required routinely;
 - Searching large volumes of unstructured manual records such as social care records.
- x. The CGT are exploring whether its possible to report on "number of pages" for each SAR request that is retrieved and then requires checking for and redacting, any information that should not be disclosed. This may provide more context for

managers, CMT and this Committee on the performance of responding to SAR requests.

- xi. Although we continue to increase the number of FOI and EIR requests that are responded to in time, there are details in the next section of this report about the backlog of requests that have received no response. The CGT are exploring whether it's possible to report on "number of questions" asked in each FOI and EIR which may provide more context for managers, CMT and this Committee on the performance of responding to FOI and EIR requests.
- xii. Also, as requested from the previous report in July, we are working on providing the performance figures for FOI and EIRs by directorate which will include where there has been no response sent after the legal timescale for responding.

7. ICO enforcement notice for overdue FOI and EIR responses

- i. The ICO issued the council with an enforcement notice on 14 September 2023 about FOI/EIR requests that had not received a valid response between 1 April 2021 and 1 August 2023. A copy of the enforcement notice is at Annex 3 and can also be found at [20221003 EN template \(ico.org.uk\)](https://ico.org.uk/20221003-EN-template)
- ii. The enforcement notice required the council to:
 - Publish an improvement plan within 35 calendar days;
 - Issue valid responses to the backlog of FOIs and EIRs within 6 months.
- iii. The consequence of failing to comply with an ICO enforcement notice is that the ICO may make written certification of this fact to the High Court pursuant to section 54 of FOI. Upon consideration and inquiry by the High Court, the Council may be dealt with as if it had committed a contempt of court.
- iv. Whilst there are processes in place to support service areas to respond to FOI and EIR requests in a timely way including advice and guidance, a fortnightly report showing all outstanding requests, etc the backlog of overdue requests highlights that there needs to be increased awareness of the council's requirements to comply with FOI/EIR in a timely way

and the consequences of not doing this and the improvement plan identifies how we will achieve and maintain this.

- v. There also needs to be a renewed joined up effort across the council to provide responses to both the overdue requests and new requests, and quickly identify and remove any barriers or blockers to providing responses. This will support a significant and sustained improvement in responses being provided.
- vi. We have met the requirement to publish an improvement plan within 35 calendar days. Please see Annex 4. It is published at [Information Commissioner's Office \(ICO\) enforcement notice and improvement plan – City of York Council](#)
- vii. The improvement plan was approved by the Council Management Team (CMT) and regular reports on progress with it will be reported to CMT and to this Committee.
- viii. Between 1 April 2021 and 1 August 2023, the council received 4972 requests for information. These include:
 - FOI requests
 - EIR requests
 - Requests for information from third parties such as police, other councils, etc
 - Requests from individuals for their own information that the council holds under data protections right to request access to records (SARs)
- ix. For this period, 3620 were either FOI or EIR requests and there were 261 recorded, which is 5.25% of the total requests for information received, as having had no response sent.
- x. As of the date of preparing this report on 26 October 2023, and from the focussed work undertaken by the Corporate Governance Team, managers, and teams across the council, 247 valid responses (94.6% of the backlog) have now been sent and 14 (5.4% of the backlog) still to complete. This means we are highly likely to complete sending out responses to the backlog of requests ahead of the timescale set out in the enforcement notice which was 6 months.

- xi. From 14 September 2023 when the enforcement notice was issued and 26 October 2023 when this report was prepared, there have been three complaints made to the ICO about no responses being provided to current FOI/EIR requests and the ICO has noted these further complaints. They may take further action against the council if it continues to receive complaints about no valid responses being issued. There has also been one complaint to the ICO regarding the backlog of requests that were subject of the enforcement notice.
- xii. However there have been no published decision notices by the ICO on their website from date of previous report to this Committee and 26 October 2023.

8. Ombudsmen update

- i. There were seven Ombudsmen decisions since the last report to Committee in July to date this report was prepared. Details of all the decisions including recommendations, remedies and actions are shown at Annex 5.
- ii. Six cases were determined by the Local Government and Social Care Ombudsman (LGSCO) and the decisions were:
 - 2 were closed after initial enquiries with no further action;
 - 1 was closed as out of the jurisdiction of the LGSCO;
 - 1 was not upheld and no further action;
 - 1 was closed as it was premature as it had not been through the council's complaint procedures;
 - 1 was upheld with fault and injustice.
- iii. There was one case determined by the Housing Ombudsman Service (HOS) and their decision was severe maladministration with action and recommendations.
- iv. The CGT undertakes ongoing work with CMT, Directorate Management Teams as well as with individual service areas to ensure that we share learning opportunities across the

council and to identify areas for improvement from Ombudsmen cases.

- v. The HOS introduced their Complaint Handling Code in July 2020. You can find out more about this Code at [Complaint Handling Code - Housing Ombudsman \(housing-ombudsman.org.uk\)](https://housing-ombudsman.org.uk).
- vi. It sets out good practice that will allow landlords to respond to complaints effectively and fairly. There was overwhelming support for the Code when it was introduced, and the HOS updated it to strengthen provisions to support a positive complaint handling culture.
- vii. The council must carry out an annual assessment against the Code to ensure our complaint handling remains in line with its requirements and publish the results. We have recently completed this and it is published at [Housing Ombudsman Service - Complaint handling Code - Self Assessment form \(york.gov.uk\)](https://york.gov.uk).
- viii. The previous HOS self-assessment(s) are also available on the council website [Housing Ombudsman Service - Complaint handling Code - Self Assessment form \(york.gov.uk\)](https://york.gov.uk).

9. Covert surveillance training

- i. Following this training, information will be reported to this Committee as part of the Corporate Governance report on an annual basis, for your oversight. This will cover reporting period of April to March.

Consultation Analysis

- 10. No consultation was undertaken for this performance report. However, feedback from reports to CMT, meetings and discussions with managers informs this report.
- 11. Where required, internal and/or external consultation will be conducted to progress the work and actions required to comply

with the improvement plan in response to the ICO enforcement notice.

Risks and Mitigations

12. The council has a duty to comply with the various aspects of complaints, data protection, privacy, and information governance related legislation. Failing to comply with these can result in Regulators/Ombudsmen taking actions against the council such as reprimands, enforcement action, monetary fines, financial remedies for individuals. Often these decisions and actions are published on the Regulator or Ombudsman websites, and they can often do press statements. This can lead to reputational damage, reduce the council's overall effectiveness as well as a loss of trust in the council.
13. In some circumstances individual members of staff may be at risk of committing criminal offences for example if they knowingly or recklessly breach data protection legislation and compliance requirements or deliberately destroy, alter, or conceal a record after it has been requested, etc
15. As there is no personal data, special categories of personal data or criminal offence data being processed for this performance report, there is no requirement to complete a data protection impact assessment (DPIA) which has been evidenced by completion of DPIA screening questions. DPIAs are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK GDPR. Failure to conduct a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines.

Contact details

16. For further information please contact the authors of this Report.

Author

Name:	Lorraine Lunt
Job Title:	Information governance and feedback manager/DPO
Service Area:	Governance and Monitoring
Telephone:	01904 554145
Report approved:	Yes
Date:	26 October 2023

Background papers

None

Annexes

Annex 1 – Corporate Governance Performance Report – indicators 2022 2023

Annex 2 - Corporate Governance Performance Report – indicators 2023 2024

Annex 3 – ICO enforcement notice

Annex 4 – published improvement plan

Annex 5 – Ombudsmen decisions

Audit and Governance Committee 08/11/2023- Corporate Governance Performance Report - indicators								
		Previous Years			2022/2023			
		2019/2020	2020/2021	2021/2022	Q1	Q2	Q3	Q4
FOI01	FOI (Freedom of Information) - Total Requests Received - (YTD)	1,422	1,215	1,056	180	340	510	719
IG01j	Number of FOI reviews received	-	-	30	4	6	5	12
FOI01-03	EIR (Environmental Information Regulations) - Total Requests Received - (YTD)	487	647	625	161	309	419	572
IG01i	Number of EIR reviews received	-	-	19	7	1	5	6
FOI05	DP (Data Protection Act) / SAR (Subject Access Request) - Total Received - (YTD)	204	160	117	39	69	103	132
IG01p	Number of Rights of Individuals requests received	-	-	77	11	14	12	11
IG01o	Number of Requests for Information received	-	-	347	109	126	132	111
IG01l	Number of ICO cases received	-	-	22	3	2	2	1
FOI02	FOI (Freedom of Information) - Requests responded to In time - (YTD)	1,166	975	803	151	273	414	559
	FOI (Freedom of Information) - % Requests responded to In time - (YTD)	82.00%	80.25%	78.70%	85.31%	82.73%	83.13%	82.57%
FOI03	FOI (Freedom of Information) - Requests responded to Out of time - (YTD)	256	240	217	26	57	84	118
	FOI (Freedom of Information) - % Requests responded to Out of time - (YTD)	18.00%	19.75%	20.50%	14.69%	17.27%	16.87%	17.43%
IG14ja	% of FOI reviews responded to 'In Time'	-	-	78.57%	50.00%	100.00%	100.00%	100.00%
FOI02-03	EIR (Environmental Information Regulations) - Requests responded to In time - (YTD)	430	555	521	133	266	363	495

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	EIR (Environmental Information Regulations) - % Requests responded to In time - (YTD)	88.30%	85.78%	84.90%	83.13%	86.64%	87.68%	89.03%
FOI03-03	EIR (Environmental Information Regulations) - Requests responded to Out of time - (YTD)	57	92	93	27	41	51	61
	EIR (Environmental Information Regulations) - % Requests responded to Out of time - (YTD)	11.70%	14.22%	14.90%	16.88%	13.36%	12.32%	10.97%
IG14ia	% of EIR reviews responded to 'In Time'	-	-	83.33%	83.33%	100.00%	100.00%	100.00%
FOI05	DP (Data Protection Act) / SAR (Subject Access Request) - In time - (YTD)	157	120	75	24	43	68	85
	DP (Data Protection Act) / SAR (Subject Access Request) - % In time - (YTD)	76.96%	75.00%	72.10%	61.54%	62.32%	66.02%	64.39%
	DP (Data Protection Act) / SAR (Subject Access Request) - Out of time - (YTD)	47	40	37	14	25	32	39
	DP (Data Protection Act) / SAR (Subject Access Request) - % Out of time - (YTD)	29.94%	25.00%	35.60%	35.90%	36.23%	31.07%	29.55%
IG14pa	% of Rights of Individuals responded to 'In Time'	-	-	76.92%	90.00%	84.62%	54.55%	77.78%
IG14oa	% of Requests for Information responded to 'In Time'	-	-	98.98%	100.00%	98.29%	100.00%	99.00%
IG14la	% of ICO cases responded to 'In Time'	-	-	94.44%	100.00%	0.00%	100.00%	100.00%
IG01c	Number of Comments received	-	-	1,379	177	219	190	187
IG01d	Number of 4Cs Complaints received	-	-	1,368	556	652	368	290
IG01e	Number of Compliments received	-	-	239	67	60	65	87
IG01f	Number of Concerns received	-	-	6	1	1	1	0

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IG14ca	% of Comments responded to 'In Time'	-	-	74.55%	66.44%	71.35%	76.33%	78.71%
IG14da	% of 4Cs Complaints responded to 'In Time'	-	NC	84.15%	94.42%	95.34%	92.94%	95.24%
IG14ea	% of Compliments responded to 'In Time'	-	-	99.56%	100.00%	100.00%	100.00%	100.00%
IG14fa	% of Concerns responded to 'In Time'	-	-	0.00%	0.00%	0.00%	0.00%	0.00%
IG01a	Number of Adult Complaints received	-	-	43	8	10	11	8
IG08aa	Number of Adult Complaints assessed at Green	-	-	32	7	7	6	3
IG18ad	% of Adult Complaints: Upheld in Full	-	-	19.44%	50.00%	0.00%	28.57%	20.00%
IG14aa	% of Adult Complaints responded to 'In Time'	-	-	63.16%	75.00%	70.00%	36.36%	40.00%
IG01b	Number of Child Complaints received	-	-	45	13	9	14	13
IG10ba	Number of Child Complaints assessed at Grade 1	-	-	31	9	7	11	10
IG18bd	% of Child Complaints: Upheld in Full	-	-	12.50%	16.67%	25.00%	7.14%	25.00%
IG14ba	% of Child Complaints responded to 'In Time'	-	-	41.18%	50.00%	66.67%	85.71%	87.50%
IG01n	Number of LGSCO cases received	-	-	41	6	13	12	2
IG14na	% of LGSCO cases responded to 'In Time'	-	-	76.92%	83.33%	72.73%	90.00%	0.00%
IG01u	Number of Housing Ombudsman cases received	-	-	3	0	0	1	0
IG14ua	% of Housing Ombudsman cases responded to 'In Time'	-	-	100.00%	0.00%	0.00%	100.00%	0.00%
FOI01	FOI & EIR - Total Requests Received - (YTD)	1,909	1,862	1,685	341	649	929	1,291
FOI02	FOI & EIR - Requests responded to In time - (YTD)	1,596	1,530	1,326	284	539	777	1,054

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	FOI & EIR - % Requests responded to In time - (YTD)	83.60%	82.17%	81.20%	84.30%	84.60%	85.20%	85.50%
FOI03	FOI & EIR - Requests responded to Out of time - (YTD)	313	332	310	53	98	135	179
	FOI & EIR - % Requests responded to Out of time - (YTD)	16.39%	17.83%	19.00%	15.70%	15.40%	14.80%	14.50%

Audit and Governance Committee 08/11/2023- Corporate Governance Performance Report - indicators								
		Previous Years			2023/2024			
		2020/2021	2021/2022	2022/2023	Q1	Q2	Q3	Q4
FOI01	FOI (Freedom of Information) - Total Requests Received - (YTD)	1,215	1,056	719	189	428	-	-
IG01j	Number of FOI reviews received	-	30	27	7	9	-	-
FOI01-03	EIR (Environmental Information Regulations) - Total Requests Received - (YTD)	647	625	572	186	377	-	-
IG01i	Number of EIR reviews received	-	19	19	6	3	-	-
FOI05	DP (Data Protection Act) / SAR (Subject Access Request) - Total Received - (YTD)	160	117	132	38	71	-	-
IG01p	Number of Rights of Individuals requests received	-	77	48	8	7	-	-
IG01o	Number of Requests for Information received	-	347	478	103	87	-	-
IG01l	Number of ICO cases received	-	22	8	0	2	-	-
FOI02	FOI (Freedom of Information) - Requests responded to In time - (YTD)	975	803	559	124	297	-	-
	FOI (Freedom of Information) - % Requests responded to In time - (YTD)	80.25%	78.70%	82.57%	82.67%	87.61%	-	-
FOI03	FOI (Freedom of Information) - Requests responded to Out of time - (YTD)	240	217	118	26	42	-	-
	FOI (Freedom of Information) - % Requests responded to Out of time - (YTD)	19.75%	20.50%	17.43%	17.33%	12.39%	-	-
IG14ja	% of FOI reviews responded to 'In Time'	-	78.57%	92.00%	100.00%	100.00%	-	-
FOI02-03	EIR (Environmental Information Regulations) - Requests responded to In time - (YTD)	555	521	495	169	336	-	-

	EIR (Environmental Information Regulations) - % Requests responded to In time - (YTD)	85.78%	84.90%	89.03%	94.94%	97.11%	-	-
FOI03-03	EIR (Environmental Information Regulations) - Requests responded to Out of time - (YTD)	92	93	61	9	10	-	-
	EIR (Environmental Information Regulations) - % Requests responded to Out of time - (YTD)	14.22%	14.90%	10.97%	5.06%	2.89%	-	-
IG14ia	% of EIR reviews responded to 'In Time'	-	83.33%	94.44%	100.00%	100.00%	-	-
FOI05	DP (Data Protection Act) / SAR (Subject Access Request) - In time - (YTD)	120	75	85	23	42	-	-
	DP (Data Protection Act) / SAR (Subject Access Request) - % In time - (YTD)	75.00%	72.10%	64.39%	60.53%	59.15%	-	-
	DP (Data Protection Act) / SAR (Subject Access Request) - Out of time - (YTD)	40	37	39	7	9	-	-
	DP (Data Protection Act) / SAR (Subject Access Request) - % Out of time - (YTD)	25.00%	35.60%	29.55%	18.42%	12.68%	-	-
IG14pa	% of Rights of Individuals responded to 'In Time'	-	76.92%	76.74%	66.67%	100.00%	-	-
IG14oa	% of Requests for Information responded to 'In Time'	-	98.98%	99.31%	98.89%	100.00%	-	-
IG14la	% of ICO cases responded to 'In Time'	-	94.44%	75.00%	0.00%	50.00%	-	-
IG01c	Number of Comments received	-	1,379	773	262	202	-	-
IG01d	Number of 4Cs Complaints received	-	1,368	1,866	480	364	-	-
IG01e	Number of Compliments received	-	239	279	84	55	-	-
IG01f	Number of Concerns received	-	6	3	1	0	-	-
IG14ca	% of Comments responded to 'In Time'	-	74.55%	73.26%	72.86%	93.75%	-	-
IG14da	% of 4Cs Complaints responded to 'In Time'	NC	84.15%	94.56%	96.12%	93.26%	-	-

IG14ea	% of Compliments responded to 'In Time'	-	99.56%	100.00%	100.00%	100.00%	-	-
IG14fa	% of Concerns responded to 'In Time'	-	0.00%	0.00%	0.00%	0.00%	-	-
IG01a	Number of Adult Complaints received	-	43	37	11	6	-	-
IG08aa	Number of Adult Complaints assessed at Green	-	32	23	8	2	-	-
IG18ad	% of Adult Complaints: Upheld in Full	-	19.44%	25.00%	50.00%	0.00%	-	-
IG14aa	% of Adult Complaints responded to 'In Time'	-	63.16%	55.88%	50.00%	100.00%	-	-
IG01b	Number of Child Complaints received	-	45	49	11	6	-	-
IG10ba	Number of Child Complaints assessed at Grade 1	-	31	37	10	4	-	-
IG18bd	% of Child Complaints: Upheld in Full	-	12.50%	16.67%	25.00%	33.33%	-	-
IG14ba	% of Child Complaints responded to 'In Time'	-	41.18%	72.09%	88.89%	100.00%	-	-
IG01n	Number of LGSCO cases received	-	41	33	4	4	-	-
IG14na	% of LGSCO cases responded to 'In Time'	-	76.92%	81.48%	100.00%	66.67%	-	-
IG01u	Number of Housing Ombudsman cases received	-	3	1	1	3	-	-
IG14ua	% of Housing Ombudsman cases responded to 'In Time'	-	100.00%	100.00%	100.00%	0.00%	-	-
FOI01	FOI & EIR - Total Requests Received - (YTD)	1,862	1,685	1,291	375	805	-	-
FOI02	FOI & EIR - Requests responded to In time - (YTD)	1,530	1,326	1,054	293	633	-	-
	FOI & EIR - % Requests responded to In time - (YTD)	82.17%	81.20%	85.50%	89.30%	92.40%	-	-
FOI03	FOI & EIR - Requests responded to Out of time - (YTD)	332	310	179	35	52	-	-
	FOI & EIR - % Requests responded to Out of time - (YTD)	17.83%	19.00%	14.50%	10.70%	7.60%	-	-

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**FREEDOM OF INFORMATION ACT 2000 (SECTION 52)
ENFORCEMENT POWERS OF THE INFORMATION COMMISSIONER
ENFORCEMENT NOTICE**

DATED: 13 September 2023

To: City of York Council

**Of: West Offices
Station Rise
York
YO1 6GA**

1. The City of York Council (The "**Council**") is a "public authority" listed in [Schedule 1] and defined by section 3(1)(a)(i) of the Freedom of Information Act 2000 ("**FOIA**"). FOIA provides public access to information held by public authorities.
2. The Information Commissioner (the "**Commissioner**") hereby issues the Council with an Enforcement Notice (the "**Notice**") under section 52 FOIA. The Notice is in relation to the Council's:
 - a. continuing non-compliance with section 1(1) of FOIA;
 - b. continuing breach of section 10(1) of FOIA.
3. This Notice explains the Commissioner's decision to take enforcement action. The specific steps that the Council is required to take are set out in **Annex 1**.

Legal Framework for this Notice

4. A person requesting information from a public authority has a right, subject to exemptions, to be informed by the public authority in writing whether it holds the information, and to have that communicated to them, if the public authority holds it. This is set out in section 1(1) FOIA–

"(1) Any person making a request for information to a public authority is entitled –

(a) to be informed in writing by the public authority whether it holds information of the description specified in the request, and

(b) if that is the case, to have that information communicated to him."

5. Section 10(1) FOIA specifies that public authorities must respond to requests within 20 working days:

"... a public authority must comply with section 1(1) promptly and in any event not later than the twentieth working day following receipt."

6. There is provision under FOIA for a public authority to claim a reasonable extension to this limit in certain limited circumstances. The code of practice issued under section 45 of FOIA recommends that, where those limited circumstances apply, an extension should be for a maximum of a further 20 working days. In all cases, the public authority must give the requester a written response within the standard time limit for compliance advising of reliance on the permitted extension.

Reference: ENF0988350

7. The Commissioner has various powers under FOIA. One of these is the issuing of an Enforcement Notice. Section 52(1) of FOIA states –

"If the Commissioner is satisfied that a public authority has failed to comply with any of the requirements of Part I, the Commissioner may serve the authority with a notice (in this Act referred to as an "enforcement notice") requiring the authority to take within such time as may be specified in the notice, such steps as may be so specified for complying with those requirements."

Background

8. The Commissioner became aware of the Council's poor FOI compliance performance when his representative made contact with it prior to August 2023. In August 2023 the Council provided the Commissioner with statistics which raised concerns about requests which it had not yet responded to which it had received prior to and during 2023.

9. The Council stated that it met the time requirements for responding to requests in 85.5% of requests received between January 2023 and June 2023.

10. It also specified that it has a significant backlog of overdue requests which have yet to be responded to, and that within this were a significant number of requests which were severely delayed. This raises concerns both in terms of the timeliness of its responses, and in the overall numbers of requests which have not yet been responded to:

- The Council stated that it has not yet responded to 96 requests received between April to December 2021.

Reference: ENF0988350

- It further stated that it has not yet responded to 102 requests received during 2022.
- The Council also stated that it has not yet responded to 63 requests received between January and August 2023.

The Contravention and Reasons for this Notice

11. FOIA requires a public authority to inform people whether it holds information they have requested and to communicate it to them within 20 working days of receipt of their request.

12. Taking into account the significant volume of unanswered requests, their age profile including many requests subject to severe delay, and the need for significant and sustained improvement in timely responses, the Commissioner considers it a proportionate regulatory step to issue an Enforcement Notice to the Council.

13. The Council contacted the Commissioner on 8 September 2023 to confirm that it is in the process of addressing the backlog of requests. It confirmed that it has responded to 49 of the remaining 261 requests and stated its intention to clear its entire backlog of unanswered requests by the end of October 2023. **Whilst the Commissioner acknowledges the work carried out by the Council, it is essential that the improvements that the Council has already achieved since the initial contact with the ICO are sustained.** The Commissioner therefore considers it appropriate to issue this Notice in order to formalise its steps to clear its backlog within an appropriate time limit.

14. This Notice requires the Council to comply with section 1(1) of FOIA in respect of each FOI request, where the response is outside of 20

Reference: ENF0988350

working days at the date of this Notice, and where a permitted extension of a maximum of a further 20 working days has not been applied.

15. The Commissioner also considers it a proportionate regulatory step to require the Council to devise and publish an action plan, which formalises measures to mitigate delays in responding to the requests it receives, in line with statutory requirements. This action plan should be supported by a 'lessons learned' exercise, which examines the root cause of delays to responding to information requests, from allocation through to clearance at different stages, with mitigations for any recurring problems addressed specifically in the plan.

16. The Commissioner also considers that the Council may benefit from using his self-assessment toolkit which is designed to help public authorities assess their current FOI performance and provide indicators of where efforts should be focused in order to improve. Topic 1 is particularly relevant as it deals with timeliness.

Terms of this Notice

17. The Commissioner therefore exercises his powers under section 52 of FOIA to serve an Enforcement Notice requiring the City of York Council to take specified steps to comply with the requirements of Part 1 of FOIA. The specified steps are set out in **Annex 1** of this Notice.

Reference: ENF0988350

18. The consequence of failing to comply with an Enforcement Notice is that the Commissioner may make written certification of this fact to the High Court pursuant to section 54 of FOIA. Upon consideration and inquiry by the High Court, City of York Council may be dealt with as if it had committed a contempt of court.

Reference: ENF0988350

Right of Appeal

19. By virtue of section 57 of FOIA there is a right of appeal against this Notice to the First-tier Tribunal (Information Rights). If an appeal is brought against this Notice, it need not be complied with pending determination or withdrawal of that appeal.

20. Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals,
PO Box 9300,
LEICESTER,
LE1 8DJ

Tel: 0203 9368963

Email: GRC@justice.gov.uk

Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

21. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this Enforcement Notice is sent.



Phillip Angell
Head of FOI Casework
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow

Reference: ENF0988350

Cheshire

SK9 5AF

Annex 1

TERMS OF THE ENFORCEMENT NOTICE

THIS NOTICE REQUIRES CITY OF YORK COUNCIL TO TAKE THE FOLLOWING STEPS BY NO LATER THAN SIX MONTHS FROM THE DATE OF THIS NOTICE:

- (i) In respect of each information request where the response is outside of 20 working days as at the date of this notice, and where a permitted extension has not been applied, to comply with section 1(1)(a) of FOIA and, if information of the description specified in the request is held, either:
- (ii) communicate it pursuant to section 1(1)(b) FOIA; or issue a valid refusal notice under section 17 FOIA, unless section 17(6) FOIA applies.

THIS NOTICE FURTHER REQUIRES CITY OF YORK COUNCIL TO TAKE THE FOLLOWING STEP BY NO LATER THAN 35 CALENDAR DAYS FROM THE DATE OF THIS NOTICE:

- (iii) Devise and publish an action plan formalising the measures it will take to ensure it complies with its legal duties under Part 1 of FOIA to respond to information requests in a timely fashion, while also clearing its backlog of late requests as required by this notice.

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City of York Council Freedom of Information (FOI) and Environmental Information Regulation (EIR) Improvement Plan

The main objectives of the improvement plan are to:

- address volume of FOI/EIR with no responses
- improve the rate of responses within statutory time scales

Governance

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Council Management Team renew commitment to FOI/EIR compliance across the council including swift action where there's identified blockers and bottlenecks.	Issue commitment statement. Emails sent by Chief Operating Officer. Council Management Team report.	High	Council Management Team	24/08/2023	13/09/2023	Not applicable	Action Completed - solution in place.
There is governance oversight in place to ensure compliance with FOI/EIR.	Governance Risk and Assurance Group (GRAG) 6 weekly meetings. Regular report to Council Management Team starting 25/10/2023.	High	Director of Governance	13/09/2023	Ongoing	Not applicable	Action Completed - solution in place.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Responsibility has been assigned to ensure compliance with FOI/EIR.	Corporate Governance Team (CGT) responsibilities will be reviewed. Responsibilities will be reviewed across directorates.	High	Director of Governance	13/09/2023	30/11/2023	-	Solution in place but improvements are required.
Sufficient resources are assigned to the handling of requests for information to ensure response within the statutory timescales.	Corporate Governance Team structure will be reviewed. Resources will be reviewed across directorates.	High	Director of Governance	13/09/2023	30/11/2023	-	Solution in place but improvements are required.

Processes and procedures

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Processes and procedures are in place which explain the council's approach to, and responsibilities for, FOI and EIR.	FOI/EIR handling procedure will be reviewed. This will continue to be monitored and reported to Governance Risk and Assurance Group (GRAG), Council Management Team and Audit and Governance Committee.	High	Director of Governance	13/09/2023	29/09/2023	29/09/2023	Action Completed - solution in place.
Processes and procedures are easily accessible by staff.	Updated and approved procedures will be made available to all staff via the corporate Intranet.	High	Director of Governance	13/09/2023	30/11/2023	-	Solution in place but improvements are required.
Processes and procedures are easily accessible by customers.	Updated and approved procedures are available to all customers via the council website.	High	Director of Governance	13/09/2023	29/09/2023	29/09/2023	Action Completed - solution in place.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
The council ensures that staff are informed of any changes to processes and procedures regarding FOI/EIR.	Communications are cascaded via the 'Leading Together' Group, training and additional communication via other all staff methods.	Medium	Director of Governance	13/09/2023	Ongoing	Not applicable	Action Completed - solution in place.
Staff know who to contact for advice or assistance regarding processes and procedures for FOI/EIR.	Published on the Intranet and Council website. Any changes will be communicated in a timely manner.	Medium	Director of Governance	13/09/2023	Ongoing	Not applicable	Action Completed - solution in place.
Processes and procedures for FOI/EIR account for personal information and how it should be dealt with.	FOI/EIR handling procedure review. This will continue to be monitored.	Medium	Director of Governance	13/09/2023	30/11/2023	-	Solution in place but improvements are required.

Compliance and assurance

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
There are reporting mechanisms in place to provide oversight of requests and ensure that statutory deadlines are met.	Real time compliance reporting is available for monitoring through KPI machine. Review of automated reports and distribution to be completed. Ongoing monitoring will be provided through reports to Governance Risk and Assurance Group, Council Management Team and Audit and Governance committee has been completed and will continue to be monitored.	Medium	Director of Governance	13/09/2023	30/11/2023	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
There are mechanisms to monitor the quality of responses to requests and ensure that any reasons for refusal/application of exemptions or exceptions are valid.	Current quality monitoring process of responses will be reviewed to ensure that exemptions or exceptions valid. This will include review of previous internal audit recommendations.	Medium	Director of Governance	13/09/2023	29/12/2023	-	Solution in place but improvements are required.
Contracts with third parties do not restrict the release of information that should be available to the public and provide for access to information, by the public authority, when needed.	Review and update current contracts and agreements clauses that mean third parties must support the council when responding to requests for information.	Low	Director of Governance	13/09/2023	29/12/2023	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Documented governance arrangements exist where the authority works in partnership with other organisations in relation to the handling of requests and/or the management of records.	Information Sharing Arrangements are in place and include relevant clauses about supporting the council when responding to requests for information.	Low	Director of Governance	13/09/2023	29/12/2023	-	Solution in place but improvements are required.
The council has cleared the FOI/EIR overdue backlog.	Backlog is being reduced.	High	Council Management Team and/or Director of Governance	24/08/2023	27/10/2023	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
The council is complying with statutory timescales for FOI/EIR.	Corporate priority that time scales are adhered to. Ongoing monitoring will be provided through reports to Governance Risk and Assurance Group, Council Management Team and Audit and Governance committee has been completed and will continue to be monitored. Live monitoring via Key Performance Indicators. Focused targeting at areas continuing to not meet necessary timescales.	High	Council Management Team and/or Director of Governance	24/08/2023	ongoing	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Internal review procedures comply with the relevant Codes of Practice and ensure that timely responses are provided to complaints.	Procedures for internal review will be reviewed to ensure the council follows best practice. This will continue to be monitored and reported to Governance Risk and Assurance Group, Council Management Team and Audit and Governance Committee.	High	Director of Governance	13/09/2023	30/11/2023	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Exemptions/Exceptions should be applied on a case-by-case basis, by appropriately trained staff, with no evidence of the use of blanket exemptions.	<p>Corporate Governance Team undertake refresher training as overall specialists.</p> <p>Continue to keep skills up to date and undertake refresher training where gaps are identified.</p> <p>Service Areas given awareness training to apply exemptions relevant to their information.</p> <p>Obtaining further advice from the Corporate Governance Team when required.</p>	Medium	Director of Governance	13/09/2023	29/12/2023	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
There is evidence of an oversight or approval process for the use of exemptions or exceptions.	Review of Corporate Governance Team Structure and procedures will address any identified gap. Current quality monitoring process of responses will be reviewed to ensure that exemptions or exceptions valid. This will include review of previous internal audit recommendations.	Low	Director of Governance	13/09/2023	29/12/2023	-	Solution in place but improvements are required.
Redactions should be applied on a case-by-case basis, by appropriately trained staff, and records should be maintained of what has been redacted.	Redaction software and procedures for using it, is available to teams requiring them. Advice and support on what to redact provided by Corporate Governance Team.	Low	Director of Governance	24/08/2023	29/09/2023	29/09/2023	Action Completed - solution in place.

Training and awareness

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
There is an induction training programme, with input from Corporate Governance Team, Workforce Development Unit etc which includes general training on how FOI/EIR applies to the council, what they currently do to comply, and how to recognise an FOI/EIR request.	Review training materials and training requirements and ensure this is included in the Induction Package.	Medium	Director of Governance	13/09/2023	29/12/2023	-	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
<p>Staff receive refresher training in the requirements of FOI/EIR, including, where appropriate, updates from the relevant decisions of the ICO and the Information Tribunal.</p>	<p>Link to guidance included with all requests sent to service areas. Guidance and specific advice provided by Corporate Governance Team.</p>	<p>Medium</p>	<p>Director of Governance</p>	<p>13/09/2023</p>	<p>Ongoing</p>	<p>Not applicable</p>	<p>Solution in place but improvements are required.</p>

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
There is specific training for staff with responsibility for handling requests for information, on FOI, EIR and Codes of Practice.	Corporate Governance Team to complete ICO FOI/EIR online training. Continue to refresh Corporate Governance Team skills where gaps are identified during review of Corporate Governance Team structure and appropriate training provided with ongoing mentoring. Service Areas will be given ongoing awareness training to apply exemptions relevant to their information. Obtaining further advice and guidance will continue to be provided to service areas from the Corporate Governance Team.	Medium	Director of Governance	13/09/2023	Ongoing	Not applicable	Solution in place but improvements are required.

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
<p>Records are maintained by Corporate Governance Team and Workforce Development Unit of the FOI/EIR training received by staff. These records are monitored to ensure that all staff receive or attend all relevant training.</p>	<p>Review of training material will include modules on a platform that allows training to be monitored.</p>	<p>Medium</p>	<p>Director of Governance</p>	<p>13/09/2023</p>	<p>Ongoing</p>	<p>Not applicable</p>	<p>Solution in place but improvements are required.</p>

Statement	Actions	Priority	Owner	Start date	Target implementation date	Date last reviewed	Status
Staff receive regular reminders of how to recognise FOI/EIR requests.	Review of procedures includes a requirement for Corporate Governance Team to arrange regular communications about recognising request.	Low	Director of Governance	13/09/2023	Ongoing	Not applicable	Solution in place but improvements are required.

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Audit and Governance Committee 08/11/2023 – Corporate Governance Report – Ombudsmen decisions

LGSCO or HOS Ref Directorate Service Area Date of final decision	LGSCO Or HOS Outcome	Summary of Final Decision	Actions (as list with dates for completion)	Date Actions Complete (as corresponding list)
22018188 LGSCO Place Highways 11/02/2023	Closed after initial enquiries – no further action	We will not investigate this complaint about the Council's refusal to ensure a hedge overgrowing the highway is cut back. The Council has provided evidence the hedge is due to be cut back within four weeks of this decision statement. Further investigation will not lead to a different outcome.	na	na
22015115 LGSCO Place Housing Registrations 18/07/23	Upheld: fault and injustice	confidential - decision will not be published due to risk of identification	By the 18/08/23 1. Send a written apology 2. Make a payment of £300 to acknowledge the distress and uncertainty caused by its failure to record information relating to risk when allocating properties. By the 18th September 3. Review record keeping procedures to ensure appropriate guidance and reminders are sent to relevant staff to ensure the council updates information about risks, to ensure the council is aware of risks when properties are offered and avoids offering properties in areas where the applicant would be placed at risk.	1. 02/08/23 2. 02/08/23
23005471 LGSCO Place Highways 20/07/23	Closed after initial enquiries – out of jurisdiction	We will not investigate Mr B's complaint that his property is being damaged due to the Council's failure to maintain the road outside his home. This is because it is reasonable for Mr B to take the Council to court, which is in the best position to decide the matter.	na	na

23003984 LGSCO Children's & Education SEND 22/08/23	Closed after initial enquiries – no further action	We will not investigate this complaint about the Education Health and Care Plan process when the complainant moved into the Council's area. This is because the claimed injustice is not significant enough to warrant an investigation.	n.a	n.a
23002741 LGSCO Place Planning Enforcement 04/0923	Not upheld: no further action	Mr X complained about the Council's actions when it served a planning enforcement notice on his son, a minor. We will not investigate this complaint further. This is because there is ongoing enforcement action. Mr X can raise his concerns about service of the enforcement notice with the court, should it go that far.	n.a	n.a
23005908 LGSCO Corporate Services Council Tax 05/09/23	Premature	We will not pursue the complaint because it has not yet been through your own complaints procedures	29.9.23 Respond to complaint	na

<p>202211429 HOS Place Housing maintenance & repair 18/9/23</p>	<p>Severe mal- administration</p>	<p>1. Apologise to the resident for the failures identified in this investigation. 2. Pay a total of £4900 compensation. This is made up of the following amounts: c. £3,000 to acknowledge the distress caused to the resident by the delays in completing the identified repairs for over a year. i. £1500 to acknowledge the distress caused to the resident by the landlord's handing of the temporary decant. ii. £400 to acknowledge the impact of the complaint handling failures on the resident. 3. Ensure that its records for the resident, including her vulnerabilities are accurate. 4. Review its processes to ensure that complaints and repair issues are properly logged and responded to. 5. Review its complaints policy in line with the complaint handling code. 6. If not already done so, provide a paper copy of its guidance on preventing condensation, damp and mould to the resident.</p> <p>Recommendations 7. It is recommended that the landlord consider whether it would benefit from a damp and mould policy in line with the spotlight report. 8. It is recommended that the landlord consider whether it would benefit from a decant policy.</p>	<p>All points by 16/10/23 The HOS has agreed to an extension to 30/10/23 for all actions</p>	
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Audit and Governance Committee**8 November 2023**

Report of the Director of Governance

Report of the Monitoring Officer on suggested Constitutional Changes**Summary**

1. To provide the first tranche of suggested constitutional changes to the committee for consideration and discussion.

Background

2. Members will recall that, at its meeting on 19 July 2023, the Monitoring Officer indicated that a review of the Constitution was underway, and that the first tranche of suggested change would be brought to the Committee for its consideration and discussion.
3. As indicated on 19 July, the first elements of the Constitution to be considered are the Council Procedure Rules (Appendix 3) and the Public Participation Protocol (Appendix 8).
4. The proposed changes have been developed through examination of other Constitutions, together with suggestions made by other Members and the Independent Person. They are attached as annexes (in tracked and clean formats; odd numbered annexes are tracked, even numbered annexes are clean) to this report and cover the following:
 - a. Annexes 1 and 2 relate to the Council Procedure Rules;
 - b. Annexes 3 and 4 relate to the Public Participation Protocol;
 - c. Annexes 5 and 6 relate to the Staffing Matters and Urgency Committee scope of operation and terms of reference;
 - d. Annexes 7 and 8 relate to the Officer Employment Procedure Rules; and
 - e. Annexes 9 and 10 relate to the Contract Standing Orders.
5. Key changes over the current constitution are:

Public Participation

- An amendment to the public participation section, to clarify that requests to participate can't be submitted before the papers are published for a meeting;

Meetings

- Meeting lengths will be cut to 2 hours and 30 minutes, with a guillotine warning 10 minutes before the cut off, and unfinished business will be dealt with as at present (i.e., taken to have been moved and seconded, and voted on without debate);
- The order of business has been switched around, so that business reports are dealt with earlier in the agenda, and the various Deputy Leader/Executive Member report items and the general 'question session' for the Executive have been replaced with an extended question session for the Leader's Report, allowing questions to all Executive Members in a single session, with one supplementary rather than three;
- The Leader's Report will cover the work of the whole Executive, and there will then be a 30-minute question session in respect of any member of the Executive;

Motions

- The number of motions per ordinary meeting will be cut from four to two, and a word limit of 500 words will be imposed;
- Motions, and amendments, will need to provide details of both their financial and legal implications, need to be submitted 11 working days before the meeting, to ensure that all the implications are assessed, and fall within the clarified scope about what motions can and can't cover;

Other

- Greater clarity on changes in Leadership and what happens if no clear Leader emerges; and
- A clear process for budget amendments.

SMU / OEPR

- Clarity is provided in relation to the key posts which SMU will be directly involved in the recruitment of; and
- Clarity is provided in relation to those posts subject to specific disciplinary procedures.

CPR

- Contract procedure rules have been updated to provide enhanced compliance measures, reinforced Procurement and Legal's position, and streamlined our processes.
6. The reduction in the length of the meeting will be facilitated by the reduction in the number of motions to be discussed, together with the rationalisation of the reports and question sessions. This will provide a more focused meeting, and a more inclusive and family-friendly approach for Members, Officers, and the public.

Implications

Financial – None directly arising from this report.

Human Resources (HR) – None directly arising from this report.

Equalities – None directly arising from this report.

Legal – None directly arising from this report.

Crime and Disorder, Information Technology and Property – None directly arising from this report.

Recommendations

7. It is recommended that Members:
- a) consider the proposed constitutional changes;
 - b) endorse the proposed constitutional changes for onward transmission to Council, subject to any amendments the committee suggests; and
 - c) provide any further suggested topics for Constitutional amendments.

Reasons for the Recommendation

8. To allow the Committee to consider the proposed Constitutional changes, propose such amendments as the Committee considers necessary, and endorse their onward transmission to Council for final approval.

Options

9. Members may choose to agree with the proposed Constitutional changes, or to agree them with amendments, and to endorse them

for onward transmission to Council; or to not endorse the proposed changes.

Author and Chief Officer responsible for the report: Bryn Roberts, Director of Governance and Monitoring Officer

Report Approved

Date 16 October 2023

Wards Affected: List wards or tick box to indicate all

All

For further information please contact the author of the report

Background Papers:

- None

Annexes:

- Annex 1 – Council Procedure Rules – Tracked Version
- Annex 2 – Council Procedure Rules – Clean Version
- Annex 3 – Public Participation Protocol – Tracked Version
- Annex 4 – Public Participation Protocol – Clean Version
- Annex 5 – Staffing Matters and Urgency Committee ToR – Tracked Version
- Annex 6 – Staffing Matters and Urgency Committee ToR – Clean Version
- Annex 7 – Officer Employment Procedure Rules – Tracked Version
- Annex 8 – Officer Employment Procedure Rules – Clean Version
- Annex 9 – Contract Procedure Rules – Tracked Version
- Annex 10 – Contract Procedure Rules – Clean Version

Appendix 3 – Full Council Procedure Rules

Introduction

1 Full Council

- 1.1 The Full Council (“the Full Council”) is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council’s budget and Council Tax and approving a number of key plans and strategies (“The Policy Framework”). In law, all functions of the authority are deemed to be Executive functions unless reserved to the Full Council is responsible for all of the functions which are not the responsibility of the Executive. It will carry out some functions itself, but others will be delegated to Committees or named Officers. Further details of the functions which Full Council has delegated are set out in Appendix 1 of this ~~Constitution~~Constitution.

2 The Policy Framework

- 2.1 The Policy Framework means the following plans and strategies:

Partnership and Community Plans:

- a) 10 Year City Plan
- b) Health and Wellbeing Strategy
- c) Children and Young People’s Plan
- d) Corporate Parenting Strategy
- e) Youth Justice Plan
- f) Community Safety Strategy
- g) Joint Waste Strategy
- h) Climate Change Strategy
- i) Annual Library Plan
- j) Food Law Enforcement Service Plan

Full Council:

- a) Council Plan or its equivalent
- b) Local Plan documents
- c) Local Transport Plan

- d) Statement of Licensing Policy under Licensing Act 2003
- e) Gambling Act Licensing policy
- f) Medium Term Financial Strategy
- g) Treasury Management Plan

3 Functions of the Full Council

3.1 The functions reserved to Full Council are:

- a) To approve, adopt amend, monitor and-/or review the plans, strategies and policies which together make up the Council's Policy Framework
- b) Determine and amend the Council's Revenue and Capital budgets, including the initial allocations of financial resources to different services and projects, proposed contingency funds, proposed precepts, setting the Council Tax and decisions relating to the Council's borrowing requirement and the control of its capital expenditure.
- c) Approve the Treasury Management Strategy.
- d) Approve expenditure that falls outside the Council's total annual budget.
- e) Take any decision, which is contrary to the approved Policy Framework and/or the approved Budget.
- f) Appoint and remove the Leader.
- g) Decide the composition of Committees and sub-committees of Full Council and make appointments including co-opted members to them and other non-Executive bodies (except in the case of ~~ad-ad~~-hoc scrutiny ~~subSub-committees~~ Committees which will be determined by the ~~Customer &~~ Corporate Services, Climate Change and Scrutiny Management Committee ~~)~~ respectively.

-
- h) Appoint representatives to outside bodies, unless the appointment is one that must by law be made by the Executive in relation to its functions or has been delegated by the Council.
 - i) Make and, ~~subject to the provisions of Article 25 of this Constitution,~~ amend this Constitution, Standing Orders, Financial Regulations, and Contract Procedure Rules ~~in relation to contracts~~.
 - j) Change the name of the City or of a Parish.
 - k) Elect a Lord Mayor, Deputy Lord Mayor, and Sheriff, and exercise related functions.
 - l) Confer the title of the Honorary Alderman, Honorary Recorder, and Honorary Freeman, and grant the Freedom of the City.
 - m) Promote or oppose local or personal bills.
 - n) Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.
 - o) Make, amend, revoke or re-enact Byelaws.
 - p) Make orders for grouping parishes, dissolving groups of parishes, and separating parishes from groups.
 - q) Dissolve small parishes.
 - r) Carry out functions in relation to parishes and Parish Councils under Part 11 of the Local Government and Rating Act 1997 and subordinate legislation under that Part.
 - s) Fill Council or Parish Council vacancies in the event of insufficient nominations.
 - t) Submit proposals to the Secretary of State for an Order under Section 10 of the Representation of the People Act 2000 (pilot schemes for local elections).

- u) Appoint the ~~Chief Operating Officer (or equivalent)~~ (Head of Paid Service₁) and designate officers or roles as the Monitoring Officer, the Chief Finance Officer₁ and Proper Officers under the relevant legislation, except to the extent that the power to designate Proper Officers has been otherwise delegated in this ~~Constitution~~Constitution.
- v) Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council, its Committees, ~~sub~~Sub-Committees and other bodies.
- w) Take decisions and/or give advice on matters brought to the Council by the Executive and other bodies or persons.
- x) Carry out any other functions reserved by law or by this ~~Constitution~~Constitution to Full Council, including those “local choice” functions reserved to Full Council under this part of the ~~Constitution~~Constitution.

4 Chairing the Council

- 4.1 The Lord Mayor will preside at meetings of the Full Council. In the absence of the Lord Mayor₁, the Deputy Lord Mayor will preside. In the absence of both, ~~then~~ the Council will elect a Member to preside for that meeting. Any powers or duties of the Lord Mayor, as Chair, in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.
- 4.2 The Lord Mayor will cease to be Lord Mayor if they resign, ~~is~~are dismissed by a vote of Council, ~~ceases~~ to be a Member of the Council, or ~~is~~are unable to act as a Member of the Council. They will continue to act as Lord Mayor (whether or not remaining a Councillor) after an election until their successor has been appointed. If the Lord Mayor is no longer a Councillor₁, they may not vote other than to exercise a casting vote.
- 4.3 The Lord Mayor shall:

-
- a) uphold and promote the purpose of the ~~Constitution~~Constitution, and interpret the ~~Constitution~~Constitution when necessary, in consultation with the Monitoring Officer;
 - b) preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the local community;
 - c) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at which Members who are not on the Executive are able to hold the ~~Executive~~Executive and Committee Chairs to account;
 - d) promote public involvement in the Council's activities.

4.4 The ruling of the Lord Mayor, as to the construction or application of any of these Rules, will be final. In the event that a circumstance arises that is not covered by the Council Procedure Rules, the ruling of the Lord Mayor shall be final. In the event that circumstances arise outside the meeting which would ordinarily require a decision of, or action by, the Lord Mayor, the Lord Mayor is enabled to take such action as they consider appropriate.

5 Full Council Meetings

5.1 Meetings of Full Council are business meetings, where the Full Council transacts its essential business. Whilst there are three 'types' of Full Council meeting, this Constitution will list "Budget Council" as a fourth meeting type due to the different Procedure Rules to be followed:

- a) The Annual Meeting;
- b) The Budget Council;
- c) Ordinary Meetings;
- d) Extraordinary Meetings.

6 Rules of Procedure and Debate

6.1 These Council Procedure Rules will apply to all meetings of the Full Council unless expressly stated otherwise.

7 Notice of and Summons to Meetings

7.1 The ~~Chief Operating Officer~~ Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Appendix 7 of this ~~Constitution~~ Constitution.

7.2 At least five working days before a meeting, the ~~Chief Operating Officer~~ Head of Paid Service will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by such reports as are available.

8 Quorum

8.1 The quorum for all meetings of the Full Council is one quarter of the whole number of Members of the Council.

8.2 If at any time during the meeting of the Full Council, the Lord Mayor declares there is not a quorum present, the meeting stands adjourned. The consideration of any business not transacted will be deferred to a time fixed by the Lord Mayor at the time the meeting is adjourned, or if the Lord Mayor does not fix a time, to the next ordinary meeting of the Full Council.

9 Duration of Meetings

9.1 All Ordinary Meetings, Budget Council and Extraordinary Meetings will finish ~~3-2~~ hours and ~~40-30~~ minutes after the start time of the meeting, unless extended by agreement of the Council. The ~~3-2~~ hours and ~~40-30~~ minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor. For clarity, this rule does not apply to Annual Council ~~and Extraordinary meetings of Council~~.

9.2 The Lord Mayor will remind Council when ~~three-2~~ hours and ~~30-20~~ minutes have elapsed ("the guillotine warning").

9.3 A motion to extend the meeting which has been duly proposed and seconded, before the allocated time has elapsed shall be put to the vote without debate, and if approved by Council the meeting shall continue for no more than 30 additional minutes.

9.4 Once the guillotine warning is reached, aAll outstanding items of business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

10 Public Participation

10.1 The Public Participation ~~Rules/~~Protocol is set out at Appendix 8 of this ~~Constitution~~ Constitution.

10.2 The time spent on this item shall not, ~~except at the discretion of the Lord Mayor,~~ exceed 30 minutes.

10.3 Public participation applies to Ordinary meetings, ~~budget council and extraordinary meetings only.~~

10.4 A person living or working within the District ~~Any member of the public~~ shall be entitled to address ~~make a statement to~~ the Council ~~for up to 3 minutes~~ or to ask a question ~~any Member of the Council's Leader or any Executive Member,~~ ~~for up to 3 minutes~~ a question. ~~The time for asking a~~

10.5 In order to exercise this right prior notice must be given to the Head of Democratic Governance before 5:00 pm ~~2-3~~ working days before the meeting.

10.6 At an ordinary meeting any ~~address or statement or~~ question from a member of the public may only be on any matter for which the council has a direct responsibility, ~~or which affect the city~~ City to a greater extent than elsewhere.

10.7 In the case of the Budget Council meeting, any public participants must address business on the agenda in so far as it may relate to the setting of the budget for the coming financial year, or any other item included on the agenda of the Budget Council meeting. In the case

of an extraordinary meeting public participants must only address the business on the agenda.

10.8 ~~In the case of an extraordinary meeting public participants must only address the business on the agenda. No person may register to make a statement or ask a question at a meeting before the publication of the Agenda for that meeting, and no person may register to make more than one statement or ask more than one question at any meeting.~~

10.9 In the light of the special nature of the annual meeting the public participation rights given by this Rule will not apply.

10.10 ~~In exercising their public participation rights making a statement or asking a question,~~ a member of the public is entitled to express views, positive or negative, about the performance of the Council but must not:

- a) Say anything which is defamatory or discriminatory;
- b) Make any personal attack on any Officer and/or Member; or
- c) Disclose confidential or exempt information including personal information.

Statements and questions which fail to adhere to these requirements will not be accepted for consideration.

10.11 Any questions ~~to Council~~ shall be put and answered without discussion, either by a direct answer or, on questions which could not reasonably be dealt with at the meeting, by a written answer which will be passed on to Members to answer within ten working days.

10.12 In the event that the Public Participation item at any given meeting is oversubscribed, the Lord Mayor shall have absolute discretion as to which Public Participants shall be permitted to make a statement or ask a question. No other discussion will take place on any matter raised by a member of the public when addressing the Council. When the speaker has finished, the Lord Mayor will announce how the issues raised by the participant will be dealt with. The options most usually being:

~~to note the comments made;~~

~~to refer the issues to the Executive or another appropriate Committee for consideration; or~~

~~to take into account the comments made as part of any debate on related decisions to be made later on the agenda.~~

11 Removing Election and Term of the Leader of the Council and Members of the Executive

- 11.1 The Leader of the Council will be elected by Council and will hold office until the next whole-Council elections for a period of four years unless they are removed under the provisions of this Constitution or until the next all-out city council election, and can only be removed during the period of office by resolution of Council in the circumstances below.
- 11.2 Members of the Executive are appointed directly by the Leader of the Council and therefore their position as members of the Executive falls if the Leader is removed from Office by Council. In all cases, if the motion to remove the Leader is successful the Leader and Executive Members continue to be City of York Councillors until either the next whole-council Council elections, or (in the case of Executive Members) they are removed from their position by the Leader, or they chose to resign their position as an Executive Member or councillor.
- 11.3 If Council resolves to remove the Leader of the Council, and in turn the members of the Executive, it shall elect a new Leader of the Council at the same Council meeting as its next item of business. If Council is, for any reason, unable to elect a new Leader of the Council, the Lord Mayor shall convene an Extraordinary Meeting of the Council for the purpose of electing a new Leader as soon as is practicable. In the interim, the Head of Paid Service shall be empowered to utilise their urgency powers as required.
- 11.4 If whole-Council elections give rise to a likely change in leadership, the Leader-elect shall be empowered to act as Leader pending the decision of annual Council; if whole-Council elections do not give rise to a likely change in leadership, the existing Leader or, in the event of their non-return, any successor appointed by their Group, shall be empowered to act as Leader pending the decision of Annual Council. In the event that, in the opinion of the Head of Paid Service, whole-Council elections result in no clear Leader, the ~~Lord Mayor~~Head of

Paid Service shall ~~act as Leader of the Council~~ be empowered to utilise their urgency powers as required until the Annual Council meeting.

12 Removing the Leader of the Council ~~and Members of the Executive~~

Notice of Motion to remove the Leader of the Council

- ~~412.41~~ Notice of motion to remove the Leader of the Council shall be:
- a) Given in writing; and
 - b) Signed by a proposer and a seconder who are both City of York Councillors; and
 - c) Received by the ~~Chief Operating Officer~~ Head of Paid Service; and
 - d) State why the signatories consider that the Leader of the Council should be removed

~~142.52~~ If the ~~Chief Operating Officer~~ Head of Paid Service receives the notice of motion less than 15 working days but not less than ~~65~~ clear working days, before the next scheduled Council meeting, the motion will be considered at that Council meeting.

~~124.36~~ If the notice of motion is received more than 15 clear working days before the next scheduled Council meeting, the ~~Chief Operating Officer~~ Head of Paid Service shall within 5 working days of receipt, summon an Extraordinary meeting of Council for the purposes of considering the motion. Unless required by law, no other business shall be conducted at that meeting, other than election of a new Leader of the Council, should the motion succeed. The Extraordinary meeting shall take place within 10 working days of the summons.

Duties of a newly Elected Leader of the Council

- ~~412.47~~ A new Leader of the Council elected under these provisions shall, within 5 working days of their election:
- a) appoint a Deputy Leader;
 - b) ensure that areas of responsibility are allocated by the Executive to each member of the Executive; and

- c) inform the ~~Chief Operating Officer~~Head of Paid Service of the names of the Deputy Leader and the areas of responsibility of Members of the Executive.

13 Budget Amendments

13.1 From time to time it may be considered necessary or desirable to amend the budget agreed at the Budget Council by way of a Budget Amendment. In the event of such an amendment, a report shall be prepared and submitted to an Ordinary Council meeting or an Extraordinary Council meeting by the Chief Finance Officer, setting out the details of the proposed Budget Amendment.

13.2 Once submitted to Council, the proposed Budget Amendment will be subject to amendment in accordance with the rules set out in Procedure Rule B10 below and shall be debated in accordance with the rules on debates for motions, set out in Procedure Rules B12 to B20 below, save that all votes on the budget amendment shall be carried out as named votes.

Procedure rules for Annual meeting of the Council

A1 Annual Meeting of the Council.

- 1 ~~4~~—The date and time of the Annual Meeting will be determined by the ~~Chief Operating Officer~~Head of Paid Service following consultation with the Lord Mayor Elect and the Leader of the Executive and Political Group Leaders.
- 2 In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April, or May.

A2 Agenda for the Annual Meeting

- 1 At the Annual Meeting of the Council, the order of business shall be as follows:
 - a) declarations of interest;
 - b) to:

- ~~_____~~ i) elect the Lord Mayor for the ensuing municipal year;
- ~~e) — ii) to~~ appoint a Deputy Lord Mayor for the ensuing municipal year; ~~and~~
- ~~d) —~~ iii) ~~to~~ appoint a Sheriff for the ensuing municipal year;
- ~~ec)~~ at the first Annual Meeting following local elections to appoint a Member as the Executive Leader;
- ~~fd)~~ to approve the number and size of the Council Committees, including any consequent changes to the ~~Constitution~~Constitution;
- ~~ge)~~ to approve the membership of the Council Committees in accordance with the political balance rules;
- ~~hf)~~ to approve any new terms of reference for those committees;
- ~~gi)~~ to appoint Chairs and Vice-Chairs (where appropriate) of the Council's Committees for the ensuing municipal year;
- ~~jh)~~ to approve appointments of Council representatives on outside bodies for the ensuing municipal year except where this is the function of the Executive or is delegated to another person or body under the Council's ~~Constitution~~Constitution; and
- ~~ki)~~ to agree a schedule for the allocation of motions for Ordinary Meetings during the forthcoming Municipal year;
- j) to consider any business brought before the Council by the Lord Mayor on grounds of urgency in accordance with Section 100B(4)(b) and ~~-~~paragraph 4 (5) of schedule 12 of the Local Government Act 1972.

A3 Rules for the conduct of the meeting

- 1 ~~4~~ — Unless otherwise directed by the Lord Mayor, the following rules for Ordinary meetings of Council apply to Annual Council:
 - a) Points of order_i;
 - b) Personal explanation_i;
 - c) Voting_i;
 - d) Minutes_i;
 - e) Exclusion of the public_i;
 - f) Misconduct by Members_i;
 - g) Disturbance by the public; ~~and~~
 - h) Filming and use of social media during meetings_i.

A4 Voting on Appointments

- 1 ~~4~~—If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- 2 In the event of a tie, the Lord Mayor would exercise a casting vote.

~~A5~~—Duration of meetings

~~1—The time limit of 3 hours and 40 minutes does not apply to Annual meetings of the Council.~~

Procedure rules for Ordinary meetings of the Council

B1 Ordinary Meetings

- 1 ~~4~~—The Council will hold Ordinary Meetings for the transaction of general business. The arrangements for these meetings, including the venue and time of such meetings, shall be determined by the ~~Chief Operating Officer~~ Head of Paid Service, following in consultation with the Leaders of Political Groups.
- 2 Normally Ordinary Meetings of the Council will be held at 6.30 pm ~~at the Guildhall, unless different arrangements may have been made, in which case such arrangements will be notified to all Members as part of the Agenda publication process. with the agreement of the Lord Mayor.~~

B2 Duration of Meetings

- 1 ~~4~~—All Ordinary Meetings will finish 23 hours and 40-30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 23 hours and 40-30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor.
- 2 The Lord Mayor will issue the guillotine warning to remind Council when ~~three~~ 2 hours and ~~30~~ 20 minutes has lapsed.
- 3 A motion without notice to extend the duration of the meeting, which has been duly proposed and seconded, before the ~~allocated time~~ guillotine warning has elapsed, shall be put to the vote without debate.
- 4 Once the guillotine warning is reached, aAll outstanding items of business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

B3 Agenda for Ordinary Meetings

- 1 The order of business at every Ordinary Meeting of the Council shall be include the following items:
- a) to choose a person to preside if the Lord Mayor ~~or~~ and Deputy Lord Mayor ~~is~~ are absent;
 - b) Public Participation;
 - ~~b)c)~~ c) declarations of interest;
 - ~~e)d)~~ d) to approve as a correct record and sign the minutes of the last meeting or meetings of the Council;
 - ~~d)e)~~ e) Lord Mayor's Business;
 - f) to receive without discussion petitions which Members wish to present to Council;
 - ~~e)~~ Public Participation;
 - ~~f)~~ to dispose of any business standing adjourned from any previous meeting of the Council;
 - ~~g)~~ to receive without discussion petitions which Members wish to present to Council;
 - ~~h)~~ to receive and consider a written report from the Leader on the work of the Executive, and to ask ~~them~~ questions in respect of any matter within the report ~~thereon~~;
 - ~~i)g)~~ g) ~~to receive and consider a written report from the Deputy Leader on the work of the Executive, to ask them questions thereon;~~
 - ~~j)h)~~ h) to debate such recommendations requiring Council approval as may have been made by the Executive;
 - ~~k)~~ to consider motions;
 - ~~l)~~ to ask questions of the Leader, Deputy Leader or Executive members in respect of any matter for which they have responsibility;
 - ~~m)~~ to receive and consider a written report from Executive Members in an agreed rotation as set out in Rule B5 and to question such Members thereon;
 - ~~n)j)~~ j) alternately to receive and consider a written report from either the Chair of ~~Customer &~~ Corporate Services, Climate Change, and Scrutiny Management Committee, or from the Audit and Governance Committee, including such recommendations for approval as may have been made by that Committee under Rule B8;
 - ~~e)j)~~ i) to receive and consider and report on recommendations of other Scrutiny Bodies;
 - ~~k)~~ to receive and consider recommendations of Committees (other than Scrutiny Bodies) under Rule B8;

- ~~p)l) to consider any other business reports from Officers or the Executive set out in the notice convening the meeting;~~
- ~~q) to make any changes in the membership of the Executive, Committees and outside bodies, together with changes to relevant Chairs and Vice Chairs;~~
- ~~r) to consider any other business set out in the notice convening the meeting;~~
- ~~m) s) to consider any business, brought before the Council by the Lord Mayor on the grounds of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972; and-~~
- ~~n) to consider motions on notice and urgent motions.~~

- 2 The order of business may be ~~varied~~ determined in advance by the Head of Paid Service; or may be varied at the Lord Mayor's discretion, ~~;~~ or by resolution passed on a motion duly moved, seconded, ~~;~~ and decided without discussion.

B4 Public Participation

- ~~1 The Public Participation Protocol is contained in Appendix 8 of this Constitution, and the rules are set out at section 10 of the Introduction above.~~
- ~~Of or which the council has a responsibility or which affect the city1 The time spent on this item shall not, except at the discretion of the Lord Mayor, exceed 30 minutes.~~
- ~~2 Any member of the public shall be entitled to address the Council for up to 3 minutes or to ask any Member of the Council a question.~~
- ~~3 In order to exercise this right prior notice must be given to the Head of Democratic Governance before 5:00 pm 2 working days before the meeting.~~
- ~~4 At an ordinary meeting any address or question from a member of the public may be on any matter directly relevant to the business of Council or the City.~~

- ~~5 In exercising their public participation rights a member of the public is entitled to express views positive or negative about the performance of the Council but must not:~~
- ~~a) Say anything which is defamatory or discriminatory~~
 - ~~b) Make any personal attack on any Officer and / or Member~~
 - ~~c) Disclose confidential or exempt information including personal information.~~
- ~~6 Any questions to Council shall be put and answered without discussion, either by a direct answer or, on questions which could not reasonably be dealt with at the meeting, by a written answer which will be passed on to Members to answer within ten working days.~~
- ~~7 No other discussion will take place on any matter raised by a member of the public when addressing the Council. When the speaker has finished, the Lord Mayor will announce how the issues raised by the participant will be dealt with. The options most usually being:~~
- ~~a) to note the comments made;~~
 - ~~b) to refer the issues to the Executive or another appropriate Committee for consideration; or~~
 - ~~c) to take into account the comments made as part of any debate on related decisions to be made later on the agenda.~~

B5 Lord Mayor's Business

- 1 The time for the presentation of the report of Lord Mayor's Business shall be no longer than five minutes.

B6 Petitions presented by Members

- 1 A Member may submit a petition for inclusion on the Council agenda by giving notice of the petition to the Head of Democratic Governance not later than midday on the eighth working day before the day of Council meeting at which it is to be received. Members will be permitted to speak for up to one minute to present a petition.
- 2 Petitions will be formally received without discussion and will stand referred to ~~Customer & Corporate Services Scrutiny Management & Policy Committee~~ Corporate Services, Climate Change, and Scrutiny Management Committee and the appropriate decision maker, and

the Member submitting the petition will be informed of any meeting considering the petition.

B76 Report of the Leader and Executive

- 1 The Leader will present a written report on the work of the Executive. In the absence of the Leader, the Deputy Leader will present the report. In the absence of both the Leader and Deputy Leader, an Executive Member will present the report. The maximum time limits for this item are as follows:
- a) The presentation of the Leader's report will not exceed 5 minutes; and
 - b) Leaders of Opposition groups on the Council will have up to 5 minutes each to respond;
 - a) ~~The Leader will have 5 minutes to respond thereafter.~~

~~2 The Leader will present a written report on the work of the Executive. In the absence of the Leader, the Deputy Leader will present the report. In the absence of both the Leader and Deputy Leader, an Executive Member will present the report.~~

B78 Questions and comments on the Leader and Executive's report

- 1 A maximum of ~~10~~30 minutes will be permitted for questions and comments on the Leader's report.
- 2 A Member of the Council may ask any question or make any comments, together with one supplementary question or comment directly arising from an item of the Leader's report.
- ~~3 A maximum of two other Members of the Council may each ask one further supplementary question or make one supplementary comment. All supplementary questions or comments must arise from the response of the Leader.~~
- 43 The Leader or relevant Executive Member may respond directly to any question asked or comment made or may agree to submit a written answer to be circulated to all Members of the Council within five working days.

~~B8 Report of Deputy Leader~~

- ~~1 A maximum of 10 minutes will be permitted for questions and comments on the Deputy Leader's report.~~
- ~~2 The Deputy Leader will present a written report on the work of the Executive. They will formally move receipt of the report but will not otherwise speak to it.~~
- ~~3 A Member of the Council may ask any question or make any comments together with one supplementary question or comment directly arising from an item of the Deputy Leader's report.~~
- ~~4 A maximum of two other Members of the Council may each ask one further supplementary question or make one supplementary comment. All supplementary questions or comments must arise from the response of the Deputy Leader.~~
- ~~5 The Deputy Leader may respond directly to any question asked or comment made or may agree to submit a written answer to be circulated to all Members of the Council within five working days.~~

~~B9 Report of Executive Member~~

- ~~1 At each Council meeting an Executive Member, decided by rotation, will submit a written report. The Executive Member will formally move their report but will not deliver a speech in support of it.~~

~~B10 Questions and comments on the Executive Member's report~~

- ~~1 A maximum of 10 minutes will be permitted for questions and comments on the Executive Member's report.~~
- ~~2 A Member of the Council may ask any question or make any comments together with one supplementary question or comment directly arising from an item of the Executive Member's report.~~
- ~~3 A maximum of two other Members of the Council may each ask one further supplementary question or make one supplementary~~

~~comment. All supplementary questions or comments must arise from the response of the Executive Member.~~

~~4 The Executive Member may respond directly to any question asked or comment made or may agree to submit a written answer to be circulated to all Members of the Council within 5 working days.~~

~~B11~~ **General Questions to Leader and Executive Members**

~~1 A maximum of 15 minutes will be permitted for questions under this Rule.~~

~~2 A Member of the Council may ask the Leader or any Executive Member any question together with one supplementary question on any matter within their portfolio responsibility.~~

~~3 A maximum of two other Members of the Council may each ask one further supplementary question. All supplementary questions must arise from the response of the Leader or Executive Member.~~

~~4 The Leader or Executive Member may respond directly to any question asked or may agree to submit a written answer to be circulated to all Members of the Council within 5 working days.~~

~~B129~~ **Committees of Council**

1 The Chair of a Committee will present any recommendations of that Committee requiring confirmation to Council and move that they be received and approved. In the absence of the Chair, the Vice Chair may move the recommendation, and only in the absence of both the Chair and Vice Chair following that may another Member of the Committee ~~may~~ move the recommendation.

- a) When the recommendations of a Committee requiring confirmation have been presented to Council and duly moved and seconded, they will be open to debate;
- b) Any Member may without notice move references back of any item requiring confirmation by Council.

- 2 The Chair of the Committee has the final right of reply to any amendment or motion moved under this Rule.

B13B10 Motions on Notice

Scope

- 1 ~~Unless otherwise agreed by the Lord Mayor, m~~Motions must be about matters for which the council has a direct responsibility, or which affect the ~~city~~City to a greater extent than elsewhere. For functions which can be only carried out by the Executive, Council cannot take decisions but can recommend a course of action for the Executive to consider. Notices of motions must also contain details of the financial and legal impact of the motion, and advice must be sought from the Chief Finance Officer, the Monitoring Officer, and wherever possible from the relevant Director(s), in advance of the submission of the Motion.
- 2 Notice of every motion to be considered by Council, must be given in writing to the Head of Democratic Governance no later than midday on the ~~eighth~~eleventh working day before the day of Council meeting at which it is to be considered. This Rule does not apply to motions which may be moved without notice under Rule B10 or to recommendations brought before the Council by the Executive or a Committee.
- 3 No Council meeting will receive more than ~~4~~2 Motions on notice at any ~~one~~single meeting. Motions shall be limited to no more than 500 words.
- 4 Motions may only be submitted in accordance with the schedule for allocation of motions approved ~~at Annual~~by Council.
- 5 Motions will be considered in the order determined by the Lord Mayor based on an appropriate order for the effective conduct of business.
- 6 If notice is given of any original motion that, in the sole opinion of the ~~Chief Operating Officer~~Head of Paid Service (acting in the capacity as proper officer) ~~is:~~

- a) is -out of order, illegal, irregular, ~~or~~ improper, or otherwise inappropriate;
- b) is defamatory, frivolous or offensive;
- c) reflects on the character or conduct of any person; or
- d) has not fully addressed the financial and legal implications of the motion,

the ~~Chief Operating Officer~~ Head of Paid Service shall immediately ~~submit such notice to~~ inform the Lord Mayor, and ~~it the motion~~ shall not be accepted and placed on the agenda ~~without the Lord Mayor's sanction~~. In the event of non-acceptance, the ~~Chief Operating Officer~~ Head of Paid Service shall inform the Member who submitted the notice.

- 7 A notice of motion would be deemed out of order if it required the Council to do something which it patently cannot.
- 8 A notice of motion would be deemed illegal if it sought action that was ultra vires.
- 9 A notice of motion would be deemed irregular or improper if for example it was offensive or defamatory.
- 10 In all of the above circumstances or in other such circumstance whereby a notice of motion is rejected, the ~~Chief Operating Officer~~ Head of Paid Service will retain a formal record of the rejected notice.

Motion to rescind a previous decision

- 11 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council.

Motion similar to one previously rejected

- 12 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at

least one third of the Members of Council. Once the motion or amendment is dealt with, no Member can propose a similar motion or amendment for six months.

B141 Motions without Notice

- 1 All motions and amendments not requiring prior notice must, if the Lord Mayor so requests, be put in writing and handed to the Lord Mayor, before they are discussed or put to the meeting.

- 2 The following motions may be moved without notice:
 - a) to appoint a Chair of the meeting at which the motion is moved;
 - b) in relation to the accuracy of the minutes;
 - c) to change the order of business in the agenda;
 - d) to refer something to an appropriate body or individual;
 - e) to appoint a committee or Member arising from an item on the summons for the meeting;
 - f) to receive reports or adopt recommendations of the Executive, committees or Officers and any resolutions following from them;
 - g) that leave be given to withdraw a motion;
 - h) to proceed to the next business (such a motion may only be moved by a Member who has not already participated in the debate);
 - i) to adjourn a meeting (such a motion may only be moved by a Member who has not already participated in the debate);
 - j) to suspend a particular Council Procedure Rule;
 - k) to exclude the public and press in accordance with the Access to Information Procedure Rules;
 - l) to not hear further a Member ~~named under Rule B28~~ or to exclude them from the meeting;
 - m) to give the consent of the Council where its consent is required by this ~~Constitution~~Constitution-;
 - n) to extend the duration of the meeting by 30 minutes, such a motion may only be moved once during any meeting, and must be moved and seconded before the Lord Mayor ~~announces that the guillotine has fallen~~delivers the guillotine warning, and will have the effect of suspending the relevant standing order-; and
 - o) to extend any other time limit set out in these Rules.

B152 Notice of amendments

- 1 Written notice of every amendment, must be delivered to the Head of Democratic Governance no later than midday on the third working day before the day of Council meeting at which it is to be considered and must also contain details of the financial and legal impact of the amendment. Wherever possible the amendment will be circulated to all Members in advance of the Council meeting.
- 2 An amendment must be relevant to the motion and must:
 - a) propose leaving out words, or
 - b) propose leaving out words and inserting or adding others, or
 - c) propose inserting or adding words.
- ~~3~~ 3—The effect of an amendment must not be to negate the effect of the motion before Council.
4. As with the original motion, if notice is given of any amendment that, in the sole opinion of the Head of Paid Service (acting in the capacity as proper officer):
 - a) is out of order, illegal, irregular, improper, or otherwise inappropriate;
 - b) is defamatory, frivolous, or offensive;
 - c) reflects on the character or conduct of any person;
 - d) is seeking an expression of an opinion, or contains an expression of opinion, inferences or imputations, or is rhetorical, controversial or ironic, or likely to give rise to reputational damage to the Council;
 - e) is seeking the solutions of hypothetical propositions, raises questions of policy too large to be dealt with in an answer; seeks information on matters of past history for the purpose of argument, are a slight variation on a point previously made, or are trivial, vague or meaningless;
 - f) has not fully addressed the financial and legal implications of the motion; or
 - g) refers to communications between an officer and a councillor,

the Head of Paid Service shall immediately inform the Lord Mayor, and the motion shall not be accepted. In the event of non-acceptance, the Head of Paid Service shall inform the Member who submitted the amendment.

B16B13 Rules of Debate

General

- 1 The decision of the Lord Mayor, in consultation with the Monitoring Officer, is final on all matters of order or personal explanation ~~in consultation with the Monitoring Officer.~~
- 2 When speaking, a Member is to stand, if able to, and address the Lord Mayor as Lord Mayor.
- 3 When the Lord Mayor speaks, or rises to speak, during a debate, any Member then speaking or seeking to speak is to sit down.
- 4 If two or more Members indicate that they wish to speak, the Lord Mayor will call one and the other(s) will wait until called by the Lord Mayor. When a Member is speaking, the others are to remain sitting unless rising to make a point of order or a personal explanation.
- 5 Members may speak once only on the matter under discussion except for the following reasons:
 - a) to speak once on an amendment moved by another Member;
 - b) to move a new amendment if the motion has been amended since they last spoke;
 - c) to speak on the main issue, if the Member first spoke on an amendment moved by another Member (whether or not it was carried);
 - d) as the mover of a motion (but not of an amendment), to exercise the right to reply at the end of the debate on the motion before it is put to the vote;
 - e) as the seconder of a motion or amendment, having reserved (when seconding the motion or amendment) the right to speak until later in the debate;

- f) to make a point of order (any point of order must refer to the relevant Standing Order or statutory provision) or personal explanation

B174 Content and Time Limits

- 1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 2 When moving a motion, a Member may speak for a maximum of 5 minutes.
- 3 No other speeches (including the moving of amendments and the right to reply) may take more than 3 minutes without the consent of the Council, which will be determined by a vote on a motion without discussion.

B185 ~~Altering and w~~Withdrawal ingand Alteration of motions

- 1 ~~A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council (indicated without discussion). No Member may speak after the mover has asked permission for its withdrawal, unless permission to withdraw the motion or amendment is refused. With the consent of the Council, indicated without discussion, a Member may alter a motion or amendment of which they have given notice.~~
- 2 ~~A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council (indicated without discussion). No Member may speak after the mover has asked permission for its withdrawal, unless permission to withdraw the motion or amendment is refused. With the consent of the Council, indicated without discussion, a Member may alter a motion or amendment of which they have given notice, such alteration to be provided in writing by the Member to ensure clarity. Only alterations which could be made as an amendment may be made.~~

B196 Order of debate

- 1 No speeches may be made after the mover has moved a proposal and explained the purpose of it, and until the motion has been seconded.
- 2 When seconding a motion or amendment, a Member may reserve their speech until later in the debate.
- 3 When a motion is under debate no other motion may be moved except:
 - a) to amend the motion;
 - b) to proceed to the next business (such a motion may only be moved by a Member who has not already participated in the debate);
 - c) that the question now be put (such a motion may only be moved by a Member who has not already participated in the debate);
 - d) that a Member be no longer heard;
 - e) that a Member leave the meeting;
 - f) to exclude the public and press from the meeting under the terms of the Local Government Act 1972;
 - g) to extend the time of the meeting or the time for the agenda item.
- 4 No Member may move more than one amendment to any motion or substantive question before the Council unless the further amendment comprises new material which is not related to the subject of the previous amendment.
- 5 Only one amendment may be moved and discussed at a time unless the Lord Mayor rules otherwise, and no further amendment is to be moved until the Council has reached a decision on the amendment under discussion.
- 6 When the Council has reached a decision on a motion or amendment, the Lord Mayor will refuse to put at the same meeting any subsequent motion or amendment which, if carried, would substantially contradict, override, or repeat the former one.
- 7 If an amendment is lost, other amendments may be moved on the original motion.

- 8 If an amendment is carried, the amended motion replaces the original motion on which any further amendments are moved.

B1720 Right of reply

- 1 The mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote. If an amendment has been moved, the mover of the original motion also has a right of reply at the close of the debate on the amendment but may not otherwise speak on the amendment. The mover of the amendment has no right of reply to the debate on their amendment.

B218 Closure motions

- 1 A Member who has not spoken on the substantive issue may move without comment at the end of another Member's speech one of the following:
- a) "That the Council proceed to the next business"
 - b) "That the question be now put" or "Move to the vote"
 - c) "That the Council now adjourn"
- 2 If the motion is seconded, the Lord Mayor may do one of the following:
- a) on a motion to proceed to the next business, unless in the Lord Mayor's opinion the matter has not been sufficiently discussed, they may put to the vote the motion to proceed to the next business. If that vote is carried the Lord Mayor shall give the mover of the original motion the right of reply before putting that motion to the vote;
 - b) on a motion that the question be now put, unless in the Lord Mayor's opinion the matter has not been sufficiently discussed, they may put to the vote the motion that the question be now put. If that vote is carried, the Lord Mayor shall give the mover of the original motion the right of reply before putting that motion to the vote;
 - c) on a motion to adjourn the meeting, the Lord Mayor may put the adjournment motion to the vote without giving the mover of the

original motion their right of reply on that occasion.

B1922 Points of Order

- 1 A member who believes that there is some irregularity in the ~~constitution~~Constitution or conduct of the meeting may rise on a Point of Order. Such irregularities may include:
 - a) discussion of a question not before the Council;
 - b) the use of improper or “unparliamentary” language;
 - c) interjection of remarks while a Member is speaking;
 - d) that a quorum is not present; or
 - e) breach of any other Procedure Rule or law.
- 2 When a Member rises on a Point of Order, they must state at the outset the rule or law which they consider to have been breached. The Member raising the Point of Order must then sit down immediately while the Lord Mayor gives a ruling.
- 3 A Member against whom a Point of Order is being raised must sit down until the Lord Mayor has ruled on the matter.
- 4 If the Lord Mayor rules that the language used by a Member is improper, it is the duty of the Member to withdraw it.

B2023 Personal Explanation

- 1 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which appears to have been misunderstood or is being misquoted in the present debate. The ruling of the Lord Mayor on the admissibility of a personal explanation will be final.

B241 Voting

- 1 All matters will be determined by a show of hands, or use of the electronic voting system if available, unless at least three Members of the Council demand that the names be recorded. In that event, the Monitoring Officer will ensure that the names and votes of the

Members present are recorded and included in the Minutes of the meeting.

~~2~~ ~~If the Lord Mayor indicates that electronic voting is not available then votes may be taken by a show of hands~~

32 If there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.

43 Any Member is entitled to have their own vote recorded in the Minutes whether or not a full recorded vote is taken.

54 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

B225 Voting on Appointments

1 If there are more than 2 people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

2 In the event of a tie, the Lord Mayor would exercise a casting vote.

B26B23 Minutes

1 The Lord Mayor will sign the minutes of the proceedings at the next suitable ordinary meeting of the Council. The Lord Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

B27B24 Exclusion of Public

1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Appendix 7 of this ~~Constitution~~Constitution or Rule B25 (Disturbance by Public).

- 2 If any question arises at any meeting of the Council relating to the appointment, dismissal, promotion, conduct, remuneration or conditions of service of any member of the Council's staff no discussion shall take place until the meeting has considered whether or not to exclude the public and press in accordance with the Access to Information Procedure Rules.

B28B25 Misconduct by Members

- 1 If any Member at a meeting of the Council disregards the authority of the Lord Mayor or is guilty of obstructive or offensive conduct the meeting may, on a motion without notice being duly moved, seconded, and carried, resolve that the Member should not be heard and should leave the meeting. Such a motion need not be in writing and is put without discussion. If the motion is carried, the Member must leave the meeting immediately.

B269 Disturbance by Public

- 1 If a member of the public interrupts the proceedings of any Council meeting, they will be warned by the Lord Mayor. If the disruption continues, the Lord Mayor may order them to leave the meeting. In the event of general disturbance in any part of the ~~Council Chamber~~ Council meeting, the Lord Mayor may order that part to be cleared.
- 2 2—In the event of general disturbance which in the opinion of the Lord Mayor makes the orderly conduct of business impossible, the Lord Mayor may suspend the meeting for as long as necessary, or may abandon the meeting, in which case all remaining business will be considered at a time and date fixed by the Lord Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

B2730 Filming and Use of Social Media during Meetings

- 1 Filming and use of social media is permitted during meetings in accordance with a protocol approved by the Council so long as there

is no disturbance to the conduct of the meeting.

B2831 Suspension of Council Procedure Rules

- 1 All of these Council Rules of Procedure except ~~B24-B21~~ (43) (the right for an individual Member to have their vote recorded) may be suspended by motion on notice identifying the Procedure Rule which is to be suspended. Such a motion may only be moved without notice if at least 24 Councillors are present in the room at the time. Suspension can only be for the duration of the meeting.

Procedure rules for Budget Council

C1 Budget Council

- 1 The order of business at Budget Council shall be:
 - a) to consider any business raised by the Lord Mayor;
 - b) to hear any public participants in relation to business associated with setting the Council's budget for the coming financial year;
 - c) to receive any petitions presented by Members in relation to business associated with setting the Council's budget for the coming financial year;
 - d) to consider and determine the Executive's recommendations on setting the following budgets for the coming financial year;
 - i) revenue budget (including fees and charges and Housing Revenue Account estimates);

- ii) capital programme;
- e) to agree a Council Tax resolution for the coming year based on the above agreed budget; ~~and~~
- f) to consider and determine the Executive's recommendations in relation to the Treasury Management Statement and Prudential Indicators, as necessary;
- g) to consider any other ~~-~~business set out in the notice convening the meeting; ~~and~~
- h) to consider any business, brought before the Council by the Lord Mayor on the grounds of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972.

C2 ~~_____~~ **Duration of Meetings**

- 1 All Budget Meetings will finish 2 hours and 30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 2 hours and 30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor.
- 2 The Lord Mayor will issue the guillotine warning to remind Council when 2 hours and 20 minutes has lapsed.
- 3 A motion without notice to extend the duration of the meeting, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.
- 4 Once the guillotine warning is reached, any remaining business will be ~~1 All Budget Meetings will finish 3 hours and 40 minutes after the start time of the meeting, unless extended by agreement of the Council. The 3 hours and 40 minutes will not include any periods of adjournment and / or breaks taken by the Lord Mayor.~~
- ~~2 The Lord Mayor will remind Council when three hours and 30 minutes has lapsed.~~
- ~~3 A motion to extend the meeting which has been duly proposed and seconded, before the allocated time has elapsed shall be put to the vote without debate.~~
- ~~4 All outstanding items of business will be~~ deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

C3 Public Participation

- 1 The time spent on this item shall not, except at the discretion of the Lord Mayor, exceed 30 minutes. The Public Participation Protocol is contained in Appendix 8 of this Constitution, and the rules are set out at section 10 of the Introduction above
- ~~2 Any member of the public shall be entitled to address the Council for up to 3 minutes or to ask any Member of the Council a question.~~
- ~~3 In order to exercise this right prior notice must be given to the Head of Democratic Governance before 5:00 pm 2 working days before the meeting.~~
- ~~4 Any public participants must address business on the agenda in so far as it may relate to the setting of the budget for the coming financial year.~~
- ~~5 In exercising their public participation rights a member of the public is entitled to express views positive or negative about the performance of the Council but must not:
 - a) Say anything which is defamatory or discriminatory
 - b) Make any personal attack on any Officer and / or Member
 - c) Disclose confidential or exempt information including personal information.~~
- ~~6 Any questions to Council shall be put and answered without discussion, either by a direct answer or, on questions which could not reasonably be dealt with at the meeting, by a written answer which will be passed on to Members to answer within ten working days.~~
- ~~7 No other discussion will take place on any matter raised by a member of the public when addressing the Council. When the speaker has finished, the Lord Mayor will announce how the issues raised by the participant will be dealt with. The options most usually being:
 - a) to note the comments made;
 - b) to refer the issues to the Executive or another appropriate Committee for consideration; or
 - c) to take into account the comments made as part of any debate on related decisions to be made later on the agenda.~~

C43 Petitions presented by Members

- 1 The rules of Petitions as detailed at B1 apply to Budget Council, but subject to the following amendment:
 - petitions presented by Members must be in relation to business associated with setting the Council's budget, or to any other business to be dealt with at the Budget Council meeting.

~~C45~~ Content and Time Limits

- 1 ~~1~~—The Leader of the Council and the Leaders of other Groups on the Council are not time limited when they are proposing a motion or an amendment at Budget Council, in relation to the setting of the budget.
- 2 ~~2~~—No other speeches (including the moving of amendments and the right to reply) may take more than three minutes without the consent of the Council, which will be determined by a vote on a motion without discussion.
- 3 ~~3~~—Speeches must be directed to the question under discussion or to a personal explanation or point of order.

~~C64~~ Voting

- 1 ~~1~~—All matters will be determined by a show of hands, or use of the electronic voting system if available, unless at least three Members of the Council demand that the names be recorded. In that event, the Monitoring Officer will ensure that the names and votes of the Members present are recorded and included in the Minutes of the meeting.
~~All matters will be determined by use of the electronic voting system unless at least three Members of the Council demand that the names be recorded. In that event, the Monitoring Officer will ensure that the names and votes of the Members present are recorded and included in the Minutes of the meeting.~~
- 2 ~~2~~—If the Lord Mayor indicates that the electronic voting system is not operating then votes may be taken by a show of hands.
~~If the Lord Mayor indicates that the electronic voting system is not operating then votes may be taken by a show of hands.~~

- 32 Unless otherwise directed by the Lord Mayor, all votes taken at Budget Council in relation to the setting of the annual budget will be named votes and elected Members will be required to vote for, against or abstain.
- 43 If there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.
- 54 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

C7 Rules for the conduct of the meeting

- 1 All of the rules relating to Ordinary Meetings shall apply to Budget Council unless otherwise directed by the Lord Mayor, subject to it addressing the business on the agenda. This includes application of the rules to suspend Council Procedure Rules as detailed at ~~B31~~B27.

Procedure rules for Extraordinary meetings of the Council

D1 Extraordinary Meetings

- 1 Schedule 12 of the Local Government Act 1972 allows extraordinary meetings of the Council to be called by the Lord Mayor. In addition, any five Members of the Council may sign and present to the Lord Mayor a requisition calling for an extraordinary meeting. If the Lord Mayor refuses to call a meeting or does not call for one within seven

days of being presented with the requisition, then any five Members of the Council may call an extraordinary meeting of the Council.

- 2 Extraordinary meetings of the Council will only deal with the business for which the meeting has been called.

D2 Rules for the conduct of the meeting

- 1 All of the rules relating to Ordinary Meetings shall apply to Extraordinary Meetings unless otherwise directed by the Lord Mayor, subject to it addressing the business on the agenda.

D4 Duration of Meetings

- 1 All Extraordinary Meetings will finish 2 hours and 30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 2 hours and 30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor.
- 2 The Lord Mayor will issue the guillotine warning to remind Council when 2 hours and 20 minutes has lapsed.
- 3 A motion without notice to extend the duration of the meeting by a maximum of 30 minutes, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.
- 4 Once the guillotine warning is reached, any remaining business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

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Appendix 3 – Full Council Procedure Rules

Introduction

1 Full Council

- 1.1 The Full Council (“the Full Council”) is a formal meeting of all Councillors. The Full Council is required by law to take certain important decisions including setting the Council’s budget and Council Tax and approving a number of key plans and strategies (“The Policy Framework”). In law, all functions of the authority are deemed to be Executive functions unless reserved to the Full Council. It will carry out some functions itself, but others will be delegated to Committees or named Officers. Further details of the functions which Full Council has delegated are set out in Appendix 1 of this Constitution.

2 The Policy Framework

- 2.1 The Policy Framework means the following plans and strategies:

Partnership and Community Plans:

- a) 10 Year City Plan
- b) Health and Wellbeing Strategy
- c) Children and Young People’s Plan
- d) Corporate Parenting Strategy
- e) Youth Justice Plan
- f) Community Safety Strategy
- g) Joint Waste Strategy
- h) Climate Change Strategy
- i) Annual Library Plan
- j) Food Law Enforcement Service Plan

Full Council:

- a) Council Plan or its equivalent
- b) Local Plan documents
- c) Local Transport Plan
- d) Statement of Licensing Policy under Licensing Act 2003
- e) Gambling Act Licensing policy

- f) Medium Term Financial Strategy
- g) Treasury Management Plan

3 Functions of the Full Council

3.1 The functions reserved to Full Council are:

- a) To approve, adopt amend, monitor and/or review the plans, strategies and policies which together make up the Council's Policy Framework
- b) Determine and amend the Council's Revenue and Capital budgets, including the initial allocations of financial resources to different services and projects, proposed contingency funds, proposed precepts, setting the Council Tax and decisions relating to the Council's borrowing requirement and the control of its capital expenditure.
- c) Approve the Treasury Management Strategy.
- d) Approve expenditure that falls outside the Council's total annual budget.
- e) Take any decision, which is contrary to the approved Policy Framework and/or the approved Budget.
- f) Appoint and remove the Leader.
- g) Decide the composition of Committees and sub-committees of Full Council and make appointments including co-opted members to them and other non-Executive bodies (except in the case of ad-hoc scrutiny Sub-Committees which will be determined by the Corporate Services, Climate Change and Scrutiny Management Committee).
- h) Appoint representatives to outside bodies, unless the appointment is one that must by law be made by the Executive in relation to its functions or has been delegated by the Council.
- i) Make and amend this Constitution, Standing Orders, Financial Regulations, and Contract Procedure Rules.

- j) Change the name of the City or of a Parish.
- k) Elect a Lord Mayor, Deputy Lord Mayor, and Sheriff, and exercise related functions.
- l) Confer the title of the Honorary Alderman, Honorary Recorder, and Honorary Freeman, and grant the Freedom of the City.
- m) Promote or oppose local or personal bills.
- n) Where it is the function of the Council, divide Parliamentary Constituencies and local government electoral divisions into polling districts.
- o) Make, amend, revoke or re-enact Byelaws.
- p) Make orders for grouping parishes, dissolving groups of parishes, and separating parishes from groups.
- q) Dissolve small parishes.
- r) Carry out functions in relation to parishes and Parish Councils under Part 11 of the Local Government and Rating Act 1997 and subordinate legislation under that Part.
- s) Fill Council or Parish Council vacancies in the event of insufficient nominations.
- t) Submit proposals to the Secretary of State for an Order under Section 10 of the Representation of the People Act 2000 (pilot schemes for local elections).
- u) Appoint the Head of Paid Service, and designate officers or roles as the Monitoring Officer, the Chief Finance Officer, and Proper Officers under the relevant legislation, except to the extent that the power to designate Proper Officers has been otherwise delegated in this Constitution.

- v) Make a scheme for the payment of allowances to Members and determine the amount of all allowances payable to Members of the Council, its Committees, Sub-Committees and other bodies.
- w) Take decisions and/or give advice on matters brought to the Council by the Executive and other bodies or persons.
- x) Carry out any other functions reserved by law or by this Constitution to Full Council, including those “local choice” functions reserved to Full Council under this part of the Constitution.

4 Chairing the Council

- 4.1 The Lord Mayor will preside at meetings of the Full Council. In the absence of the Lord Mayor, the Deputy Lord Mayor will preside. In the absence of both, the Council will elect a Member to preside for that meeting. Any powers or duties of the Lord Mayor, as Chair, in relation to the conduct of a meeting may be exercised by the person presiding at the meeting.
- 4.2 The Lord Mayor will cease to be Lord Mayor if they resign, are dismissed by a vote of Council, cease to be a Member of the Council, or are unable to act as a Member of the Council. They will continue to act as Lord Mayor (whether or not remaining a Councillor) after an election until their successor has been appointed. If the Lord Mayor is no longer a Councillor, they may not vote other than to exercise a casting vote.
- 4.3 The Lord Mayor shall:
 - a) uphold and promote the purpose of the Constitution, and interpret the Constitution when necessary, in consultation with the Monitoring Officer;
 - b) preside over meetings of the Council so that its business can be carried out fairly and efficiently and with regard to the rights of Councillors and the interests of the local community;
 - c) ensure that the Council meeting is a forum for the debate of matters of concern to the local community and the place at

which Members who are not on the Executive are able to hold the Executive and Committee Chairs to account;

d) promote public involvement in the Council's activities.

4.4 The ruling of the Lord Mayor, as to the construction or application of any of these Rules, will be final. In the event that a circumstance arises that is not covered by the Council Procedure Rules, the ruling of the Lord Mayor shall be final. In the event that circumstances arise outside the meeting which would ordinarily require a decision of, or action by, the Lord Mayor, the Lord Mayor is enabled to take such action as they consider appropriate.

5 Full Council Meetings

5.1 Meetings of Full Council are business meetings, where the Full Council transacts its essential business. Whilst there are three 'types' of Full Council meeting, this Constitution will list "Budget Council" as a fourth meeting type due to the different Procedure Rules to be followed:

- a) The Annual Meeting;
- b) The Budget Council;
- c) Ordinary Meetings;
- d) Extraordinary Meetings.

6 Rules of Procedure and Debate

6.1 These Council Procedure Rules will apply to all meetings of the Full Council unless expressly stated otherwise.

7 Notice of and Summons to Meetings

7.1 The Head of Paid Service will give notice to the public of the time and place of any meeting in accordance with the Access to Information Procedure Rules in Appendix 7 of this Constitution.

7.2 At least five working days before a meeting, the Head of Paid Service will send a summons signed by them to every Member of the Council. The summons will give the date, time and place of each meeting and specify the business to be transacted, and will be accompanied by

such reports as are available.

8 Quorum

- 8.1 The quorum for all meetings of the Full Council is one quarter of the whole number of Members of the Council.
- 8.2 If at any time during the meeting of the Full Council, the Lord Mayor declares there is not a quorum present, the meeting stands adjourned. The consideration of any business not transacted will be deferred to a time fixed by the Lord Mayor at the time the meeting is adjourned, or if the Lord Mayor does not fix a time, to the next ordinary meeting of the Full Council.

9 Duration of Meetings

- 9.1 All Ordinary Meetings, Budget Council and Extraordinary Meetings will finish 2 hours and 30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 2 hours and 30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor. For clarity, this rule does not apply to Annual Council meetings.
- 9.2 The Lord Mayor will remind Council when 2 hours and 20 minutes have elapsed (“the guillotine warning”).
- 9.3 A motion to extend the meeting which has been duly proposed and seconded, before the allocated time has elapsed shall be put to the vote without debate, and if approved by Council the meeting shall continue for no more than 30 additional minutes.
- 9.4 Once the guillotine warning is reached, all outstanding items of business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

10 Public Participation

- 10.1 The Public Participation Protocol is set out at Appendix 8 of this Constitution.

- 10.2 The time spent on this item shall not exceed 30 minutes.
- 10.3 Public participation applies to Ordinary meetings, budget council and extraordinary meetings only.
- 10.4 A person living or working within the District shall be entitled to make a statement to the Council or to ask a question of the Council's Leader or any Executive Member, for up to 3 minutes .
- 10.5 In order to exercise this right prior notice must be given to the Head of Democratic Governance before 5:00 pm 3 working days before the meeting.
- 10.6 At an ordinary meeting any statement or question from a member of the public may only be on any matter for which the council has a direct responsibility, or which affect the City to a greater extent than elsewhere.
- 10.7 In the case of the Budget Council meeting, any public participants must address business on the agenda in so far as it may relate to the setting of the budget for the coming financial year, or any other item included on the agenda of the Budget Council meeting. In the case of an extraordinary meeting public participants must only address the business on the agenda.
- 10.8 No person may register to make a statement or ask a question at a meeting before the publication of the Agenda for that meeting, and no person may register to make more than one statement or ask more than one question at any meeting.
- 10.9 In the light of the special nature of the annual meeting the public participation rights given by this Rule will not apply.
- 10.10 In making a statement or asking a question, a member of the public is entitled to express views, positive or negative, about the performance of the Council but must not:
- a) Say anything which is defamatory or discriminatory;
 - b) Make any personal attack on any Officer and/or Member; or
 - c) Disclose confidential or exempt information including personal information.

Statements and questions which fail to adhere to these requirements will not be accepted for consideration.

10.11 Any questions shall be put and answered without discussion, either by a direct answer or, on questions which could not reasonably be dealt with at the meeting, by a written answer which will be passed on to Members to answer within ten working days.

10.12 In the event that the Public Participation item at any given meeting is oversubscribed, the Lord Mayor shall have absolute discretion as to which Public Participants shall be permitted to make a statement or ask a question.

11 Election and Term of the Leader of the Council and Members of the Executive

11.1 The Leader of the Council will be elected by Council and will hold office until the next whole-Council elections unless they are removed under the provisions of this Constitution, by resolution of Council in the circumstances below.

11.2 Members of the Executive are appointed directly by the Leader of the Council and therefore their position as members of the Executive falls if the Leader is removed from Office by Council. In all cases, if the motion to remove the Leader is successful the Leader and Executive Members continue to be City of York Councillors until either the next whole-Council elections, or (in the case of Executive Members) they are removed from their position by the Leader, or they chose to resign their position as an Executive Member or councillor.

11.3 If Council resolves to remove the Leader of the Council, and in turn the members of the Executive, it shall elect a new Leader of the Council at the same Council meeting as its next item of business. If Council is, for any reason, unable to elect a new Leader of the Council, the Lord Mayor shall convene an Extraordinary Meeting of the Council for the purpose of electing a new Leader as soon as is practicable. In the interim, the Head of Paid Service shall be empowered to utilise their urgency powers as required.

11.4 If whole-Council elections give rise to a likely change in leadership, the Leader-elect shall be empowered to act as Leader pending the

decision of annual Council; if whole-Council elections do not give rise to a likely change in leadership, the existing Leader or, in the event of their non-return, any successor appointed by their Group, shall be empowered to act as Leader pending the decision of Annual Council. In the event that, in the opinion of the Head of Paid Service, whole-Council elections result in no clear Leader, the Head of Paid Service shall be empowered to utilise their urgency powers as required until the Annual Council meeting.

12 Removing the Leader of the Council

Notice of Motion to remove the Leader of the Council

- 12.1 Notice of motion to remove the Leader of the Council shall be:
- a) Given in writing; and
 - b) Signed by a proposer and a seconder who are both City of York Councillors; and
 - c) Received by the Head of Paid Service; and
 - d) State why the signatories consider that the Leader of the Council should be removed
- 12.2 If the Head of Paid Service receives the notice of motion less than 15 working days but not less than 6 clear working days, before the next scheduled Council meeting, the motion will be considered at that Council meeting.
- 12.3 If the notice of motion is received more than 15 clear working days before the next scheduled Council meeting, the Head of Paid Service shall within 5 working days of receipt, summon an Extraordinary meeting of Council for the purposes of considering the motion. Unless required by law, no other business shall be conducted at that meeting, other than election of a new Leader of the Council, should the motion succeed. The Extraordinary meeting shall take place within 10 working days of the summons.

Duties of a newly Elected Leader of the Council

- 12.4 A new Leader of the Council elected under these provisions shall, within 5 working days of their election:
- a) appoint a Deputy Leader;

- b) ensure that areas of responsibility are allocated by the Executive to each member of the Executive; and
- c) inform the Head of Paid Service of the names of the Deputy Leader and the areas of responsibility of Members of the Executive.

13 Budget Amendments

- 13.1 From time to time it may be considered necessary or desirable to amend the budget agreed at the Budget Council by way of a Budget Amendment. In the event of such an amendment, a report shall be prepared and submitted to an Ordinary Council meeting or an Extraordinary Council meeting by the Chief Finance Officer, setting out the details of the proposed Budget Amendment.
- 13.2 Once submitted to Council, the proposed Budget Amendment will be subject to amendment in accordance with the rules set out in Procedure Rule B10 below and shall be debated in accordance with the rules on debates for motions, set out in Procedure Rules B12 to B20 below, save that all votes on the budget amendment shall be carried out as named votes.

Procedure rules for Annual meeting of the Council

A1 Annual Meeting of the Council.

- 1 The date and time of the Annual Meeting will be determined by the Head of Paid Service following consultation with the Lord Mayor Elect and the Leader of the Executive and Political Group Leaders.
- 2 In a year when there is an ordinary election of councillors, the Annual Meeting will take place within 21 days of the retirement of the outgoing councillors. In any other year, the annual meeting will take place in March, April, or May.

A2 Agenda for the Annual Meeting

- 1 At the Annual Meeting of the Council, the order of business shall be as follows:
 - a) declarations of interest;
 - b) to:

- i) elect the Lord Mayor for the ensuing municipal year;
- ii) appoint a Deputy Lord Mayor for the ensuing municipal year; and
- iii) appoint a Sheriff for the ensuing municipal year;
- c) at the first Annual Meeting following local elections to appoint a Member as the Executive Leader;
- d) to approve the number and size of the Council Committees, including any consequent changes to the Constitution;
- e) to approve the membership of the Council Committees in accordance with the political balance rules;
- f) to approve any new terms of reference for those committees;
- g) to appoint Chairs and Vice-Chairs (where appropriate) of the Council's Committees for the ensuing municipal year;
- h) to approve appointments of Council representatives on outside bodies for the ensuing municipal year except where this is the function of the Executive or is delegated to another person or body under the Council's Constitution; and
- i) to agree a schedule for the allocation of motions for Ordinary Meetings during the forthcoming Municipal year;
- j) to consider any business brought before the Council by the Lord Mayor on grounds of urgency in accordance with Section 100B(4)(b) and paragraph 4 (5) of schedule 12 of the Local Government Act 1972.

A3 Rules for the conduct of the meeting

- 1 Unless otherwise directed by the Lord Mayor, the following rules for Ordinary meetings of Council apply to Annual Council:
 - a) Points of order;
 - b) Personal explanation;
 - c) Voting;
 - d) Minutes;
 - e) Exclusion of the public;
 - f) Misconduct by Members;
 - g) Disturbance by the public; and
 - h) Filming and use of social media during meetings.

A4 Voting on Appointments

- 1 If there are more than two people nominated for any position to be filled and there is not a clear majority of votes in favour of one person,

then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.

- 2 In the event of a tie, the Lord Mayor would exercise a casting vote.

Procedure rules for Ordinary meetings of the Council

B1 Ordinary Meetings

- 1 The Council will hold Ordinary Meetings for the transaction of general business. The arrangements for these meetings, including the venue and time of such meetings, shall be determined by the Head of Paid Service, following consultation with the Leaders of Political Groups.
- 2 Normally Ordinary Meetings of the Council will be held at 6.30 pm, unless different arrangements have been made, in which case such arrangements will be notified to all Members as part of the Agenda publication process.

B2 Duration of Meetings

- 1 All Ordinary Meetings will finish 2 hours and 30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 2 hours and 30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor.
- 2 The Lord Mayor will issue the guillotine warning to remind Council when 2 hours and 20 minutes has lapsed.
- 3 A motion without notice to extend the duration of the meeting, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.
- 4 Once the guillotine warning is reached, all outstanding items of business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

B3 Agenda for Ordinary Meetings

- 1 The order of business at every Ordinary Meeting of the Council shall include the following items:
 - a) to choose a person to preside if the Lord Mayor and Deputy Lord Mayor are absent;
 - b) Public Participation;
 - c) declarations of interest;
 - d) to approve as a correct record and sign the minutes of the last meeting or meetings of the Council;
 - e) Lord Mayor's Business;
 - f) to receive without discussion petitions which Members wish to present to Council;
 - g) to receive and consider a written report from the Leader on the work of the Executive, and to ask questions in respect of any matter within the report;
 - h) to debate such recommendations requiring Council approval as may have been made by the Executive;
 - i) alternately to receive and consider a written report from either the Chair of Corporate Services, Climate Change, and Scrutiny Management Committee, or from the Audit and Governance Committee, including such recommendations for approval as may have been made by that Committee under Rule B8;
 - j) to receive and consider and report on recommendations of other Scrutiny Bodies;
 - k) to receive and consider recommendations of Committees (other than Scrutiny Bodies) under Rule B8;
 - l) to consider any other business reports from Officers or the Executive set out in the notice convening the meeting;
 - m) to consider any business, brought before the Council by the Lord Mayor on the grounds of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972; and
 - n) to consider motions on notice and urgent motions.

- 2 The order of business may be determined in advance by the Head of Paid Service; or may be varied at the Lord Mayor's discretion; or by resolution passed on a motion duly moved, seconded, and decided without discussion.

B4 Public Participation

- 1 The Public Participation Protocol is contained in Appendix 8 of this Constitution, and the rules are set out at section 10 of the Introduction above.

B5 Lord Mayor's Business

- 1 The time for the presentation of the report of Lord Mayor's Business shall be no longer than five minutes.

B6 Petitions presented by Members

- 1 A Member may submit a petition for inclusion on the Council agenda by giving notice of the petition to the Head of Democratic Governance not later than midday on the eighth working day before the day of Council meeting at which it is to be received. Members will be permitted to speak for up to one minute to present a petition.
- 2 Petitions will be formally received without discussion and will stand referred to Corporate Services, Climate Change, and Scrutiny Management Committee and the appropriate decision maker, and the Member submitting the petition will be informed of any meeting considering the petition.

B7 Report of the Leader and Executive

- 1 The Leader will present a written report on the work of the Executive. In the absence of the Leader, the Deputy Leader will present the report. In the absence of both the Leader and Deputy Leader, an Executive Member will present the report. The maximum time limits for this item are as follows:
- a) The presentation of the Leader's report will not exceed 5 minutes; and
 - b) Leaders of Opposition groups on the Council will have up to 5 minutes each to respond;

B8 Questions and comments on the Leader and Executive's report

- 1 A maximum of 30 minutes will be permitted for questions and comments on the Leader's report.

- 2 A Member of the Council may ask any question or make any comments, together with one supplementary question or comment directly arising from an item of the Leader's report.
- 3 The Leader or relevant Executive Member may respond directly to any question asked or comment made or may agree to submit a written answer to be circulated to all Members of the Council within five working days.

B9 Committees of Council

- 1 The Chair of a Committee will present any recommendations of that Committee requiring confirmation to Council and move that they be received and approved. In the absence of the Chair, the Vice Chair may move the recommendation, and only in the absence of both the Chair and Vice Chair may another Member of the Committee move the recommendation.
 - a) When the recommendations of a Committee requiring confirmation have been presented to Council and duly moved and seconded, they will be open to debate;
 - b) Any Member may without notice move references back of any item requiring confirmation by Council.
- 2 The Chair of the Committee has the final right of reply to any amendment or motion moved under this Rule.

B10 Motions on Notice

Scope

- 1 Unless otherwise agreed by the Lord Mayor, motions must be about matters for which the council has a direct responsibility, or which affect the City to a greater extent than elsewhere. For functions which can be only carried out by the Executive, Council cannot take decisions but can recommend a course of action for the Executive to consider. Notices of motions must also contain details of the financial and legal impact of the motion, and advice must be sought from the Chief Finance Officer, the Monitoring Officer, and wherever possible from the relevant Director(s), in advance of the submission of the Motion.

- 2 Notice of every motion to be considered by Council, must be given in writing to the Head of Democratic Governance no later than midday on the eleventh working day before the day of Council meeting at which it is to be considered. This Rule does not apply to motions which may be moved without notice under Rule B10 or to recommendations brought before the Council by the Executive or a Committee.
- 3 No Council meeting will receive more than 2 Motions on notice at any single meeting. Motions shall be limited to no more than 500 words.
- 4 Motions may only be submitted in accordance with the schedule for allocation of motions approved by Council.
- 5 Motions will be considered in the order determined by the Lord Mayor based on an appropriate order for the effective conduct of business.
- 6 If notice is given of any original motion that, in the sole opinion of the Head of Paid Service (acting in the capacity as proper officer):
 - a) is out of order, illegal, irregular, improper, or otherwise inappropriate;
 - b) is defamatory, frivolous or offensive;
 - c) reflects on the character or conduct of any person; or
 - d) has not fully addressed the financial and legal implications of the motion,

the Head of Paid Service shall immediately inform the Lord Mayor, and the motion shall not be accepted and placed on the agenda. In the event of non-acceptance, the Head of Paid Service shall inform the Member who submitted the notice.
- 7 A notice of motion would be deemed out of order if it required the Council to do something which it patently cannot.
- 8 A notice of motion would be deemed illegal if it sought action that was ultra vires.
- 9 A notice of motion would be deemed irregular or improper if for example it was offensive or defamatory.

- 10 In all of the above circumstances or in other such circumstance whereby a notice of motion is rejected, the Head of Paid Service will retain a formal record of the rejected notice.

Motion to rescind a previous decision

- 11 A motion or amendment to rescind a decision made at a meeting of Council within the past six months cannot be moved unless the notice of motion is signed by at least one third of the Members of the Council.

Motion similar to one previously rejected

- 12 A motion or amendment in similar terms to one that has been rejected at a meeting of Council in the past six months cannot be moved unless the notice of motion or amendment is signed by at least one third of the Members of Council. Once the motion or amendment is dealt with, no Member can propose a similar motion or amendment for six months.

B11 Motions without Notice

- 1 All motions and amendments not requiring prior notice must, if the Lord Mayor so requests, be put in writing and handed to the Lord Mayor, before they are discussed or put to the meeting.
- 2 The following motions may be moved without notice:
- a) to appoint a Chair of the meeting at which the motion is moved;
 - b) in relation to the accuracy of the minutes;
 - c) to change the order of business in the agenda;
 - d) to refer something to an appropriate body or individual;
 - e) to appoint a committee or Member arising from an item on the summons for the meeting;
 - f) to receive reports or adopt recommendations of the Executive, committees or Officers and any resolutions following from them;
 - g) that leave be given to withdraw a motion;
 - h) to proceed to the next business (such a motion may only be moved by a Member who has not already participated in the debate);

- i) to adjourn a meeting (such a motion may only be moved by a Member who has not already participated in the debate);
- j) to suspend a particular Council Procedure Rule;
- k) to exclude the public and press in accordance with the Access to Information Procedure Rules;
- l) to not hear further a Member or to exclude them from the meeting;
- m) to give the consent of the Council where its consent is required by this Constitution;
- n) to extend the duration of the meeting by 30 minutes, such a motion may only be moved once during any meeting, and must be moved and seconded before the Lord Mayor delivers the guillotine warning, and will have the effect of suspending the relevant standing order; and
- o) to extend any other time limit set out in these Rules.

B12 Notice of amendments

- 1 Written notice of every amendment must be delivered to the Head of Democratic Governance no later than midday on the third working day before the day of Council meeting at which it is to be considered and must also contain details of the financial and legal impact of the amendment. Wherever possible the amendment will be circulated to all Members in advance of the Council meeting.
- 2 An amendment must be relevant to the motion and must:
 - a) propose leaving out words, or
 - b) propose leaving out words and inserting or adding others, or
 - c) propose inserting or adding words.
- 3 The effect of an amendment must not be to negate the effect of the motion before Council.
4. As with the original motion, if notice is given of any amendment that, in the sole opinion of the Head of Paid Service (acting in the capacity as proper officer):
 - a) is out of order, illegal, irregular, improper, or otherwise inappropriate;
 - b) is defamatory, frivolous, or offensive;
 - c) reflects on the character or conduct of any person;

- d) is seeking an expression of an opinion, or contains an expression of opinion, inferences or imputations, or is rhetorical, controversial or ironic, or likely to give rise to reputational damage to the Council;
- e) is seeking the solutions of hypothetical propositions, raises questions of policy too large to be dealt with in an answer; seeks information on matters of past history for the purpose of argument, are a slight variation on a point previously made, or are trivial, vague or meaningless;
- f) has not fully addressed the financial and legal implications of the motion; or
- g) refers to communications between an officer and a councillor,

the Head of Paid Service shall immediately inform the Lord Mayor, and the motion shall not be accepted. In the event of non-acceptance, the Head of Paid Service shall inform the Member who submitted the amendment.

B13 Rules of Debate

General

- 1 The decision of the Lord Mayor, in consultation with the Monitoring Officer, is final on all matters of order or personal explanation.
- 2 When speaking, a Member is to stand, if able to, and address the Lord Mayor as Lord Mayor.
- 3 When the Lord Mayor speaks, or rises to speak, during a debate, any Member then speaking or seeking to speak is to sit down.
- 4 If two or more Members indicate that they wish to speak, the Lord Mayor will call one and the other(s) will wait until called by the Lord Mayor. When a Member is speaking, the others are to remain sitting unless rising to make a point of order or a personal explanation.
- 5 Members may speak once only on the matter under discussion except for the following reasons:
 - a) to speak once on an amendment moved by another Member;
 - b) to move a new amendment if the motion has been amended since they last spoke;

- c) to speak on the main issue, if the Member first spoke on an amendment moved by another Member (whether or not it was carried);
- d) as the mover of a motion (but not of an amendment), to exercise the right to reply at the end of the debate on the motion before it is put to the vote;
- e) as the seconder of a motion or amendment, having reserved (when seconding the motion or amendment) the right to speak until later in the debate;
- f) to make a point of order (any point of order must refer to the relevant Standing Order or statutory provision) or personal explanation

B14 Content and Time Limits

- 1 Speeches must be directed to the question under discussion or to a personal explanation or point of order.
- 2 When moving a motion, a Member may speak for a maximum of 5 minutes.
- 3 No other speeches (including the moving of amendments and the right to reply) may take more than 3 minutes without the consent of the Council, which will be determined by a vote on a motion without discussion.

B15 Withdrawal and Alteration of motions

- 1 A motion or amendment may be withdrawn by the mover with the consent of the seconder and of the Council (indicated without discussion). No Member may speak after the mover has asked permission for its withdrawal, unless permission to withdraw the motion or amendment is refused.
- 2 With the consent of the Council, indicated without discussion, a Member may alter a motion or amendment of which they have given notice, such alteration to be provided in writing by the Member to ensure clarity. Only alterations which could be made as an amendment may be made.

B16 Order of debate

- 1 No speeches may be made after the mover has moved a proposal and explained the purpose of it, and until the motion has been seconded.
- 2 When seconding a motion or amendment, a Member may reserve their speech until later in the debate.
- 3 When a motion is under debate no other motion may be moved except:
 - a) to amend the motion;
 - b) to proceed to the next business (such a motion may only be moved by a Member who has not already participated in the debate);
 - c) that the question now be put (such a motion may only be moved by a Member who has not already participated in the debate);
 - d) that a Member be no longer heard;
 - e) that a Member leave the meeting;
 - f) to exclude the public and press from the meeting under the terms of the Local Government Act 1972;
 - g) to extend the time of the meeting or the time for the agenda item.
- 4 No Member may move more than one amendment to any motion or substantive question before the Council unless the further amendment comprises new material which is not related to the subject of the previous amendment.
- 5 Only one amendment may be moved and discussed at a time unless the Lord Mayor rules otherwise, and no further amendment is to be moved until the Council has reached a decision on the amendment under discussion.
- 6 When the Council has reached a decision on a motion or amendment, the Lord Mayor will refuse to put at the same meeting any subsequent motion or amendment which, if carried, would substantially contradict, override, or repeat the former one.
- 7 If an amendment is lost, other amendments may be moved on the original motion.

- 8 If an amendment is carried, the amended motion replaces the original motion on which any further amendments are moved.

B17 Right of reply

- 1 The mover of a motion has a right of reply at the end of the debate on the motion immediately before it is put to the vote. If an amendment has been moved, the mover of the original motion also has a right of reply at the close of the debate on the amendment but may not otherwise speak on the amendment. The mover of the amendment has no right of reply to the debate on their amendment.

B18 Closure motions

- 1 A Member who has not spoken on the substantive issue may move without comment at the end of another Member's speech one of the following:
- a) "That the Council proceed to the next business"
 - b) "That the question be now put" or "Move to the vote"
 - c) "That the Council now adjourn"
- 2 If the motion is seconded, the Lord Mayor may do one of the following:
- a) on a motion to proceed to the next business, unless in the Lord Mayor's opinion the matter has not been sufficiently discussed, they may put to the vote the motion to proceed to the next business. If that vote is carried the Lord Mayor shall give the mover of the original motion the right of reply before putting that motion to the vote;
 - b) on a motion that the question be now put, unless in the Lord Mayor's opinion the matter has not been sufficiently discussed, they may put to the vote the motion that the question be now put. If that vote is carried, the Lord Mayor shall give the mover of the original motion the right of reply before putting that motion to the vote;
 - c) on a motion to adjourn the meeting, the Lord Mayor may put the adjournment motion to the vote without giving the mover of the

original motion their right of reply on that occasion.

B19 Points of Order

- 1 A member who believes that there is some irregularity in the Constitution or conduct of the meeting may rise on a Point of Order. Such irregularities may include:
 - a) discussion of a question not before the Council;
 - b) the use of improper or “unparliamentary” language;
 - c) interjection of remarks while a Member is speaking;
 - d) that a quorum is not present; or
 - e) breach of any other Procedure Rule or law.
- 2 When a Member rises on a Point of Order, they must state at the outset the rule or law which they consider to have been breached. The Member raising the Point of Order must then sit down immediately while the Lord Mayor gives a ruling.
- 3 A Member against whom a Point of Order is being raised must sit down until the Lord Mayor has ruled on the matter.
- 4 If the Lord Mayor rules that the language used by a Member is improper, it is the duty of the Member to withdraw it.

B20 Personal Explanation

- 1 A Member may make a personal explanation at any time. A personal explanation may only relate to some material part of an earlier speech by the member which appears to have been misunderstood or is being misquoted in the present debate. The ruling of the Lord Mayor on the admissibility of a personal explanation will be final.

B21 Voting

- 1 All matters will be determined by a show of hands, or use of the electronic voting system if available, unless at least three Members of the Council demand that the names be recorded. In that event, the Monitoring Officer will ensure that the names and votes of the Members present are recorded and included in the Minutes of the meeting.

- 2 If there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.
- 3 Any Member is entitled to have their own vote recorded in the Minutes whether or not a full recorded vote is taken.
- 4 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

B22 Voting on Appointments

- 1 If there are more than 2 people nominated for any position to be filled and there is not a clear majority of votes in favour of one person, then the name of the person with the least number of votes will be taken off the list and a new vote taken. The process will continue until there is a majority of votes for one person.
- 2 In the event of a tie, the Lord Mayor would exercise a casting vote.

B23 Minutes

- 1 The Lord Mayor will sign the minutes of the proceedings at the next suitable ordinary meeting of the Council. The Lord Mayor will move that the minutes of the previous meeting be signed as a correct record. The only part of the minutes that can be discussed is their accuracy.

B24 Exclusion of Public

- 1 Members of the public and press may only be excluded either in accordance with the Access to Information Procedure Rules in Appendix 7 of this Constitution or Rule B25 (Disturbance by Public).
- 2 If any question arises at any meeting of the Council relating to the appointment, dismissal, promotion, conduct, remuneration or conditions of service of any member of the Council's staff no discussion shall take place until the meeting has considered whether or not to exclude the public and press in accordance with the Access to Information Procedure Rules.

B25 Misconduct by Members

- 1 If any Member at a meeting of the Council disregards the authority of the Lord Mayor or is guilty of obstructive or offensive conduct the meeting may, on a motion without notice being duly moved, seconded, and carried, resolve that the Member should not be heard and should leave the meeting. Such a motion need not be in writing and is put without discussion. If the motion is carried, the Member must leave the meeting immediately.

B26 Disturbance by Public

- 1 If a member of the public interrupts the proceedings of any Council meeting, they will be warned by the Lord Mayor. If the disruption continues, the Lord Mayor may order them to leave the meeting. In the event of general disturbance in any part of the Council meeting, the Lord Mayor may order that part to be cleared.
- 2 In the event of general disturbance which in the opinion of the Lord Mayor makes the orderly conduct of business impossible, the Lord Mayor may suspend the meeting for as long as necessary, or may abandon the meeting, in which case all remaining business will be considered at a time and date fixed by the Lord Mayor. If they do not fix a date, the remaining business will be considered at the next ordinary meeting.

B27 Filming and Use of Social Media during Meetings

- 1 Filming and use of social media is permitted during meetings in accordance with a protocol approved by the Council so long as there is no disturbance to the conduct of the meeting.

B28 Suspension of Council Procedure Rules

- 1 All of these Council Rules of Procedure except B21 (3) (the right for an individual Member to have their vote recorded) may be suspended by motion on notice identifying the Procedure Rule which is to be suspended. Such a motion may only be moved without notice if at least 24 Councillors are present in the room at the time. Suspension can only be for the duration of the meeting.

Procedure rules for Budget Council

C1 Budget Council

- 1 The order of business at Budget Council shall be:
 - a) to consider any business raised by the Lord Mayor;
 - b) to hear any public participants in relation to business associated with setting the Council's budget for the coming financial year;
 - c) to receive any petitions presented by Members in relation to business associated with setting the Council's budget for the coming financial year;
 - d) to consider and determine the Executive's recommendations on setting the following budgets for the coming financial year;
 - i) revenue budget (including fees and charges and Housing Revenue Account estimates);
 - ii) capital programme;
 - e) to agree a Council Tax resolution for the coming year based on the above agreed budget;
 - f) to consider and determine the Executive's recommendations in relation to the Treasury Management Statement and Prudential Indicators, as necessary;
 - g) to consider any other business set out in the notice convening the meeting; and
 - h) to consider any business, brought before the Council by the Lord Mayor on the grounds of urgency in accordance with Section 100B(4)(b) of the Local Government Act 1972.

C2 Duration of Meetings

- 1 All Budget Meetings will finish 2 hours and 30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 2 hours and 30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor.
- 2 The Lord Mayor will issue the guillotine warning to remind Council when 2 hours and 20 minutes has lapsed.
- 3 A motion without notice to extend the duration of the meeting, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.

- 4 Once the guillotine warning is reached, any remaining business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

C3 Public Participation

- 1 The time spent on this item shall not, except at the discretion of the Lord Mayor, exceed 30 minutes. The Public Participation Protocol is contained in Appendix 8 of this Constitution, and the rules are set out at section 10 of the Introduction above

C3 Petitions presented by Members

- 1 The rules of Petitions as detailed at B1 apply to Budget Council, but subject to the following amendment:
- petitions presented by Members must be in relation to business associated with setting the Council's budget, or to any other business to be dealt with at the Budget Council meeting.

C4 Content and Time Limits

- 1 The Leader of the Council and the Leaders of other Groups on the Council are not time limited when they are proposing a motion or an amendment at Budget Council, in relation to the setting of the budget.
- 2 No other speeches (including the moving of amendments and the right to reply) may take more than three minutes without the consent of the Council, which will be determined by a vote on a motion without discussion.
- 3 Speeches must be directed to the question under discussion or to a personal explanation or point of order.

C4 Voting

- 1 All matters will be determined by a show of hands, or use of the electronic voting system if available, unless at least three Members of the Council demand that the names be recorded. In that event, the

Monitoring Officer will ensure that the names and votes of the Members present are recorded and included in the Minutes of the meeting.

- 2 Unless otherwise directed by the Lord Mayor, all votes taken at Budget Council in relation to the setting of the annual budget will be named votes and elected Members will be required to vote for, against or abstain.
- 3 If there are equal numbers of votes for and against, the Lord Mayor will have a second or casting vote. There will be no restriction on how the Lord Mayor chooses to exercise a casting vote.
- 4 Details of all motions and amendments that are lost will be duly recorded in the published minutes of the meeting.

C7 Rules for the conduct of the meeting

- 1 All of the rules relating to Ordinary Meetings shall apply to Budget Council unless otherwise directed by the Lord Mayor, subject to it addressing the business on the agenda. This includes application of the rules to suspend Council Procedure Rules as detailed at B27.

Procedure rules for Extraordinary meetings of the Council

D1 Extraordinary Meetings

- 1 Schedule 12 of the Local Government Act 1972 allows extraordinary meetings of the Council to be called by the Lord Mayor. In addition, any five Members of the Council may sign and present to the Lord Mayor a requisition calling for an extraordinary meeting. If the Lord Mayor refuses to call a meeting or does not call for one within seven days of being presented with the requisition, then any five Members of the Council may call an extraordinary meeting of the Council.
- 2 Extraordinary meetings of the Council will only deal with the business for which the meeting has been called.

D2 Rules for the conduct of the meeting

- 1 All of the rules relating to Ordinary Meetings shall apply to Extraordinary Meetings unless otherwise directed by the Lord Mayor, subject to it addressing the business on the agenda.

D4 Duration of Meetings

- 1 All Extraordinary Meetings will finish 2 hours and 30 minutes after the start time of the meeting, unless extended by agreement of the Council. The 2 hours and 30 minutes will not include any periods of adjournment and/or breaks taken by the Lord Mayor.
- 2 The Lord Mayor will issue the guillotine warning to remind Council when 2 hours and 20 minutes has lapsed.
- 3 A motion without notice to extend the duration of the meeting by a maximum of 30 minutes, which has been duly proposed and seconded before the guillotine warning, shall be put to the vote without debate.
- 4 Once the guillotine warning is reached, any remaining business will be deemed to have been proposed and seconded and will be voted on individually per agenda item without debate prior to the expiry of the meeting time.

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Appendix 8 – Public Participation Protocol

PART A – Rules applying to all meetings

General

1. These rules apply to all physical, remote and hybrid meetings, but not to Licensing Sub Committee Hearings, or Planning Committee A and Planning Committee B meetings (see Part B, paragraph 20)~~unless otherwise stated in this protocol. The Monitoring Officer and the Head of Democratic Governance will review this protocol every six months to ensure it remains fit for purpose. Any changes to this protocol will be reported to the Audit & Governance Committee and ultimately Full Council for the purposes of updating the Council's Constitution.~~
2. Meetings of Council, Executive, their Committees, and Sub-Committees are business meetings, convened to allow the Council to transact its formal business. In law, there is a right for any person to attend such meetings for the purpose of observation and, should they choose, reporting on the proceedings; however, there is no general right for persons other than Members to speak at any such meeting. Residents are, however, encouraged to participate in the Council's ~~decision~~-decision-making process by sharing their views in a number of ways.

Making representations in response to the Forward Plan

3. You can find out about forthcoming Key Executive and Executive Member business by looking at the Council's Executive Forward Plan which is published on the Council's website. You can make representations on any forthcoming Executive business by sending your views in writing to the report author either by email or post up to 3 weeks before the decision is due to be taken – residents views received after that time may not be addressed in the report but may be addressed at the meeting. The public can contact the Council regarding this through 'HaveYourSay' or can contact the author of the report.

4. The report author's contact details can be found on each individual Forward Plan item.

Participating at a public meeting

5. All meetings are open to the public except when [exempt or](#) confidential information is being discussed. Agendas for meetings can be found on the Council's website, at least five working days before the meeting.
6. Dates, times and agendas for meetings are available via the calendar of council meetings on the Council website, at local libraries and on the West Offices notice board, usually five days before the meeting. You can also contact Democratic Services by emailing democratic.services@york.gov.uk or telephoning York (01904) 551088 to find out when a meeting is taking place or to request an agenda.
7. ~~Physical~~ Council [and Committee](#) meetings take place at West Offices, although meetings of the Full Council [may be](#) held at ~~The Guildhall unless~~ alternative [venues,](#) details [of which will be](#) are published in the notice of meeting, [and on a video conferencing platform.](#)
- ~~8. Remote meetings take place on a video conferencing platform.~~
- ~~9. Meetings take place at West Offices (or Guildhall (or alternative venue detailed within the notice/summons) for Full Council) and on a video conferencing platform.~~
- ~~10.~~8. Council meetings are usually live webcast and retained on YouTube which you can find out more about at <https://www.youtube.com/user/cityofyorkcouncil>. In some instances, the meeting will be recorded and not live webcast. In these circumstances, the recording of the meeting will be uploaded to the YouTube page as soon as practically possible after the meeting.

~~41.9.~~ You can participate in a meeting by attending and listening to ~~councillors~~ Members debate and make decisions, or by registering to ~~speak~~ make a statement, or by submitting a question, to designated meetings, in accordance with the following rules.

How do I do this and what are the rules?

~~42.10.~~ Any member of the public living or working in the City of York Council area, or any appointed representative of any organisation operating within the council's area, ~~may participate or~~ register to ~~speak~~ make a statement or submit ask a question during the public participation item, subject to timing and registration to speak. Anyone wishing to speak should register no later than 5pm two working days before the meeting takes place. You can register on the Council's website at <https://www.york.gov.uk/form/SpeakAtCouncilMeetings>.

~~43.11.~~ Only the Lord Mayor chairing Full Council, or the Councillor chairing the meeting, has the authority to accept a late registration to speak at a meeting, and only in exceptional circumstances which must be recorded in the minutes of the meeting.

~~44.12.~~ ~~With the exception of Licensing Sub Committee Hearings, Planning Committee A and Planning Committee B meetings (see Part B, paragraph 2720), t~~here is a maximum period of 30 minutes at each meeting to listen to public speakers or for questions. Each person registered to speak or ask a question is allocated a maximum time of 3 minutes and there will be a maximum of 10 registered public speakers at each meeting, registered on a first come first served basis.

~~15.~~ ~~Councillors will listen to each speaker but will not usually make any comments or seek to debate any issues raised at this stage other than occasionally to ask questions of clarification.~~

~~46.13.~~ A registered speakers speech or question may only be on any matter for which the council has a direct responsibility, or which affects the City to a greater extent than elsewhere, and the

speaker may speak about an item on the published agenda for that meeting or issues which fall within the remit of that committee.

~~17.14.~~ In making a statement or exercising their public participation rights asking a question, a member of the public is entitled to express views, positive or negative, about the Council but must not:

- Say anything which is defamatory or discriminatory;
- Make any personal attack on an Officer and / or Member;
- Disclose confidential information or exempt information including personal information.

Written representations from Members of the Public and those registered to ask questions ~~speak~~ at meetings

~~18.~~ If you are unable to be present at the meeting at which you have registered to ask a question, your statement or question may be 'taken as read' for consideration at the meeting, or you can request that the Lord Mayor, Leader or Chair read out your out-statement or question. In the case of a question, you will then receive a written response to your question within ten working days of the meeting. ~~The following rules apply to all meetings of the Council except for Licensing Sub Committee Hearings, Planning Committee A and Planning Committee B meetings which are set out in Part B.~~

~~19.15.~~
~~20.~~ If you are unable to be present or speak at the meeting at which you have registered to ask a question, a written representation your question may be submitted for 'taken as read' for consideration at the meeting, or you can request that the Lord Mayor or Chair read your out question. You will then receive a written response to your question within ten working days of the meeting. The statement must be sent to Democratic Services using the contact details on the published agenda for the relevant officer or, alternatively by emailing democratic.services@york.gov.uk no later than 5pm two working days before the meeting at which it is to be raised takes place. Your name and address must be included along with the name of any group or organisation you are representing. Any written representations received will be

~~published along with the agenda for the relevant meeting. If within the 2 day period of the meeting taking place you are unexpectedly unable to attend or speak at the meeting, you may submit your written representation to Democratic Services and the Chair will exercise their discretion as to whether to accept your representation.~~

~~21. Written representations shall be circulated to Members prior to the commencement of the meeting. No discussion shall be allowed upon written representations. Written representations may not be read out on your behalf.~~

~~22. If all or part of the written representation is defamatory, discriminatory or relates to confidential information or exempt information including personal information, the Chair, in consultation with the Monitoring Officer, shall have the right to redact those parts of the written representation prior to circulation to Members and publication with the agenda or rule the written representation out of order in which case it shall not be circulated to Members and shall not be published with the agenda.~~

City of York Councillors wishing to speak at a meeting of which they are not a Member

~~23.16.~~ City of York Councillors who wish to speak at a meeting of which they are not a Member may participate in **such** meetings in any of the ways described in these rules. The rules in relation to public participation will apply to such City of York Councillors as they would to any member of the public.

PART B – Rules applying to specific meetings

General

~~24. The rules in Part A of this public participation protocol apply to all physical, remote and hybrid meetings other than for the specific exceptions set out in this Part B. Only exceptions to the rules in Part A are set out in Part B. For all other matters the rules remain the same as those in Part A.~~

Remote Meetings

~~25.17. Where public meetings are held remotely or in hybrid form, the provisions for Public Participation will be in accordance with the Council's Procedure Rules and Guidance for Remote Meetings contained in Appendix 23 of the Constitution. Statements and Questions for remote meetings must be submitted in accordance with paragraphs 10 to 154 above. ~~Anyone wishing to register to speak at a remote meeting will do so no later than 5pm two working days before the meeting takes place.~~~~

Meetings of Council chaired by the Lord Mayor

~~26.18. Public participation at all meetings of Full the Council will occur in accordance with the Council Procedure Rules at Appendix 3 of this constitution.~~

Planning Committee A and Planning Committee B

~~27.19. The applicant, their agent or advisor, and members of the public may register their wish to speak on the individual matters or applications to be determined at any planning committee meeting. They should do so considered by members by contacting Democratic Services using the contact details on the published agenda for the relevant officer or, alternatively by emailing democratic.services@york.gov.uk no later than 5:00 pm two three working days before the meeting takes place, clearly stating their name, address, and the application they wish to speak in relation to. No person may register to speak at a meeting before the publication of the Agenda for that meeting, and no member of the public may register to speak more than once at any meeting; Councillors may register to speak on more than one application, if~~

[representing their constituents](#). If the meeting is being held ~~remotely or~~ in hybrid form, clear instructions will be provided to public speakers who have registered to speak on how to join the meeting remotely.

~~28.20.~~ Members of the public that have registered to speak ~~remotely~~ are strongly encouraged to email the points they wish to make to the Committee to Democratic Services as set out in paragraph ~~200~~ 4 above prior to the meeting taking place so that in the event of technology difficulties, they can still be taken into consideration at the meeting. Subject to the Chair's discretion, these will not be circulated to the members of Planning Committee A and Planning Committee B unless technical difficulties are experienced during the meeting meaning that public participation of one or more registered public speakers is not possible. This is to ensure all views are taken into consideration within the Planning Committee meetings and there is no discussion outside the meeting.

~~29.21.~~ It will be at the Chair's discretion as to the limit on the number of speakers at that particular committee meeting, and ~~ss~~ speakers will be registered on a first come first served basis; ~~e-~~ Each speaker will be invited to make their representation and will be allowed a maximum of 3 minutes each to speak and may subsequently be asked questions by Members.

~~30.22.~~ After each registered public speaker has finished speaking and Members have no further questions of them they will be asked to return to their seat but they may observe the remainder of the meeting. Public speakers who are attending the meeting remotely will be asked to leave the remote meeting platform and will be able to view the remainder of the meeting via the live webcast broadcast online.

~~31.23.~~ After all registered public speakers have spoken and there are no further questions from Members, the Chair will invite Members to debate the application in question. At this point there will be no further public speaking.

~~32.24.~~ At any time, it may be necessary for officers to address the Committee to answer questions asked or to comment or clarify any points (including public participation) that have been raised during consideration of the application or to advise the Committee.

~~33.25.~~ Any dispute or question as to procedure at the Committee, including the operation of this public participation protocol, will be determined by the Chair, whose decision on all matters will be final.

Licensing Committee meetings

~~34.26.~~ The rules on public participation at Licensing Committee meetings are as set out in Part A.

General Licensing Sub-Committee and Taxi Licensing Sub-Committee hearings

~~35.27.~~ The rules on public participation at General Licensing Sub-Committee and Taxi Licensing Sub-Committee hearings is set out in Annex 1 to this document.

**ANNEX 1 – GENERAL LICENSING SUB – COMMITTEE AND
TAXI LICENSING SUB COMMITTEE
PROCEDURE FOR LICENSING HEARINGS**

1. The procedure adopted at licensing hearings is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
2. The Council's licensing hearings procedure is based on regulations made under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Sub-Committee Members have a duty to view all evidence presented before them impartially. No matter how strong local opinion may be, Sub-Committee Members can only make decisions in the context of the licensing objectives as set out in legislation as follows:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
3. The licensing hearing will be in public session and this involves the publication of all paperwork relevant to the hearing on the Council's website. This includes letters of representation either in support or objection. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted. The Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.
4. In view of the requirement to hold hearings within specified timescales (usually 20 working days from the last date for representations), the Council is unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Council will consider applications to hold hearings at a later date.

5. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The live stream of the Hearing will be recorded and the recording placed on the Council's website.

Representations at Licensing Hearings

6. The Applicant is permitted to speak at the hearing. Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. The Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
7. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.
8. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
9. The Sub-Committee may take into account any documentary evidence or other information in support of the application or representations either before the hearing or, with the consent of all other parties, at the hearing. For remote meetings the procedure set out in paragraphs 14 to 18 below will be followed.
10. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation.

In considering written evidence in the absence of a Representor, appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

11. The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points not already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.
12. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
13. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

Procedure prior to the Hearing - remote and hybrid meetings

14. Where the meeting is held remotely or in hybrid form the Sub-Committee will use a video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee using a secure video-conferencing platform. This video-conferencing platform will also be used for decision making in private.

15. All paperwork relevant to the hearing will be published online on the Council's website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.
16. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
17. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
18. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
19. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

Procedure prior to the Hearing – Physical Meetings

20. The Members sitting on the Sub-Committee will have a briefing prior to the hearing, usually in the meeting room where the hearing is to take place. They will only be accompanied by the Democratic Services Officer and the Council's Legal Advisor. During the briefing, attention will only be drawn to the nature of the application and the premises or person to which it relates and any procedural matters.

21. At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until called into the meeting room. Please arrive 15 minutes before the advertised start time.

Procedure at the Hearing

22. The Chair introduces the Sub-Committee Members and Officers and welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
23. The Chair will outline the procedure to be followed.
24. The Chair will proceed with the order of business on the agenda.

Licensing Officer

25. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
26. The Chair will invite all parties (who have registered to speak) and/or their representative to ask questions of the Licensing Officer [maximum 5 minutes each party] in the following order:
- Applicant
 - Police
 - Other Responsible Authority [each in turn]
 - Ward Councillors [each in turn]
 - Interested Parties [each in turn]
 - Sub-Committee Members [each in turn]

The Application

27. The Chair will invite the Applicant and/or their representative to address the Sub-Committee, present information in support of the application and call any witnesses to support their application, one witness at a time [*maximum 15 minutes*].

28. The Chair will invite the Representors (who have registered to speak) and/or their representative to ask questions of the Applicant and/or their representative in the following order *[maximum 5 minutes each party]*
- (i) Police
 - (ii) Other Responsible Authorities [each in turn]
 - (iii) Ward Councillors [each in turn]
 - (iv) Interested Parties [each in turn]
 - (v) Sub-Committee Members [each in turn]
29. The Applicant and each of their witnesses may be questioned by:
- Members of the Sub-Committee;
 - The Sub-Committee's legal adviser.

The Representations

30. The Chair will invite the Representors (who have registered to speak) and/or their representatives to address the Sub-Committee, present information and call any witnesses in support of their representation *[maximum 15 minutes each party]* in the following order:
- (i) Police
 - (ii) Other Responsible Authorities [each in turn]
 - (iii) Ward Councillors [each in turn]
 - (iv) Interested Parties [each in turn]
31. After each presentation the Chair will invite questions from the Applicant and Representors (who have registered to speak) *[maximum 5 minutes per party]* in the following order:
- Applicant
 - Police
 - Other Responsible Authority [each in turn]
 - Ward Councillors [each in turn]
 - Interested Parties [each in turn]

- Sub-Committee Members [each in turn]
32. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Cross-examination

33. Cross-examination of another party is not normally permitted. However, the Sub-Committee will consider any application for permission to cross examine another party should any party wish to make such an application.

Summaries

34. The Chair will invite the Applicant and Representors (who have registered to speak) or their representative to summarise their case *[maximum 5 minutes each party]* in the following order:
- (i) Police
 - (ii) Other Responsible Authorities [each in turn]
 - (iii) Ward Councillors [each in turn]
 - (iv) Interested Parties [each in turn]
 - (v) Applicant
35. The Chair will provide the Sub-Committee members with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.
36. The Sub-Committee's legal adviser may seek points of clarification from the Applicant, Representors or their representative.

Determination

37. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and

Representors (or their representatives) plus any witnesses present to leave the committee room and the Sub-Committee will consider the evidence. Where the meeting is being held remotely or in hybrid form the Sub-Committee will withdraw to consider their decision in a separate private on line meeting.

38. The Legal Adviser and Democratic Services Officer will remain present during the decision making process. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.
39. Unless expressly stated by the Sub-Committee in the hearing, the Sub-Committee will not invite the parties back into the committee room or return to the public online meeting to announce their decision. The Sub-Committee will provide an outline of their decision in writing to the Applicant and Representors on the day of the hearing concluding, unless further time is required to deliberate. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.
40. In the event that the Sub-Committee do return to the public online meeting to announce their decision, the Sub-Committee will only announce an outline of their decision. There can be no further questions or statements from any party. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.

Appendix 8 – Public Participation Protocol

PART A – Rules applying to all meetings

General

1. These rules apply to all physical, remote and hybrid meetings, but not to Licensing Sub Committee Hearings, or Planning Committee A and Planning Committee B meetings (see Part B, paragraph 20).
2. Meetings of Council, Executive, their Committees, and Sub-Committees are business meetings, convened to allow the Council to transact its formal business. In law, there is a right for any person to attend such meetings for the purpose of observation and, should they choose, reporting on the proceedings; however, there is no general right for persons other than Members to speak at any such meeting. Residents are, however, encouraged to participate in the Council's decision-making process by sharing their views in a number of ways.

Making representations in response to the Forward Plan

3. You can find out about forthcoming Key Executive and Executive Member business by looking at the Council's Executive Forward Plan which is published on the Council's website. You can make representations on any forthcoming Executive business by sending your views in writing to the report author either by email or post up to 3 weeks before the decision is due to be taken – residents views received after that time may not be addressed in the report but may be addressed at the meeting. The public can contact the Council regarding this through 'HaveYourSay' or can contact the author of the report.
4. The report author's contact details can be found on each individual Forward Plan item.

Participating at a public meeting

5. All meetings are open to the public except when exempt or confidential information is being discussed. Agendas for meetings can be found on the Council's website, at least five working days before the meeting.
6. Dates, times and agendas for meetings are available via the calendar of council meetings on the Council website, at local libraries and on the West Offices notice board, usually five days before the meeting. You can also contact Democratic Services by emailing democratic.services@york.gov.uk or telephoning York (01904) 551088 to find out when a meeting is taking place or to request an agenda.
7. Council and Committee meetings take place at West Offices, although meetings of the Full Council may be held at alternative venues, details of which will be published in the notice of meeting, and on a video conferencing platform.
8. Council meetings are usually live webcast and retained on YouTube which you can find out more about at <https://www.youtube.com/user/cityofyorkcouncil>. In some instances, the meeting will be recorded and not live webcast. In these circumstances, the recording of the meeting will be uploaded to the YouTube page as soon as practically possible after the meeting.
9. You can participate in a meeting by attending and listening to Members debate and make decisions, or by registering to make a statement, or by submitting a question, to designated meetings, in accordance with the following rules.

How do I do this and what are the rules?

10. Any member of the public living or working in the City of York Council area, or any appointed representative of any organisation operating within the council's area, register to make a statement or ask a question during the public participation item, subject to timing and registration to speak. Anyone wishing to speak should register no later than 5pm two working days before the meeting takes

place. You can register on the Council's website at <https://www.york.gov.uk/form/SpeakAtCouncilMeetings>.

11. Only the Lord Mayor chairing Full Council, or the Councillor chairing the meeting, has the authority to accept a late registration to speak at a meeting, and only in exceptional circumstances which must be recorded in the minutes of the meeting.
12. There is a maximum period of 30 minutes at each meeting to listen to public speakers or for questions. Each person registered to speak or ask a question is allocated a maximum time of 3 minutes and there will be a maximum of 10 registered public speakers at each meeting, registered on a first come first served basis.
13. A speech or question may only be on any matter for which the council has a direct responsibility, or which affects the City to a greater extent than elsewhere, and the speaker may speak about an item on the published agenda for that meeting or issues which fall within the remit of that committee.
14. In making a statement or asking a question, a member of the public is entitled to express views, positive or negative, about the Council but must not:
 - Say anything which is defamatory or discriminatory;
 - Make any personal attack on an Officer and / or Member;
 - Disclose confidential information or exempt information including personal information.

Written representations from Members of the Public and those registered to ask questions at meetings

15. If you are unable to be present at the meeting at which you have registered to ask a question, your statement or question may be 'taken as read' for consideration at the meeting, or you can request that the Lord Mayor, Leader or Chair read out your statement or question. In the case of a question, you will then receive a written response within ten working days of the meeting.

City of York Councillors wishing to speak at a meeting of which they are not a Member

16. City of York Councillors who wish to speak at a meeting of which they are not a Member may participate in such meetings in any of the ways described in these rules. The rules in relation to public participation will apply to such City of York Councillors as they would to any member of the public.

PART B – Rules applying to specific meetings**Remote Meetings**

17. Where public meetings are held remotely or in hybrid form, the provisions for Public Participation will be in accordance with the Council's Procedure Rules and Guidance for Remote Meetings contained in Appendix 23 of the Constitution. Statements and questions for remote meetings must be submitted in accordance with paragraphs 10 to 15 above.

Meetings of Council chaired by the Lord Mayor

18. Public participation at meetings of the Council will occur in accordance with the Council Procedure Rules at Appendix 3 of this constitution.

Planning Committee A and Planning Committee B

19. The applicant, their agent or advisor, and members of the public may register to speak on individual matters or applications to be determined at any planning committee meeting. They should do so by contacting Democratic Services by emailing democratic.services@york.gov.uk no later than 5:00 pm three working days before the meeting takes place, clearly stating their name, address, and the application they wish to speak in relation to. No person may register to speak at a meeting before the publication of the Agenda for that meeting, and no member of the public may register to speak more than once at any meeting; Councillors may register to speak on more than one application, if

representing their constituents. If the meeting is being held in hybrid form, clear instructions will be provided to public speakers who have registered to speak on how to join the meeting remotely.

20. Members of the public that have registered to speak are strongly encouraged to email the points they wish to make to the Committee to Democratic Services as set out in paragraph 20 above prior to the meeting taking place so that in the event of technology difficulties, they can still be taken into consideration at the meeting. Subject to the Chair's discretion, these will not be circulated to the members of Planning Committee A and Planning Committee B unless technical difficulties are experienced during the meeting meaning that public participation of one or more registered public speakers is not possible. This is to ensure all views are taken into consideration within the Planning Committee meetings and there is no discussion outside the meeting.
21. It will be at the Chair's discretion as to the limit on the number of speakers at that particular committee meeting, and speakers will be registered on a first come first served basis; each speaker will be invited to make their representation and will be allowed a maximum of 3 minutes each to speak and may subsequently be asked questions by Members.
22. After each registered public speaker has finished speaking and Members have no further questions of them they will be asked to return to their seat but they may observe the remainder of the meeting. Public speakers who are attending the meeting remotely will be asked to leave the remote meeting platform and will be able to view the remainder of the meeting via the live webcast broadcast online.
23. After all registered public speakers have spoken and there are no further questions from Members, the Chair will invite Members to debate the application in question. At this point there will be no further public speaking.
24. At any time, it may be necessary for officers to address the Committee to answer questions asked or to comment or clarify any

points (including public participation) that have been raised during consideration of the application or to advise the Committee.

25. Any dispute or question as to procedure at the Committee, including the operation of this public participation protocol, will be determined by the Chair, whose decision on all matters will be final.

Licensing Committee meetings

26. The rules on public participation at Licensing Committee meetings are as set out in Part A.

General Licensing Sub-Committee and Taxi Licensing Sub-Committee hearings

27. The rules on public participation at General Licensing Sub-Committee and Taxi Licensing Sub-Committee hearings is set out in Annex 1 to this document.

**ANNEX 1 – GENERAL LICENSING SUB – COMMITTEE AND
TAXI LICENSING SUB COMMITTEE
PROCEDURE FOR LICENSING HEARINGS**

1. The procedure adopted at licensing hearings is at the discretion of the Sub-Committee but will normally follow the pattern outlined below.
2. The Council's licensing hearings procedure is based on regulations made under the Licensing Act 2003. The procedure is intended as a general framework to ensure natural justice and a fair hearing. The Sub-Committee will be guided by legal principles in determining whether evidence is both relevant and fairly admitted. Sub-Committee Members have a duty to view all evidence presented before them impartially. No matter how strong local opinion may be, Sub-Committee Members can only make decisions in the context of the licensing objectives as set out in legislation as follows:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
3. The licensing hearing will be in public session and this involves the publication of all paperwork relevant to the hearing on the Council's website. This includes letters of representation either in support or objection. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted. The Sub-Committee may exclude the public from a hearing if it considers it in the public interest to do so. However, the decision will be made in private.
4. In view of the requirement to hold hearings within specified timescales (usually 20 working days from the last date for representations), the Council is unable to enter into discussions to identify dates convenient to all parties concerned. In exceptional circumstances, the Council will consider applications to hold hearings at a later date.

5. The Council will provide a record of the hearing in a permanent and intelligible form and keep it for 6 years from the date of determination or disposal of any Appeal. The live stream of the Hearing will be recorded and the recording placed on the Council's website.

Representations at Licensing Hearings

6. The Applicant is permitted to speak at the hearing. Ward Councillors, responsible Authorities and Representors are only permitted to speak if they have made written submissions during the consultation period. The Applicant and any Representors shall attend in person wherever possible. Any party to a hearing may be assisted or represented by any person, legally or otherwise.
7. All parties will be given a fair hearing and each party will have the same amount of time in which to address the Sub-Committee and question each other. Each party will have 15 minutes to address the Sub-Committee and call any witnesses and 5 minutes for questions.
8. However, where there are groups of individuals with a common interest, for example local residents making similar representations either for or against an application, consideration should be given to nominating a spokesperson. Otherwise the Sub-Committee may impose a time limit for such representations where there is pressure on the Sub-Committee to hear numerous applications in a short period of time or for any other valid reason.
9. The Sub-Committee may take into account any documentary evidence or other information in support of the application or representations either before the hearing or, with the consent of all other parties, at the hearing. For remote meetings the procedure set out in paragraphs 14 to 18 below will be followed.
10. If any Representors fail to attend the hearing, the Sub-Committee will normally proceed but will consider their written representation. In considering written evidence in the absence of a Representor,

appropriate weight will be attached, given that the person cannot be questioned by the Applicant and Members.

11. The Sub-Committee is required to disregard any information given or evidence produced by a party or witness which is not relevant to the application, representations, or notice, and the promotion of the licensing objectives. Duplication should be avoided. Comments must be confined to those points not already made, although the parties may expand on their written submissions. The Sub-Committee will have read and familiarised themselves with all the written submissions and the issues prior to the hearing, and therefore do not require the points to be made at length. The Applicant and Representors cannot raise substantial new information at a hearing which has not been seen previously by the other parties.
12. A Representor **may not** introduce any new ground or objection not referred to in their written submission. Additional representations which do not amount to an amplification of the original representation will not be considered by the Sub-Committee.
13. Any person behaving in a disruptive manner will be asked to leave the hearing. However, if this occurs, that person will be entitled to submit in writing any information they would have been entitled to give orally.

Procedure prior to the Hearing - remote and hybrid meetings

14. Where the meeting is held remotely or in hybrid form the Sub-Committee will use a video-conferencing platform when the hearing is in public session. Clear instructions will be provided to participants on how to join the remote hearing. The Sub-Committee may exclude the public from all or part of a hearing if it considers it is in the public interest to do so. Should any part of the hearing need to be held in private session, a separate private online meeting will be convened by the Sub-Committee using a secure video-conferencing platform. This video-conferencing platform will also be used for decision making in private.

15. All paperwork relevant to the hearing will be published online on the Council's website, 5 working days before the remote hearing. The documents will be produced in PDF format and will be paginated to permit ease of reference during the remote hearing. Name and address details of those making representations will be made public. Telephone numbers, email addresses and signatures will be omitted.
16. 5 working days before the remote hearing is due to take place, the Council will contact the parties with a list of issues they would like any party to specifically address them on or clarify at the hearing.
17. If in light of the Council's list of issues any party wishes to produce any further documentary evidence they should submit this to the Council by email three working days before the hearing.
18. Any documentary evidence that is not submitted to the Council by email three working days before the hearing will not be admitted without the agreement of all parties. If it is essential to a party's case that the material be admitted, then the Sub-Committee will consider adjourning the remote hearing to allow all parties a fair opportunity to consider it.
19. Should any party wish to rely on any points of law, specific references in the s.182 Guidance, specific references in the Council's Policy or any other external resources, these should be set down in an electronic document and submitted to the Council by email three working days before the hearing.

Procedure prior to the Hearing – Physical Meetings

20. The Members sitting on the Sub-Committee will have a briefing prior to the hearing, usually in the meeting room where the hearing is to take place. They will only be accompanied by the Democratic Services Officer and the Council's Legal Advisor. During the briefing, attention will only be drawn to the nature of the application and the premises or person to which it relates and any procedural matters.

21. At any hearing of an application, the Licensing Officer, the Applicant and any Representors or representatives will report to reception and be asked to wait in reception until called into the meeting room. Please arrive 15 minutes before the advertised start time.

Procedure at the Hearing

22. The Chair introduces the Sub-Committee Members and Officers and welcomes the Applicant and Representors (or their representatives), and establishes the identity of all who will be taking part.
23. The Chair will outline the procedure to be followed.
24. The Chair will proceed with the order of business on the agenda.

Licensing Officer

25. When the agenda item relating to the application is reached, the Chair will invite the Licensing Officer to present the application.
26. The Chair will invite all parties (who have registered to speak) and/or their representative to ask questions of the Licensing Officer [maximum 5 minutes each party] in the following order:
- Applicant
 - Police
 - Other Responsible Authority [each in turn]
 - Ward Councillors [each in turn]
 - Interested Parties [each in turn]
 - Sub-Committee Members [each in turn]

The Application

27. The Chair will invite the Applicant and/or their representative to address the Sub-Committee, present information in support of the application and call any witnesses to support their application, one witness at a time [*maximum 15 minutes*].

28. The Chair will invite the Representors (who have registered to speak) and/or their representative to ask questions of the Applicant and/or their representative in the following order *[maximum 5 minutes each party]*
- (i) Police
 - (ii) Other Responsible Authorities [each in turn]
 - (iii) Ward Councillors [each in turn]
 - (iv) Interested Parties [each in turn]
 - (v) Sub-Committee Members [each in turn]
29. The Applicant and each of their witnesses may be questioned by:
- Members of the Sub-Committee;
 - The Sub-Committee's legal adviser.

The Representations

30. The Chair will invite the Representors (who have registered to speak) and/or their representatives to address the Sub-Committee, present information and call any witnesses in support of their representation *[maximum 15 minutes each party]* in the following order:
- (i) Police
 - (ii) Other Responsible Authorities [each in turn]
 - (iii) Ward Councillors [each in turn]
 - (iv) Interested Parties [each in turn]
31. After each presentation the Chair will invite questions from the Applicant and Representors (who have registered to speak) *[maximum 5 minutes per party]* in the following order:
- Applicant
 - Police
 - Other Responsible Authority [each in turn]
 - Ward Councillors [each in turn]
 - Interested Parties [each in turn]
 - Sub-Committee Members [each in turn]

32. Where there are groups of individuals with a common interest, for example local residents, presentation through an appointed spokesperson is preferred but not mandated.

Cross-examination

33. Cross-examination of another party is not normally permitted. However, the Sub-Committee will consider any application for permission to cross examine another party should any party wish to make such an application.

Summaries

34. The Chair will invite the Applicant and Representors (who have registered to speak) or their representative to summarise their case [*maximum 5 minutes each party*] in the following order:
- (i) Police
 - (ii) Other Responsible Authorities [each in turn]
 - (iii) Ward Councillors [each in turn]
 - (iv) Interested Parties [each in turn]
 - (v) Applicant
35. The Chair will provide the Sub-Committee members with a final opportunity to seek clarification from any of the parties on any points raised, or seek advice from the Licensing Officer on policy, or from the Legal Advisor on law and jurisdiction.
36. The Sub-Committee's legal adviser may seek points of clarification from the Applicant, Representors or their representative.

Determination

37. When all the evidence has been heard, the Chair will declare the hearing closed and ask the Licensing Officer, the Applicant and Representors (or their representatives) plus any witnesses present to leave the committee room and the Sub-Committee will consider the evidence. Where the meeting is being held remotely or in

hybrid form the Sub-Committee will withdraw to consider their decision in a separate private on line meeting.

38. The Legal Adviser and Democratic Services Officer will remain present during the decision making process. These officers will not comment on the merits of the application, but will be present to provide advice on legal and procedural points and to record the decision.
39. Unless expressly stated by the Sub-Committee in the hearing, the Sub-Committee will not invite the parties back into the committee room or return to the public online meeting to announce their decision. The Sub-Committee will provide an outline of their decision in writing to the Applicant and Representors on the day of the hearing concluding, unless further time is required to deliberate. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.
40. In the event that the Sub-Committee do return to the public online meeting to announce their decision, the Sub-Committee will only announce an outline of their decision. There can be no further questions or statements from any party. The decision will then be communicated in full, in writing, including the reasons for the Sub-Committee's decision, to the Applicant and Representors, usually within 5 working days of the hearing concluding. The full decision letter will include information about the rights of appeal against the determination made.

ARTICLE 11 – STAFFING MATTERS AND URGENCY COMMITTEE**1. Composition**

- 1.1 Staffing Matters & Urgency Committee is a Committee of Full Council and shall be proportionate in its composition.
- 1.2 The Chair and Vice Chair of the Committee will be appointed by Full Council.

2. Role

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

3. Functions

- 3.1 Power to appoint the Chief Officers listed at paragraph 3.4 below, in accordance with the procedures at Appendix 12 of this Constitution, and to determine the terms and conditions on which they hold office (excluding procedures for their dismissal).
- 3.2 To be the committee of Council responsible for the strategic overview of workforce and employment matters to ensure the delivery of good quality services to the people of York.
- 3.3 To have strategic oversight of key strategies as the basis for people management within the Council, including pay strategy, learning and development strategy, workforce development strategy.
- 3.4 To arrange for the conduct of the recruitment and selection process in respect of the following Statutory Chief Officers:
 - a) The Head of Paid Service. (*NB: this appointment is subject to Full Council approval*);

- b) The Section 151 Officer;
- c) The Monitoring Officer;
- d) ~~The Director of Children's Services~~ ~~Corporate Directors~~;
- e) ~~Directors~~ ~~The Director of Adult Social Services~~;
- f) ~~Assistant~~ ~~The Directors of Public Health~~; and
- g) Any other Corporate Director.

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

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

- In respect of the Chief Officers listed at paragraph 3.4 above only:
 - a) Approval on the exercise of LGPS and discretionary compensation related discretions in accordance with the City of York's Local Government Pension Scheme 2021 Discretions Policy; and
 - b) All non-routine pay-related issues.
- In respect of non-Chief Officers:
 - a) To note redundancy, retirement, and settlement agreements.

4. Other staffing issues

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

5. Urgency

5.1 The committee is empowered to authorise all non-executive functions (other than those which must, by law, be exercised by

Full Council), in circumstances of urgency, where it is necessary to obtain a decision on any matter without delay.

- 5.2 In relation to any urgent matter, which involves the exercise of Executive functions, the Committee shall act in an advisory capacity to the Leader or their substitute Executive Member, who shall have regard to the advice when exercising the relevant function. *[Subject to legal requirements for taking an urgent Executive decision].*
- 5.3 For the purposes of determining whether the Urgency Committee ought to exercise the above delegations a decision is regarded as urgent if it cannot reasonably be deferred to the next available Council, Executive or Committee for determination and any such delay is likely to seriously prejudice the Council's or the public's interests.

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Appendix 12 – Officer Employment Procedure Rules

To note: all staffing issues are a non-executive function and arrangements or any committees required must be done so by Council and not the Executive and or Leader of the Council.

1 Recruitment and Appointment of Officers

Declarations

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are related to any Councillor or Council Officer or if they have a substantial relationship with any Councillor or Council Officer. Such a relationship would include parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of a Councillor or an Officer of the Council; or of the partner of such persons. No candidate related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

Seeking support for appointment

- 1.2 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. No Councillor will seek support for any person for any appointment with the Council.
- 1.3 This does not preclude a Councillor from giving a reference for a candidate for submission with an application for appointment.

Appointments

- 1.4 Subject to the paragraphs below and the exceptions detailed therein, the appointment of Officers is the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme

of Delegations at Appendix 1, and such appointments must not be made by Councillors. This provision does not apply to the appointment of the ~~Chief Operating Officer (Head of Paid Service)~~, Chief Officers listed at paragraph 3.4 of Article 11 of this Constitution, or Assistants to Political Groups.

2 Appointment of Assistants to Political Groups

2.1 A Group qualifies for an Assistant if:

a. The Membership of that Group comprises of at least one tenth of the membership of the Council;

b. No more than 2 other groups on the Council are larger, or if more than 2 Groups are larger or the same size as the Group, the Council have decided that a post should be allocated to the Group; and

b-c. At least two Groups are seeking an Assistant, one of which is the majority Group on the Council.

2.2 No appointment to a post of Assistant to a Political Group on the Council will be made until such posts have been allocated to each Group which qualifies. No more than 3 such posts shall be created. No Group shall be allocated more than 1 such post and no such post shall be allocated to a Group which does not qualify for one.

2.3 An Assistant to a Political Group may not have delegated to them any of the powers of the Council or of the Executive.

2.4 Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

~~2.5~~ The appointment of Assistants to Political Groups is a fixed term appointment up to the Annual Meeting following an election.

2.5

3 Appointment of the Director of Public Health

- 3.1 A Panel comprising the following will appoint the Director of Public Health:
- a. A Councillor as determined by the Head of HR;
 - b. the Chief Operating Officer or an Officer nominated by them;
 - c. an externally facilitated assessor appointed following consultation with the Faculty of Public Health and agreed by Public Health England;
 - d. The Regional Director of Public Health or their nominated deputy;
 - e. A senior NHS representative to be determined by the Corporate Director of People.
- 3.2 An offer of employment regarding the Director of Public Health appointment shall only be made where no well-founded objection from any Member of the Executive has been received.

4 **Recruitment and Appointment of ~~Chief Operating Officer~~ (Head of Paid Service)**

- 4.1 Where the Council proposes to appoint a ~~Chief Operating Officer~~Head of Paid Service, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:
- a. the duties of the Officer concerned; and
 - b. any qualifications or qualities to be sought in the person to be appointed

- 4.2 The Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and will make arrangements for a copy of the statement set out above to be sent to any person on request.
- 4.3 This procedure at para 4.1 and 4.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.
- 4.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.
- 4.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.
- 4.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

-Offer of Appointment and Procedure for seeking objections

- 4.7 Any proposal to appoint the Head of Paid Service shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:
- a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
 - b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
 - c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be

made by the Leader, on behalf of Executive, to the Head of HR; and;

d. Either:

- The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
- The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;
- The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

4.8 Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by The Chief Officer Appointments Sub Committee.

5 **Recruitment and Appointment of other Chief Officers **including the ~~statutory posts of Monitoring Officer and the Section 151 Officer~~ set out at paragraph 3.4 of Article 11****

5.1 Where the Council proposes to appoint to a Chief Officer ~~(statutory and non-statutory)~~ as defined at paragraph 3.4 of Article 11 of the Constitution, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:

- a. the duties of the Officer concerned; and
- b. any qualifications or qualities to be sought in the person to be appointed.

5.2 The Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are

qualified to apply for it and will make arrangements for a copy of the statement set out above to be sent to any person on request.

5.3 This procedure at para 5.1 and 5.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.

5.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.

5.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.

5.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

-Offer of Appointment and Procedure for seeking objections

5.7 Any proposal to appoint a Chief Officer as defined at paragraph 3.4 of Article 11 of the Constitution or ~~Deputy Chief Officer~~ shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:

- a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
- b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
- c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be

made by the Leader, on behalf of Executive, to the Head of HR; and;

- d. Either:
- The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
 - The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;
 - The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

5.8 The appointment of Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution~~(statutory and non-statutory)~~ will be reported to Full council for noting only. The approval of Full council is not required other than for the post of Head of Paid Service.

5.9 Where the Head of HR is unable to act, the ~~Chief Operating Officer~~Head of Paid Service will nominate another Chief Officer to act in their place.

6 Disciplinary Action and Dismissal

6.1 Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

7 Action against other Officers (other than Assistants to Political Groups)

- 7.1 Any action against Officers (~~below other than~~ those of ~~CC~~Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution, or level) (~~other than~~ Assistants to Political Groups) ~~is~~ shall be the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme of Delegations at Appendix 1, and decisions regarding action against these Officers may not be made by Councillors.

8 Action of the Director of Public Health

- 8.1 In considering any disciplinary or dismissal action against the Director of Public Health, the Council will have regard to the provisions of Health and Social Care legislation and any associated guidance issued by the Secretary of State.
- 8.2 Before terminating the appointment of a Director of Public Health, the Council will consult with the Secretary of State.

9 Statutory Chief Officers

- 9.1 Annex 1 sets out the procedure relating to disciplinary action to be taken against the Head of Paid Service, ~~and the Statutory Chief Officers, namely,~~ the Monitoring Officer, and the Chief Finance Officer (S151 Officer).

10 ~~Non-Other Statutory~~ Chief Officers

- 10.1 —Annex 2 sets out the procedure relating to ~~Non-Statutory~~ all other Chief Officers, which includes Deputy Chief Officers. The definition of all of these Officers can be found in Section 2 of the Local Government and Housing Act 1989.

Annex 1

Disciplinary Procedure for the Head of Paid Service (Chief Operating Officer), ~~and Statutory Chief Officers~~: the Monitoring Officer, and Chief Finance (s151) Officer ~~(the Statutory Chief Officers)~~

1 Scope of Procedure

- 1.1 This disciplinary procedure is based on that set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook (the JNC Handbook) as updated on 13 October 2016. It applies to ~~City of York Council's (the Council)~~ Head of Paid Service, ~~(Chief Operating Officer)~~, Monitoring Officer, and Chief Finance Officer (~~the Statutory Chief Officers~~ S151 Officer), jointly referred to as the "Statutory Chief Officers".
- 1.2 This procedure has been adopted by the Council for the purposes of dealing with disciplinary, capability and other substantial issues in relation to the Statutory Chief Officers. For the avoidance of doubt, this procedure also applies to a breakdown in trust and confidence between the Statutory Chief Officers and the Council.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this procedure is to:
 - a. Encourage Officers to achieve and maintain acceptable standards of behaviour;
 - b. Provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - c. Minimise disagreements about disciplinary matters; and
 - d. Reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Council and the Statutory Chief Officer, the steps set out

in this procedure ~~should~~must be followed. The parties recognize that it may be necessary to depart from the procedure, from time to time, according to the particular circumstances of a case. In such circumstances, both parties agree to give fair consideration to reasonable proposals to modify the procedure accordingly.

- 1.6 This procedure does not form part of a Statutory Chief Officer's contract of employment, and it may be amended at any time, subject to ~~overall~~ compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2 Initial Filter Stage

- 2.1 If an allegation of potential misconduct against a Statutory Chief Officer is made, the Head of HR, in conjunction with the Head of Paid Service (or the Monitoring Officer and the Leader if the allegation is against the Head of Paid Service), will conduct a filter process of the allegations.
- 2.2 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial, can be dealt with informally or can best be dealt with under some other procedure.
- 2.3 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) shall also consider whether early informal resolution of the issues with the Statutory Chief Officer is appropriate, and any final decision as to early resolution of the issues will be made by the Head of Paid Service in conjunction with the Head of HR (or

the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service).

- 2.4 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will conduct an initial review of the allegation, which includes speaking with the Statutory Officer about whom the allegation is made.
- 2.5 This review will be considered by the Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service), where this can be resolved informally a meeting will be held with the statutory officer to agree the resolution.
- 2.6 Where an informal resolution is not appropriate, the draft filter report will be shared with the Head of HR and the Chair of the Investigating and Disciplinary Committee (IDC) for comment. The Head of Paid Service (or Monitoring Officer if the complaint is against the Head of Paid Service) will finalise the filter report and will take into consideration the views of the Head of HR and the Chair of the IDC, however, the filter decision is an officer decision for the Head of Paid Service (or the Monitoring Officer where it is against the Head of Paid Service) to determine.
- 2.7 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the Statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.
- 2.8 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be progressed, the filter report and evidence considered should be finalised and presented to the IDC.

3 Informal resolution

- 3.1 In accordance with recommendations in the JNC Handbook, the Council and the Statutory Chief Officer should seek an informal resolution before formal disciplinary proceedings are commenced. The Head of HR will be responsible for seeking an informal resolution with the Statutory Chief Officer. If informal resolution is not possible, the Head of Paid Service (~~with Head of HR~~ or the Monitoring Officer if it is about the Head of Paid Service) with Head of HR will inform the Chair of the IDC of the complaint/allegation made against the Statutory Chief Officer and the failure to achieve an informal resolution.

4 Formal Resolution

- 4.1 At all stages of the disciplinary process, the Council will refer the JNC Handbook for Chief Executives for procedural guidance.

5 Roles and Responsibilities

- 5.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Relevant Statutory Chief Officer, the matter will be referred to an Investigating and Disciplinary Committee for consideration at the earliest opportunity.

6 Investigating and Disciplinary Committee (IDC)

- 6.1 The Investigating and Disciplinary Committee shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 7 below.
- 6.2 The Investigating and Disciplinary Committee should:
- a. Include no fewer than five elected Members;
 - b. Not include any Member with a direct personal involvement in the complaint;
 - c. Be politically balanced; and
 - d. Include at least one Member of the Executive Member.
- 6.3 The Investigating and Disciplinary Committee shall appoint a Chair to oversee the function of the Committee.

6.4 The Investigating and Disciplinary Committee may have to:

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

7 Appeals Committee

7.1 The Council will be required to establish and Appeal Committee.

7.2 The purpose of the Appeals Committee is limited to:

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

7.3 The Appeals Committee should:

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

8 Independent Panel

8.1 The council will appoint at least two Independent Persons who have been appointed by the Council or by another council for the purposes of the Council's Code of Conduct procedures pursuant to the Localism Act 2011. Membership of the Panel is in the following priority order:

- a. An independent person who has been appointed by the Council and who is a local government elector in York;
- b. Any other independent person who has been appointed by the Council; and
- c. An independent person who has been appointed by another council(s)

- 8.2 The Council will provide appropriate training for Independent panel members.

NOTE: For the purposes of investigation of the statutory Chief Officers, Independent Persons will be referred to as ~~the~~ Independent Investigators and appointments will be sought from the approved panel held centrally by the JNC Joint Secretaries

9 Timescale

- 9.1 The procedure does not generally incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. Where time limits do apply, they are included within the relevant section of this procedure. However, it is implicit that all stages of the procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

10 Suspension

- 10.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where it is envisaged that the Statutory Chief Officer's continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Council's functions.
- 10.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 10.3 The decision to suspend a Statutory Chief Officer will rest with the Investigating and Disciplinary Committee. Urgent or exceptional cases will include where the continuing presence of the Statutory Chief Officer could be a serious danger to the health and safety of others, or a serious risk to the resources, information, or reputation of the Council. In these cases, the Chair of the IDC can suspend.

- 10.4 Save in urgent or exceptional cases, prior to imposing suspension in any case, the Investigating and Disciplinary Committee shall inform the Statutory Chief Officer, in writing, of the reason for the proposed suspension and the Statutory Chief Officer shall have the opportunity to make representations before a decision is taken.
- 10.5 In urgent or exceptional cases, the Statutory Chief Officer shall be informed of such reasons in writing and may make representations to the Chair of the IDC.
- 10.6 The necessity for the Statutory Chief Officer to remain suspended should be reviewed at regular intervals and, where possible, lengthy periods of suspension should be avoided. Further, specific consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Statutory Chief Officer's suspension, whilst avoiding any prejudice to the investigation or to the efficient exercise of the Council's functions.
- 10.7 Absence from duty during any period of suspension shall be on full pay.
- 10.8 Any suspension should not last longer than 2 months from the day on which it takes effect, and only continued following consultation with the ~~Independent Investigator~~ after taking into account any representations made by the ~~Chief Operating Officer~~Head of Paid Service (or the Monitoring Officer if the complaint relates to the Head of Paid Service).

11 Preliminary Investigation

- 11.1 The Investigatory and Disciplinary Committee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration.
- 11.2 As soon as practicable, the Chair of the ~~Investigating and Disciplinary Committee~~ will inform the statutory Chief Officer in

writing of the allegations and or issues under investigation and provide any evidence the Committee is to consider and of their right to present oral evidence.

- 11.3 The statutory Chief Officer will be invited to submit written representations and any evidence, including witness evidence, which he or she wishes ~~ed~~ the committee to consider. It is not anticipated that witnesses will be required at an initial hearing, however the discretion to call witnesses lies solely with the Investigating and Disciplinary Committee.
- 11.4 Following very careful consideration of all of the material both relating to the allegations and the submissions by the statutory Chief Officer, the Committee will decide whether:
- a. The issue requires no further formal action under this procedure; OR
 - b. If the matter is not serious but there is some minor fault or error on the part of the statutory Chief Officer, then the Committee can issue an informal unrecorded warning; OR
 - c. The issue should be referred to an Independent Investigator.
- 11.5 The statutory Chief Officer will be informed of the decision without delay.

12 Appointment of an Independent Investigator

- 12.1 The Investigating and Disciplinary Committee will be responsible for the appointment of an Independent Investigator and will be appointed from the list held centrally by the JNC Joint Secretaries.
- 12.2 The Independent Investigator will be provided with all necessary facilities, provision of all information and also be responsible for remuneration of the Independent person.
- 12.3 The ~~statutory~~ Statutory Chief Officer has up to 14 days to agree to the appointment of a selected Independent person, ~~and~~ If the Statutory Chief Officer fails to respond within the 14 days period,

the Committee can go ahead with the selection of an Independent person.

- 12.4 The Investigating and Disciplinary Committee has responsibility for providing the Independent Investigator with
- a. Terms of reference for the investigation;
 - b. Details of the precise allegations and or issues to be investigated;
 - c. Provision of access to sources of information and people identified as relevant to the case;
 - d. Clarity as to timescales and any other known factors which may hinder the investigation e.g., availability or not of individuals.

13 The Independent Investigation

- 13.1 Once appointed the Independent Investigator has full responsibility for the conduct of the investigation and will ultimately prepare a detailed report stating whether in their opinion:
- a. Whether, and if so the extent to which, the evidence obtained supports any allegation of misconduct or incapability or supports a need for action under this procedure for some other substantial reason; and
 - b. Recommending any disciplinary action (if any is appropriate) OR
 - c. Recommending a range of actions which appear to be appropriate for the authority to take against the ~~statutory~~ Statutory Chief Officer.

14 Receipt and Consideration of the Independent Investigators Report by the Investigating and Disciplinary committee

- 14.1 The Investigating and Disciplinary Committee will receive the report and has authority from the council to take a decision on the outcome.
- 14.2 Unless the ~~statutory~~ Statutory Chief Officer is fully exonerated by the report, ~~then~~ he or she will be given an opportunity to state their case before the Investigating and Disciplinary Committee makes a decision. There will also be the opportunity to question witnesses

where relevant.

- 14.3 Having considered all of the material before it and the potential of any new evidence which may arise, the Investigating and Disciplinary Committee may:
- a. Take no further action;
 - b. Recommend informal resolution or other appropriate procedures;
 - c. Refer back to the Independent Investigator for further investigation and report;
 - d. Take disciplinary action against the ~~statutory~~ Statutory Chief Officer short of dismissal; or
 - e. Propose dismissal of the ~~statutory~~ Statutory Chief Officer
- 14.4 The ~~statutory~~ Statutory Chief Officer has a right of appeal against the decision of the Investigating and Disciplinary Committee.

15 Circumstances where dismissal of the statutory Chief Officer is proposed

- 15.1 Where the Investigatory and Disciplinary Committee has determined that dismissal (whether summary or on notice) is the appropriate action in the circumstances, the Council must approve that dismissal before notice of dismissal is given and notice of dismissal must not be issued until an opportunity has been given to Members of the Executive to object to the dismissal.
- 15.2 The Investigating and Disciplinary Committee will notify the Head of HR that it is proposing to the Council that the Statutory Chief Officer be dismissed and that the Executive objections procedure should commence in accordance with the Local Authorities (Standing Orders)_(England) Regulations 2001.
- 15.3 The Head of HR will notify all Members of the Executive of:
- a. The fact that the Investigating and Disciplinary Committee is proposing to the Council that it dismisses the Statutory Chief Officer;
 - b. Any other particulars relevant to the dismissal; and

- c. The period by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Head of HR.
- 15.4 At the end of the period of notification, the Head of HR will inform the Sub Committee that either:
- a. The Leader has notified that neither they nor any Member of the Executive has any objection to the dismissal;
 - b. No objections have been received from the Leader in the period;
or
 - c. An objection or objections have been received and provide details of the objections.
- 15.5 The Investigating and Disciplinary Committee shall consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are well founded, the Investigating and Disciplinary Committee will act accordingly which may include consideration of the impact of the Executive objections on the Investigation Report and relevance to the sanction or the commissioning of further investigation by the Independent Investigator.
- 15.6 Once the Investigating and Disciplinary Committee is satisfied that there are no material and well-founded objections to the proposal to dismiss, it will inform the Statutory Chief Officer of the decision and put that proposal to the Independent Panel along with the Independent Investigators report and any other necessary material or documentation it considers appropriate.

16 Appointment and role of the Independent Panel

- 16.1 The Independent Panel must be appointed at least 20 days before the meeting of Council at which the recommendation for dismissal is to be considered.
- 16.2 The role of the Panel is to offer any advice, views or recommendations it may have to Council on the proposal for dismissal.

- 16.3 The Panel will receive all necessary material including the Independent Investigators report and the representations of the ~~statutory~~ Statutory Chief Officer and the Panel may ask the Independent Investigator and the ~~statutory~~ Statutory Chief Officer questions if required.
- 16.4 The Panel will then formulate advice, views and recommendations it wishes to present to Council. If the Panel is recommending an alternative course of action to dismissal then it should provide clear reasons.

17 Role of Full Council

- 17.1 Council is required to approve the dismissal before a notice of dismissal is issued.
- 17.2 The ~~statutory~~ Statutory Chief Officer may attend council to put forward their views and may also be represented.
- 17.3 The Council is at liberty to reject the proposal to dismiss and may substitute a lesser sanction and in some circumstances may refer the matter back to the Investigating and Disciplinary Committee to determine the sanction.

18 Appeals against dismissal

- 18.1 Where the Investigating and Disciplinary Committee makes a proposal to dismiss a ~~statutory~~ Statutory Chief Officer, the hearing by Council will fulfil the appeal function.

19 Appeals against action short of dismissal

- 19.1 The Statutory Chief Officer shall have the right to appeal the Investigating and Disciplinary Committee's decision to the Appeal

Committee. The Statutory Officer Appeals Committee will consider the report of the Independent Investigator and any other relevant information considered by the Investigating and Disciplinary Committee.

- 19.2 The process for appeal will be conducted in accordance with the Council's existing policies relating generally to all employees.
- a. The Statutory Officer Appeal Committee will give careful consideration to all of the material before it, including the views of the ~~statutory~~ Statutory Chief Officers, and may conduct any further investigation it considers necessary to reach a decision.
 - b. The decision of the Statutory Officer Appeals Committee is final.

Annex 2

Disciplinary Procedure for Non Statutory Chief Officers

1 Scope of Procedure

- 1.1 For all formal disciplinary related matters in respect of a non-statutory-Statutory Chief Officer, the Council's existing HR policies and procedures will apply.

2 Initial Filter Stage

- 2.1 If an allegation of potential misconduct against a non-statutory Chief Officer is made, the Head of Paid Service (or as delegated to their Chief Officer), in conjunction with the Head of HR, will conduct a filter process of the allegations.
- 2.2 The Head of Paid Service (or as delegated to their Chief Officer), will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial or can best be dealt with under some other procedure.
- 2.3 The Head of Paid Service (or as delegated to their Chief Officer shall also consider whether early informal resolution of the issues with the non-statutory-Statutory Chief Officer is appropriate, any final decision as to early resolution of the issues will be made by the Head of HR.
- 2.4 If an informal resolution is not appropriate, the Head of Paid Service (or as delegated to their Chief Officer) will consider the evidence and, unless the matters are clearly unfounded or trivial, the Head of Paid Service (or as delegated to their Chief Officer) may contact the non-statutory-Statutory Chief Officer informing him or her of the allegations and asking for their representations. A meeting may be arranged by the Head of Paid Service (or as delegated to their Chief Officer) with the non-statutory-Statutory Chief Officer to discuss the allegations.

- 2.5 Having discussed the non-~~statutory~~ Statutory Chief Officer's views and evidence available, the Head of Paid Service (or as delegated to their Chief Officer) will draft an initial filter report.
- 2.6 The draft filter report will be shared with the Head of HR for comment. The Head of Paid Service (or as delegated to their Chief Officer) will finalise the filter report and will take into consideration the views of the Head of HR.
- 2.7 If the ~~Head of Paid Service~~ (or as delegated to their Chief Officer) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the non-statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.
- 2.8 If the Head of Paid Service (or as delegated to their Chief Officer) decides that the allegations should be progressed, the filter report and evidence should be finalised. This should include comments from Head of HR, and Head of Paid Service if this has been delegated to Chief Officers.
- 2.9 In the event that there is a case to answer, the procedures as detailed within the Council's existing HR policies will commence.

Appendix 12 – Officer Employment Procedure Rules

To note: all staffing issues are a non-executive function and arrangements or any committees required must be done so by Council and not the Executive and or Leader of the Council.

1 Recruitment and Appointment of Officers

Declarations

- 1.1 The Council will draw up a statement requiring any candidate for appointment as an Officer to state in writing whether they are related to any Councillor or Council Officer or if they have a substantial relationship with any Councillor or Council Officer. Such a relationship would include parent, grandparent, partner, child, stepchild, adopted child, grandchild, brother, sister, uncle, aunt, nephew or niece of a Councillor or an Officer of the Council; or of the partner of such persons. No candidate related to a Councillor or an Officer will be appointed without the authority of the relevant Chief Officer or an Officer nominated by them.

Seeking support for appointment

- 1.2 The Council will disqualify any applicant who directly or indirectly seeks the support of any Councillor for any appointment with the Council. No Councillor will seek support for any person for any appointment with the Council.
- 1.3 This does not preclude a Councillor from giving a reference for a candidate for submission with an application for appointment.

Appointments

- 1.4 Subject to the paragraphs below and the exceptions detailed therein, the appointment of Officers is the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme

of Delegations at Appendix 1, and such appointments must not be made by Councillors. This provision does not apply to the appointment of the Chief Officers listed at paragraph 3.4 of Article 11 of this Constitution, or Assistants to Political Groups.

2 Appointment of Assistants to Political Groups

2.1 A Group qualifies for an Assistant if:

- a. The Membership of that Group comprises of at least one tenth of the membership of the Council;
- b. No more than 2 other groups on the Council are larger, or if more than 2 Groups are larger or the same size as the Group, the Council have decided that a post should be allocated to the Group; and
- c. At least two Groups are seeking an Assistant, one of which is the majority Group on the Council.

2.2 No appointment to a post of Assistant to a Political Group on the Council will be made until such posts have been allocated to each Group which qualifies. No more than 3 such posts shall be created. No Group shall be allocated more than 1 such post and no such post shall be allocated to a Group which does not qualify for one.

2.3 An Assistant to a Political Group may not have delegated to them any of the powers of the Council or of the Executive.

2.4 Appointment of an Assistant to a Political Group shall be made in accordance with the wishes of that Political Group.

2.5 The appointment of Assistants to Political Groups is a fixed term appointment up to the Annual Meeting following an election.

3 Appointment of the Director of Public Health

3.1 A Panel comprising the following will appoint the Director of Public Health:

- a. A Councillor as determined by the Head of HR;
- b. the Chief Operating Officer or an Officer nominated by them;
- c. an externally facilitated assessor appointed following consultation with the Faculty of Public Health and agreed by Public Health England;
- d. The Regional Director of Public Health or their nominated deputy;
- e. A senior NHS representative to be determined by the Corporate Director of People.

3.2 An offer of employment regarding the Director of Public Health appointment shall only be made where no well-founded objection from any Member of the Executive has been received.

4 Recruitment and Appointment of Head of Paid Service

4.1 Where the Council proposes to appoint a Head of Paid Service, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:

- a. the duties of the Officer concerned; and
- b. any qualifications or qualities to be sought in the person to be appointed

4.2 The Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and will make arrangements for a copy of the statement set out above to be sent to any person on request.

4.3 This procedure at para 4.1 and 4.2 above does not apply where it is proposed that the appointment be made exclusively from among the

Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.

- 4.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.
- 4.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.
- 4.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

Offer of Appointment and Procedure for seeking objections

- 4.7 Any proposal to appoint the Head of Paid Service shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:
- a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
 - b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
 - c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be made by the Leader, on behalf of Executive, to the Head of HR; and;
 - d. Either:
 - The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;

- The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;
- The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

4.8 Full Council will approve the appointment of the Head of Paid Service following the recommendation of such an appointment by The Chief Officer Appointments Sub Committee.

5 Recruitment and Appointment of other Chief Officers set out at paragraph 3.4 of Article 11

5.1 Where the Council proposes to appoint to a Chief Officer as defined at paragraph 3.4 of Article 11 of the Constitution, whether by way of permanent or temporary appointment, and it is not proposed that the appointment be made exclusively from among their existing Officers, the Council will draw up a statement specifying:

- a. the duties of the Officer concerned; and
- b. any qualifications or qualities to be sought in the person to be appointed.

5.2 The Council will make arrangements for the post to be advertised in such a way as is likely to bring it to the attention of persons who are qualified to apply for it and will make arrangements for a copy of the statement set out above to be sent to any person on request.

5.3 This procedure at para 5.1 and 5.2 above does not apply where it is proposed that the appointment be made exclusively from among the Council's existing officers. In this instance the Council's internal recruitment policy and procedures will be followed in terms of advertisement of the role.

- 5.4 A Chief Officer Appointments Sub Committee will either interview all qualified applicants for the post or select a shortlist of such applicants and interview those included on the shortlist.
- 5.5 The Chief Officer Appointments Sub Committee must include at least one Member of the Executive and the composition of the Panel will be undertaken in consultation with the Head of HR.
- 5.6 Where no qualified person has applied, or the Chief Officer Sub Committee determines that it has not identified a sufficient shortlist to proceed to interview, the Council will make further arrangements for advertisement of the post.

Offer of Appointment and Procedure for seeking objections

- 5.7 Any proposal to appoint a Chief Officer as defined at paragraph 3.4 of Article 11 of the Constitution shall only be made where no well-founded objection from any Member of the Executive has been received. No offer of appointment must be made until:
- a. The Panel proposing to appoint must notify the Head of HR of the name of the person to whom it is proposed the offer is made, together with any other relevant particulars;
 - b. The Head of HR must notify every Executive Member of the name of the person to whom it is proposed the offer of employment is made and any other relevant particulars;
 - c. The period of no more than 5 working days, within which any objection to the making of the offer of employment is to be made by the Leader, on behalf of Executive, to the Head of HR; and;
 - d. Either:
 - The Leader has, within the period specified in the notice, notified the Panel appointing that neither he nor any other Executive Member has any objection to the making of the offer; or;
 - The Head of HR has notified the Panel that no objection was received by them within that period from the Leader; or;

- The Panel appointing is satisfied that any objection received from the Leader within that period is not material or is not well-founded.

5.8 The appointment of Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution will be reported to Full council for noting only. The approval of Full council is not required other than for the post of Head of Paid Service.

5.9 Where the Head of HR is unable to act, the Head of Paid Service will nominate another Chief Officer to act in their place.

6 Disciplinary Action and Dismissal

6.1 Disciplinary action means any action occasioned by alleged misconduct which, if proved, would according to the usual practice of the authority be recorded on the Officer's personal file, and includes proposals for dismissal for any reason other than redundancy, permanent ill-health or infirmity of mind or body, but does not include failure to renew a contract of employment for a fixed term unless the Council has undertaken to renew such a contract.

7 Action against other Officers (other than Assistants to Political Groups)

7.1 Any action against Officers (other than those Chief Officers as defined at paragraph 3.4 of Article 11 of the Constitution, or Assistants to Political Groups) shall be the responsibility of the Head of Paid Service, as delegated to Chief Officers or Officers nominated by the Head of Paid Service for their service area under the Officer Scheme of Delegations at Appendix 1, and decisions regarding action against these Officers may not be made by Councillors.

8 Action of the Director of Public Health

8.1 In considering any disciplinary or dismissal action against the Director of Public Health, the Council will have regard to the provisions of Health and Social Care legislation and any associated

guidance issued by the Secretary of State.

- 8.2 Before terminating the appointment of a Director of Public Health, the Council will consult with the Secretary of State.

9 Statutory Chief Officers

- 9.1 Annex 1 sets out the procedure relating to disciplinary action to be taken against the Head of Paid Service, the Monitoring Officer, and the Chief Finance Officer (S151 Officer).

10 Other Chief Officers

- 10.1 Annex 2 sets out the procedure relating to all other Chief Officers, which includes Deputy Chief Officers. The definition of all of these Officers can be found in Section 2 of the Local Government and Housing Act 1989.

Annex 1

Disciplinary Procedure for the Head of Paid Service (Chief Operating Officer), the Monitoring Officer, and Chief Finance (s151) Officer

1 Scope of Procedure

- 1.1 This disciplinary procedure is based on that set out in the Joint Negotiating Committee for Local Authority Chief Executives National Salary Framework and Conditions of Service Handbook (the JNC Handbook) as updated on 13 October 2016. It applies to the Head of Paid Service, Monitoring Officer, and Chief Finance Officer (S151 Officer), jointly referred to as the “Statutory Chief Officers”.
- 1.2 This procedure has been adopted by the Council for the purposes of dealing with disciplinary, capability and other substantial issues in relation to the Statutory Chief Officers. For the avoidance of doubt, this procedure also applies to a breakdown in trust and confidence between the Statutory Chief Officers and the Council.
- 1.3 Minor conduct issues can often be resolved informally. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.4 The objective of this procedure is to:
 - a. Encourage Officers to achieve and maintain acceptable standards of behaviour;
 - b. Provide a fair and consistent method of dealing with alleged failure to maintain acceptable standards of behaviour;
 - c. Minimise disagreements about disciplinary matters; and
 - d. Reduce the need for disciplinary action and dismissals.
- 1.5 Save where alternative arrangements have been agreed in advance between the Council and the Statutory Chief Officer, the steps set out in this procedure must be followed. The parties recognize that it may be necessary to depart from the procedure, from time to time, according to the particular circumstances of a case. In such

circumstances, both parties agree to give fair consideration to reasonable proposals to modify the procedure accordingly.

- 1.6 This procedure does not form part of a Statutory Chief Officer's contract of employment, and it may be amended at any time, subject to compliance with the Local Authorities (Standing Orders) (England) Regulations 2001 (as amended).
- 1.7 Any disciplinary matters will be dealt with sensitively and with due respect for the privacy of any individuals involved. All individuals involved must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

2 Initial Filter Stage

- 2.1 If an allegation of potential misconduct against a Statutory Chief Officer is made, the Head of HR, in conjunction with the Head of Paid Service (or the Monitoring Officer and the Leader if the allegation is against the Head of Paid Service), will conduct a filter process of the allegations.
- 2.2 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial, can be dealt with informally or can best be dealt with under some other procedure.
- 2.3 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service) shall also consider whether early informal resolution of the issues with the Statutory Chief Officer is appropriate, and any final decision as to early resolution of the issues will be made by the Head of Paid Service in conjunction with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service).
- 2.4 The Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against

the Head of Paid Service) will conduct an initial review of the allegation, which includes speaking with the Statutory Officer about whom the allegation is made.

- 2.5 This review will be considered by the Head of Paid Service with the Head of HR (or the Head of HR, the Monitoring Officer, and the Leader, where the allegation is against the Head of Paid Service), where this can be resolved informally a meeting will be held with the statutory officer to agree the resolution.
- 2.6 Where an informal resolution is not appropriate, the draft filter report will be shared with the Head of HR and the Chair of the Investigating and Disciplinary Committee (IDC) for comment. The Head of Paid Service (or Monitoring Officer if the complaint is against the Head of Paid Service) will finalise the filter report and will take into consideration the views of the Head of HR and the Chair of the IDC, however, the filter decision is an officer decision for the Head of Paid Service (or the Monitoring Officer where it is against the Head of Paid Service) to determine.
- 2.7 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the Statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.
- 2.8 If the Head of Paid Service (or the Monitoring Officer is the compliant is against the Head of Paid Service) decides that the allegations should be progressed, the filter report and evidence considered should be finalised and presented to the IDC.

3 Informal resolution

- 3.1 In accordance with recommendations in the JNC Handbook, the Council and the Statutory Chief Officer should seek an informal resolution before formal disciplinary proceedings are commenced. The Head of HR will be responsible for seeking an informal resolution with the Statutory Chief Officer. If informal resolution is not possible, the Head of Paid Service (or the Monitoring Officer if it is about the

Head of Paid Service) with Head of HR will inform the Chair of the IDC of the complaint/allegation made against the Statutory Chief Officer and the failure to achieve an informal resolution.

4 Formal Resolution

- 4.1 At all stages of the disciplinary process, the Council will refer the JNC Handbook for Chief Executives for procedural guidance.

5 Roles and Responsibilities

- 5.1 Where it appears that an issue has arisen which, if proven, could result in disciplinary action being taken against a Statutory Chief Officer, the matter will be referred to an Investigating and Disciplinary Committee for consideration at the earliest opportunity.

6 Investigating and Disciplinary Committee (IDC)

- 6.1 The Investigating and Disciplinary Committee shall be responsible for conducting the preliminary investigation which is further referred to in paragraph 7 below.
- 6.2 The Investigating and Disciplinary Committee should:
- a. Include no fewer than five elected Members;
 - b. Not include any Member with a direct personal involvement in the complaint;
 - c. Be politically balanced; and
 - d. Include at least one Member of the Executive Member.
- 6.3 The Investigating and Disciplinary Committee shall appoint a Chair to oversee the function of the Committee.
- 6.4 The Investigating and Disciplinary Committee may have to:
- a. Meet at short notice; and
 - b. Ensure its members do not have a conflict of interest and therefore substitutes will be required to be appointed by Council.

7 Appeals Committee

- 7.1 The Council will be required to establish and Appeal Committee.
- 7.2 The purpose of the Appeals Committee is limited to:
- a. Hear appeals against action taken short of dismissal; and
 - b. To take a decision either to confirm the action or to impose no sanction or a lesser sanction.
- 7.3 The Appeals Committee should:
- a. Include no fewer than five elected Members;
 - b. Not include any Member with a direct personal involvement in the complaint;
 - c. Be politically balanced;
 - d. Include at least one Member of the Executive Member.

8 Independent Panel

- 8.1 The council will appoint at least two Independent Persons who have been appointed by the Council or by another council for the purposes of the Council's Code of Conduct procedures pursuant to the Localism Act 2011. Membership of the Panel is in the following priority order:
- a. An independent person who has been appointed by the Council and who is a local government elector in York;
 - b. Any other independent person who has been appointed by the Council; and
 - c. An independent person who has been appointed by another council(s)
- 8.2 The Council will provide appropriate training for Independent panel members.

NOTE: For the purposes of investigation of the statutory Chief Officers, Independent Persons will be referred to as Independent Investigators and appointments will be sought from the approved panel held centrally by the JNC Joint Secretaries

9 Timescale

- 9.1 The procedure does not generally incorporate prescriptive timescales as it is recognised that these could be impracticable to achieve in the circumstances of a particular case. Where time limits do apply, they are included within the relevant section of this procedure. However, it is implicit that all stages of the procedure be operated expeditiously by all parties in order to avoid unnecessary delay and prejudice to the interests of all parties.

10 Suspension

- 10.1 Suspension is not regarded as disciplinary action under this procedure but as a neutral act which may be implemented where it is envisaged that the Statutory Chief Officer's continuing presence at work might compromise the investigation or otherwise impair the efficient exercise of the Council's functions.
- 10.2 Suspension may also be necessary if an allegation is such that, if proven, it would amount to gross misconduct.
- 10.3 The decision to suspend a Statutory Chief Officer will rest with the Investigating and Disciplinary Committee. Urgent or exceptional cases will include where the continuing presence of the Statutory Chief Officer could be a serious danger to the health and safety of others, or a serious risk to the resources, information, or reputation of the Council. In these cases, the Chair of the IDC can suspend.
- 10.4 Save in urgent or exceptional cases, prior to imposing suspension in any case, the Investigating and Disciplinary Committee shall inform the Statutory Chief Officer, in writing, of the reason for the proposed suspension and the Statutory Chief Officer shall have the opportunity to make representations before a decision is taken.
- 10.5 In urgent or exceptional cases, the Statutory Chief Officer shall be informed of such reasons in writing and may make representations to the Chair of the IDC.
- 10.6 The necessity for the Statutory Chief Officer to remain suspended should be reviewed at regular intervals and, where possible, lengthy periods of suspension should be avoided. Further, specific

consideration should be given as to whether alternative working arrangements might be implemented which could avoid the need for the Statutory Chief Officer's suspension, whilst avoiding any prejudice to the investigation or to the efficient exercise of the Council's functions.

- 10.7 Absence from duty during any period of suspension shall be on full pay.
- 10.8 Any suspension should not last longer than 2 months from the day on which it takes effect, and only continued following consultation with the Independent Investigator after taking into account any representations made by the Head of Paid Service (or the Monitoring Officer if the complaint relates to the Head of Paid Service).

11 Preliminary Investigation

- 11.1 The Investigatory and Disciplinary Committee shall undertake a preliminary investigation into the allegations of conduct or capability, or other issues under investigation in order to determine whether a case to answer appears to exist which requires further consideration.
- 11.2 As soon as practicable, the Chair of the Investigating and Disciplinary Committee will inform the statutory Chief Officer in writing of the allegations and or issues under investigation and provide any evidence the Committee is to consider and of their right to present oral evidence.
- 11.3 The statutory Chief Officer will be invited to submit written representations and any evidence, including witness evidence, which he or she wishes the committee to consider. It is not anticipated that witnesses will be required at an initial hearing, however the discretion to call witnesses lies solely with the Investigating and Disciplinary Committee.

- 11.4 Following very careful consideration of all of the material both relating to the allegations and the submissions by the statutory Chief Officer, the Committee will decide whether:
- a. The issue requires no further formal action under this procedure;
OR
 - b. If the matter is not serious but there is some minor fault or error on the part of the statutory Chief Officer, then the Committee can issue an informal unrecorded warning; OR
 - c. The issue should be referred to an Independent Investigator.
- 11.5 The statutory Chief Officer will be informed of the decision without delay.

12 Appointment of an Independent Investigator

- 12.1 The Investigating and Disciplinary Committee will be responsible for the appointment of an Independent Investigator and will be appointed from the list held centrally by the JNC Joint Secretaries.
- 12.2 The Independent Investigator will be provided with all necessary facilities, provision of all information and also be responsible for remuneration of the Independent person.
- 12.3 The Statutory Chief Officer has up to 14 days to agree to the appointment of a selected Independent person. If the Statutory Chief Officer fails to respond within the 14 day period, the Committee can go ahead with the selection of an Independent person.
- 12.4 The Investigating and Disciplinary Committee has responsibility for providing the Independent Investigator with
- a. Terms of reference for the investigation;
 - b. Details of the precise allegations and or issues to be investigated;
 - c. Provision of access to sources of information and people identified as relevant to the case;
 - d. Clarity as to timescales and any other known factors which may hinder the investigation e.g., availability or not of individuals.

13 The Independent Investigation

- 13.1 Once appointed the Independent Investigator has full responsibility for the conduct of the investigation and will ultimately prepare a detailed report stating whether in their opinion:
- a. Whether, and if so the extent to which, the evidence obtained supports any allegation of misconduct or incapability or supports a need for action under this procedure for some other substantial reason; and
 - b. Recommending any disciplinary action (if any is appropriate) OR
 - c. Recommending a range of actions which appear to be appropriate for the authority to take against the Statutory Chief Officer.

14 Receipt and Consideration of the Independent Investigators Report by the Investigating and Disciplinary committee

- 14.1 The Investigating and Disciplinary Committee will receive the report and has authority from the council to take a decision on the outcome.
- 14.2 Unless the Statutory Chief Officer is fully exonerated by the report, he or she will be given an opportunity to state their case before the Investigating and Disciplinary Committee makes a decision. There will also be the opportunity to question witnesses where relevant.
- 14.3 Having considered all of the material before it and the potential of any new evidence which may arise, the Investigating and Disciplinary Committee may:
- a. Take no further action;
 - b. Recommend informal resolution or other appropriate procedures;
 - c. Refer back to the Independent Investigator for further investigation and report;
 - d. Take disciplinary action against the Statutory Chief Officer short of dismissal; or
 - e. Propose dismissal of the Statutory Chief Officer

14.4 The Statutory Chief Officer has a right of appeal against the decision of the Investigating and Disciplinary Committee.

15 Circumstances where dismissal of the statutory Chief Officer is proposed

15.1 Where the Investigatory and Disciplinary Committee has determined that dismissal (whether summary or on notice) is the appropriate action in the circumstances, the Council must approve that dismissal before notice of dismissal is given and notice of dismissal must not be issued until an opportunity has been given to Members of the Executive to object to the dismissal.

15.2 The Investigating and Disciplinary Committee will notify the Head of HR that it is proposing to the Council that the Statutory Chief Officer be dismissed and that the Executive objections procedure should commence in accordance with the Local Authorities (Standing Orders) (England) Regulations 2001.

15.3 The Head of HR will notify all Members of the Executive of:

- a. The fact that the Investigating and Disciplinary Committee is proposing to the Council that it dismisses the Statutory Chief Officer;
- b. Any other particulars relevant to the dismissal; and
- c. The period by which any objection to the dismissal is to be made by the Leader on behalf of the Executive, to the Head of HR.

15.4 At the end of the period of notification, the Head of HR will inform the Sub Committee that either:

- a. The Leader has notified that neither they nor any Member of the Executive has any objection to the dismissal;
- b. No objections have been received from the Leader in the period;
or
- c. An objection or objections have been received and provide details of the objections.

- 15.5 The Investigating and Disciplinary Committee shall consider any objections and satisfy itself as to whether any of the objections are both material and well founded. If they are well founded, the Investigating and Disciplinary Committee will act accordingly which may include consideration of the impact of the Executive objections on the Investigation Report and relevance to the sanction or the commissioning of further investigation by the Independent Investigator.
- 15.6 Once the Investigating and Disciplinary Committee is satisfied that there are no material and well-founded objections to the proposal to dismiss, it will inform the Statutory Chief Officer of the decision and put that proposal to the Independent Panel along with the Independent Investigators report and any other necessary material or documentation it considers appropriate.

16 Appointment and role of the Independent Panel

- 16.1 The Independent Panel must be appointed at least 20 days before the meeting of Council at which the recommendation for dismissal is to be considered.
- 16.2 The role of the Panel is to offer any advice, views or recommendations it may have to Council on the proposal for dismissal.
- 16.3 The Panel will receive all necessary material including the Independent Investigators report and the representations of the Statutory Chief Officer and the Panel may ask the Independent Investigator and the Statutory Chief Officer questions if required.
- 16.4 The Panel will then formulate advice, views and recommendations it wishes to present to Council. If the Panel is recommending an alternative course of action to dismissal then it should provide clear reasons.

17 Role of Full Council

- 17.1 Council is required to approve the dismissal before a notice of dismissal is issued.
- 17.2 The Statutory Chief Officer may attend council to put forward their views and may also be represented.
- 17.3 The Council is at liberty to reject the proposal to dismiss and may substitute a lesser sanction and in some circumstances may refer the matter back to the Investigating and Disciplinary Committee to determine the sanction.

18 Appeals against dismissal

- 18.1 Where the Investigating and Disciplinary Committee makes a proposal to dismiss a Statutory Chief Officer, the hearing by Council will fulfil the appeal function.

19 Appeals against action short of dismissal

- 19.1 The Statutory Chief Officer shall have the right to appeal the Investigating and Disciplinary Committee's decision to the Appeal Committee. The Statutory Officer Appeals Committee will consider the report of the Independent Investigator and any other relevant information considered by the Investigating and Disciplinary Committee.
- 19.2 The process for appeal will be conducted in accordance with the Council's existing policies relating generally to all employees.
- a. The Statutory Officer Appeal Committee will give careful consideration to all of the material before it, including the views of the Statutory Chief Officer, and may conduct any further investigation it considers necessary to reach a decision.
 - b. The decision of the Statutory Officer Appeals Committee is final.

Annex 2**Disciplinary Procedure for Non Statutory Chief Officers****1 Scope of Procedure**

- 1.1 For all formal disciplinary related matters in respect of a non-Statutory Chief Officer, the Council's existing HR policies and procedures will apply.

2 Initial Filter Stage

- 2.1 If an allegation of potential misconduct against a non-statutory Chief Officer is made, the Head of Paid Service (or as delegated to their Chief Officer), in conjunction with the Head of HR, will conduct a filter process of the allegations.
- 2.2 The Head of Paid Service (or as delegated to their Chief Officer), will determine whether the allegations should be filtered out of the process on the basis that they are clearly unfounded, trivial or can best be dealt with under some other procedure.
- 2.3 The Head of Paid Service (or as delegated to their Chief Officer) shall also consider whether early informal resolution of the issues with the non-Statutory Chief Officer is appropriate, any final decision as to early resolution of the issues will be made by the Head of HR.
- 2.4 If an informal resolution is not appropriate, the Head of Paid Service (or as delegated to their Chief Officer) will consider the evidence and, unless the matters are clearly unfounded or trivial, the Head of Paid Service (or as delegated to their Chief Officer) may contact the non-Statutory Chief Officer informing him or her of the allegations and asking for their representations. A meeting may be arranged by the Head of Paid Service (or as delegated to their Chief Officer) with the non-Statutory Chief Officer to discuss the allegations.

- 2.5 Having discussed the non-Statutory Chief Officer's views and evidence available, the Head of Paid Service (or as delegated to their Chief Officer) will draft an initial filter report.
- 2.6 The draft filter report will be shared with the Head of HR for comment. The Head of Paid Service (or as delegated to their Chief Officer) will finalise the filter report and will take into consideration the views of the Head of HR.
- 2.7 If the Head of Paid Service (or as delegated to their Chief Officer) decides that the allegations should be filtered out of the process, this shall be the end of the procedure and the non-statutory Chief Officer will be sent a letter informing him or her of the decision as soon as possible.
- 2.8 If the Head of Paid Service (or as delegated to their Chief Officer) decides that the allegations should be progressed, the filter report and evidence should be finalised. This should include comments from Head of HR, and Head of Paid Service if this has been delegated to Chief Officers.
- 2.9 In the event that there is a case to answer, the procedures as detailed within the Council's existing HR policies will commence.

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CITY OF YORK COUNCIL

CONTRACT PROCEDURE RULES

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Contract Procedure Rules

These Contract Procedure Rules (**CPRs**) set out the key responsibilities and actions that Officers and Directors must follow when undertaking procurements.

All procurements and contracting arrangements made by or on behalf of the Council must be carried out in accordance with these CPRs. Rule [2526](#) sets out the only circumstances in which the other Rules are specifically excluded or may be waived. Appendix A contains a series of definitions. Any term which is defined is shown in the CPRs beginning with a capital letter.

Maintained Schools

Where Maintained Schools enter into Contracts, they do so as agents of the Council. Accordingly Maintained Schools must follow these CPRs in addition to the York Scheme for Financing Schools (the **Scheme**), except where specifically stated otherwise. Where any conflict exists between these CPRs and the Scheme, the rules of the Scheme shall prevail.

Specific governance thresholds for Maintained Schools are set out in Appendix B. These are to be used in place of the thresholds contained at Rule 8.

For the purposes of these CPRs, the Authorised Officer for a Maintained School shall be the Head Teacher and the Chief Officer and/or Director shall be the Governing Body.

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1. Basic Principles and Compliance

All procurement procedures and every Contract entered into by the Council must:

- 1.1 realise value for money by achieving the optimum combination of whole life costs, and quality of outcome;
- 1.2 be consistent with the highest standards of integrity;
- 1.3 operate in a transparent manner;
- 1.4 ensure fairness in allocating public contracts;
- 1.5 comply with all legal requirements including the Procurement Regulations and any other applicable international treaty principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment;
- 1.6 comply with the Council's Constitution, these CPRs and the Council's Financial Regulations;
- 1.7 comply with the Council's strategic objectives and policies, including the Council's Procurement Strategy and the Council's Employee and Member Codes of Conduct; and
- 1.8 comply with the guidance set out in the Procurement Toolkit which should be read in conjunction with these CPRs;

These CPRs are applicable to the contracting activities of any Strategic Partnership for which the Council is the Accountable Body unless the Council expressly agrees otherwise.

2. Officer Responsibilities

2.1. Authorised Officers

- 2.1.1 Authorised Officers must comply with these CPRs, the Council's Constitution and all UK and applicable international legal requirements. Authorised Officers

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must ensure that any agents, consultants and contractual partners acting on their behalf also comply with these requirements.

2.1.2 Authorised Officers must:

(i) consult and seek advice from Commercial Procurement in relation to any proposed procurement;

~~(i)~~(ii) ensure, in relation to any proposed procurement, that the proposed procurement expenditure is contained in a Forward Procurement Plan and contained within ~~an~~ approved budget secured prior to commencement of the procurement in accordance with the Financial Regulations;

~~(ii)~~(iii) keep the records required by Rule 5 of these CPRs;

~~(iii)~~(iv) take all necessary procurement, legal, risk & insurance, —financial, data protection and professional advice, taking into account the requirements of these CPRs;

~~(iv)~~(v) prior to carrying out a procurement process or letting a Contract on behalf of the Council, check whether:

- (A) the Council already has an appropriate Contract in place in the ~~Contracts~~Contract Register; or
- (B) an appropriate national, regional or other collaborative contract is already in place.

~~(v)~~(vi) ensure that if the Council already has an appropriate Contract in place, that it is used, (unless it can be established that the Contract

does not fully meet the Council's specific requirements (to be determined on a case-by-case basis)), following consultation with Commercial Procurement and Legal Services;

~~(vi)~~(vii) ensure that if an appropriate national, regional or collaborative contract is available, consideration is given to using this, provided the contract offers Best Value. Authorised Officers must consult with Commercial Procurement to discuss;

~~(vii)~~(viii) ensure that when any employee, either of the Council or of a Supplier, may be affected by any transfer arrangement, then any TUPE issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise;

~~(viii)~~(ix) consult with all relevant stakeholders including Members, trade unions and service users where TUPE may apply to identify and assess all options to ensure the Council's required outcomes are achieved;

~~(ix)~~(x) in consultation with Commercial Procurement establish a written specification and evaluation criteria (where competition is involved) and procurement methodology which must be formally approved at the relevant governance thresholds outlined in Rule 8 - Powers and Key Decisions (note the relevant decision-making body as identified in the governance thresholds may give Authorised Officers written delegated authority to define the specification and evaluation criteria themselves);

~~(x)~~(xi) consult and seek advice from ~~Commercial Procurement and~~ Legal Services prior to beginning a procurement where:

(A) TUPE applies; and/or

~~(B)~~ the service to be procured involves personal data, in which case the Authorised Officer shall also liaise with the Information Governance team;

~~(B)~~(C) the procurement exceeds £~~400~~150,000 in aggregate for the whole contract period (including any extensions).

~~(xi)~~(xii) ~~register~~Register all completed procurements with a value of £5,000 or more on the ~~E-Sourcing System~~Contract Register.

2.1.3 Failure to comply with any of the provisions of these CPRs, the Council's Constitution, UK law or other applicable international legal requirements will be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Director as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

2.2 Chief Officers

Chief Officers must:

2.2.1 ensure their service area complies fully with the requirements of these CPRs;

2.2.2 ensure contracts are recorded in the ~~Contracts~~Contract Register as held and maintained by Commercial Procurement;

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- 2.2.3 work with Commercial Procurement to identify the total expenditure relating to a particular category of spend by developing a Category Plan;
- 2.2.4 ensure that their service area provides the requisite information to allow Commercial Procurement to maintain and update the Forward Procurement Plan;
- 2.2.5 ensure all procurement activity is undertaken by suitably skilled and experienced staff;
- 2.2.6 report any breaches of these CPRs to the Monitoring Officer and Chief Finance Officer.

3. Relevant Contracts

3.1 All Relevant Contracts must comply with these CPRs. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or the provision of supplies or services. These include arrangements for:

- 3.1.1 the supply or disposal of goods;
- 3.1.2 the carrying out of building or engineering works;
- 3.1.3 the hire, rental or lease of goods or equipment;
- 3.1.4 the delivery of services, ~~including (but not limited to) those related to;~~
- ~~3.1.5 the recruitment of staff;~~
- ~~3.1.6 land and property transactions;~~
- ~~3.1.7 3.1.5 financial involving those elements set out in Rule 3.3 below; and consultancy services.~~
- ~~3.1.6 the delivery of shared services and/or collaboration arrangements between the Council and other public~~

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authorities and/or public bodies and/or related overarching arrangements.

- 3.2 The following will not be classed as Relevant Contracts:
- 3.2.1 contracts of employment which make an individual a direct employee of the authority; (whether on a permanent or temporary basis) and/or secondment arrangements;
 - 3.2.2 subject to Rule 3.3, agreements relating solely to the acquisition, disposal, or transfer of land (to which the Financial Regulations apply);
 - 3.2.3 subject to Rule 4, the payment of grants to third parties; or
 - 3.2.4 those contracts/arrangements which are specifically excluded in accordance with Rule 25.9 below.
- 3.3 Any acquisition, disposal, or transfer of land which involves elements requiring the supply of works, goods and/or services to or on behalf of the Council will be treated as Relevant Contract and these CPRs apply to all aspects of the procurement of those works, goods and/or services. Officers must ensure that they consult with Legal Services and Property Services as appropriate to ensure compliance with this Rule 3.3.

4. Grants

- 4.1 Where the Council is required to carry out works or deliver goods or services, the Council cannot elect to award a Grant where the sole purpose for doing so would be to avoid conducting a competitive tender process in accordance with these CPRs.
- 4.2 Taking into account Rule 4.1 above, Directors shall consider when procuring the provision of services, supplies or works whether a Grant would be a preferable means to achieving its objectives rather than following a competitive bid process.

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- 4.3 A Grant may only be awarded in circumstances where:
- 4.3.1 there is the legal power to make a Grant for the purpose envisaged; and
 - 4.3.2 the making of the Grant does not contravene UK, EU or any other applicable international rules on state aid.
- 4.4 Where the value of a Grant is less than ~~££~~175,000 over 3 years, the Director shall have the discretion to conduct a competitive application process for the award of that Grant if doing so demonstrates best value for the Council. If a Director is not conducting a competitive application process then the Best Value Form must be completed to capture the rationale for the decision.
- 4.5 Where the value of the Grant exceeds ~~££~~175,000 over 3 years but is less than the relevant Procurement Threshold a competitive grants process must be completed. The opportunity must be advertised on the E-Sourcing System.
- 4.6 Where the value of a Grant exceeds the relevant Procurement Threshold, a competitive process must be completed and the opportunity must be advertised on the E-Sourcing System.
- 4.7 The Authorised Officer shall take all such steps as are appropriate to monitor and review the performance of the Grant agreement, having regard to its value, nature, duration and subject matter. As part of the Grant monitoring and review process the Authorised Officer shall maintain adequate records of performance and details of review meetings with the Grant recipient.
- 4.8 All Authorised Officers must complete the Best Value Grant form which is available from the Commercial Procurement team.

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5. Records

- 5.1 The Procurement Regulations require Contracting Authorities to maintain the following comprehensive records of procurement activities:
- 5.1.1 contract details including value;
 - 5.1.2 selection decision;
 - 5.1.3 justification for use of the selected procedure;
 - 5.1.4 names of bidding organisations, both successful and unsuccessful;
 - 5.1.5 reasons for selection and rejection;
 - 5.1.6 reasons for abandoning a procedure;
 - 5.1.7 details of sub-contractors;
 - 5.1.8 conflicts of interest identified and action taken.
- 5.2 The outcome of any competitive procurement process must be recorded in electronic format on the E-Sourcing System. Information from the E-Sourcing System will also be used for the tracking of procurement savings, sustainability benefits, and other data.
- 5.3 Commercial Procurement maintains the Contract Register which records key details of all Contracts (including contract reference numbers) with an aggregate value of £5,000 or more.
- 5.4 Where a Contract has not been awarded using the E-Sourcing System, Officers must ensure full details of that Contract are passed to the Head of Procurement for inclusion in the Contract Register where the aggregate value of the Contract is £5,000 or more. Decisions as to why the E-Sourcing System was not used

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must be recorded in writing and sent to Commercial Procurement.

- 5.5 Full records of all contract documentation, quotations, estimates, tenders and any other correspondence pertinent to the award or acceptance of a Contract must be kept by Commercial Procurement for the duration of the Contract and a minimum of six years after the Contract has expired or twelve years after the Contract has expired where it is executed under common seal as a deed.
- 5.6 It is the responsibility of Chief Officers to ensure that all Contracts are properly entered into, administered and controlled to safeguard the Council's interests, secure Best Value and minimise the risk of theft, fraud, collusion and corruption.
- 5.7 Officers must comply with any Council requirements to record decisions on the Officer Decision Log.

6. Risk Assessment

- 6.1 All procurements ~~which~~that require an Invitation to Tender and/or Requests for Quotation (see Rule 11 below), must be supported by a risk assessment (where appropriate). This risk assessment must be carried out at the start of the procurement process and, where appropriate, will include a Financial Appraisal in accordance with Rule 17.2.
- 6.2 The risk assessment process will identify where further specialist advice should be sought.

~~6.3 The approved risk log and matrix are available from Commercial Procurement.~~

7. Advertising

- 7.1 Officers must liaise with Commercial Procurement to ensure that the minimum advertising requirements are met in line with the Procurement Regulations when conducting any procurement

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process (including Framework Agreements or Dynamic Purchasing Systems). Officers should refer to the further guidance in the Procurement Toolkit.

7.2 Where Contracts with a value of £25,000 (including VAT) and above are advertised **anywhere**, they must also first be advertised on Contracts Finder. ~~This applies to Contracts that otherwise fall outside the scope of the Procurement Regulations.~~

7.3 Where Contracts have a value above the relevant Procurement Threshold they must ~~also~~ be advertised on Find a Tender.

8. Powers and Key Decisions

8.1 This Rule does not apply to Maintained Schools, who must consult the governance thresholds contained at Appendix B.

8.2 In consultation with the Monitoring Officer, Directors must ensure that the Council has the legal power to enter into any Contract.

8.3 Directors must ensure that they have delegated powers to enter into any Contract or to grant another Officer authority to do so.

8.4 No Contract will be entered into unless an adequate budget is in place.

~~8.5 Rules 8.5 to 8.10 outline the governance thresholds required for all aspects of governing a procurement process.~~

8.68.5 Where a decision has already been made by Executive or an Executive Member and the budget is in place to permit a course of action then further approval is not required to award Contracts necessary to implement that decision.

8.78.6 Where schemes are included in the Capital Programme this has already been approved and further Executive approval is therefore not required. However, a copy of the relevant report must be sent to Commercial Procurement for audit purposes.

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~~8.88.7~~ It is recommended that any approval sought includes a specific delegation to the Authorised Officer to award the Contract at the conclusion of the procurement. In other circumstances the procedure set out in Rules 8.9 to 8.11 below must be followed.

~~8.98.8~~ Where the aggregate contract value (including any extension) is £250,000 or less Directors may agree or authorise another Officer to enter a Contract under their delegated powers.

~~8.108.9~~ Where the aggregate contract value (including any extension) is between £250,000 and £500,000 then the decision to enter the contract requires the approval of an Executive Member or the Executive unless the procurement is treated as Routine as defined in Rules 8.12 and 8.13 below.

~~8.118.10~~ Where the aggregate contract value (including any extension) exceeds £500,000 the decision will be regarded as a Key Decision unless the Chief Finance Officer acting in consultation with the Monitoring Officer has approved the procurement as Routine in accordance with Rules 8.12 to 8.13 below.

~~8.128.11~~ A Routine procurement is any arrangement that represents a low commercial and legal risk to the Council and involves the procurement of goods, services or works with a clearly defined specification that clearly relate to ~~the day to day operation of the Council. core administrative, infrastructure or business functions of the Council (a sample list of such services is set out in Appendix C).~~

~~8.138.12~~ ~~Routine procurements will be limited to items such as utilities, insurance or stationery, without which the Council would be unable to operate.~~ A procurement which relates to the carrying out of a statutory function of the Council shall not be considered Routine.

8.148.13 Where Officers consider a procurement process may be Routine, they must liaise with Commercial Procurement who will determine whether the procurement is in fact Routine and advise on the relevant paperwork to be submitted to the Chief Finance Officer/Head of Procurement. Authorisation to treat a procurement as Routine must be sought before the procurement process commences.

8.158.14 A Director may enter into a Contract regardless of value where the procurement has been treated as Routine.

8.168.15 A register of Routine procurements will be maintained and reported to the Executive Member for Finance—& Performance, Major Projects & Equalities.

8.178.16 In relation to all Key Decisions, Authorised Officers must ensure that all authorisations are in place before the procurement process begins.

8.188.17 Notice of every Key Decision must be published on the Council's Forward Plan.

8.198.18 The Executive scheme of delegation requires that all Key Decisions ~~are~~ reserved to the Executive unless specifically delegated to an Executive Member or an Officer or where the Leader and Chief Executive/Operating Officer are acting in case of urgency.

8.208.19 This Rule 8 applies to all Relevant Contracts and all call-offs from Framework Agreements or Dynamic Purchasing Systems.

9. Pre-Tender Market Testing, Consultation and Deciding on the appropriate Procurement Route

9.1 The Council may consult potential Suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract

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packaging and other relevant matters, provided this does not prejudice any other potential Supplier.

- 9.2 When engaging with potential Suppliers, the Council must not seek or accept technical advice from them on the preparation of an Invitation to Tender or Request for Quotation where this may prejudice the equal treatment of all potential Suppliers or otherwise distort competition.
- 9.3 In the case of the re-procurement of an existing Contract sufficient care must be taken to ensure that the process is fair and is seen to be fair. The objective is to ensure a level playing field for all potential Suppliers, whilst acknowledging that any incumbent Supplier has an inherent advantage due to having previously worked for the Council. Advice must be sought from Commercial Procurement to ensure the specification is clear and unambiguous.
- 9.4 In undertaking any market testing activities or consultation with potential Suppliers, the Authorised Officer responsible should refer to any guidance contained in the Procurement Toolkit.
- 9.5 Guidance on choosing the appropriate procurement route can be found in the Procurement Toolkit.

10. Framework Agreements

~~10.1 A list of available, appropriate Framework Agreements and Dynamic Purchasing Systems (including those established by other public sector bodies to which the Council has access) for certain requirements can be obtained from Commercial Procurement along with guidance on how these Framework Agreements and Dynamic Purchasing Systems are to be used.~~

~~10.2~~10.1 Call-off contracts or orders made under Framework Agreements or Dynamic Purchasing Systems must be operated in accordance with these CPRs and/or the requirements of the Framework Agreement or Dynamic Purchasing System

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themselves. **Further advice must be sought from Commercial Procurement ~~or Legal Services.~~**

~~10.3.1~~10.2 Where a Framework Agreement with more than one supplier provides an option for a direct call-off to one Supplier, this can only be done if all the following conditions are met:

~~10.3.1~~10.2.1 The Framework Agreement's process for doing so is followed;

~~10.3.2~~10.2.2 The aggregate Contract value (including VAT) and including any extension) is less than £500,000;

~~10.3.3~~10.2.3 Where the aggregate Contract value (including any extension) exceeds £500,000, the relevant Chief Officer has approved the direct call-off method after advice from the Authorised Officer and Commercial Procurement; and

~~10.3.4~~10.2.4 The Authorised Officer believes that it represents Best Value for the direct call-off method to be used.

Establishment of Framework Agreements and Dynamic Purchasing Systems

~~10.4~~10.3 Authorised Officers (in conjunction with Commercial Procurement and Legal Services) may establish a Framework Agreement or Dynamic Purchasing System. (DPS). The Head of Procurement ~~and relevant Assistant Director~~ must agree to the establishment of any Framework Agreement or ~~Dynamic Purchasing System~~DPS prior to any selection or procurement processes being undertaken. The Framework Agreement or ~~Dynamic Purchasing System~~DPS is otherwise treated as any other procurement and will follow the same levels and process as required by the value and object of the Framework Agreement or ~~Dynamic Purchasing System~~DPS. Note, there are additional

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requirements under the Procurement Regulations for the establishment and further use of a Framework Agreement or ~~Dynamic Purchasing System~~DPS, and advice must be sought from Commercial Procurement ~~and Legal Services~~ to ensure the Procurement Regulations are adhered to.

~~10.5~~10.4 A Framework Agreement or ~~Dynamic Purchasing System~~DPS can be established jointly with other Contracting Authorities.

~~10.6~~10.5 Any future call-off from the established Framework Agreement or ~~Dynamic Purchasing System~~DPS requires authorisation in accordance with the governance thresholds set out in Rules 8.9 to 8.11.

~~10.7~~10.6 Where a Framework Agreement has been established by the Council, any extension or termination thereto shall be governed by Rules 20 and 21 below in addition to the Procurement Regulations.

11. Procurement Competition Requirements

11.1 Competition Requirements

11.1.1 The Authorised Officer must establish the total value of any Contract, including whole life costs, annual cost and incorporating any potential extension periods which may be awarded. The value of the Contract must be considered as the sum of all payments made to the Supplier during the whole life of the Contract, including extensions. The Authorised Officer must have particular regard to the rules relating to aggregation contained within the Procurement Regulations (further details on which can be found in the Procurement Toolkit).

11.1.2 Authorised Officers must ensure that values are not split in an attempt to avoid the applicability of these CPRs or the Procurement Regulations.

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~~11.1.3 Based on the value of the Contract, quotations or tenders must then be invited in line with the following financial thresholds:~~

~~(i) Up to and including £5,000 – Best Value~~

~~(ii) 11.2 Over £5,000 and value up to and including £100,000 – at least three written quotations (this threshold may be lower where Officers deem there is additional risk associated with the project; in such cases advice must be sought from Commercial Procurement.)5,000 – Best Value~~

~~(iii) Over £100,000 – Invitation to Tender. At least four written tenders with completed Form of Tender and Declaration of Non-Collusive Tendering.~~

~~11.1.4 Where the estimated Contract value meets the appropriate Procurement Threshold (details of which can be obtained from Commercial Procurement), the Authorised Officer must consult Commercial Procurement at the outset to determine the correct procedure for conducting the procurement exercise. In these instances, the Procurement Regulations will apply in addition to these CPRs.~~

~~11.1.5 These rules are subject to the overriding requirement that a Contract of any value which is likely to have ‘cross border’ interest (ie to be of interest to contractors outside the UK) must be advertised.~~

~~11.2 ContractIn relation to all Contracts with a value up to and including £5,000~~

~~11.2.1 All purchasing up to and including £5,000 must be procured using, it is the responsibility of the relevant Authorised Officer to check whether there is an Internal Service Provider or through an existing Contract arrangement or via a suitable approved, Framework~~

Agreement or Dynamic Purchasing System ~~where they exist~~which can be used.

11.2.2 ~~It is the responsibility of the relevant Authorised Officer to check whether a suitable Internal Service Provider, existing Contract, Framework Agreement or Dynamic Purchasing System exists or not.~~ Where no appropriate Internal Service Provider, existing Contract, Framework Agreement or Dynamic Purchasing System exists, ~~and the estimated value of a Contract is up to and including £5,000~~ the invitation of quotations ~~is not mandatory but~~ should be invited where appropriate.

11.2.3 If the Authorised Officer believes that it represents Best Value for the Council to make a direct appointment without the need for competition, they may do so providing a written record of the decision (including reasons) is kept by them.

11.3 Contract value over £5,000 and up to and including £100,000 – Three Quotations

11.3.1 In relation to all Contracts with a value between £5,000 up to and including £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract, Framework Agreement or Dynamic Purchasing System which can be used.

11.3.2 Where no appropriate Internal Service Provider, existing Contract or approved Framework Agreement or Dynamic Purchasing System exists, ~~if the estimated value of a Contract exceeds £5,000 but does not exceed £100,000~~ a minimum of three written quotations must be invited from suitable potential Suppliers. Efforts should be made to ensure that a diverse group of Suppliers are asked to quote using the following principles:

- (a) Where possible, ensuring Small and Medium Enterprises (SMEs) are invited to quote;
- (b) Where possible, ensuring local Suppliers are invited to quote;
- (c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;
- (d) Where possible, looking for novel or new Suppliers.

11.3.3 The written quotations must be obtained and documented in accordance with proper record keeping set out in Rule 5 and in accordance with the requirements of Rule 13.

11.3.4 All potential Suppliers invited to submit quotations will be provided in all instances with identical information and instructions.

11.3.5 The evaluation of the quotations will be carried out by Authorised Officers.

11.4 Contract value over £100,000 – Invitation to Tender

11.4.1 In relation to all Contracts with a value in excess of £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract or Framework Agreement or Dynamic Purchasing System which can be used.

Where no appropriate Internal Service Provider, existing Contract, approved Framework Agreement or Dynamic Purchasing System exists, ~~competition is required for Contract with a value over £100,000.~~

11.4.2 ~~Where there are sufficient numbers of potential Suppliers,~~ at least four written tenders must be invited from potential

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Suppliers. Efforts should be made to ensure that a diverse group of potential Suppliers are asked to tender using the following principles:

- (a) Where possible, ensuring Small and Medium Enterprises (SMEs) are invited to quote;
- (b) Where possible, ensuring local Suppliers are invited to quote;
- (c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;
- (d) Where possible, looking for novel or new Suppliers.

11.4.3 Where it has not been possible to identify four potential Suppliers or less than four responses to the invitation to tender have been received, approval to continue with the procurement must be sought from the Head of Procurement.

11.4.311.4.4 The tendering process must be conducted in accordance with the Council's detailed procedure rules set out in the Procurement Toolkit. Authorised Officers must consult with Commercial Procurement to establish the most appropriate tendering process/procurement route which will be determined on a case by case basis (depending on a number of factors including but not limited to the scope, value and technical requirements of the procurement).

11.5 Contract value over the Procurement Threshold

11.5.1 Where the estimated Contract value reaches the relevant Procurement Threshold, Officers are required to procure the Contract in accordance with the Procurement Regulations and these CPRs. In all such circumstances

appropriate advice must be sought from Commercial Procurement.

11.5.2 The current Procurement Thresholds are available from Commercial Procurement.

11.6 Assets for Disposal

Assets for disposal must be dealt with in accordance with the Financial Regulations.

11.7 Concession Contracts

11.7.1 Concession Contracts may be established by Authorised Officers in conjunction with Commercial Procurement. Generally, Concession Contracts will result in an income to the Council. The thresholds set out in Rule 8 will also apply to Concession Contracts.

11.7.2 For the purpose of Rule 8 the value of a Concession Contract is defined in the Concession Contracts Regulations. That is the value shall be the total turnover of the concessionaire generated over the duration of the Contract, net of Value Added Tax, as estimated by the Council, in consideration for the works and/or services which are the object of the Concession Contract and for the supplies incidental to such works and services.

11.7.3 Contracts below the relevant thresholds defined in the Concession Contracts Regulations may be let using a three quotation process as outlined in Rule 11.3. Contracts above the relevant thresholds must be let in accordance with the process outlined in the Concession Contracts Regulations. Commercial Procurement will advise on the appropriate route and process to follow when letting Concession Contracts.

12. Evaluation Criteria and Standards

12.1 Evaluation Criteria

12.1.1 In any procurement exercise (regardless of overall Contract value) the successful tender must be the one which offers either:

- (i) the most economically advantageous tender based on “price or cost” using a cost effectiveness approach, such as, life cycle costing; or
- (ii) the most economically advantageous tender balanced between quality and price.

In the latter case, the Council will use criteria linked to the subject matter of the Contract to determine that an offer is the most economically advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental & sustainability characteristics, social value (including but not limited to compliance with wider Council obligations such as membership of the Living Wage Foundation and sourcing fair trade where appropriate), running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion.

~~The price element of the evaluation will always be 40% or greater unless a waiver has been given for alternative weightings (in accordance with Rule 26.3) or, if using a Framework Agreement or Dynamic Purchasing System, an alternative weighting system is provided for under that Framework or Dynamic Purchasing System.~~

12.1.2 The price element of an evaluation shall be 40% or greater unless:

- (a) the relevant contract is being procured using a Framework Agreement or Dynamic Purchasing

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System which provides for an alternative weighting system; or

(b) the Authorised Officer has, in consultation with the Head of Procurement and Finance, determined that an alternative weighting system would be more appropriate due to either the size, value and/or available budget, risk-profile and/or nature of the procurement. The Authorised Officer must submit reasonings supported by Commercial Procurement to the Head of Procurement and Finance for approval prior to the procurement exercise being advertised.

~~12.1.2~~12.1.3 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate tenders provided that such criteria ~~relates~~relate to the subject matter of the Contract and is objectively quantifiable and non-discriminatory. The criteria can include, for example, sustainability considerations, support for the local economy or the use of sub-contractors. The potential Suppliers' approaches to continuous improvement and setting targets for service improvement or future savings could also be included.

~~12.1.3~~12.1.4 The procurement documentation must clearly explain the basis of the evaluation decision to potential Suppliers, making it clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

12.1.5 Once the tender documentation has been issued to the market, changes to the evaluation criteria shall only be permitted in exceptional circumstances following approval by the Head of Procurement.

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~~12.1.4~~12.1.6 There is no scope to change the evaluation criteria once quotations or tenders have been received.— If quotations or tenders received mean the original evaluation criteria are no longer able to achieve the most economically advantageous tender, then the procurement process must be abandoned and treated as market engagement before a new procurement exercise is established with new evaluation criteria. In such a case, no award will be made from the original procurement exercise and Commercial Procurement ~~and Legal Services~~ must be consulted.

12.2 Standards

Relevant British, EU and International standards which apply to the subject matter of the Contract, and which are necessary to properly describe the required quality must be included within the procurement documentation, the specification, and the Contract. Officers should refer to further guidance set out in the Procurement Toolkit.

13. Invitation to Tender / Request for Quotation

13.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these CPRs.

13.2 All procurement documentation must be issued electronically. All procurements with a value over £25,000 must be conducted through ~~the~~an E-Sourcing System.

13.3 Where the E-Sourcing System is used, all communications with Suppliers must be undertaken exclusively through the E-Sourcing System. This includes any clarification questions asked by the potential Suppliers and responses provided by the Council.

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13.4 In exceptional cases, where specific circumstances mean that a procurement process cannot be carried out electronically or, for example, where there is a failure of the E-Sourcing System, permission to conduct a procurement process by alternative means must be obtained from the Head of Procurement.

14. Submission, Receipt and Opening of Tenders / Quotations

14.1 Opening of Tenders and Quotations

14.1.1 Tenders and Quotations, except those which have been approved as exempt from electronic tendering in accordance with Rule 13.4, must be submitted electronically via the E-Sourcing System. Tenders submitted by any other means must not be accepted.

14.1.2 Detailed procedure notes on tendering requirements and protocols are set out in the Procurement Toolkit.

14.2 Hard Copy Arrangements

14.2.1 ~~In the event that~~If approval to conduct a tender process outside the E-Sourcing System has been obtained in accordance with Rule 13.4 and “hard copy” tenders are to be accepted, these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Head of Procurement without any mark revealing the bidding organisation’s identity.

14.2.2 All hard copy tenders will be held by the Head of Procurement until the tender opening date/time has been reached.

14.2.3 All hard copy tenders for the same Contract will be opened at the same time by a representative of the Chief Officer who invited the tenders and a representative from Commercial Procurement. A register of tenders received will be kept by Commercial Procurement and will be

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initialled on each occasion by the Authorised Officers who are present at the opening of the tenders.

14.2.4 ~~In the event that~~ If approval to conduct a quotation process outside the E-Sourcing System has been obtained in accordance with Rule 13.4 and hard copy quotations are to be accepted these must be submitted in a plain envelope marked “Quotation for ...” followed by a description of the goods, works or services being procured.

14.2.5 All hard copy quotations must be opened together once the official return date/time has been passed.

15. E-auctions

15.1 Where a tender is to be carried out by way of a collaborative e-auction process the following procedures will apply:

15.1.1 approval for this approach must be sought in advance of the auction from the relevant Chief Officer and Head of Procurement;

15.1.2 the auction must be provided through a recognised managed service provider approved by the Head of Procurement;

15.1.3 the process for selecting potential Suppliers must be agreed in advance with the Head of Procurement;

15.1.4 the tender evaluation process must be agreed in advance with the Head of Procurement;

15.1.5 the time limit for the auction must be set in advance, clearly notified and be appropriate to the nature of the auction;

15.1.6 a minimum of two Authorised Officers must be in attendance at the managed service provider’s viewing

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room to ensure the process is conducted fairly and in accordance with the Procurement Regulations. One of the Authorised Officers must be an independent observer and have had no involvement with the exercise. They should not leave the room during the auction.

15.1.7 prior to start of the auction, Officers attending must satisfy themselves that the correct quality weightings (if applicable) have been loaded into the software and that the software is working correctly;

15.1.8 the final scoring of all the bidders needs to be documented and counter signed by each Officer immediately after the close of the auction;

15.1.9 the e-auction summary report which is normally produced by the e-auction provider (within a week of the auction) must be cross referenced to the Officers own records and both must be kept on file;

15.1.10 a signed copy of both these records must be passed to Head of Procurement ~~and copied to the Monitoring Officer;; and~~

15.1.11 if the lowest price bidder is not successful approval for the award of a Contract must be sought in line with these CPRs.

15.2 The application of these e-auction procedures exempts the tender from the opening rules set out at Rule 14. It does not exclude compliance with any other regulations as set out elsewhere in these CPRs.

15.3 The Council will arrange for award notices to be sent to the successful Supplier (following a 10-day Standstill Period) and brief the losing Providers. A copy of the award notice must be kept on file.

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15.4 The Council must ensure that a discrete Contract complying with the Council's standard terms and conditions is put in place with each successful Supplier.

16. Clarification Procedures

16.1 The Council can ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must ~~not involve changes to the basic features of the bidding organisation's submission.;~~

(i) not involve changes to the basic features of the bidding organisation's submission; and

(ii) be issued and responded to by Commercial Procurement.

16.2 When requesting clarification, the Authorised Officer must follow any guidance contained in the Procurement Toolkit. It must not be used to negotiate or re-negotiate Contract terms. Authorised Officers are required to take all necessary procurement and/or other relevant professional advice if they are in any way unsure of what may or may not constitute a 'clarification' under the Procurement Regulations.

16.3 All clarification questions raised by bidding organisations must be considered and responded to by Commercial Procurement.

16.4 If any amendments are required to the tender documentation or contract terms and conditions as a result of clarifications these must be approved by Commercial Procurement and/or Legal Services as appropriate.

17. Evaluation, Financial Appraisal, Award of Contract and Debriefing of Organisations

17.1 Evaluation

The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the relevant procurement documents (see Rule 12 above) provided to bidding organisations, and in line with any guidance detailed in the Procurement Toolkit.

17.2 Financial Appraisals

Financial Appraisals must be completed in respect of all third parties submitting bids for Contracts in excess of £100,000. It is the responsibility of the Authorised Officer in consultation with the relevant Finance Manager to take all steps reasonably necessary (having regard to the subject matter, value and duration of the Contract and any other relevant factors) to complete a risk assessment of the potential Supplier's financial stability and to ensure this is done to a standard required by the Finance Manager.

17.3 Award of Contract

17.3.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.

~~17.3.2 Where mandated by the procurement is subject to the Procurement Regulations (see Rule 11.5 above), process used, a Standstill Period must be included in the procurement timetable and observed before the Contract can be awarded. ~~Authorised~~~~

~~17.3.3 Authorised Officers should refer to the guidance in the Procurement Toolkit and must consult with Commercial Procurement and, where appropriate, Legal Services in~~

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relation to the Standstill Period requirements and associated documentation to be issued to bidders.

17.3.4 Where a Standstill Period applies, successful and unsuccessful bidders will be sent a Contract award letter containing all the debrief information required under the Procurement Regulations. A copy of ~~the~~each Contract award letter must be kept on file.

~~17.3.2~~17.3.5 Following successful completion of the Standstill Period, the successful bidder(s) will be issued with their Contract to sign.

~~17.3.3~~17.3.6 Provided the winning bid:

- (i) is the most economically advantageous;
 - (ii) is within the financial budget made for it;
 - (iii) complies with the Council's proposed terms and conditions; and
 - (iv) meets the Contract specification,
- it may be accepted by the relevant Authorised Officer.

~~17.3.4~~17.3.7 Where a tender is not:

- (i) the most economically advantageous (if payment is to be made by the Council); or
- (ii) the highest tender (if payment is to be received by the Council),

the award of the Contract must be passed to the Chief Finance Officer for decision clearly setting out the reasons why this is required.

~~17.3.5~~17.3.8 Once approved, all proposed Contract awards over £100,000 must be recorded in the Officer decision log on the mod.gov system.

~~17.3.6~~17.3.9 The approval of the relevant Executive Member and Chief Finance Officer must be given if a tender received as part of a capital scheme results in the scheme or project exceeding the approved financial budget by 10% or £50,000 (whichever is the lower) and this cannot be accommodated within the original financial budget.

17.4 Debriefing

The Authorised Officer will, as part of good practice, offer feedback to all tenderers who submitted a bid about the characteristics and relative advantages of the successful bid-~~(s)~~. This will usually include:

17.4.1 how the award criteria were applied;

17.4.2 the prices or ranges of prices submitted, but not in either case correlated to the tenderers; ~~and~~

~~17.4.3 the names of their competitors and whether there were three or more competitors taking part in the tendering exercise.~~

Authorised Officers must refer to the guidance set out in the Procurement Toolkit and consult with Commercial Procurement prior to issuing any feedback to bidders.

18. Post Tender Negotiation

18.1 Post tender negotiations must not be undertaken where the value of the Contract exceeds the relevant Procurement Threshold.

18.2 Post tender negotiations with selected Suppliers, where the value of the Contract is below the relevant Procurement Threshold, may be carried out where:

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18.2.1 permitted by law; and

18.2.2 the ~~Director~~relevant Chief Officer in consultation with Commercial Procurement and Legal Services considers that added value may be obtained; and

18.2.3 the post tender negotiations are conducted by a team of suitably experienced officers approved by the ~~Director~~relevant Chief Officer and who have been trained in post tender negotiations. Commercial Procurement and Legal Services must be invited to attend any negotiation; and

18.2.4 a comprehensive, written record of the negotiations is kept by the Council; and

18.2.5 a clear record of the added value to be obtained as a result of the post tender negotiations is incorporated into the Contract with the successful Supplier.

19. Contract Documents

19.1 Form of Procurement Documents

The Council's standard procurement documents, which accompany the contract documents, will be used wherever possible and appropriate. Where there is any deviation from ~~these, the standard procurement documents~~, the documents to be used must be reviewed by ~~Legal Services~~Commercial Procurement before being issued. These documents are available from Commercial Procurement.

19.2 Form of Contract

19.2.1 Contractual commitments can only be made by Officers who are formally authorised to do so in the relevant directorate scheme of delegated authority. An up-~~to~~-date record of delegated authorities across the Council is kept by Commercial Procurement.

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19.2.2 ~~All Contracts made on behalf of~~ Should the Council ~~must~~ be ~~evidenced~~ utilising a particular Framework Agreement or DPS for the first time, Legal Services must be engaged to approve the form of Call-Off Contract or Order Form, the Call-Off terms and conditions and any other associated documents.

19.2.3 ~~Unless subsequent Call-Offs require further amendment in writing in an appropriate format approved~~ accordance with the Procurement Regulations, they can proceed without additional approval from Legal Services.

19.2.4 ~~For the sake of clarity however, if any Call-Off terms require any amendment at any stage of a Procurement (as part of a mini-competition or otherwise), approval must be sought from Legal Services and Commercial Procurement.~~

19.2.5 ~~If the Council intends to make a direct award under a Framework Agreement or DPS, no amendments are permitted to the Call-Off terms and conditions.~~

~~19.2.2~~ 19.2.6 ~~The Council will not accept Suppliers' terms and conditions without Legal Services confirming that they are acceptable, and/or without any amendments required by Legal Services. If any case arises, a copy of the terms and conditions must be sent to Legal Services for approval.~~

~~19.2.3~~ 19.2.7 ~~Every Contract must be made~~ in writing by either:

- (i) the issue of a purchase order and accompanying standard terms and conditions for the purchase or supply of goods, services and/or works with an aggregate Contract value (including any extensions) of not more than ~~£100,000~~; or

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- (ii) the preparation of formal written contracts for the purchase or supply of goods, services and/or works with an aggregate Contract value (including any extensions) of £100,000 and above or lower where the nature of the Contract requires a formal written contract.

19.2.8 With regards to:

- (i) Rule 19.2.7(i) above, no amendments requested by any Supplier to the purchase order standard terms and conditions will be accepted without the prior approval of Legal Services; and
- (ii) Rule 19.2.7(ii), any formal contracts must be drafted using either a template form of Contract previously approved and/or drafted by Legal Services, or a new bespoke document created by Legal Services. A Supplier's standard terms and conditions must not be accepted except in accordance with Rule 19.2.6 above.

19.3 Deeds

19.3.1 All Contracts:

19.3.1 (i) in excess of £500,000; or

19.3.2 (ii) where the subject matter warrants an extended period of twelve years' protection; or

19.3.3 (iii) for nil consideration; or

19.3.4 which novate, assign, vary or extend an existing Contract;
or

~~19.3.5~~ (iv) where there is a legal requirement for the Contract to be executed as a deed;

must be executed as a deed under common seal by Legal Services in accordance with Article 24: Finance, Contracts and Legal Matters, unless agreed otherwise by the Monitoring Officer or except where indicated in Appendix B.

19.3.2 Contracts to novate, assign, vary or extend an existing contract:

- (i) must be executed as a deed where the original contract terms do not expressly permit such novation, assignment, variation or extension; or
- (ii) are not required to be executed as a deed where the original contract terms expressly permit such novation, assignment, variation or extension.

19.4 Contract Signature/Sealing

19.4.1 Contracts must:

- (i) where the Contract is in the form of a deed, be made under the Council's seal or electronic seal and attested by Legal Services as required by the Constitution; or
- (ii) where the Contract is ~~in the form of an agreement it will~~to be signed underhand as a simple contract, be signed (either by a Chiefhand or by electronic signature) by:

 - (ii)(a) an Authorised Officer authorised as required by the ~~Constitution with the appropriate level of delegated authority as set out in the relevant~~ directorate's scheme of delegation; or
 - (b) Legal Services.

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19.4.2 When submitted to Legal Services for signing or sealing, all Contracts must be accompanied by an Authorisation to Sign or Seal Form setting out the decision-making process and authority. This form can be obtained from Legal Services.

19.5 Legal Services Review of ~~Tenders and~~ Contracts

19.5.1 To ensure the integrity of the procurement process:

- (i) ~~all proposed Invitations to Tender, where they are not in compliance with Officers intend to deviate from the Council's standard documentation, terms and conditions, all Contracts~~ must be reviewed by Legal Services; and
- (ii) any proposed ~~Invitations to Tender which are subject to the Procurement Regulations, Contracts via an Open or Restricted process,~~ which are deemed to be of medium or high risk, must be reviewed by Legal Services;
- ~~(iii) all proposed Contracts, where they are not in compliance with the Council's standard documentation, must be reviewed by Legal Services~~
- ~~(iv) any proposed Contracts which are subject to the Procurement Regulations, or which are deemed to be of high risk, must be reviewed by Legal Services.~~

~~19.5.2 Officers must consult with Legal Services as appropriate to ensure compliance with this Rule 19.5.~~

19.6 Bonds, ~~Parent Company Guarantees~~ and Liquidated & Ascertained Damages

19.6.1 Chief Officers (in consultation with Commercial Procurement and Legal Services) will consider whether to include provision for payment of liquidated & ascertained

damages by a Supplier for delay or breach of contract where appropriate, taking into account the subject matter and risk associated with the Contract. Such consideration will be recorded in writing.

19.6.2 When considered appropriate by a Chief Officer the Supplier will be required to provide a performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the Contract or such other sum as the Authorised Officer (in consultation with a Finance Manager) considers appropriate.

19.6.3 Where considered appropriate by a Chief Officer, the Supplier will be required to provide a parent company guarantee in a form acceptable to the Council prior to entering into the Contract.

20. Contract Extension and Variation

20.1 Extensions

20.1.1 Commercial Procurement and Legal Services must be consulted in relation to any proposed Contract extension.

20.1.2 Contract extensions shall only be permitted if they are put in place before the Contract expiry date, the relevant notice has been given to the Supplier and where the proposed extension is in accordance with the contract terms.

20.1.3 Where the terms of a Contract expressly permit extensions, Commercial Procurement will support Officers to complete the required paperwork to give notice to the Supplier and document the extension in the agreed form in writing.

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~~20.1.3~~ 20.1.4 Where the terms of a Contract do not expressly permit an extension, Commercial Procurement and Legal Services shall advise whether it is possible to otherwise agree an extension by way of variation to the Contract. Any variations shall be carried out in accordance with RuleRules 19.6.3 and 20.2~~below~~.

~~20.1.4~~ 20.1.5 Approval for the extension must be given by an Officer with the appropriate level of delegated authority. This process must be recorded in writing.

~~20.1.5~~ 20.1.6 Prior to seeking approval from the relevant Chief Officer to take up a contract extension the Authorised Officer must establish whether the extension will deliver Best Value.

~~20.1.6~~ 20.1.7 Before taking an extension, the Authorised Officer must check the original spending authorisation decision (obtained in accordance with Rule 8) to confirm that authorisation to extend the Contract is in place. Where the original decision does not contain authorisation for an extension of the Contract, further authorisation may be sought under Rule 8. The value of the decision used to determine the authorisation requirement shall be the original Contract value plus the value of the proposed extension.

~~20.1.7~~ 20.1.8 All extensions to any Council contracts must be in writing and reported to the Head of Procurement in order that the E-Sourcing System can be updated.

20.2 Variations

20.2.1 Variations will be dealt with in accordance with these CPRs and the Procurement Regulations. Further guidance must be sought from Commercial Procurement and Legal Services.

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20.2.2 All Contract variations must be carried out:

- (i) within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not permitted; and
- (ii) following consideration as part of the Category planning process.

20.2.3 All Contract variations must be in writing (in the form specified by the Contract where applicable) and signed or sealed by both the Council (in accordance with Rule 19.3.2 and 19.4.1 above and the Supplier. Approval for the Contract variation must be given by the by the ~~Monitoring Officer and~~ Head of Procurement, or their delegated officers.

20.2.4 Where appropriate (taking into account any change in contract value, contract term, range of services provided etc), Contract variations must be reported to the Head of Procurement in order that the E-Sourcing System can be updated.

20.2.5 A new procurement will be required in case of material change where one or more of the following conditions are met:

- (i) the variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of Suppliers other than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;
- (ii) the variation increases the value of the Contract or the Framework Agreement substantially in favour of

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the Supplier in a manner which was not provided for in the original Contract or Framework Agreement;

- (iii) the variation extends the scope of the Contract or Framework Agreement considerably.

Further guidance must be sought from Legal Services where the Chief Officer considers there is any possibility that the proposed variation might fall under this Rule 20.2.5.

21. Termination of Contract

- 21.1 **Prior to terminating any Contract, Officers must consult Commercial Procurement and Legal Services.** It will only be possible for Contracts to be terminated early, where provided for within the Contract and if this action is authorised by the relevant Chief Officer through a Delegated Decision. A copy of the report and decision for termination of any Contract exceeding £100,000 in aggregate for the whole of the contract period (including any extensions) must be sent to the Head of Procurement for monitoring purposes. All termination letters under this Rule must be drafted and issued via Legal Services in conjunction with the Authorised Officer.

22. Prevention of Corruption

- 22.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Financial Regulations and must be adhered to at all times.

23. Declaration of Interests

- 23.1 To ensure that persons involved in the procurement process are aware of and adhere to the principles of impartiality and professional standards when dealing with, and completing commercial undertakings, a Conflict of Interest and Confidentiality Undertaking Declaration form is required to be

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completed for all procurement processes which identifies actual and potential conflicts of interest. This must be completed by all Officers involved in the procurement process prior to commencement of the procurement process. If an actual or potential conflict of interest arises during the procurement process a new Conflict of Interest and Confidentiality Undertaking Declaration form shall be immediately completed and submitted by the Officer concerned and the Monitoring Officer and the S151 Officer shall be notified in accordance with Rule 23.2.

- 23.2 If it comes to the attention of a Member, Authorised Officer or other Officer that a Contract in which they have an interest (determined in accordance with the Members' and/or Employee Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer and the S151 Officer.

24. Contract Management / Monitoring

- 24.1 All Contracts must have an appointed contract manager for the entirety of the Contract. The responsible Chief Officer must ensure a contract manager is designated prior to contract award.
- 24.2 Contract management, monitoring, evaluation and review must be conducted in line with guidance detailed in the Procurement Toolkit.

25. External Body ~~Grant~~ Funding Rules

- 25.1 Where a procurement process is funded, in whole or part, by ~~grant~~external funding which has been awarded to the Council by an external funding body, the Authorised Officer must consult with Commercial Procurement and Legal Services to ensure that any rules or conditions imposed by the funding body are adhered to in addition to the requirements of these CPRs.

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25.2 Where there is any conflict between these CPRs and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

26. Waiver and Exemptions

Waivers

26.1 Except where the Procurement Regulations apply, the Executive has the power to waive any requirements within these CPRs for specific projects upon request.

26.2 Additionally, except where the Procurement Regulations apply, these CPRs may be waived where the circumstances are certified by the Chief Finance Officer, or their deputy advised as appropriate by the Monitoring Officer and Head of Procurement as meeting any of the following criteria:

~~26.2.1 for works, supplies or services which are of such special character that it is not possible to obtain competitive prices;~~

~~26.2.2~~ 26.2.1 for supplies purchased or sold in a public market or auction;

~~26.2.3 for the execution of works or services or the purchase of supplies involving specialist or unique knowledge or skills;~~

~~26.2.4~~ 26.2.2 with an organisation which has won a Contract for an earlier phase of work via a competitive process and where the work forms part of a ~~serial programme and has previously been identified as such;~~ larger project and/or serial programme. For the sake of clarity, this particular ground will **only** be available provided that:

(a) it was previously identified in the relevant tender and/or contractual documentation that the work being supplied by the relevant organisation formed part of a larger project and/or serial programme, and

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(b) the award of any additional work can be done so without breaching the Procurement Regulations and/or exposing the Council to unacceptable risk;

~~26.2.5~~26.2.3 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the Contract to cover this additional requirement, without breaching the Procurement Regulations and/or exposing the Council to unacceptable risk;

~~26.2.6~~26.2.4 for works, supplies and/or services which, after the testing the market, are found to be only available from one organisation (either due to their highly specialised nature); the use of innovative technology or service models, or any exclusive proprietary rights belonging to the relevant supplier), provided that:

(a) this can be properly evidenced by the Authorised Officer (including confirmation that no other viable alternative works, supplies and/or services are available), and

(b) Commercial Procurement are satisfied that the Council has not artificially narrowed its requirements to avoid conducting a competitive tender process in accordance with these CPRs;

~~26.2.7~~26.2.5 involving such extreme urgency, that it is/would not be possible to comply with the CPRs; competitive procurement procedures and timescales set out within these CPRs. For the sake of clarity, this ground will not apply where said extreme urgency has come about due to circumstances that can be attributed to any action, inaction and/or delay on the part of the Council;

~~26.2.8~~26.2.6 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts

or cultural event which cannot be procured competitively due to the nature of the requirement;

~~26.2.9~~26.2.7 in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;

~~26.2.10~~26.2.8 in relation to external grant funding that has been awarded on the condition that a specific Supplier be appointed by the Council;

~~26.2.11~~26.2.9 where relevant UK or other applicable international legislation not otherwise referred to in these CPRs ~~prevents the usual~~allows another procurement process ~~from being followed~~to be undertaken;

~~26.2.12~~ ~~In relation to the price quality ratio (Rule 12.1.1) where, after consultation with officers from Finance, Commercial Procurement, the client team wishes to use a price percentage lower than 40%; and/or~~

~~26.2.13~~26.2.10 ~~where Legal are satisfied that~~ there is a significant risk to the statutory functions of the Council, or to its governance, audit or finances, a significant safeguarding risk, or a significant risk of failure in the case of an immediate statutory inspection, if the Supplier is not engaged (such confirmation in all cases to be confirmed in writing by the relevant Chief Officer~~).~~

26.3 If a waiver of these CPRs is required, the Authorised Officer will complete and submit a waiver form, using a template document obtained from Commercial Procurement. The waiver form must set out the detail of the specific Rule(s) being waived and confirmation of the Rule within 26.2 under which the waiver is being sought along with the financial, legal, risk and equality implications of the waiver sought.

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- 26.4 The process to be followed in respect of waivers is set out in the Procurement Toolkit.
- 26.5 In relation to Maintained Schools, the Governing Body shall have the power to waive any requirement of these CPRs where the Head Teacher has submitted a waiver form in accordance with Rule 26.3 confirming that any of the criteria listed at Rule 26.2 apply.
- 26.6 If the waiver is approved the Authorised Officer can then proceed with the waiver to these CPRs. Officers are only authorised to incur expenditure up to the amount included in the final agreed waiver. Should any additional expenditure or further service be required a new waiver must be requested.
- 26.7 With the exception of those relating to Maintained Schools, every waiver form will be recorded on a master register maintained by Commercial Procurement. Each Maintained School must maintain their own master register of waiver forms.
- 26.8 Where a waiver is being requested, Authorised Officers are required to seek waivers at the outset of any procurement process or, where relevant, at such time during a procurement process that it becomes apparent that it is not possible to comply in full with the competition procedures outlined in Rules 11.3 and 11.4. No Contract resulting from a waiver being requested will be entered into without a waiver authorisation being in place.
- 26.9 Authorised Officers are not required to seek waivers in the case of an Emergency or as a result of an Emergency where there is danger to the safety of persons or serious risk of loss or damage to the Council's assets or interests, or the interests of another party. In such circumstances, the Authorised Officer may enter into such Contracts as necessary by means that are reasonable under the circumstances.

Exemptions

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26.10 These CPRs do not apply to Contracts:

26.10.1 for the execution of mandatory works by statutory undertakers; (i.e., companies and agencies which have been given general licence to carry out certain development and highways works, such as utilities and telecoms companies or nationalised companies such as Network Rail);

26.10.2 for legal services in respect of specific matters which are in contemplation of:

(a) ~~Arbitration~~arbitration conciliation;

(b) Judicial proceedings before the courts;

26.10.3 for the provision of legal advice given in preparation for any of the proceedings referred to in Rule 26.10.2(a) or (b) above, or where there is tangible indication and high probability that the matter to which the advice relates will become the subject of such proceedings.

26.10.4 which have been procured on the Council's behalf:

(i) through collaboration with other local authorities or other public bodies, where a competitive process which complies with the CPRs of the leading organisation has been carried out; or

(ii) by a national or regional contracting authority where the process followed is in line with the Procurement Regulations;

26.10.5 to cover urgent special educational needs, urgent social care needs or urgent operational needs, if in the opinion of the relevant Director (in consultation with the Head of Procurement) the exemption is considered to be in the Council's interests or necessary to meet the authority's obligations under relevant legislation. Use of this

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exemption by the relevant Director must be preceded by a written report under Rule 26.3 using the waiver form, setting out the reason for such urgency, how it complies with ~~relevant legislation and represents Best Value~~the Procurement Regulations and any other relevant legislation, and represents Best Value. For the sake of clarity, this ground will not apply where in the opinion of the Head of Procurement (with advice from Legal Services where necessary) said urgency has come above due to circumstances that can be attributed to any action, inaction and/or delay on the part of the Council;

26.10.6 for the renewal of licences or contracts for goods or services where:

- a) the supply is restricted to either the original Supplier or their selected re-sellers; and
- b) competition does not affect the price paid owing to the way the market operates and/or the need for compatibility; and
- c) the value of three years' aggregated renewals has not exceeded, or will not exceed, £150,000; and
- d) the relevant Chief Officer has agreed to the renewal.

26.11 The use of e-procurement does not negate the requirement to comply with all elements of these CPRs.

27. Breaches of CPRs

27.1 Breaches of the CPRs are extremely serious matters and will be fully investigated and reported on following referral or discovery. All Directors are responsible for reporting all known or discovered breaches of these CPRs to the ~~Chief Finance Officer and Monitoring Officer~~Head of Procurement as soon as they become

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aware of it in practice. Any Director can be called to Audit & Governance Committee to explain any breach.

27.2 Breaches identified are reported to the [Head of Procurement and recorded. Training needs will be identified and provided to officers across the Council. Should repeated breaches be made, an investigation to remove an Officer's delegated authority will commence.](#)

27.127.3 Breaches are reported to Governance, Risk & Assurance Group to identify where improvements need to be made and to ensure training is provided where necessary.

28. Data Protection

28.1 Where a Contract involves data processing by the Supplier on behalf of the Council then sufficient due diligence must be undertaken to ensure that the Council only uses Suppliers who provide guarantees to implement appropriate technical and organisational measures in such a manner as to meet the requirements of the UK GDPR and Data Protection Act 2018 and protect the rights of individuals.

28.2 Every written Contract that involves the processing of personal data by a Supplier on behalf of the Council must set out the subject matter and duration of the processing, the nature and purpose of the processing, the types of personal data and categories of data subjects and obligations and rights of the Council. In particular the Contract must contain clauses that meet the requirements of Article 28(3) of the General Data Protection Regulations. Authorised Officers should consult with Legal Services as per Rule 2.1.2(x)(c).

28.3 Authorised Officers should consult with the [Corporate Information Governance team at the outset of a procurement process to:](#)

(a) discuss the data protection implications and obligations set out in Rule 28.2 above and as much information as possible

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should be included in the Contract prior to the publication of tender documentation;

~~28.3~~ (b) establish whether a Data Protection Impact Assessment is required in relation to any proposed Contract involving the processing of ~~Personal Data~~personal data.

APPENDIX A - DEFINITIONS

“Accountable Body”	means where the Council is held accountable by the Government for a particular sum of money which actually may not be managed by, or be in the control of, Council Officers;
“Authorised Officer”	means a person authorised by the relevant Chief Officer to act on the Council’s behalf;
“Best Value”	means the optimum combination of whole life costs, quality and benefits to meet the customer’s requirement;
“Category”	means each category identified in the category overview table which is set out in the Council’s Procurement Strategy;
“Category Plan”	means strategic planning of the category, at a category or sub-category level, including review of the current position, constraints and opportunities, desired outcomes, options and actions. The template plan should be used in all cases except where an alternative approach (having the same effect) forms part of external funding or joint procurement requirements;
“Chief Finance Officer”	means the Council’s section 151 Officer currently the Chief Finance Officer or their nominated deputy;

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“Chief Officer”	means the head of the procuring directorate and includes the Chief Executive, Deputy Chief Executive, Operating Officer, Corporate Directors, Directors , Assistant Directors and officers with appropriate delegations and sub-delegations;
City of York Scheme for Financing Schools	means the scheme which sets out the financial relationship between the Council and Maintained Schools;
Commercial Procurement	means the Council’s Commercial Procurement team;
Concession Contract	has the meaning given in regulation 3 of the Concession Contracts Regulations;
Concession Contracts Regulations	means the Concession Contracts Regulations 2016 and any successor, amending or enabling legislation;
“Constitution”	the Council’s constitution which is available on the internet and sets out the rules that the Council and all Council employees and Members must follow;
“Contract(s)”	means an agreement between the Council and a Supplier made by formal agreement or by issue of a letter of acceptance or official order for goods, services and/or works;

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“Contracts Finder”	means the web-based portal provided for the purposes of the Procurement Regulations by or on behalf of the Cabinet Office;
“Contract Register”	means the register of all Contracts maintained by Commercial Procurement;
“Contracting Authorities”	has the meaning given in the Procurement Regulations;
“(The) Council”	means City of York Council;
“CPRs”	means these Contract Procedure Rules;
“Delegated Decision”	means a formal decision taken in accordance with the Council’s Constitution and sub-delegation schemes. It is for the Officer seeking the Delegated Decision to decide which type of decision is required in accordance with the Constitution;
“Director”	means an Officer of the Council designated as a director;
Dynamic Purchasing System <u>or</u> <u>DPS</u>	means a completely electronic process for making commonly used purchases that meet the requirements of a Contracting Authority, which is limited in duration and open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification and

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	requirements of the relevant Contracting Authority;
“Emergency”	means an urgent situation or crisis created as a result of a natural disaster (such as flooding or an earthquake) or tragedy (such as an explosion or plane crash);
“E-Sourcing System”	means the Council’s chosen E-sourcing system (currently YORtender), an e-sourcing mandated for access to a specific framework or an approved alternative;
Executive	has the meaning given in the Council’s Constitution;
Executive Member	has the meaning given in the Council’s Constitution;
“Financial Appraisals”	means checking the financial status including the credit rating of a Supplier;
“Finance Manager”	means a manager from the Council’s internal finance team;
“Financial Regulations”	means the governance rules and regulations relating to the management of the Council’s financial affairs, set out in Appendix 10a of the Constitution;
“Find a Tender”	means the web-based portal provided for the purposes of the Procurement Regulations, for above Procurement Threshold

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	processes, by or on behalf of the Cabinet Office;
“Framework Agreement”	<p>means a framework agreement with one or more Contracting Authorities and one or more Suppliers which establishes an arrangement for:</p> <ul style="list-style-type: none"> i. Multiple orders to be placed with one economic operator (a single supplier framework); or ii. A framework of multiple economic operators to engage in further competitions or direct awards (a multiple supplier framework); <p>that has been set up either by the Council or an organisation other than the Council and has been authorised by Commercial Procurement for use in Council procurements;</p>
“Forward Procurement Plan”	<p>means practical planning of the procurement, or group of similar procurements, including approach, resourcing and timetable. This involves identifying major projects within each category of spend to be maintained by the relevant Chief Officer. It also provides a basis for information for Commercial Procurement to meet the Council’s reporting obligations.</p>

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	The Forward Procurement Plan will be in such format as prescribed by the Head of Procurement except where an alternative approach (having the same effect) forms part of external funding or joint procurement requirements;
“Governing Body”	has the meaning given in the City of York Scheme for Financing Schools;
“Grant”	means funding awarded to a third party organisation for the purpose of helping deliver community cohesion or providing complementary activities to those carried out by the Council;
“Head of Procurement”	means the Officer who is responsible for the procurement function on behalf of the Council;
“Internal Service Provider”	means any internal service area for example Building Services, Yorkcraft, Commercial Procurement, or Legal Services etc;
“Invitation to Tender”	means an invitation by the Council to a potential Supplier to tender for the provision of goods, services and/or works;
“Key Decision”	has the meaning set out in Rule 8.11 of the CPRs;
“Leader”	means the Leader of the Council;

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“Legal Services”	means the Council’s internal legal team;
Maintained Schools	Means the schools maintained by the Council as set out in the City of York Scheme for Financing Schools;
“Member(s)”	means elected member(s) of the Council;
“Monitoring Officer”	means the Council’s principal solicitor currently the Director of Governance;
“Officer(s)”	means employee(s) of the Council;
“Officer Decision Log”	means the section of the Council’s website where decisions made by senior officers are recorded;
“Participants”	means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract;
“Procurement Regulations”	means the Public Contracts Regulations 2015 and any successor, amending or enabling legislation implemented to govern the award of public contracts;
“Procurement Strategy”	means the Council’s published procurement strategy setting out its ambition for procurement and confirming a category

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	management and whole lifecycle approach to procurement;
“Procurement Threshold”	means the designated threshold above which the Procurement Regulations shall apply to a Contract;
“Procurement Toolkit”	means the manual that accompanies these CPRs which provides detailed guidance on procurement techniques, considerations and the effect of these CPRs;
“Relevant Contract”	has the meaning set out in Rule 3 of these CPRs;
“Request for Quotation”	means a request by the Council to a potential Supplier for a quotation for the provision of goods, services and/or works;
“Routine”	has the meaning set out in Rules 8.11 and 8.12;
“Rule(s)”	means any rule contained in these CPRs;
“Standstill Period”	means a 10 day standstill period before a Contract can be awarded to the successful bidder to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award;
“Strategic Partnership”	means a partnership with an organisation that the Council has a long term arrangement with for

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	the provision of goods, works and / or services;
“Supplier(s)”	means the person or entity with whom the Council has a Contract;
“TUPE”	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any successor, amending or enabling legislation;

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APPENDIX B - ARRANGEMENTS FOR SCHOOLS

Maintained Schools must use the following governance thresholds instead of those found in Rule 8.

Contract Value	Authorisation Required By
£500,000 and above	Council Executive (decision)
£250,000 up to £499,999.99	Governing Body (minute or decision)
£50,000 up to £249,999.99	Chair of Governing Body or relevant governing committee (written instruction)
£1 up to £49,999.99	Head-teacher OR The Governing Body in conjunction with the Head-teacher may decide upon a scheme of delegation appropriate to each school and staffing arrangements.

Reviewed: November 2023

Appendix 11: Contract Procedure Rules

Reviewed _____ January _____ 2023

APPENDIX C – ROUTINE PROCUREMENTS

The below table sets out some examples of the types of goods and services that may be considered Routine. This is included as a reference guide only and whether or not a procurement is Routine shall be determined on a case by case basis by the Head of Procurement in accordance with Rule 8.13.

<u>Example of Routine Procurement</u>	<u>Approval Required</u>
<u>Software licences for existing software</u>	<u>Head of Procurement</u>
<u>ICT hardware, software and / or services to maintain the security, integrity and statutory function of core or business systems</u>	<u>Head of Procurement</u>
<u>Utilities and such services</u>	<u>Head of Procurement</u>
<u>Statutory subscription items such a TV licences</u>	<u>Head of Procurement</u>
<u>Stationery, postal services, staff travel, and other comparable business administration contracts</u>	<u>Head of Procurement</u>
<u>General financial services (banking, merchant processing or other comparable services) excluding audit</u>	<u>Head of Procurement</u>

 Reviewed: November 2023

 Appendix 11: Contract Procedure Rules

 Reviewed _____ January _____ 2023

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CITY OF YORK COUNCIL

CONTRACT PROCEDURE RULES

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Contract Procedure Rules

These Contract Procedure Rules (**CPRs**) set out the key responsibilities and actions that Officers and Directors must follow when undertaking procurements.

All procurements and contracting arrangements made by or on behalf of the Council must be carried out in accordance with these CPRs. Rule 26 sets out the only circumstances in which the other Rules are specifically excluded or may be waived. Appendix A contains a series of definitions. Any term which is defined is shown in the CPRs beginning with a capital letter.

Maintained Schools

Where Maintained Schools enter into Contracts, they do so as agents of the Council. Accordingly Maintained Schools must follow these CPRs in addition to the York Scheme for Financing Schools (the **Scheme**), except where specifically stated otherwise. Where any conflict exists between these CPRs and the Scheme, the rules of the Scheme shall prevail.

Specific governance thresholds for Maintained Schools are set out in Appendix B. These are to be used in place of the thresholds contained at Rule 8.

For the purposes of these CPRs, the Authorised Officer for a Maintained School shall be the Head Teacher and the Chief Officer and/or Director shall be the Governing Body.

1. Basic Principles and Compliance

All procurement procedures and every Contract entered into by the Council must:

- 1.1 realise value for money by achieving the optimum combination of whole life costs, and quality of outcome;
- 1.2 be consistent with the highest standards of integrity;
- 1.3 operate in a transparent manner;
- 1.4 ensure fairness in allocating public contracts;
- 1.5 comply with all legal requirements including the Procurement Regulations and any other applicable international treaty principles of proportionality, mutual recognition, transparency, non-discrimination and equal treatment;
- 1.6 comply with the Council's Constitution, these CPRs and the Council's Financial Regulations;
- 1.7 comply with the Council's strategic objectives and policies, including the Council's Procurement Strategy and the Council's Employee and Member Codes of Conduct; and
- 1.8 comply with the guidance set out in the Procurement Toolkit which should be read in conjunction with these CPRs;

These CPRs are applicable to the contracting activities of any Strategic Partnership for which the Council is the Accountable Body unless the Council expressly agrees otherwise.

2. Officer Responsibilities

2.1. Authorised Officers

- 2.1.1 Authorised Officers must comply with these CPRs, the Council's Constitution and all UK and applicable international legal requirements. Authorised Officers must ensure that any agents, consultants and contractual partners acting on their behalf also comply with these requirements.

2.1.2 Authorised Officers must:

- (i) consult and seek advice from Commercial Procurement in relation to any proposed procurement;
- (ii) ensure, in relation to any proposed procurement, that the proposed procurement expenditure is contained in a Forward Procurement Plan and contained within an approved budget secured prior to commencement of the procurement in accordance with the Financial Regulations;
- (iii) keep the records required by Rule 5 of these CPRs;
- (iv) take all necessary procurement, legal, risk & insurance, financial, data protection and professional advice, taking into account the requirements of these CPRs;
- (v) prior to carrying out a procurement process or letting a Contract on behalf of the Council, check whether:
 - (A) the Council already has an appropriate Contract in place in the Contract Register; or
 - (B) an appropriate national, regional or other collaborative contract is already in place.
- (vi) ensure that if the Council already has an appropriate Contract in place, that it is used, (unless it can be established that the Contract does not fully meet the Council's specific requirements (to be determined on a case-by-case basis)), following consultation with Commercial Procurement and Legal Services;
- (vii) ensure that if an appropriate national, regional or collaborative contract is available, consideration

is given to using this, provided the contract offers Best Value. Authorised Officers must consult with Commercial Procurement to discuss;

- (viii) ensure that when any employee, either of the Council or of a Supplier, may be affected by any transfer arrangement, then any TUPE issues are considered and legal and HR advice from within the Council is obtained prior to proceeding with the procurement exercise;
- (ix) consult with all relevant stakeholders including Members, trade unions and service users where TUPE may apply to identify and assess all options to ensure the Council's required outcomes are achieved;
- (x) in consultation with Commercial Procurement establish a written specification and evaluation criteria (where competition is involved) and procurement methodology which must be formally approved at the relevant governance thresholds outlined in Rule 8 - Powers and Key Decisions (note the relevant decision-making body as identified in the governance thresholds may give Authorised Officers written delegated authority to define the specification and evaluation criteria themselves);
- (xi) consult and seek advice from Legal Services prior to beginning a procurement where:
 - (A) TUPE applies; and/or
 - (B) the service to be procured involves personal data, in which case the Authorised Officer shall also liaise with the Information Governance team;

- (c) the procurement exceeds £150,000 in aggregate for the whole contract period (including any extensions).
 - (xii) Register all completed procurements with a value of £5,000 or more on the Contract Register.
- 2.1.3 Failure to comply with any of the provisions of these CPRs, the Council's Constitution, UK law or other applicable international legal requirements will be brought to the attention of the Monitoring Officer, Head of Internal Audit, or relevant Director as appropriate. Depending on the nature of the non-compliance this may result in disciplinary action being taken.

2.2 Chief Officers

Chief Officers must:

- 2.2.1 ensure their service area complies fully with the requirements of these CPRs;
- 2.2.2 ensure contracts are recorded in the Contract Register as held and maintained by Commercial Procurement;
- 2.2.3 work with Commercial Procurement to identify the total expenditure relating to a particular category of spend by developing a Category Plan;
- 2.2.4 ensure that their service area provides the requisite information to allow Commercial Procurement to maintain and update the Forward Procurement Plan;
- 2.2.5 ensure all procurement activity is undertaken by suitably skilled and experienced staff;
- 2.2.6 report any breaches of these CPRs to the Monitoring Officer and Chief Finance Officer.

3. Relevant Contracts

- 3.1 All Relevant Contracts must comply with these CPRs. A Relevant Contract is any arrangement made by, or on behalf of, the Council for the carrying out of works or the provision of supplies or services. These include arrangements for:
- 3.1.1 the supply or disposal of goods;
 - 3.1.2 the carrying out of building or engineering works;
 - 3.1.3 the hire, rental or lease of goods or equipment;
 - 3.1.4 the delivery of services;
 - 3.1.5 land and property transactions involving those elements set out in Rule 3.3 below; and
 - 3.1.6 the delivery of shared services and/or collaboration arrangements between the Council and other public authorities and/or public bodies and/or related overarching arrangements.
- 3.2 The following will not be classed as Relevant Contracts:
- 3.2.1 contracts of employment which make an individual a direct employee of the authority (whether on a permanent or temporary basis) and/or secondment arrangements;
 - 3.2.2 subject to Rule 3.3, agreements relating solely to the acquisition, disposal, or transfer of land (to which the Financial Regulations apply);
 - 3.2.3 subject to Rule 4, the payment of grants to third parties;
or
 - 3.2.4 those contracts/arrangements which are specifically excluded in accordance with Rule 25.9 below.
- 3.3 Any acquisition, disposal, or transfer of land which involves elements requiring the supply of works, goods and/or services to or on behalf of the Council will be treated as Relevant Contract and these CPRs apply to all aspects of the procurement of those

works, goods and/or services. Officers must ensure that they consult with Legal Services and Property Services as appropriate to ensure compliance with this Rule 3.3.

4. Grants

- 4.1 Where the Council is required to carry out works or deliver goods or services, the Council cannot elect to award a Grant where the sole purpose for doing so would be to avoid conducting a competitive tender process in accordance with these CPRs.
- 4.2 Taking into account Rule 4.1 above, Directors shall consider when procuring the provision of services, supplies or works whether a Grant would be a preferable means to achieving its objectives rather than following a competitive bid process.
- 4.3 A Grant may only be awarded in circumstances where:
 - 4.3.1 there is the legal power to make a Grant for the purpose envisaged; and
 - 4.3.2 the making of the Grant does not contravene UK, EU or any other applicable international rules on state aid.
- 4.4 Where the value of a Grant is less than £175,000 over 3 years, the Director shall have the discretion to conduct a competitive application process for the award of that Grant if doing so demonstrates best value for the Council. If a Director is not conducting a competitive application process then the Best Value Form must be completed to capture the rationale for the decision.
- 4.5 Where the value of the Grant exceeds £175,000 over 3 years but is less than the relevant Procurement Threshold a competitive grants process must be completed. The opportunity must be advertised on the E-Sourcing System.
- 4.6 Where the value of a Grant exceeds the relevant Procurement Threshold, a competitive process must be completed and the opportunity must be advertised on the E-Sourcing System.
- 4.7 The Authorised Officer shall take all such steps as are appropriate to monitor and review the performance of the Grant

agreement, having regard to its value, nature, duration and subject matter. As part of the Grant monitoring and review process the Authorised Officer shall maintain adequate records of performance and details of review meetings with the Grant recipient.

- 4.8 All Authorised Officers must complete the Best Value Grant form which is available from the Commercial Procurement team.

5. Records

- 5.1 The Procurement Regulations require Contracting Authorities to maintain the following comprehensive records of procurement activities:

- 5.1.1 contract details including value;
- 5.1.2 selection decision;
- 5.1.3 justification for use of the selected procedure;
- 5.1.4 names of bidding organisations, both successful and unsuccessful;
- 5.1.5 reasons for selection and rejection;
- 5.1.6 reasons for abandoning a procedure;
- 5.1.7 details of sub-contractors;
- 5.1.8 conflicts of interest identified and action taken.

- 5.2 The outcome of any competitive procurement process must be recorded in electronic format on the E-Sourcing System. Information from the E-Sourcing System will also be used for the tracking of procurement savings, sustainability benefits, and other data.

- 5.3 Commercial Procurement maintains the Contract Register which records key details of all Contracts (including contract reference numbers) with an aggregate value of £5,000 or more.

- 5.4 Where a Contract has not been awarded using the E-Sourcing System, Officers must ensure full details of that Contract are passed to the Head of Procurement for inclusion in the Contract Register where the aggregate value of the Contract is £5,000 or more. Decisions as to why the E-Sourcing System was not used must be recorded in writing and sent to Commercial Procurement.
- 5.5 Full records of all contract documentation, quotations, estimates, tenders and any other correspondence pertinent to the award or acceptance of a Contract must be kept by Commercial Procurement for the duration of the Contract and a minimum of six years after the Contract has expired or twelve years after the Contract has expired where it is executed under common seal as a deed.
- 5.6 It is the responsibility of Chief Officers to ensure that all Contracts are properly entered into, administered and controlled to safeguard the Council's interests, secure Best Value and minimise the risk of theft, fraud, collusion and corruption.
- 5.7 Officers must comply with any Council requirements to record decisions on the Officer Decision Log.

6. Risk Assessment

- 6.1 All procurements that require an Invitation to Tender and/or Requests for Quotation (see Rule 11 below), must be supported by a risk assessment (where appropriate). This risk assessment must be carried out at the start of the procurement process and, where appropriate, will include a Financial Appraisal in accordance with Rule 17.2.
- 6.2 The risk assessment process will identify where further specialist advice should be sought.

7. Advertising

- 7.1 Officers must liaise with Commercial Procurement to ensure that the minimum advertising requirements are met in line with the Procurement Regulations when conducting any procurement

process (including Framework Agreements or Dynamic Purchasing Systems). Officers should refer to the further guidance in the Procurement Toolkit.

7.2 Where Contracts with a value of £25,000 (including VAT) and above are advertised **anywhere**, they must first be advertised on Contracts Finder.

7.3 Where Contracts have a value above the relevant Procurement Threshold they must be advertised on Find a Tender.

8. Powers and Key Decisions

8.1 This Rule does not apply to Maintained Schools, who must consult the governance thresholds contained at Appendix B.

8.2 In consultation with the Monitoring Officer, Directors must ensure that the Council has the legal power to enter into any Contract.

8.3 Directors must ensure that they have delegated powers to enter into any Contract or to grant another Officer authority to do so.

8.4 No Contract will be entered into unless an adequate budget is in place.

8.5 Where a decision has already been made by Executive or an Executive Member and the budget is in place to permit a course of action then further approval is not required to award Contracts necessary to implement that decision.

8.6 Where schemes are included in the Capital Programme this has already been approved and further Executive approval is therefore not required. However, a copy of the relevant report must be sent to Commercial Procurement for audit purposes.

8.7 It is recommended that any approval sought includes a specific delegation to the Authorised Officer to award the Contract at the conclusion of the procurement. In other circumstances the procedure set out in Rules 8.9 to 8.11 below must be followed.

- 8.8 Where the aggregate contract value (including any extension) is £250,000 or less Directors may agree or authorise another Officer to enter a Contract under their delegated powers.
- 8.9 Where the aggregate contract value (including any extension) is between £250,000 and £500,000 then the decision to enter the contract requires the approval of an Executive Member or the Executive unless the procurement is treated as Routine as defined in Rules 8.12 and 8.13 below.
- 8.10 Where the aggregate contract value (including any extension) exceeds £500,000 the decision will be regarded as a Key Decision unless the Chief Finance Officer acting in consultation with the Monitoring Officer has approved the procurement as Routine in accordance with Rules 8.12 to 8.13 below.
- 8.11 A Routine procurement is any arrangement that represents a low commercial and legal risk to the Council and involves the procurement of goods, services or works with a clearly defined specification that clearly relate to core administrative, infrastructure or business functions of the Council (a sample list of such services is set out in Appendix C).
- 8.12 A procurement which relates to the carrying out of a statutory function of the Council shall not be considered Routine.
- 8.13 Where Officers consider a procurement process may be Routine, they must liaise with Commercial Procurement who will determine whether the procurement is in fact Routine and advise on the relevant paperwork to be submitted to the Head of Procurement. Authorisation to treat a procurement as Routine must be sought before the procurement process commences.
- 8.14 A Director may enter into a Contract regardless of value where the procurement has been treated as Routine.
- 8.15 A register of Routine procurements will be maintained and reported to the Executive Member for Finance, Performance, Major Projects & Equalities.

8.16 In relation to all Key Decisions, Authorised Officers must ensure that all authorisations are in place before the procurement process begins.

8.17 Notice of every Key Decision must be published on the Council's Forward Plan.

8.18 The Executive scheme of delegation requires that all Key Decisions are reserved to the Executive unless specifically delegated to an Executive Member or an Officer or where the Leader and Chief Operating Officer are acting in case of urgency.

8.19 This Rule 8 applies to all Relevant Contracts and all call-offs from Framework Agreements or Dynamic Purchasing Systems.

9. Pre-Tender Market Testing, Consultation and Deciding on the appropriate Procurement Route

9.1 The Council may consult potential Suppliers, prior to the issue of the Invitation to Tender or Request for Quotation, in general terms about the nature, level and standard of the supply, contract packaging and other relevant matters, provided this does not prejudice any other potential Supplier.

9.2 When engaging with potential Suppliers, the Council must not seek or accept technical advice from them on the preparation of an Invitation to Tender or Request for Quotation where this may prejudice the equal treatment of all potential Suppliers or otherwise distort competition.

9.3 In the case of the re-procurement of an existing Contract sufficient care must be taken to ensure that the process is fair and is seen to be fair. The objective is to ensure a level playing field for all potential Suppliers, whilst acknowledging that any incumbent Supplier has an inherent advantage due to having previously worked for the Council. Advice must be sought from Commercial Procurement to ensure the specification is clear and unambiguous.

- 9.4 In undertaking any market testing activities or consultation with potential Suppliers, the Authorised Officer responsible should refer to any guidance contained in the Procurement Toolkit.
- 9.5 Guidance on choosing the appropriate procurement route can be found in the Procurement Toolkit.

10. Framework Agreements

- 10.1 Call-off contracts or orders made under Framework Agreements or Dynamic Purchasing Systems must be operated in accordance with these CPRs and/or the requirements of the Framework Agreement or Dynamic Purchasing System themselves. **Further advice must be sought from Commercial Procurement.**
- 10.2 Where a Framework Agreement with more than one supplier provides an option for a direct call-off to one Supplier, this can only be done if all the following conditions are met:
- 10.2.1 The Framework Agreement's process for doing so is followed;
 - 10.2.2 The aggregate Contract value (including VAT) and including any extension) is less than £500,000;
 - 10.2.3 Where the aggregate Contract value (including any extension) exceeds £500,000, the relevant Chief Officer has approved the direct call-off method after advice from the Authorised Officer and Commercial Procurement; and
 - 10.2.4 The Authorised Officer believes that it represents Best Value for the direct call-off method to be used.

Establishment of Framework Agreements and Dynamic Purchasing Systems

- 10.3 Authorised Officers (in conjunction with Commercial Procurement and Legal Services) may establish a Framework Agreement or Dynamic Purchasing System (**DPS**). The Head of Procurement must agree to the establishment of any Framework

Agreement or DPS prior to any selection or procurement processes being undertaken. The Framework Agreement or DPS is otherwise treated as any other procurement and will follow the same levels and process as required by the value and object of the Framework Agreement or DPS. Note, there are additional requirements under the Procurement Regulations for the establishment and further use of a Framework Agreement or DPS, and advice must be sought from Commercial Procurement to ensure the Procurement Regulations are adhered to.

10.4 A Framework Agreement or DPS can be established jointly with other Contracting Authorities.

10.5 Any future call-off from the established Framework Agreement or DPS requires authorisation in accordance with the governance thresholds set out in Rules 8.9 to 8.11.

10.6 Where a Framework Agreement has been established by the Council, any extension or termination thereto shall be governed by Rules 20 and 21 below in addition to the Procurement Regulations.

11. Procurement Competition Requirements

11.1 Competition Requirements

11.1.1 The Authorised Officer must establish the total value of any Contract, including whole life costs, annual cost and incorporating any potential extension periods which may be awarded. The value of the Contract must be considered as the sum of all payments made to the Supplier during the whole life of the Contract, including extensions. The Authorised Officer must have particular regard to the rules relating to aggregation contained within the Procurement Regulations (further details on which can be found in the Procurement Toolkit).

11.1.2 Authorised Officers must ensure that values are not split in an attempt to avoid the applicability of these CPRs or the Procurement Regulations.

11.2 Contract value up to and including £5,000 – Best Value

11.2.1 In relation to all Contracts with a value up to and including £5,000, it is the responsibility of the relevant Authorised Officer to check whether there is an Internal Service Provider, existing Contract, Framework Agreement or Dynamic Purchasing System which can be used.

11.2.2 Where no appropriate Internal Service Provider, existing Contract, Framework Agreement or Dynamic Purchasing System exists the invitation of quotations should be invited where appropriate.

11.2.3 If the Authorised Officer believes that it represents Best Value for the Council to make a direct appointment without the need for competition, they may do so providing a written record of the decision (including reasons) is kept by them.

11.3 Contract value over £5,000 and up to and including £100,000 – Three Quotations

11.3.1 In relation to all Contracts with a value between £5,000 up to and including £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract, Framework Agreement or Dynamic Purchasing System which can be used.

11.3.2 Where no appropriate Internal Service Provider, existing Contract or approved Framework Agreement or Dynamic Purchasing System exists, a minimum of three written quotations must be invited from suitable potential Suppliers. Efforts should be made to ensure that a diverse group of Suppliers are asked to quote using the following principles:

- (a) Where possible, ensuring Small and Medium Enterprises (SMEs) are invited to quote;

(b) Where possible, ensuring local Suppliers are invited to quote;

(c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;

(d) Where possible, looking for novel or new Suppliers.

11.3.3 The written quotations must be obtained and documented in accordance with proper record keeping set out in Rule 5 and in accordance with the requirements of Rule 13.

11.3.4 All potential Suppliers invited to submit quotations will be provided in all instances with identical information and instructions.

11.3.5 The evaluation of the quotations will be carried out by Authorised Officers.

11.4 Contract value over £100,000 – Invitation to Tender

11.4.1 In relation to all Contracts with a value in excess of £100,000 Officers should, in conjunction with Commercial Procurement, consider whether there is an appropriate Internal Service Provider, existing Contract or Framework Agreement or Dynamic Purchasing System which can be used.

11.4.2 Where no appropriate Internal Service Provider, existing Contract, approved Framework Agreement or Dynamic Purchasing System exists, at least four written tenders must be invited from potential Suppliers. Efforts should be made to ensure that a diverse group of potential Suppliers are asked to tender using the following principles:

(a) Where possible, ensuring Small and Medium Enterprises (SMEs) are invited to quote;

(b) Where possible, ensuring local Suppliers are invited to quote;

(c) Where possible, not just inviting the same group of Suppliers who have previously quoted for this or previous similar work;

(d) Where possible, looking for novel or new Suppliers.

11.4.3 Where it has not been possible to identify four potential Suppliers or less than four responses to the invitation to tender have been received, approval to continue with the procurement must be sought from the Head of Procurement.

11.4.4 The tendering process must be conducted in accordance with the Council's detailed procedure rules set out in the Procurement Toolkit. Authorised Officers must consult with Commercial Procurement to establish the most appropriate tendering process/procurement route which will be determined on a case by case basis (depending on a number of factors including but not limited to the scope, value and technical requirements of the procurement).

11.5 Contract value over the Procurement Threshold

11.5.1 Where the estimated Contract value reaches the relevant Procurement Threshold, Officers are required to procure the Contract in accordance with the Procurement Regulations and these CPRs. In all such circumstances appropriate advice must be sought from Commercial Procurement.

11.5.2 The current Procurement Thresholds are available from Commercial Procurement.

11.6 Assets for Disposal

Assets for disposal must be dealt with in accordance with the Financial Regulations.

11.7 Concession Contracts

- 11.7.1 Concession Contracts may be established by Authorised Officers in conjunction with Commercial Procurement. Generally, Concession Contracts will result in an income to the Council. The thresholds set out in Rule 8 will also apply to Concession Contracts.
- 11.7.2 For the purpose of Rule 8 the value of a Concession Contract is defined in the Concession Contracts Regulations. That is the value shall be the total turnover of the concessionaire generated over the duration of the Contract, net of Value Added Tax, as estimated by the Council, in consideration for the works and/or services which are the object of the Concession Contract and for the supplies incidental to such works and services.
- 11.7.3 Contracts below the relevant thresholds defined in the Concession Contracts Regulations may be let using a three quotation process as outlined in Rule 11.3. Contracts above the relevant thresholds must be let in accordance with the process outlined in the Concession Contracts Regulations. Commercial Procurement will advise on the appropriate route and process to follow when letting Concession Contracts.

12. Evaluation Criteria and Standards

12.1 Evaluation Criteria

- 12.1.1 In any procurement exercise (regardless of overall Contract value) the successful tender must be the one which offers either:
- (i) the most economically advantageous tender based on “price or cost” using a cost effectiveness approach, such as, life cycle costing; or
 - (ii) the most economically advantageous tender balanced between quality and price.

In the latter case, the Council will use criteria linked to the subject matter of the Contract to determine that an offer

is the most economically advantageous, for example: price, quality, technical merit, aesthetic and functional characteristics, environmental & sustainability characteristics, social value (including but not limited to compliance with wider Council obligations such as membership of the Living Wage Foundation and sourcing fair trade where appropriate), running costs, cost effectiveness, after-sales service, technical assistance, delivery date, delivery period and period of completion.

12.1.2 The price element of an evaluation shall be 40% or greater unless:

- (a) the relevant contract is being procured using a Framework Agreement or Dynamic Purchasing System which provides for an alternative weighting system; or
- (b) the Authorised Officer has, in consultation with the Head of Procurement and Finance, determined that an alternative weighting system would be more appropriate due to either the size, value and/or available budget, risk-profile and/or nature of the procurement. The Authorised Officer must submit reasonings supported by Commercial Procurement to the Head of Procurement and Finance for approval prior to the procurement exercise being advertised.

12.1.3 Issues that are important to the Council in terms of meeting its corporate objectives can be used to evaluate tenders provided that such criteria relate to the subject matter of the Contract and is objectively quantifiable and non-discriminatory. The criteria can include, for example, sustainability considerations, support for the local economy or the use of sub-contractors. The potential Suppliers' approaches to continuous improvement and setting targets for service improvement or future savings could also be included.

12.1.4 The procurement documentation must clearly explain the basis of the evaluation decision to potential Suppliers, making it clear how the evaluation criteria specified in the process will be applied, the overall weightings to be attached to each of the high-level criteria, how the high-level criteria are divided into any sub-criteria and the weightings attached to each of those sub-criteria.

12.1.5 Once the tender documentation has been issued to the market, changes to the evaluation criteria shall only be permitted in exceptional circumstances following approval by the Head of Procurement.

12.1.6 There is no scope to change the evaluation criteria once quotations or tenders have been received. If quotations or tenders received mean the original evaluation criteria are no longer able to achieve the most economically advantageous tender, then the procurement process must be abandoned and treated as market engagement before a new procurement exercise is established with new evaluation criteria. In such a case, no award will be made from the original procurement exercise and Commercial Procurement must be consulted.

12.2 Standards

Relevant British, EU and International standards which apply to the subject matter of the Contract, and which are necessary to properly describe the required quality must be included within the procurement documentation, the specification, and the Contract. Officers should refer to further guidance set out in the Procurement Toolkit.

13. Invitation to Tender / Request for Quotation

13.1 Invitations to Tender/Requests for Quotation must be issued in accordance with the requirements of these CPRs.

13.2 All procurement documentation must be issued electronically. All procurements with a value over £25,000 must be conducted through an E-Sourcing System.

13.3 Where the E-Sourcing System is used, all communications with Suppliers must be undertaken exclusively through the E-Sourcing System. This includes any clarification questions asked by the potential Suppliers and responses provided by the Council.

13.4 In exceptional cases, where specific circumstances mean that a procurement process cannot be carried out electronically or, for example, where there is a failure of the E-Sourcing System, permission to conduct a procurement process by alternative means must be obtained from the Head of Procurement.

14. Submission, Receipt and Opening of Tenders / Quotations

14.1 Opening of Tenders and Quotations

14.1.1 Tenders and Quotations, except those which have been approved as exempt from electronic tendering in accordance with Rule 13.4, must be submitted electronically via the E-Sourcing System. Tenders submitted by any other means must not be accepted.

14.1.2 Detailed procedure notes on tendering requirements and protocols are set out in the Procurement Toolkit.

14.2 Hard Copy Arrangements

14.2.1 If approval to conduct a tender process outside the E-Sourcing System has been obtained in accordance with Rule 13.4 and “hard copy” tenders are to be accepted, these must be submitted, sealed, in the envelope provided with the procurement documents and addressed to the Head of Procurement without any mark revealing the bidding organisation’s identity.

14.2.2 All hard copy tenders will be held by the Head of Procurement until the tender opening date/time has been reached.

- 14.2.3 All hard copy tenders for the same Contract will be opened at the same time by a representative of the Chief Officer who invited the tenders and a representative from Commercial Procurement. A register of tenders received will be kept by Commercial Procurement and will be initialled on each occasion by the Authorised Officers who are present at the opening of the tenders.
- 14.2.4 If approval to conduct a quotation process outside the E-Sourcing System has been obtained in accordance with Rule 13.4 and hard copy quotations are to be accepted these must be submitted in a plain envelope marked "Quotation for ..." followed by a description of the goods, works or services being procured.
- 14.2.5 All hard copy quotations must be opened together once the official return date/time has been passed.

15. E-auctions

- 15.1 Where a tender is to be carried out by way of a collaborative e-auction process the following procedures will apply:
- 15.1.1 approval for this approach must be sought in advance of the auction from the relevant Chief Officer and Head of Procurement;
 - 15.1.2 the auction must be provided through a recognised managed service provider approved by the Head of Procurement;
 - 15.1.3 the process for selecting potential Suppliers must be agreed in advance with the Head of Procurement;
 - 15.1.4 the tender evaluation process must be agreed in advance with the Head of Procurement;
 - 15.1.5 the time limit for the auction must be set in advance, clearly notified and be appropriate to the nature of the auction;

- 15.1.6 a minimum of two Authorised Officers must be in attendance at the managed service provider's viewing room to ensure the process is conducted fairly and in accordance with the Procurement Regulations. One of the Authorised Officers must be an independent observer and have had no involvement with the exercise. They should not leave the room during the auction.
- 15.1.7 prior to start of the auction, Officers attending must satisfy themselves that the correct quality weightings (if applicable) have been loaded into the software and that the software is working correctly;
- 15.1.8 the final scoring of all the bidders needs to be documented and counter signed by each Officer immediately after the close of the auction;
- 15.1.9 the e-auction summary report which is normally produced by the e-auction provider (within a week of the auction) must be cross referenced to the Officers own records and both must be kept on file;
- 15.1.10 a signed copy of both these records must be passed to Head of Procurement ; and
- 15.1.11 if the lowest price bidder is not successful approval for the award of a Contract must be sought in line with these CPRs.
- 15.2 The application of these e-auction procedures exempts the tender from the opening rules set out at Rule 14. It does not exclude compliance with any other regulations as set out elsewhere in these CPRs.
- 15.3 The Council will arrange for award notices to be sent to the successful Supplier (following a 10-day Standstill Period) and brief the losing Providers. A copy of the award notice must be kept on file.

15.4 The Council must ensure that a discrete Contract complying with the Council's standard terms and conditions is put in place with each successful Supplier.

16. Clarification Procedures

16.1 The Council can ask bidding organisations for clarification of any details submitted as part of their bid. However, any such clarification must:

- (i) not involve changes to the basic features of the bidding organisation's submission; and
- (ii) be issued and responded to by Commercial Procurement.

16.2 When requesting clarification, the Authorised Officer must follow any guidance contained in the Procurement Toolkit. It must not be used to negotiate or re-negotiate Contract terms. Authorised Officers are required to take all necessary procurement and/or other relevant professional advice if they are in any way unsure of what may or may not constitute a 'clarification' under the Procurement Regulations.

16.3 All clarification questions raised by bidding organisations must be considered and responded to by Commercial Procurement.

16.4 If any amendments are required to the tender documentation or contract terms and conditions as a result of clarifications these must be approved by Commercial Procurement and/or Legal Services as appropriate.

17. Evaluation, Financial Appraisal, Award of Contract and Debriefing of Organisations

17.1 Evaluation

The evaluation of bids must be conducted in accordance with the evaluation criteria set out in the relevant procurement documents

(see Rule 12 above) provided to bidding organisations, and in line with any guidance detailed in the Procurement Toolkit.

17.2 Financial Appraisals

Financial Appraisals must be completed in respect of all third parties submitting bids for Contracts in excess of £100,000. It is the responsibility of the Authorised Officer in consultation with the relevant Finance Manager to take all steps reasonably necessary (having regard to the subject matter, value and duration of the Contract and any other relevant factors) to complete a risk assessment of the potential Supplier's financial stability and to ensure this is done to a standard required by the Finance Manager.

17.3 Award of Contract

- 17.3.1 The Council is required to notify successful and unsuccessful bidders of the outcome of a procurement process, in writing, in as timely a fashion as possible.
- 17.3.2 Where mandated by the procurement process used, a Standstill Period must be included in the procurement timetable and observed before the Contract can be awarded.
- 17.3.3 Authorised Officers should refer to the guidance in the Procurement Toolkit and must consult with Commercial Procurement in relation to the Standstill Period requirements and associated documentation to be issued to bidders.
- 17.3.4 Where a Standstill Period applies, successful and unsuccessful bidders will be sent a Contract award letter containing all the debrief information required under the Procurement Regulations. A copy of each Contract award letter must be kept on file.
- 17.3.5 Following successful completion of the Standstill Period, the successful bidder(s) will be issued with their Contract to sign.

17.3.6 Provided the winning bid:

- (i) is the most economically advantageous;
- (ii) is within the financial budget made for it;
- (iii) complies with the Council's proposed terms and conditions; and
- (iv) meets the Contract specification,

it may be accepted by the relevant Authorised Officer.

17.3.7 Where a tender is not:

- (i) the most economically advantageous (if payment is to be made by the Council); or
- (ii) the highest tender (if payment is to be received by the Council),

the award of the Contract must be passed to the Chief Finance Officer for decision clearly setting out the reasons why this is required.

17.3.8 Once approved, all proposed Contract awards over £100,000 must be recorded in the Officer decision log on the mod.gov system.

17.3.9 The approval of the relevant Executive Member and Chief Finance Officer must be given if a tender received as part of a capital scheme results in the scheme or project exceeding the approved financial budget by 10% or £50,000 (whichever is the lower) and this cannot be accommodated within the original financial budget.

17.4 Debriefing

The Authorised Officer will, as part of good practice, offer feedback to all tenderers who submitted a bid about the characteristics and relative advantages of the successful bid(s). This will usually include:

17.4.1 how the award criteria were applied;

17.4.2 the prices or ranges of prices submitted, but not in either case correlated to the tenderers

Authorised Officers must refer to the guidance set out in the Procurement Toolkit and consult with Commercial Procurement prior to issuing any feedback to bidders.

18. Post Tender Negotiation

18.1 Post tender negotiations must not be undertaken where the value of the Contract exceeds the relevant Procurement Threshold.

18.2 Post tender negotiations with selected Suppliers, where the value of the Contract is below the relevant Procurement Threshold, may be carried out where:

18.2.1 permitted by law; and

18.2.2 the relevant Chief Officer in consultation with Commercial Procurement and Legal Services considers that added value may be obtained; and

18.2.3 the post tender negotiations are conducted by a team of suitably experienced officers approved by the relevant Chief Officer and who have been trained in post tender negotiations. Commercial Procurement and Legal Services must be invited to attend any negotiation; and

18.2.4 a comprehensive, written record of the negotiations is kept by the Council; and

18.2.5 a clear record of the added value to be obtained as a result of the post tender negotiations is incorporated into the Contract with the successful Supplier.

19. Contract Documents

19.1 Form of Procurement Documents

The Council's standard procurement documents, which accompany the contract documents, will be used wherever

possible and appropriate. Where there is any deviation from the standard procurement documents, the documents to be used must be reviewed by Commercial Procurement before being issued. These documents are available from Commercial Procurement.

19.2 Form of Contract

- 19.2.1 Contractual commitments can only be made by Officers who are formally authorised to do so in the relevant directorate scheme of delegated authority. An up-to-date record of delegated authorities across the Council is kept by Commercial Procurement.
- 19.2.2 Should the Council be utilising a particular Framework Agreement or DPS for the first time, Legal Services must be engaged to approve the form of Call-Off Contract or Order Form, the Call-Off terms and conditions and any other associated documents.
- 19.2.3 Unless subsequent Call-Offs require further amendment in accordance with the Procurement Regulations, they can proceed without additional approval from Legal Services.
- 19.2.4 For the sake of clarity however, if any Call-Off terms require any amendment at any stage of a Procurement (as part of a mini-competition or otherwise), approval must be sought from Legal Services and Commercial Procurement.
- 19.2.5 If the Council intends to make a direct award under a Framework Agreement or DPS, no amendments are permitted to the Call-Off terms and conditions.
- 19.2.6 The Council will not accept Suppliers' terms and conditions without Legal Services confirming that they are acceptable, and/or without any amendments required by Legal Services. If any case arises, a copy of the terms

and conditions must be sent to Legal Services for approval.

19.2.7 Every Contract must be made in writing by either:

- (i) the issue of a purchase order and accompanying standard terms and conditions for the purchase or supply of goods, services and/or works with an aggregate Contract value (including any extensions) of not more than £100,000; or
- (ii) the preparation of formal written contracts for the purchase or supply of goods, services and/or works with an aggregate Contract value (including any extensions) of £100,000 and above or lower where the nature of the Contract requires a formal written contract.

19.2.8 With regards to:

- (i) Rule 19.2.7(i) above, no amendments requested by any Supplier to the purchase order standard terms and conditions will be accepted without the prior approval of Legal Services; and
- (ii) Rule 19.2.7(ii), any formal contracts must be drafted using either a template form of Contract previously approved and/or drafted by Legal Services, or a new bespoke document created by Legal Services. A Supplier's standard terms and conditions must not be accepted except in accordance with Rule 19.2.6 above.

19.3 Deeds

19.3.1 All Contracts:

- (i) in excess of £500,000; or

- (ii) where the subject matter warrants an extended period of twelve years' protection; or
- (iii) for nil consideration; or
- (iv) where there is a legal requirement for the Contract to be executed as a deed;

must be executed as a deed under common seal by Legal Services in accordance with Article 24: Finance, Contracts and Legal Matters, unless agreed otherwise by the Monitoring Officer or except where indicated in Appendix B.

19.3.2 Contracts to novate, assign, vary or extend an existing contract:

- (i) must be executed as a deed where the original contract terms do not expressly permit such novation, assignment, variation or extension; or
- (ii) are not required to be executed as a deed where the original contract terms expressly permit such novation, assignment, variation or extension.

19.4 Contract Signature/Sealing

19.4.1 Contracts must:

- (i) where the Contract is in the form of a deed, be made under the Council's seal or electronic seal and attested by Legal Services as required by the Constitution; or
- (ii) where the Contract is to be signed underhand as a simple contract, be signed (either by hand or by electronic signature) by:
 - (a) an Authorised Officer with the appropriate level of delegated authority as set out in the relevant directorate's scheme of delegation; or
 - (b) Legal Services.

19.4.2 When submitted to Legal Services for signing or sealing, all Contracts must be accompanied by an Authorisation to Sign or Seal Form setting out the decision-making process and authority. This form can be obtained from Legal Services.

19.5 Legal Services Review of Contracts

19.5.1 To ensure the integrity of the procurement process:

- (i) where Officers intend to deviate from the Council's standard terms and conditions, all Contracts must be reviewed by Legal Services; and
- (ii) any proposed Contracts via an Open or Restricted process, which are deemed to be of medium or high risk, must be reviewed by Legal Services.

19.6 Bonds, Parent Company Guarantees and Liquidated & Ascertained Damages

19.6.1 Chief Officers (in consultation with Commercial Procurement and Legal Services) will consider whether to include provision for payment of liquidated & ascertained damages by a Supplier for delay or breach of contract where appropriate, taking into account the subject matter and risk associated with the Contract. Such consideration will be recorded in writing.

19.6.2 When considered appropriate by a Chief Officer the Supplier will be required to provide a performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the Contract or such other sum as the Authorised Officer (in consultation with a Finance Manager) considers appropriate.

19.6.3 Where considered appropriate by a Chief Officer, the Supplier will be required to provide a parent company guarantee in a form acceptable to the Council prior to entering into the Contract.

20. Contract Extension and Variation

20.1 Extensions

- 20.1.1 Commercial Procurement and Legal Services must be consulted in relation to any proposed Contract extension.
- 20.1.2 Contract extensions shall only be permitted if they are put in place before the Contract expiry date, the relevant notice has been given to the Supplier and where the proposed extension is in accordance with the contract terms.
- 20.1.3 Where the terms of a Contract expressly permit extensions, Commercial Procurement will support Officers to complete the required paperwork to give notice to the Supplier and document the extension in the agreed form in writing.
- 20.1.4 Where the terms of a Contract do not expressly permit an extension, Commercial Procurement and Legal Services shall advise whether it is possible to otherwise agree an extension by way of variation to the Contract. Any variations shall be carried out in accordance with Rules 19.6.3 and 20.2.
- 20.1.5 Approval for the extension must be given by an Officer with the appropriate level of delegated authority. This process must be recorded in writing.
- 20.1.6 Prior to seeking approval from the relevant Chief Officer to take up a contract extension the Authorised Officer must establish whether the extension will deliver Best Value.
- 20.1.7 Before taking an extension, the Authorised Officer must check the original spending authorisation decision (obtained in accordance with Rule 8) to confirm that authorisation to extend the Contract is in place. Where the original decision does not contain authorisation for an extension of the Contract, further authorisation may be

sought under Rule 8. The value of the decision used to determine the authorisation requirement shall be the original Contract value plus the value of the proposed extension.

20.1.8 All extensions to any Council contracts must be in writing and reported to the Head of Procurement in order that the E-Sourcing System can be updated.

20.2 Variations

20.2.1 Variations will be dealt with in accordance with these CPRs and the Procurement Regulations. Further guidance must be sought from Commercial Procurement and Legal Services.

20.2.2 All Contract variations must be carried out:

- (i) within the scope of the original Contract. Contract variations that materially affect or change the scope of the original Contract are not permitted; and
- (ii) following consideration as part of the Category planning process.

20.2.3 All Contract variations must be in writing (in the form specified by the Contract where applicable) and signed or sealed by both the Council (in accordance with Rule 19.3.2 and 19.4.1 above and the Supplier. Approval for the Contract variation must be given by the by the Head of Procurement, or their delegated officers.

20.2.4 Where appropriate (taking into account any change in contract value, contract term, range of services provided etc), Contract variations must be reported to the Head of Procurement in order that the E-Sourcing System can be updated.

20.2.5 A new procurement will be required in case of material change where one or more of the following conditions are met:

- (i) the variation introduces conditions which, had they been part of the initial procurement exercise, would have allowed for the admission of Suppliers other than those initially selected or for the acceptance of an offer other than that originally accepted or would have attracted additional participants in the procurement procedure;
- (ii) the variation increases the value of the Contract or the Framework Agreement substantially in favour of the Supplier in a manner which was not provided for in the original Contract or Framework Agreement;
- (iii) the variation extends the scope of the Contract or Framework Agreement considerably.

Further guidance must be sought from Legal Services where the Chief Officer considers there is any possibility that the proposed variation might fall under this Rule 20.2.5.

21. Termination of Contract

21.1 Prior to terminating any Contract, Officers must consult Commercial Procurement and Legal Services. It will only be possible for Contracts to be terminated early, where provided for within the Contract and if this action is authorised by the relevant Chief Officer through a Delegated Decision. A copy of the report and decision for termination of any Contract exceeding £100,000 in aggregate for the whole of the contract period (including any extensions) must be sent to the Head of Procurement for monitoring purposes. All termination letters under this Rule must be drafted and issued via Legal Services in conjunction with the Authorised Officer.

22. Prevention of Corruption

22.1 Rules and regulations pertaining to the prevention of corruption are outlined in the Financial Regulations and must be adhered to at all times.

23. Declaration of Interests

23.1 To ensure that persons involved in the procurement process are aware of and adhere to the principles of impartiality and professional standards when dealing with, and completing commercial undertakings, a Conflict of Interest and Confidentiality Undertaking Declaration form is required to be completed for all procurement processes which identifies actual and potential conflicts of interest. This must be completed by all Officers involved in the procurement process prior to commencement of the procurement process. If an actual or potential conflict of interest arises during the procurement process a new Conflict of Interest and Confidentiality Undertaking Declaration form shall be immediately completed and submitted by the Officer concerned and the Monitoring Officer and the S151 Officer shall be notified in accordance with Rule 23.2.

23.2 If it comes to the attention of a Member, Authorised Officer or other Officer that a Contract in which they have an interest (determined in accordance with the Members' and/or Employee Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer and the S151 Officer.

24. Contract Management / Monitoring

24.1 All Contracts must have an appointed contract manager for the entirety of the Contract. The responsible Chief Officer must ensure a contract manager is designated prior to contract award.

24.2 Contract management, monitoring, evaluation and review must be conducted in line with guidance detailed in the Procurement Toolkit.

25. External Body Funding Rules

25.1 Where a procurement process is funded, in whole or part, by external funding which has been awarded to the Council by an external funding body, the Authorised Officer must consult with Commercial Procurement and Legal Services to ensure that any

rules or conditions imposed by the funding body are adhered to in addition to the requirements of these CPRs.

25.2 Where there is any conflict between these CPRs and the rules or conditions imposed by the funding body, the stricter requirement should be followed.

26. Waiver and Exemptions

Waivers

26.1 Except where the Procurement Regulations apply, the Executive has the power to waive any requirements within these CPRs for specific projects upon request.

26.2 Additionally, except where the Procurement Regulations apply, these CPRs may be waived where the circumstances are certified by the Chief Finance Officer, or their deputy advised as appropriate by the Monitoring Officer and Head of Procurement as meeting any of the following criteria:

26.2.1 for supplies purchased or sold in a public market or auction;

26.2.2 with an organisation which has won a Contract for an earlier phase of work via a competitive process and where the work forms part of a larger project and/or serial programme. For the sake of clarity, this particular ground will **only** be available provided that:

(a) it was previously identified in the relevant tender and/or contractual documentation that the work being supplied by the relevant organisation formed part of a larger project and/or serial programme, and

(b) the award of any additional work can be done so without breaching the Procurement Regulations and/or exposing the Council to unacceptable risk;

26.2.3 with an organisation already engaged by the Council for a similar and related procurement and where there is significant benefit to extending the Contract to cover this

additional requirement, without breaching the Procurement Regulations and/or exposing the Council to unacceptable risk;

26.2.4 for works, supplies and/or services which, after the testing the market, are found to be only available from one organisation (either due to their highly specialised nature, the use of innovative technology or service models, or any exclusive proprietary rights belonging to the relevant supplier), provided that:

- (a) this can be properly evidenced by the Authorised Officer (including confirmation that no other viable alternative works, supplies and/or services are available), and
- (b) Commercial Procurement are satisfied that the Council has not artificially narrowed its requirements to avoid conducting a competitive tender process in accordance with these CPRs;

26.2.5 involving such extreme urgency, that it would not be possible to comply with the competitive procurement procedures and timescales set out within these CPRs. For the sake of clarity, this ground will **not** apply where said extreme urgency has come about due to circumstances that can be attributed to any action, inaction and/or delay on the part of the Council;

26.2.6 for the purchase of a work of art or museum specimen, or to meet the specific requirements of an arts or cultural event which cannot be procured competitively due to the nature of the requirement;

26.2.7 in relation to time limited grant funding from an external body, where the time limitations will not allow a competitive procurement process to be completed and where the grant conditions allow this;

- 26.2.8 in relation to external grant funding that has been awarded on the condition that a specific Supplier be appointed by the Council;
- 26.2.9 where relevant UK or other applicable international legislation not otherwise referred to in these CPRs allows another procurement process to be undertaken;
- 26.2.10 where officers from Finance, Commercial Procurement and/or Legal are satisfied that there is a significant risk to the statutory functions of the Council, or to its governance, audit or finances, a significant safeguarding risk, or a significant risk of failure in the case of an immediate statutory inspection, if the Supplier is not engaged (such confirmation in all cases to be confirmed in writing by the relevant Chief Officer).
- 26.3 If a waiver of these CPRs is required, the Authorised Officer will complete and submit a waiver form, using a template document obtained from Commercial Procurement. The waiver form must set out the detail of the specific Rule(s) being waived and confirmation of the Rule within 26.2 under which the waiver is being sought along with the financial, legal, risk and equality implications of the waiver sought.
- 26.4 The process to be followed in respect of waivers is set out in the Procurement Toolkit.
- 26.5 In relation to Maintained Schools, the Governing Body shall have the power to waive any requirement of these CPRs where the Head Teacher has submitted a waiver form in accordance with Rule 26.3 confirming that any of the criteria listed at Rule 26.2 apply.
- 26.6 If the waiver is approved the Authorised Officer can then proceed with the waiver to these CPRs. Officers are only authorised to incur expenditure up to the amount included in the final agreed waiver. Should any additional expenditure or further service be required a new waiver must be requested.

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- 26.7 With the exception of those relating to Maintained Schools, every waiver form will be recorded on a master register maintained by Commercial Procurement. Each Maintained School must maintain their own master register of waiver forms.
- 26.8 Where a waiver is being requested, Authorised Officers are required to seek waivers at the outset of any procurement process or, where relevant, at such time during a procurement process that it becomes apparent that it is not possible to comply in full with the competition procedures outlined in Rules 11.3 and 11.4. No Contract resulting from a waiver being requested will be entered into without a waiver authorisation being in place.
- 26.9 Authorised Officers are not required to seek waivers in the case of an Emergency or as a result of an Emergency where there is danger to the safety of persons or serious risk of loss or damage to the Council's assets or interests, or the interests of another party. In such circumstances, the Authorised Officer may enter into such Contracts as necessary by means that are reasonable under the circumstances.

Exemptions

26.10 These CPRs do not apply to Contracts:

- 26.10.1 for the execution of mandatory works by statutory undertakers (i.e., companies and agencies which have been given general licence to carry out certain development and highways works, such as utilities and telecoms companies or nationalised companies such as Network Rail);
- 26.10.2 for legal services in respect of specific matters which are in contemplation of:
- (a) arbitration conciliation;
 - (b) Judicial proceedings before the courts;
- 26.10.3 for the provision of legal advice given in preparation for any of the proceedings referred to in Rule 26.10.2(a) or (b) above, or where there is tangible indication and high

probability that the matter to which the advice relates will become the subject of such proceedings.

26.10.4 which have been procured on the Council's behalf:

- (i) through collaboration with other local authorities or other public bodies, where a competitive process which complies with the CPRs of the leading organisation has been carried out; or
- (ii) by a national or regional contracting authority where the process followed is in line with the Procurement Regulations;

26.10.5 to cover urgent special educational needs, urgent social care needs or urgent operational needs, if in the opinion of the relevant Director (in consultation with the Head of Procurement) the exemption is considered to be in the Council's interests or necessary to meet the authority's obligations under relevant legislation. Use of this exemption by the relevant Director must be preceded by a written report under Rule 26.3 using the waiver form, setting out the reason for such urgency, how it complies with the Procurement Regulations and any other relevant legislation, and represents Best Value. For the sake of clarity, this ground will **not** apply where in the opinion of the Head of Procurement (with advice from Legal Services where necessary) said urgency has come about due to circumstances that can be attributed to any action, inaction and/or delay on the part of the Council;

26.10.6 for the renewal of licences or contracts for goods or services where:

- a) the supply is restricted to either the original Supplier or their selected re-sellers; and
- b) competition does not affect the price paid owing to the way the market operates and/or the need for compatibility; and

c) the value of three years' aggregated renewals has not exceeded, or will not exceed, £150,000; and

d) the relevant Chief Officer has agreed to the renewal.

26.11 The use of e-procurement does not negate the requirement to comply with all elements of these CPRs.

27. Breaches of CPRs

27.1 Breaches of the CPRs are extremely serious matters and will be fully investigated and reported on following referral or discovery. All Directors are responsible for reporting all known or discovered breaches of these CPRs to the Head of Procurement as soon as they become aware of it in practice. Any Director can be called to Audit & Governance Committee to explain any breach.

27.2 Breaches identified are reported to the Head of Procurement and recorded. Training needs will be identified and provided to officers across the Council. Should repeated breaches be made, an investigation to remove an Officer's delegated authority will commence.

27.3 Breaches are reported to Governance, Risk & Assurance Group to identify where improvements need to be made and to ensure training is provided where necessary.

28. Data Protection

28.1 Where a Contract involves data processing by the Supplier on behalf of the Council then sufficient due diligence must be undertaken to ensure that the Council only uses Suppliers who provide guarantees to implement appropriate technical and organisational measures in such a manner as to meet the requirements of the UK GDPR and Data Protection Act 2018 and protect the rights of individuals.

28.2 Every written Contract that involves the processing of personal data by a Supplier on behalf of the Council must set out the subject matter and duration of the processing, the nature and purpose of the processing, the types of personal data and categories of data subjects and obligations and rights of the

Council. In particular the Contract must contain clauses that meet the requirements of Article 28(3) of the General Data Protection Regulations. Authorised Officers should consult with Legal Services as per Rule 2.1.2(x)(c).

28.3 Authorised Officers should consult with the Information Governance team at the outset of a procurement process to:

(a) discuss the data protection implications and obligations set out in Rule 28.2 above and as much information as possible should be included in the Contract prior to the publication of tender documentation;

(b) establish whether a Data Protection Impact Assessment is required in relation to any proposed Contract involving the processing of personal data.

APPENDIX A - DEFINITIONS

Accountable Body	means where the Council is held accountable by the Government for a particular sum of money which actually may not be managed by, or be in the control of, Council Officers;
Authorised Officer	means a person authorised by the relevant Chief Officer to act on the Council's behalf;
Best Value	means the optimum combination of whole life costs, quality and benefits to meet the customer's requirement;
Category	means each category identified in the category overview table which is set out in the Council's Procurement Strategy;
Category Plan	means strategic planning of the category, at a category or sub-category level, including review of the current position, constraints and opportunities, desired outcomes, options and actions. The template plan should be used in all cases except where an alternative approach (having the same effect) forms part of external funding or joint procurement requirements;
Chief Finance Officer	means the Council's section 151 Officer currently the Chief Finance Officer or their nominated deputy;
Chief Officer	means the head of the procuring directorate and includes the Chief Operating Officer, Corporate

	Directors, Directors, Assistant Directors and officers with appropriate delegations and sub-delegations;
City of York Scheme for Financing Schools	means the scheme which sets out the financial relationship between the Council and Maintained Schools;
Commercial Procurement	means the Council's Commercial Procurement team;
Concession Contract	has the meaning given in regulation 3 of the Concession Contracts Regulations;
Concession Contracts Regulations	means the Concession Contracts Regulations 2016 and any successor, amending or enabling legislation;
Constitution	the Council's constitution which is available on the internet and sets out the rules that the Council and all Council employees and Members must follow;
Contract(s)	means an agreement between the Council and a Supplier made by formal agreement or by issue of a letter of acceptance or official order for goods, services and/or works;
Contracts Finder	means the web-based portal provided for the purposes of the Procurement Regulations by or on behalf of the Cabinet Office;
Contract Register	means the register of all Contracts maintained by Commercial Procurement;

Contracting Authorities	has the meaning given in the Procurement Regulations;
Council	means City of York Council;
CPRs	means these Contract Procedure Rules;
Delegated Decision	means a formal decision taken in accordance with the Council's Constitution and sub-delegation schemes. It is for the Officer seeking the Delegated Decision to decide which type of decision is required in accordance with the Constitution;
Director	means an Officer of the Council designated as a director;
Dynamic Purchasing System or DPS	means a completely electronic process for making commonly used purchases that meet the requirements of a Contracting Authority, which is limited in duration and open throughout its validity to any economic operator which satisfies the selection criteria and has submitted an indicative tender that complies with the specification and requirements of the relevant Contracting Authority;
Emergency	means an urgent situation or crisis created as a result of a natural disaster (such as flooding or an earthquake) or tragedy (such as an explosion or plane crash);
E-Sourcing System	means the Council's chosen E-sourcing system (currently

	YORtender), an e-sourcing mandated for access to a specific framework or an approved alternative;
Executive	has the meaning given in the Council's Constitution;
Executive Member	has the meaning given in the Council's Constitution;
Financial Appraisals	means checking the financial status including the credit rating of a Supplier;
Finance Manager	means a manager from the Council's internal finance team;
Financial Regulations	means the governance rules and regulations relating to the management of the Council's financial affairs, set out in Appendix 10a of the Constitution;
Find a Tender	means the web-based portal provided for the purposes of the Procurement Regulations, for above Procurement Threshold processes, by or on behalf of the Cabinet Office;
Framework Agreement	<p>means a framework agreement with one or more Contracting Authorities and one or more Suppliers which establishes an arrangement for:</p> <ul style="list-style-type: none"> i. Multiple orders to be placed with one economic operator (a single supplier framework); or ii. A framework of multiple economic operators to engage in further

	<p>competitions or direct awards (a multiple supplier framework);</p> <p>that has been set up either by the Council or an organisation other than the Council and has been authorised by Commercial Procurement for use in Council procurements;</p>
Forward Procurement Plan	<p>means practical planning of the procurement, or group of similar procurements, including approach, resourcing and timetable. This involves identifying major projects within each category of spend to be maintained by the relevant Chief Officer. It also provides a basis for information for Commercial Procurement to meet the Council's reporting obligations. The Forward Procurement Plan will be in such format as prescribed by the Head of Procurement except where an alternative approach (having the same effect) forms part of external funding or joint procurement requirements;</p>
Governing Body	<p>has the meaning given in the City of York Scheme for Financing Schools;</p>
Grant	<p>means funding awarded to a third party organisation for the purpose of helping deliver community cohesion or providing complementary activities to those carried out by the Council;</p>

Head of Procurement	means the Officer who is responsible for the procurement function on behalf of the Council;
Internal Service Provider	means any internal service area for example Building Services, Yorkcraft, Commercial Procurement, or Legal Services etc;
Invitation to Tender	means an invitation by the Council to a potential Supplier to tender for the provision of goods, services and/or works;
Key Decision	has the meaning set out in Rule 8.11 of the CPRs;
Leader	means the Leader of the Council;
Legal Services	means the Council's internal legal team;
Maintained Schools	Means the schools maintained by the Council as set out in the City of York Scheme for Financing Schools;
Member(s)	means elected member(s) of the Council;
Monitoring Officer	means the Council's principal solicitor currently the Director of Governance;
Officer(s)	means employee(s) of the Council;
"Officer Decision Log"	means the section of the Council's website where decisions made by senior officers are recorded;
Participants	means a person or entity participating in a procurement process, who has expressed an

	interest in tendering for a Contract or who has tendered for a Contract;
Procurement Regulations	means the Public Contracts Regulations 2015 and any successor, amending or enabling legislation implemented to govern the award of public contracts;
Procurement Strategy	means the Council's published procurement strategy setting out its ambition for procurement and confirming a category management and whole lifecycle approach to procurement;
Procurement Threshold	means the designated threshold above which the Procurement Regulations shall apply to a Contract;
Procurement Toolkit	means the manual that accompanies these CPRs which provides detailed guidance on procurement techniques, considerations and the effect of these CPRs;
Relevant Contract	has the meaning set out in Rule 3 of these CPRs;
Request for Quotation	means a request by the Council to a potential Supplier for a quotation for the provision of goods, services and/or works;
Routine	has the meaning set out in Rules 8.11 and 8.12;
Rule(s)	means any rule contained in these CPRs;
Standstill Period	means a 10 day standstill period before a Contract can be awarded

	to the successful bidder to allow an unsuccessful bidding organisation an opportunity to challenge the proposed contract award;
Strategic Partnership	means a partnership with an organisation that the Council has a long term arrangement with for the provision of goods, works and / or services;
Supplier(s)	means the person or entity with whom the Council has a Contract;
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 and any successor, amending or enabling legislation;

APPENDIX B - ARRANGEMENTS FOR SCHOOLS

Maintained Schools must use the following governance thresholds instead of those found in Rule 8.

Contract Value	Authorisation Required By
£500,000 and above	Council Executive (decision)
£250,000 up to £499,999.99	Governing Body (minute or decision)
£50,000 up to £249,999.99	Chair of Governing Body or relevant governing committee (written instruction)
£1 up to £49,999.99	Head-teacher OR The Governing Body in conjunction with the Head-teacher may decide upon a scheme of delegation appropriate to each school and staffing arrangements.

APPENDIX C – ROUTINE PROCUREMENTS

The below table sets out some examples of the types of goods and services that may be considered Routine. This is included as a reference guide only and whether or not a procurement is Routine shall be determined on a case by case basis by the Head of Procurement in accordance with Rule 8.13.

Example of Routine Procurement	Approval Required
Software licences for existing software	Head of Procurement
ICT hardware, software and / or services to maintain the security, integrity and statutory function of core or business systems	Head of Procurement
Utilities and such services	Head of Procurement
Statutory subscription items such a TV licences	Head of Procurement
Stationery, postal services, staff travel, and other comparable business administration contracts	Head of Procurement
General financial services (banking, merchant processing or other comparable services) excluding audit	Head of Procurement



Audit and Governance Committee

8 November 2023

Report of the Director of Governance

Publication of Internal Audit Reports

Summary

1. To provide the Committee with a greater understanding of the reasons for exempting Internal Audit (“IA”) reports from publication.

Background

2. This report was requested by the Audit and Governance (“A&G”) Committee in order that they could better understand the reasons for exempting internal audit reports from publication.
3. It has always been, and will continue to be, the case the members of A&G have received copies of all completed IA reports for their consideration, sent under cover of confidential e-mail; **this practice will not change**. However, in recent years it has become common practice in York for IA reports to be published in full as part of the meeting agenda and papers.
4. Members have previously heard that this practice is not universal across Councils. For the purposes of the preparation of this report, contact has been made with the following Councils, and their approach included in Annex 1 to this report:
 - a. Northumberland County Council;
 - b. Newcastle City Council;
 - c. North Tyneside Council;
 - d. Gateshead Council;
 - e. South Tyneside Council;
 - f. Sunderland Council;
 - g. Durham County Council;
 - h. Darlington Borough Council;
 - i. Stockton Borough Council;
 - j. Middlesbrough Borough Council;
 - k. Hartlepool Borough Council;

- l. Redcar and Cleveland Borough Council;
- m. North Yorkshire Council;
- n. West Yorkshire Combined Authority;
- o. Leeds City Council;
- p. Bradford City Council;
- q. Wakefield Borough Council;
- r. Kirklees Borough Council; and
- s. Calderdale Borough Council.

Purpose of Internal Audit

- 5. In order to appreciate the rationale for exempting IA reports from publication and general dissemination, it is perhaps helpful to understand the purpose of the Council's IA service.
- 6. The Chartered Institute of Internal Auditors notes that *"The role of internal audit is to provide independent assurance that an organisation's risk management, governance and internal control processes are operating effectively."* It goes on to state that the objectives of IA are to *"evaluate and improve the effectiveness of governance, risk management and control processes. This provides members of the boards and senior management with assurance that helps them fulfil their duties to the organisation and its stakeholders."*
- 7. CIPFA defines the IA function as *"... an independent appraisal function established by the management of an organisation for the review of the internal control system as a service to the organisation. It objectively examines, evaluates and reports on the adequacy of internal control as a contribution to the proper, economic, efficient and effective use of resources"*.
- 8. It is therefore clear that the role of IA is to provide advice and guidance to the senior management and the Committee on the effectiveness of internal procedures, and to recommend any potential improvements to those procedures. Crucial to such advice and guidance is the identification and highlighting of any weaknesses.

Exempting Information

- 9. The provisions relating to the exempting of information are found in section 100I, and Schedule 12A, of the Local Government Act 1972. Section 100I(1) provides:

“In relation to principal councils in England, the descriptions of information which are, for the purposes of this Part, exempt information are those for the time being specified in Part I of Schedule 12A to this Act, but subject to any qualifications contained in Part II of that Schedule; and Part III has effect for the interpretation of Parts 1 to 3 of that Schedule.”

10. The exemptions contained in Part I of Schedule 12A are:
 1. Information relating to any individual.
 2. Information which is likely to reveal the identity of an individual.
 3. Information relating to the financial or business affairs of any particular person (including the authority holding that information).
 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.
 5. Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.
 6. Information which reveals that the authority proposes—
 - (a) To give under any enactment a notice under or by virtue of which requirements are imposed on a person, or;
 - (b) To make an order or direction under any enactment.
 7. Information relating to any action taken or to be taken in connection with the prevention, investigation or prosecution of crime.
11. Members will note that, in respect of all IA reports, exemption 3 applies. In addition, depending on the nature of the Internal Audit report, exemptions 1, 2, 5, and 7 may also be engaged.
12. The principal qualification under Part 2 of Schedule 12A is found under paragraph 10, which provides:

“Information which—

- (a) falls within any of paragraphs 1 to 7 above; and*
- (b) is not prevented from being exempt by virtue of paragraph 8 or 9 above,*

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.”

(Paragraphs 8 and 9 are not relevant to Internal Audit reports).

13. This is referred to as the 'public interest test' and forms the basis of the resolution which the Committee must pass before excluding the press and public from any meeting.
14. It is important, when considering the public interest test, that the appropriate basis for the decision is used. As noted by the Information Commissioner's Office in relation to the public interest test under the Freedom of Information Act 2000:

"The public interest here means the public good, it is not:

- *What is of interest to the public; or*
- *The private interests of the requester (unless those private interests reflect what is the general public good, eg holding public authorities to account)."*

This was perhaps best summed up by Lord Wilberforce in **British Steel Corp v Granada Television Ltd** [1981] AC 1096 at 1168:

"There is a wide difference between what is interesting to the public and what it is in the public interest to make known".

Thus, "public interest" relates to a broader concept than 'is a member, or are members, of the public interested in this information'; rather, the question is "is the publication of the information in the public good".

Difficulties with Disclosure

15. Members will understand, from the context and information above, that part of the role of IA is to highlight failings in practice and procedure, and to propose solutions to those failings in order to remedy the identified issues.
16. Members will be acutely aware that reports highlighting security issues (whether they be physical or digital) are extremely sensitive, and the ventilating of such issues in the public domain is likely to increase the risk of such issues being exploited rather than serve to protect the council from such exploitation.
17. Equally, even where such failings are not present, the effectiveness of IA reports relies on the openness and candour of the officers with whom they interact; unfortunately, it is the case that human nature dictates that some officers, knowing that the subject of an IA report will be published, can be reluctant to engage fully with IA, or to agree to the contents of, and recommendations in, a report.

18. It is crucial to bear in mind that IA reports are not generally commissioned to be either disciplinary or investigatory reports; rather, they are meant to be supportive to the organisation and forward looking. In other words, helping the organisation to evaluate risks and make improvements to the control environment. They are not intended to be critical of individuals, but inevitably there is a human sensitivity around actual or perceived public criticism.
19. In order to ensure that the best possible outcome for the Council, there is an acknowledged need for corporate 'thinking space', as noted by the Information Commissioner's Office in its guidance on the application of Regulation 12(4)(e) of the Environmental Information Regulations 2004 (Internal Communications), which provides:

"The EIR do not provide a definition of what constitutes an internal communication. Neither does the European Directive 2003/4/EC on public access to environmental information, from which the EIR are derived. This guidance explains how case law has helped to establish what type of information is covered by the exception.

The underlying rationale behind the exception is that public authorities should have the necessary space to think in private. The original European Commission proposal for the Directive COM(2000)0402 explained the rationale as follows:

"It should also be acknowledged that public authorities should have the necessary space to think in private. To this end, public authorities will be entitled to refuse access if the request concerns ... internal communications."

However, the exception is drafted to cover all internal communications, not just those actually reflecting internal thinking.

The exception has no direct equivalent in the Freedom of Information Act 2000 (FOIA). Arguments about protecting a private thinking space will be similar to those made under section 35 of FOIA: formulation of government policy, and section 36 of FOIA: prejudice to effective conduct of government affairs."

20. Similarly, there is a need for the Committee to have 'space' to consider IA reports, and to monitor improvements which are being made, without fear that those improvements are less than might have been achieved had the report not been published.

Common Practice

21. As noted above, as part of the preparation of this report, a number of other local authorities were contacted to seek information on practice in this area. The Monitoring Officers for the 19 authorities mentioned above were all asked whether their authority:
- Published their internal audit reports in full;
 - Published their internal audit reports but redact them;
 - Published their internal audit reports as exempt items, following the exclusion of the press and public;
 - Didn't publish their internal audit reports and instead summarised them in a covering report; or
 - Did something else entirely.
22. None of those authorities who responded indicated that they published their IA reports in full, or that they published redacted versions of their IA reports. This consensus accords with the experience of both the Monitoring Officer at his previous authorities, and with the IA service and their experience with their current and previous authorities.
23. Practice varied across authorities, with some producing a summary report covering the assurance levels from completed audits, and some not even sharing their IA reports with Members. There is no single route for the Committee to consider IA reports, although it is clear that the publication of such reports is not an accepted practice elsewhere. It is, therefore, suggested that the Council's 'default' position should be to cease the publication of IA reports.

Implications

Financial – None directly arising from this report.

Human Resources (HR) – None directly arising from this report.

Equalities – None directly arising from this report.

Legal – None directly arising from this report.

Crime and Disorder, Information Technology and Property – None directly arising from this report.

Recommendations

24. It is recommended that Members:
- a) Note the contents of the report; and
 - b) Agree that, rather than publishing IA reports, the Council's IA provider includes details in its report of assurance levels for completed reports.

Reasons for the Recommendation

25. To assist the Monitoring Officer in his consideration of the review of the Constitution, and to provide guidance to the Assistant Director of Policy and Strategy in relation to the cultural change programme recommended by the LGA.

Options

26. Members may choose to support the recommendation to change how IA assurance levels are presented to the Committee, or may propose an alternative option.

Author and Chief Officer responsible for the report: Bryn Roberts, Director of Governance and Monitoring Officer

**Report
Approved**

Date 17 October
2023

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

All

For further information please contact the author of the report

Background Papers:

- None

Annexes:

- None

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Meeting:	Audit & Governance Committee
Meeting date:	8 November 2023
Report of:	Debbie Mitchell, Chief Finance Officer
Portfolio of:	Councillor Katie Lomas Executive Member for Finance, Performance, Major Projects, Human Rights, Equality & Inclusion

Audit and Governance Committee Report: Treasury Management Mid-Year Review and Prudential Indicators 2022/23

Subject of Report

1. The purpose of the report is to provide a mid-year update to Audit & Governance Committee on treasury management activities for the first half of the year and to provide the latest update of the prudential indicators.

Policy Basis

2. Audit & Governance Committee are responsible for ensuring effective scrutiny of the treasury management strategy and policies, as stated in the Treasury Management Strategy 2023/24 approved by full Council on 23 February 2023. The Chartered Institute of Public Finance and Accountancy (CIPFA) Treasury Management in the Public Services: Code of Practice and Cross-Sectoral Guidance (“the Code”) stipulates that:
 - There needs to be a quarterly review of treasury management strategy and performance. This is intended to highlight any areas of concern that have arisen since the original strategy was approved.
 - Those charged with governance are also personally responsible for ensuring they have the necessary skills and training.

3. Attached at Annex 1 is the Treasury Management Mid-Year Review 2023/24 report which will be presented to Executive on 16 November 2023.

Recommendation and Reasons

4. Audit & Governance Committee are asked to note and scrutinise Treasury Management Mid-Year Review and Prudential Indicators attached at Annex 1

Reason: That those responsible for scrutiny and governance arrangements are updated on a regular basis to ensure that those implementing policies and executing transactions have properly fulfilled their responsibilities with regard to delegation and reporting.

Background

5. This mid-year report has been prepared in compliance with the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management, and covers the following:
 - A brief economic update for the first half of the 2023/24 financial year;
 - A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
 - An update to the prudential indicators;
 - A review of the Council's investment portfolio;
 - A review of the Council's borrowing strategy;
 - A review of compliance with the Treasury and Prudential Limits.

Consultation Analysis

6. Not applicable

Risks and Mitigations (optional section)

7. The treasury management function is a high-risk area because of the volume and level of large money transactions. As a result, the Local Government Act 2003 (as amended), the CIPFA Prudential Code and the CIPFA Treasury Management in the Public Services Code of Practice (the code) are all adhered to as required.

Contact details

For further information please contact the authors of this Report.

Author

Name:	Debbie Mitchell
Job Title:	Chief Finance Officer
Service Area:	Finance
Telephone:	01904 554161
Report approved:	Yes
Date:	12 October 2023

Background papers

None

Annexes

Annex 1 - Treasury Management Mid-Year Review 2023/2024

Annex 2 – Prudential Indicators 2023/24

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Meeting:	Executive
Meeting date:	16/11/2023
Report of:	Debbie Mitchell Chief Finance Officer
Portfolio of:	Councillor Katie Lomas Executive Member for Finance, Performance, Major Projects, Human Rights, Equality & Inclusion

Decision Report: Treasury Management Mid-year Review and Prudential Indicators 2022/23

Subject of Report

1. The purpose of this report is to provide a mid-year update to the Executive Member for Finance on treasury management activity for the first half of the year and to provide the latest update of the prudential indicators which are included at Annex A to this report.

Benefits and Challenges

2. Treasury Management is the effective management of the Council's cash flow. Doing this effectively protects the Council from risks and ensures the ability to meet spending commitments as they fall due.

Policy Basis for Decision

3. The CIPFA (Chartered Institute of Public Finance and Accountancy) Code of Practice for Treasury Management requires that full Council be updated with, review and approve, as a minimum three reports annually. These reports are the Treasury Management Strategy Statement setting out policy for the forthcoming year, a mid-year review report, and an annual report detailing the treasury activities and performance for the previous year. Quarterly reports are also required to provide an update on treasury management activities and can be assigned to a designated committee or member as deemed appropriate.

4. This report is the Treasury Management Mid-year review, detailing activities undertaken so far, compliance and any variations from policy, performance, and monitoring of the Prudential Indicators.
5. The Council is required through legislation to provide members with a mid-year update on treasury management activities. This report provides an update on activity for the period 1st April 2023 to 30th September 2023. Therefore this report ensures this Council is implementing best practice in accordance with the Code.

Financial Strategy Implications

6. The Treasury Management function is responsible for the effective management of the Council's investments, cash flows, banking, and money market transactions. It also considers the effective control of the risks associated with those activities and ensures optimum performance within those risk parameters.

Recommendation and Reasons

7. Members are required, in accordance with the Local Government Act 2003 (revised), to:
 - Note the Treasury Management activities to date in 2023/24.
 - Note the Prudential Indicators set out at Annex A and note the compliance with all indicators.

Reason: To ensure the continued effective operation and performance of the Council's Treasury Management function and ensure that all Council treasury activity is prudent, affordable and sustainable and complies policies set.

8. It is a statutory duty for the Council to determine and keep under review the affordable borrowing limits. During the first half of the year ended 30th September 2023, the Council has operated within the treasury and prudential indicators set out in the Council's Treasury Management Strategy Statement for 2023/24.
9. There are no policy changes to the Treasury Management Strategy Statement for members to agree and approve; the details in this report update the position in the light of the updated economic position and budgetary changes already approved.

Background

10. This mid-year report has been prepared in compliance with the Chartered Institute of Public Finance and Accountancy's (CIPFA) Code of Practice on Treasury Management, and covers the following:
- A brief economic update for the first half of the 2023/24 financial year;
 - A review of the Treasury Management Strategy Statement and Annual Investment Strategy;
 - An update to the prudential indicators;
 - A review of the Council's investment portfolio;
 - A review of the Council's borrowing strategy;
 - A review of compliance with the Treasury and Prudential Limits.

Economic Update

11. The first half of 2023/24 saw:
- Interest rates rise by a further 100bps, taking Bank Rate from 4.25% to 5.25%.
 - Short, medium and long-dated gilts remain elevated as inflation continually surprised to the upside.
 - A 0.5% m/m decline in real GDP in July, mainly due to more strikes.
 - CPI inflation falling from 8.7% in April to 6.7% in August, its lowest rate since February 2022, but still the highest in the G7.
 - Core CPI inflation declining to 6.2% in August from 7.1% in April and May, a then 31 years high.
 - A cooling in labour market conditions, but no evidence yet that it has led to an easing in wage growth.
12. In its latest monetary policy meeting on 20th September 2023, the Bank of England left interest rates unchanged at 5.25%. The minutes show the decision was "finely balanced" with five MPC voted for no change and the other four voted for a 25bps hike. Weak August CPI inflation, the recent loosening in the labour market and downbeat activity surveys are likely to have contributed to the decision. The statement did not say that rates have peaked and once again said if there was evidence of more persistent inflation pressures "further tightening in policy would be required".
13. The Bank also retained the hawkish guidance that rates will stay "sufficiently restrictive for sufficiently long" to indicate to markets rates may stay higher for a more prolonged period, rather than a peak in rate being followed by rate cuts. The sentiment gives the Bank of England the flexibility to respond to new developments, as for example, a rebound in services inflation, another surge in wage growth and/or a further increases in oil prices could conceivably lead to a further raising of rates at the next meeting on 2nd November, or even a pause in November and a rise in December.

Interest Rate Forecast

14. Table 1 is Link Groups Interest Rate forecast for both the bank base rate and long-term Public Works Loans Board (PWLB) Certainty borrowing rates:

	Bank rate %	PWLB borrowing rates % (including certainty rate adjustment)			
		5 year	10 year	25 year	50 year
Dec 2023	5.25	5.10	5.00	5.40	5.20
Mar 2024	5.25	5.00	4.90	5.20	5.00
Jun 2024	5.25	4.90	4.80	5.10	4.90
Sep 2024	5.00	4.70	4.60	4.90	4.70
Dec 2024	4.50	4.40	4.40	4.70	5.40
Mar 2025	4.00	4.20	4.20	4.40	4.20
Jun 2025	3.50	4.00	4.00	4.30	4.10
Sep 2025	3.00	3.90	3.80	4.10	3.90
Dec 2025	2.75	3.70	3.70	4.00	3.80
Mar 2026	2.75	3.70	3.60	3.90	3.70
Jun 2026	2.75	3.60	3.60	3.80	3.60
Sep 2026	2.75	3.60	3.50	3.80	3.60
Dec 2026	2.75	3.50	3.50	3.80	3.60

Table 1: Link Asset Services Interest Rate Forecast 25th September 2023

15. Currently Bank base rate is at 5.25% and, as shown in the forecast table above, is expected to stay at this level for the next year or so into 2024/25 before steadily decreasing throughout 2025/26 before stabilising around 2.75%. The latest Link Group forecast sets out a view that short, medium, and long-dated interest rates will be elevated for some little while, as the Bank of England seeks to squeeze inflation out of the economy. Gilt yields and PWLB certainty rates were on a generally rising trend throughout the first half of 2023/24. Link Group forecast rates to fall back over the next two to three years as inflation dampens, however, there is considerable gilt issuance to be digested by the market over the next couple of years so there is a high degree of uncertainty as to whether rates will fall that far.

Annual Investment Strategy Update

16. Full Council approved the Treasury Management Strategy Statement for 2023/24 on 23rd February 2023 which can be viewed here <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=331&MId=13284> and this included the Annual Investment Strategy.
17. The Council's Annual Investment Strategy, which is incorporated in the Strategy, outlines the Council's investment priorities as follows:

- Security of capital
- Liquidity
- Yield
- Ethical, Social & Governance (using the FTSE4GOOD index, or any suitable alternative responsible investment index or information)

18. The Council continues to aim to achieve the optimum return (yield) on investments commensurate with the proper levels of security and liquidity and the Council's risk appetite.
19. There are no investment policy changes and the details in this report do not amend the Statement.

Investment Portfolio

20. Investment returns have improved in the first 6 months of 2023/24 compared to those seen in 2022/23. This is due to the continuing increases in the Bank of England Base Rate reflected in market rates. However, expectation is that the bank rate will not rise further and if this is the case investment returns may have reached their peak.
21. Investment returns the Council earns on its surplus cash is dependent on the level of cash held for investment purposes, cash backed reserves and cash flow requirements.
22. The average level of cash balances available for investment purposes in the first 6 months of 2023/24 was £30.902m (£58.184m for the same 6-month period in 22/23).
23. The level of cash balances available is largely dependent on the timing of the Council's cash flow as a result of precept payments, receipt of grants, receipt of developer contributions, borrowing for capital purposes, payments to its suppliers of goods and services and spend progress on the capital programme. These funds are therefore only available on a temporary basis depending on cash flow movement and during the first 6 months of 2023/24 all cash has been kept in more liquid short-term investments which has meant investments returns are not as high as market averages.
24. The level of average cash balances has decreased compared to a year ago due to cash being used to support the Council's capital programme spending and no additional borrowing for capital being taken in 2022/23. The level of average balance available for investment has decreased during the first 6 months due to the continuing policy of avoiding new borrowing by running down spare cash balances to fund the capital programme.

25. The policy of using cash to delay long-term borrowing has served well over the last few years and is being kept under review into the second half of 2023/24 as cash balances for investment are projected to fall and the Council does have an underlying borrowing need. The Council is currently maintaining an under-borrowed position in relation to the Capital Financing Requirement.
26. Investment return (calculated as the amount of interest earned on invested cash for the period) during the first six months of 2023/24 is shown in table 2:

	2022/23 (full year)	2023/24 (half year only)
Average CYC Rate of Return	2.02%	4.66%
<u>Benchmarks</u>		
Average Overnight SONIA	2.24%	4.73%
Average 7 day Backward Looking SONIA	2.23%	4.71%

Table 2: CYCs investment rate of return performance vs. SONIA benchmark

27. The average rate of return achieved for invested cash to date in 2023/24 has been steadily increasing compared to the average seen in 2022/23, due to the Bank of England continually raising the base during the period. The Council has been keeping cash in highly liquid Money Market Funds which provide instant access to cash and therefore has used the average overnight SONIA rate to compare it's return to. There is a slight time lag between the interest earned from investing in these Money Market Funds compared to the base rate and overnight SONIA as Money Market Funds adjust their portfolios in a rising interest rate environment.
28. Opportunities for longer term investments at higher yields are now more prevalent, however as stated above the Council is using its cash balances to delay taking on long-term borrowing. Opportunities that arise for notice and fixed investments are considered in terms of the Councils short to medium term cash flow requirement and under borrowed position.
29. Figure 1 shows the average SONIA rates for a number of investment durations compared with the Bank of England base rate and the rate of return that the Council has achieved on invested cash for the first six months of 2023/24. It shows that the Councils average rate of return on its instant access cash has been steadily increasing for the first six months of the year on the same trend as the Bank of England base rate and the average overnight SONIA and average 7 day backward looking SONIA rates whilst ensuring the required liquidity and security of funds for the Council.

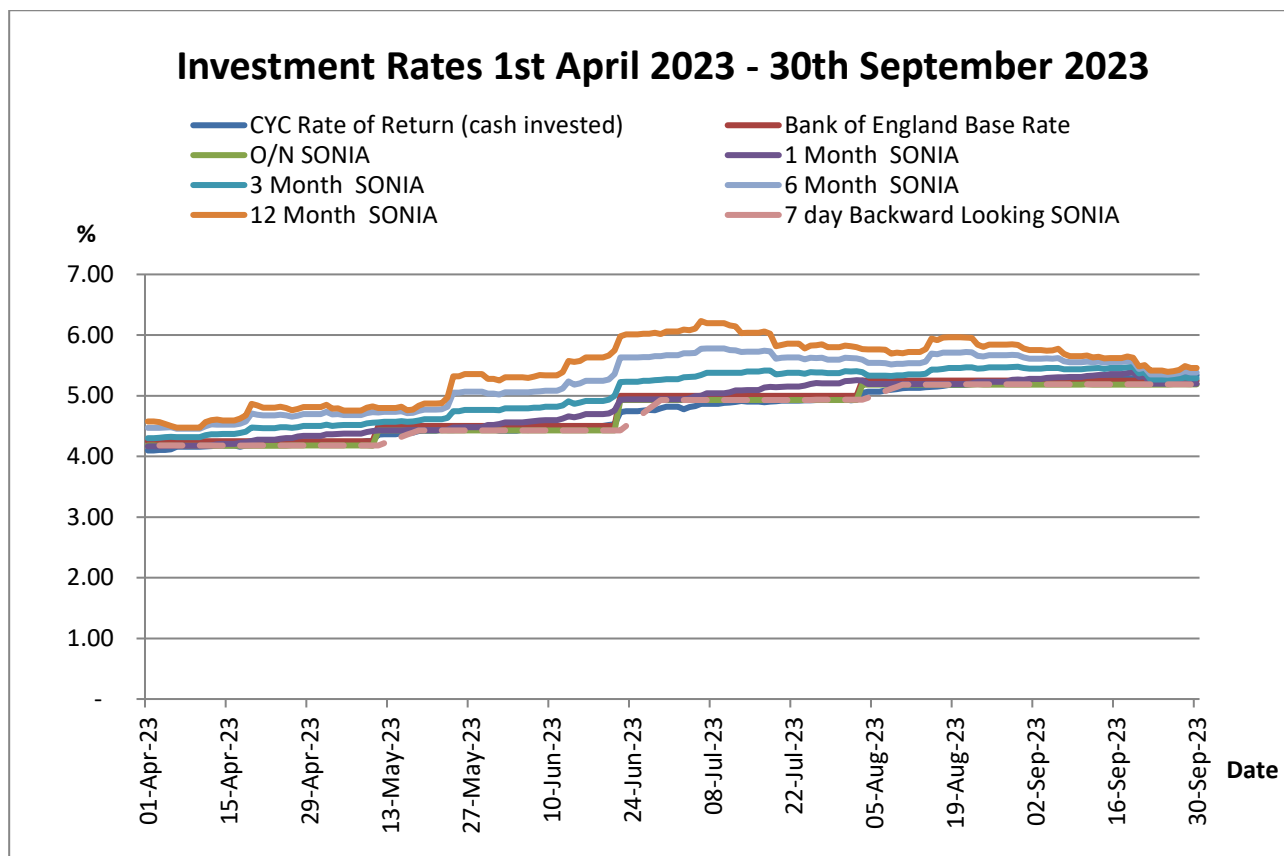


Figure 1 CYC Investments vs Bank of England base rate and SONIA up to 30th September 2023

30. Table 3 shows the current fixed term investments at 30th September 2023.

Institution Type	Principal 30/09/23	Average Principal	Average Rate
Fixed Term Deposits	£0.00m	£0.00m	0.00%
Call / Notice	£0.00m	£0.00m	0.00%
Money Market Funds	£18.85m	£30.53m	4.73%
Cash in bank	£0.46m	£0.44m	0.00%
Total Investments	£19.31m	£30.97m	4.66%

Table 3: Investment Portfolio by type at 30th September 2023

31. Figure 2 shows the investments portfolio split by cash in bank, deposits in short term call accounts, fixed term investments and Money Market Funds. All of the Money Market Funds have an AAAM credit rating and the cash bank account is A+.

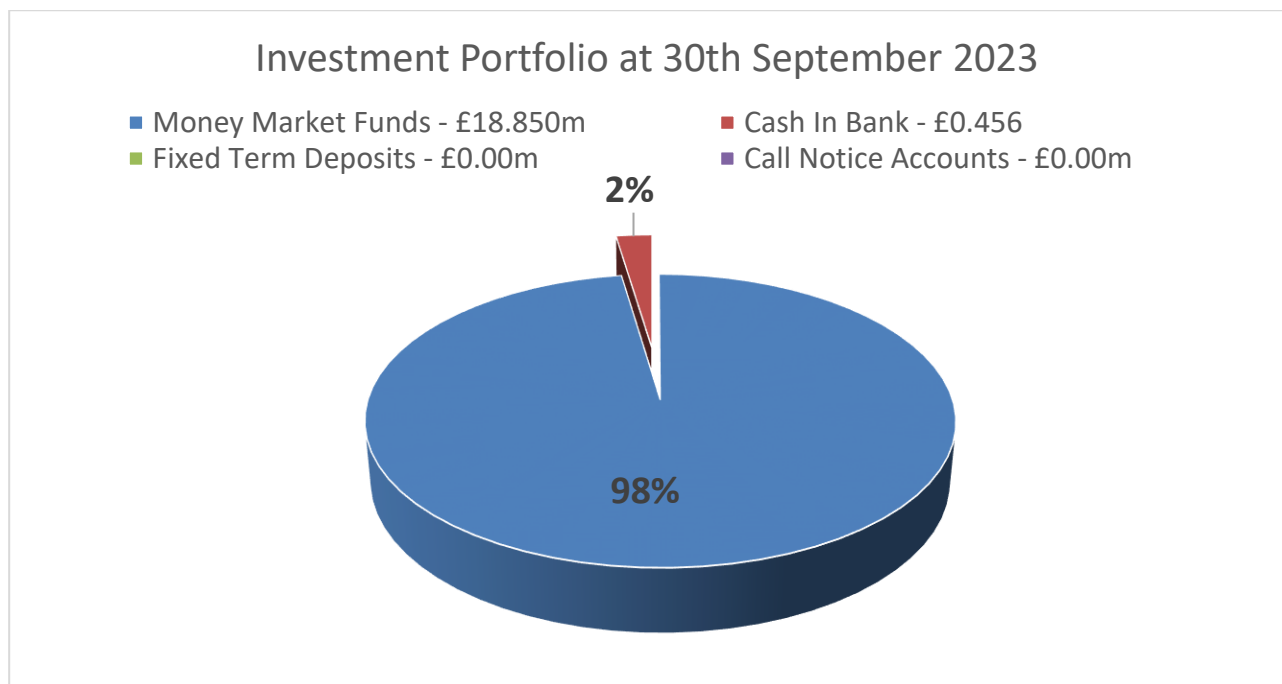


Figure 2 Investment Portfolio by type at 30th September 2023

Borrowing Strategy Update

32. The Council undertakes long-term borrowing in accordance with the investment requirements of the capital programme and all borrowing is therefore secured for the purpose of its asset base.
33. The level of borrowing taken by the Council is determined by the Capital Financing Requirement (the Councils underlying need to borrow for capital expenditure purposes). Borrowing needs to be affordable, sustainable and prudent.
34. Under regulation, the Council can borrow in advance of need and Markets are therefore constantly monitored and analysed to ensure that advantage is taken of favourable rates and the increased borrowing requirement is not as dependant on interest rates in any one year.
35. On the reverse side, the Council's level of borrowing can also be below the Capital Financing Requirement. This would mean that instead of increasing the Council's level of borrowing, surplus funds held for investment purposes would be utilised.
36. The borrowing strategy takes into account the borrowing requirement, the current economic and market environments and is also influenced by the interest rate forecast. The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a

temporary measure. This can be seen on the Councils Liability Benchmark graph as shown by the gap between the loans outstanding and CFR.

Borrowing Portfolio

37. The Councils long-term borrowing started the year at a level of £301.265m. No new loans have been taken during the first six months of the year. The current borrowing portfolio position as at 30th September 2023 is £301.265m.

Institution Type	Principal	Average Rate
<u>Public Works Loan Board</u> PWLB (60) – Money borrowed from the Debt Management Office (HM Treasury)	£293.9m	3.21%
<u>Market Loans</u> LOBO Loans (1) – Lender Option Borrower Option	£5.0m	3.88%
<u>West Yorkshire Combined Authority</u> WYCA (4) – Zero interest loans the purpose of which are to help to fund York Central infrastructure projects.	£2.4m	0.00%
Total Gross Borrowing (GF & HRA)	£301.3m	3.18%

Table 4 Current position at 30th September 2023

38. There are 5 scheduled repayments of long-term borrowing that will occur this financial year totalling £6.2m. These are detailed in the table below.

Lender	Issue Date	Repayment Date	Amount	Rate	Duration (years)
PWLB	23/11/2000	05/11/2023	£3,000,000.00	4.75%	22.95
PWLB	03/04/2001	05/11/2023	£1,000,000.00	4.75%	22.59
PWLB	15/11/2001	28/02/2024	£114,956.00	4.50%	22.29
PWLB	15/11/2001	28/02/2024	£200,000.00	4.50%	22.29
PWLB	28/03/2012	31/03/2024	£1,900,000.00	2.76%	12.01
			£6,214,956.00		

Table 5 Maturing loans in 2023/24

39. The Councils £301.265m of fixed interest rate debt, is split between £146.359m for HRA (£121.550m self-financing debt) and £154.906m for General Fund.

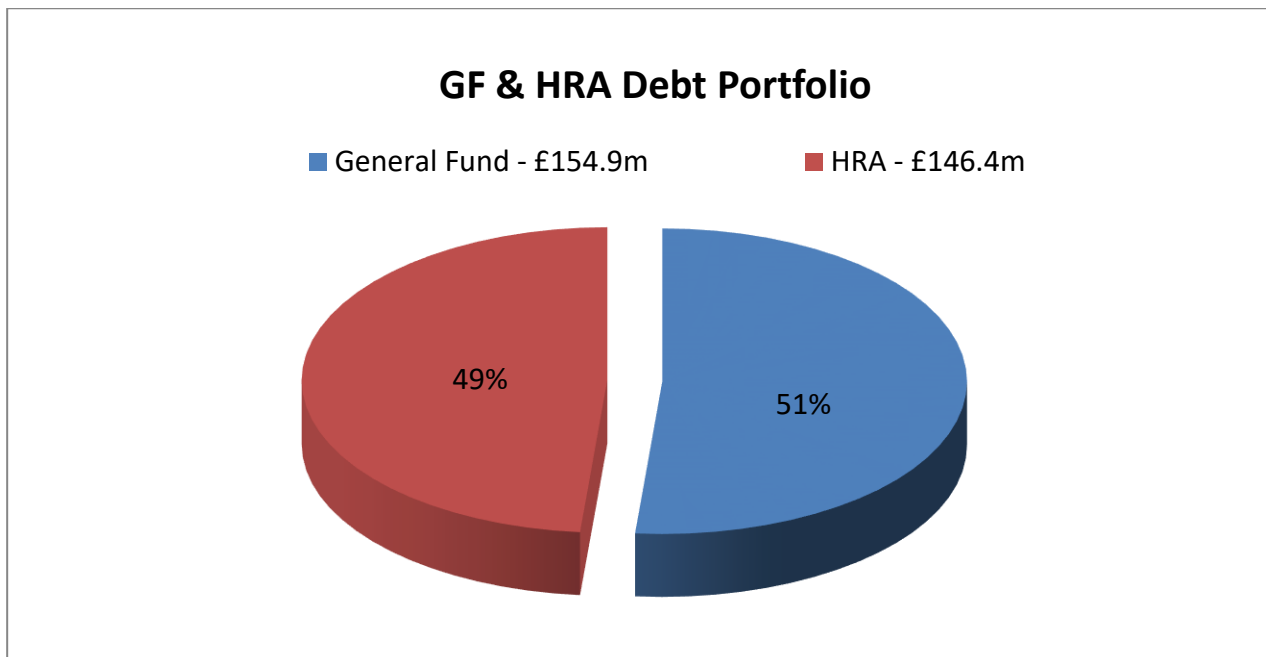


Figure 3 General Fund and HRA debt at 30th September 2023

40. Figure 4 illustrates the 2023/24 maturity profile of the Council’s debt portfolio at 30th September 2023. The maturity profile shows that there is no large concentration of loan maturity in any one year, thereby spreading the interest rate risk dependency.

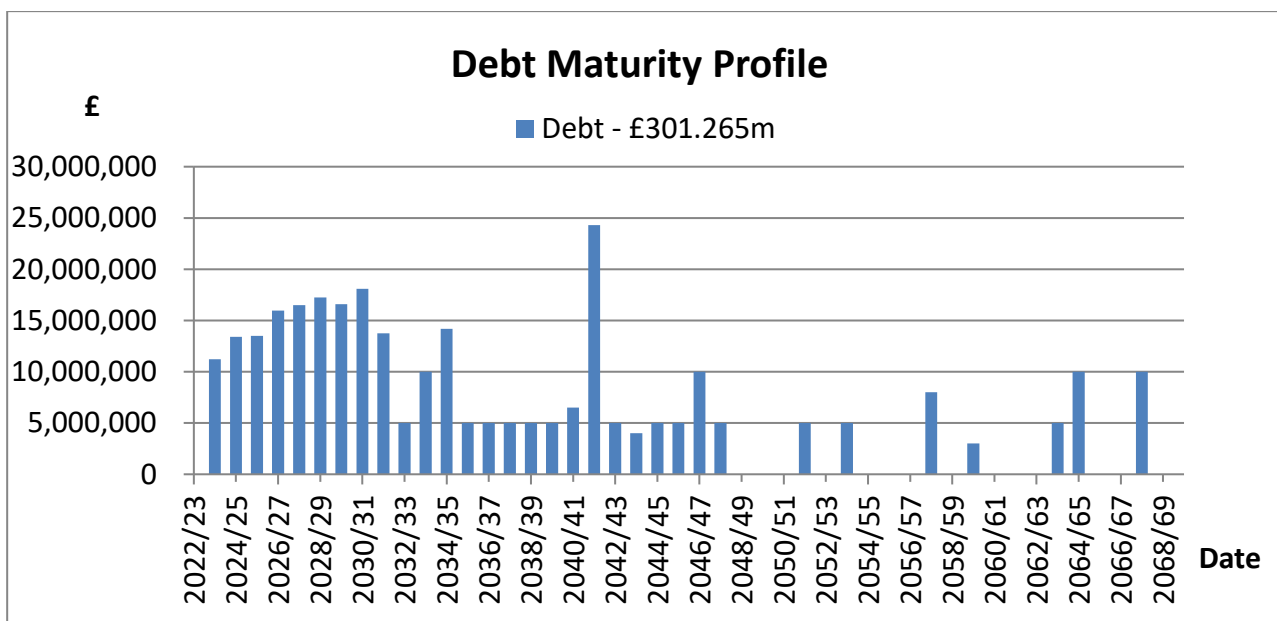


Figure 3 – Debt Maturity Profile at 30th September 2023

41. Should new debt need to be taken in 2023/24, the timing of when that debt is drawn down will depend on the progress of the capital programme. Where greater value can be obtained in borrowing for shorter maturity periods the Council will assess its risk appetite in conjunction with budgetary pressures to minimise total interest costs. Temporary borrowing, including inter authority borrowing, is another borrowing option. Longer-term borrowing could also be

undertaken for the purpose of certainty, where that is desirable, or for smoothing the maturity profile of debt repayments.

42. Table 6 shows PWLB Certainty borrowing rates available for selected loan durations between 1st April 2023 and 30th September 2023 at the highest, lowest and average rates.

	PWLB Certainty borrowing rates by duration of loan				
	1 Year	5 Year	10 Year	25 Year	50 Year
High	6.36%	5.93%	5.51%	5.73%	5.50%
Low	4.65%	4.14%	4.20%	4.58%	4.27%
Average	5.62%	5.16%	5.01%	5.29%	5.00%

Table 6 – PWLB Borrowing Rates 1st April 2023 to 30th September 2023

Compliance with Treasury policy Prudential Indicators

43. The Prudential Indicators for 2023/24 included in the Treasury Management Strategy Statement are based on the requirements of the Council's capital programme and approved at Budget Council on 23rd February 2023 and can be viewed here <https://democracy.york.gov.uk/ieListDocuments.aspx?CId=331&MId=13284>.
44. The treasury management budget was set in light of the council's expenditure plans and the wider economic market conditions, based on advice from Link Group.
45. It is a statutory duty for the Council to determine and keep under review the "Affordable Borrowing Limits" included in the Prudential Indicators. During the financial year 2023/24 to date the Council has operated within the treasury limits and Prudential Indicators set out.
46. An update of the Prudential Indicators is shown in Annex A.

Consultation Analysis

47. Treasury Management strategy and activity is influenced by the capital investment and revenue spending decisions made by the Council. Both the revenue and capital budgets have been through a corporate process of consultation and consideration by the elected politicians.

Options Analysis and Evidential Basis

48. The Treasury Mid-year report shows the mid-year position of the treasury management portfolio at 30th September 2023 and is for the review of the

Executive Member for Finance to show compliance with treasury policy and ensure the continued performance of the treasury management function.

Organisational Impact and Implications

49. The treasury management function aims to achieve the optimum return on investments commensurate with the proper levels of security, and to minimise the interest payable by the Council on its debt structure. It thereby contributes to all Council Plan priorities.

- **Financial** - The financial implications are in the body of the report.
- **Human Resources (HR)** - n/a
- **Legal** – Treasury management activities have to conform to the Local Government Act 2003, the Local Authorities (Capital; Finance and Accounting) (England) Regulations 2003 (SI 2003/3146), which specifies that the Council is required to have regard to the CIPFA Prudential Code and the CIPFA Treasury Management Code of Practice and also the Local Authorities (Capital Finance and Accounting) (England) (Amendment) Regulations 2008 (SI 2008/414), which clarifies the requirements of the Minimum Revenue Provision guidance.
- **Procurement** - n/a
- **Health and Wellbeing** - n/a
- **Environment and Climate action** - n/a
- **Affordability** - n/a
- **Equalities and Human Rights** - n/a
- **Data Protection and Privacy** - n/a
- **Communications** - n/a
- **Economy** - n/a.
- **Specialist Implications Officers** - n/a

Risks and Mitigations

50. The Treasury Management function is a high-risk area because of the volume and level of large money transactions. As a result, there are procedures set out for day to day treasury management operations that aim to reduce the risk associated with high volume high value transactions. These are detailed in the Treasury Management Strategy Statement at the start of each financial year.

Wards Impacted

All

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

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Date:	xx/10/2023

Background papers

- Treasury Management Strategy Statement and Prudential Indicators for 2023/24 to 2027/28 and Annexes A, B, C and D to that report.
<https://democracy.york.gov.uk/ielssueDetails.aspx?IId=68802&PlanId=0&Opt=3>

Annexes

- Annex A – Prudential Indicators 2023/24 Mon 2 (05.10.23)

Glossary of Abbreviations used in the report

CIPFA	Chartered Institute of Public Finance & Accountancy
CFR	Capital Financing Requirement
CYC	City of York Council
DLUHC	Department for Levelling Up, Housing and Communities
GF	General Fund
HRA	Housing Revenue Account
MPC	Monetary Policy Committee
MRP	Minimum Revenue Provision
PWLB	Public Works Loan Board
SONIA	Sterling Overnight Index Average

Prudential Indicators 2023/24 Mon 2 (05.10.23)

	Prudential Indicator		2023/24	2024/25	2025/26	2026/27	2026/27	
1	Capital expenditure To allow the authority to plan for capital financing as a result of the capital programme and enable the monitoring of capital budgets.	GF	£98.2m	£134.1m	£53.7m	£35.1m	£24.3m	
		HRA	£37.5m	£52.5m	£32.8m	£42.5m	£12.1m	
		Other LT	£0.0m	£3.2m	£0.5m	£0.5m	£0.5m	
		<u>Total</u>	<u>£135.7m</u>	<u>£189.8m</u>	<u>£87.0m</u>	<u>£78.1m</u>	<u>£36.9m</u>	
2	CFR Indicates the Council's underlying need to borrow money for capital purposes. The majority of the capital programme is funded through government support, government grant or the use of capital receipts. The use of borrowing increases the CFR.	GF	£328.7m	£398.9m	£401.0m	£410.1m	£416.1m	
		HRA	£146.4m	£149.8m	£153.4m	£153.4m	£153.4m	
		Other LT	£41.7m	£43.9m	£42.6m	£41.5m	£40.3m	
		<u>Total</u>	<u>£516.8m</u>	<u>£592.6m</u>	<u>£597.0m</u>	<u>£605.0m</u>	<u>£609.8m</u>	
3	Liability Benchmark The Liability Benchmark is based on current capital plans and cash flow assumptions, therefore giving the Council an indication of how much it needs to borrow, when it is likely to need to borrow, and where to match maturities to its planned borrowing needs. The liability benchmark makes no assumption about the level of future prudential borrowing in unknown capital budgets.	<p>The chart, titled 'Liability Benchmark', plots the Total Amount (£'000) on the y-axis (0 to 600,000) against years on the x-axis (2023 to 2093). It shows several data series: PWLB Loans (solid blue line), LOBO Loans (solid black line), Variable rate loans (solid light blue line), Net Loans Requirement (forecast net loan debt) (solid orange line), Liability Benchmark (Gross Loans Requirement) (dashed red line), Market Loans (excl LOBO loans) (dashed red line), Short Term inc LA Temporary Borrowing (<1 year) (dashed red line), Existing Loan Debt Outstanding (solid black line), and Loans CFR (solid blue line). The PWLB Loans and Existing Loan Debt Outstanding lines are the highest, peaking around 2027-2029 at approximately 550,000. The Net Loans Requirement and Liability Benchmark lines are lower, peaking around 2027-2029 at approximately 400,000. All lines show a general downward trend over the period, with the Net Loans Requirement and Liability Benchmark lines converging towards zero by 2093.</p>						
4	Ratio of financing costs to net revenue stream An estimate of the cost of borrowing in relation to the net cost of Council services to be met from government grant and council taxpayers. In the case of the HRA the net	GF	11.99%	16.28%	17.78%	17.81%	17.84%	
		HRA	13.10%	12.57%	12.29%	12.02%	11.74%	
		<u>Total</u>	<u>12.20%</u>	<u>15.57%</u>	<u>16.73%</u>	<u>16.73%</u>	<u>16.72%</u>	

	Prudential Indicator		2023/24	2024/25	2025/26	2026/27	2026/27	
	revenue stream is the income from rents. <i>Note that financing costs include debt and other long-term liabilities such as PFI and Leases.</i>							
5	External debt To ensure that borrowing levels are prudent over the medium term the Council's external borrowing, net of investments, must only be for a capital purpose and so not exceed the CFR.	Gross Debt Invest Net Debt	£385.0m £15.0m <hr/> £370.0m	£468.5m £15.0m <hr/> £453.5m	£483.3m £15.0m <hr/> £468.3m	£502.1m £15.0m <hr/> £487.1m	£519.0m £15.0m <hr/> £504.0m	
6 a	Authorised limit for external debt The authorised limit is a level set above the operational boundary in acceptance that the operational boundary may well be breached because of cash flows. It represents an absolute maximum level of debt that could be sustained for only a short period of time. The council sets an operational boundary for its total external debt, gross of investments, separately identifying borrowing from other long-term liabilities.	Borrowing CFR / Other long term liabilities	£590.9m £30.0m <hr/> £620.9m (£620.9m set at 2023/24 Strategy)	£602.6m £30.0m <hr/> £632.6m (Based on current CFR projection)	£607.0m £30.0m <hr/> £637.0m (Based on current CFR projection)	£615.0m £30.0m <hr/> £645.0m (Based on current CFR projection)	£619.8m £30.0m <hr/> £649.8m (Based on current CFR projection)	

	Prudential Indicator		2023/24	2024/25	2025/26	2026/27	2026/27	
6 b	<p>Operational boundary for external debt</p> <p>The operational boundary is a measure of the most likely, prudent, level of debt. It takes account of risk management and analysis to arrive at the maximum level of debt projected as part of this prudent assessment. It is a means by which the authority manages its external debt to ensure that it remains within the self-imposed authority limit. It is a direct link between the Council's plans for capital expenditure; our estimates of the capital financing requirement; and estimated operational cash flow for the year.</p>	Borrowing CFR / Short Term Liquidity Requirement	£516.8m	£592.6m	£597.0m	£605.0m	£609.8m	
			£74.1m	£10.0m	£10.0m	£10.0m	£10.0m	
			<u>£590.9m</u>	<u>£602.6m</u>	<u>£607.0m</u>	<u>£615.0m</u>	<u>£619.8m</u>	
			(£590.9m set at 2023/24 Strategy)	(Based on current CFR projection)	(Based on current CFR projection)	(Based on current CFR projection)	(Based on current CFR projection)	

	Prudential Indicator		2021/22	2022/23	2023/24	2024/25	2025/26	
7	<p>Maturity structure of fixed rate borrowing</p> <p>To minimise the impact of debt maturity on the cash flow of the Council. Over exposure to debt maturity in any one year could mean that the Council has insufficient liquidity to meet its repayment liabilities, and as a result could be exposed to risk of interest rate fluctuations in the future where loans are maturing. The Council therefore sets limits whereby long-term loans mature in different periods thus spreading the risk.</p>	Maturity profile of debt against approved limits	Maturity Profile	Debt (£)	Debt (%)	Approved Minimum Limit	Approved Maximum Limit	
			Less than 1 yr	£11.2m	4%	0%	30%	In line with the TMSS Lobo loans are shown as due at their next call date as this is the date the lender could require payment.
			1 to 2 yrs	£16.4m	5%	0%	30%	
			2 to 5 yrs	£43.0m	14%	0%	40%	
			5 to 10 yrs	£80.7m	27%	0%	40%	
			10 yrs and above	£150.0m	50%	30%	90%	
			Total	£301.3m	100%	-	-	
7	<p>Upper limit for total principal sums invested for over 364 days</p> <p>The Council sets an upper limit for each forward financial year period for the level of investments that mature in over 364 days. These limits reduce the liquidity and interest rate risk associated with investing for more than one year.</p>	Limit / (Current investments greater than 364 days maturing in year)	£15.0m (£0.0m)	£15.0m (£0.0m)	£15.0m (£0.0m)	£15.0m (£0.0m)	£15.0m (£0.0m)	



Meeting:	Audit & Governance Committee
Meeting date:	8 November 2023
Report of:	Debbie Mitchell, Chief Finance Officer
Portfolio of:	Executive Member for Finance, Performance & Major Projects

Audit and Governance Committee Report: Update on No Purchase Order No Pay Process

Subject of Report

1. The report provides an update to members of Audit & Governance Committee about the review of No Purchase Order No Pay processes.
2. Recent internal audits have found control issues from retrospective purchase orders (POs) being raised. Several audit recommendations have been made and this report provides an action plan (detailed at Annex A) together with progress made to date.

Policy Basis

3. The report and the recommendation support the Financial Strategy of the Council, by providing assurance to Members that financial regulations are followed, orders are raised with the proper authorisation and budgetary control is adequate.

Recommendation and Reasons

4. The Audit & Governance Committee are asked to note and comment on the action plan in the report ahead of a further update in March 2024.

Reason: To gain assurance that the Council is taking proper action to respond to the agreed audit actions and improvements to purchasing processes are being made where necessary.

Background

5. The Council implemented a policy of No Purchase Order No Pay in January 2013. This required that all purchases must be made through the Council's purchasing system, Civica Purchasing. The supplier is then provided with the order and then when they issue their invoice it must quote a valid PO number. Any invoices received without a PO number would be returned to the supplier.
6. At the time the policy was introduced all purchasing users were reviewed and rationalised and refresher training was provided.
7. There are certain cases where a commitment will not be known in advance and a purchase order is not appropriate. These are identified in an exemptions list that is available on the intranet and which the Creditors team refer to in their daily tasks.
8. The Creditors internal audit report issued by Veritau in March 2023 identified that the retrospective raising of purchase order continued to take place; an issue that they had identified in the previous audit in 2021/22. The most recent audit found that 55% of invoices in 2022 were dated on or before the PO date.
9. The findings of the audit report were discussed by members of Audit & Governance committee in July 2023, and it was agreed that a progress report would be provided at a future meeting.

Audit recommendations and progress

10. In terms of retrospective purchase ordering, the internal audit testing found that:
 - A significant proportion of purchase orders are raised after the invoice date, indicating that orders are placed with suppliers prior to purchase orders being raised.
11. There are four agreed actions in response to this finding:
 - The 'No Purchase Order, No Pay' policy and associated policies and processes will be reviewed to ensure compliance with the policy. This will include review of the purchase order and invoice data to understand where issues are most prevalent across service areas.

- The provision of training and guidance available for staff will be reviewed to determine whether more/refreshed training or guidance is needed for staff requesting purchase orders. Training and refreshed guidance will then be delivered as required.
 - The current ordering processes, and Business Support's role in raising requisitions and approving orders, will be reviewed to decide whether changes are needed to these processes.
 - The 'No Purchase Order, No Pay' exemptions policy will be reviewed to ensure that it is up to date and reflects current arrangements.
12. An action plan has been drawn up and is provided at Annex A to summarise the response to the audit recommendations. Progress against each area is described in the following paragraphs.

Review of the Policy

13. The Council's Financial Regulations state that a PO should be raised prior to goods being receipted and invoiced for. The benefits of having the No PO No Pay policy, as part of the purchase to pay system are as follows:
- Suppliers receive the Council's terms and conditions with the order, including regular payment terms of 30 days from date of invoice;
 - A commitment of expenditure is made on the Council's ledger aiding forecasting and budgetary control;
 - Expenditure is authorised by an officer with the correct delegated authority;
 - The purchase to pay system can be automated as far as possible, resulting in efficient process times;
 - Suppliers can be paid within the council payment timescales and in line with the Government's Prompt Payment Code.
14. Under the policy it is expected that some invoices will be processed with a date earlier than that of the order: where an invoice is returned to the supplier because no PO number has been quoted, in accordance with the policy, the order will be raised retrospectively (assuming that the supplier does not change their

invoice date). Also, in exceptional cases a verbal order may be placed, and the order raised later.

15. There is still value added by the policy and it ensures that the Council adheres to its Financial Regulations. However, the policy does need to be fully reviewed following the recent audit findings. It is also acknowledged that retrospective ordering creates an increased workload on the Creditors team and it results in duplication of effort by purchasing users. Certainly, the following actions on training and exemptions (and resulting increase in adherence to the policy) would reduce the volume of invoices returned to suppliers by Creditors. However, consideration could also be given to setting a de minimus level below which invoices without a PO number will not be returned to suppliers and paid as a non-PO invoice instead.
16. There are also several angles to explore in terms of invoicing data to establish where issues of retrospective purchase ordering lie within the Council.
17. Firstly, all invoices should be sent externally into the 'invoices@york.gov.uk' inbox. Data has been produced to identify where internal emails are being sent to this inbox. This suggests that invoices are being sent to another Council department prior to coming to Creditors for processing and bypassing the automation processes of purchase to pay. A list of departments has been identified (refer to Annex B) and these will be consulted on to establish what process is being followed, training offered where necessary, or discussion held over whether an exemption is relevant.
18. Secondly, Creditors are often the point of contact for suppliers who have their invoices returned, although suppliers should be contacting the department who requested the supply. A review of the most common suppliers who contact Creditors will be carried out.
19. The data provided by the audit can also be interrogated further to establish any patterns in retrospective ordering.

Training

20. Mandatory training was last provided in January 2013, when the revised policy was introduced. Since then, training of new purchasing users and authorisers is completed on the job, with support from Systems Officers. The Council's training system, MYLO, also offers essential training for all managers and staff involved in purchasing, although this is not mandatory.
21. It is likely that over time that the message to new users becomes diluted and they will become less familiar with the purchasing process and requirements. A further round of training needs to be established and refreshers provided at regular intervals.
22. Consideration could also be given to making this course a mandatory module on MYLO.

Business Support role

23. The audit found that in any given year 35-40% of all purchase order transactions were processed through Business Support. As part of this process an Outlook form is completed by the service and Business Support raise the order on their behalf, with authorisation from a budget manager in the service. This process was established to ensure a high quality of orders were raised through experienced users and for services that do not have a large volume of orders or where the team is small, there isn't a requirement to have a member of staff trained in purchasing.
24. Initial consultation about this part of the process has raised concerns that there is duplication of effort from completing the online form and that Business support is not close to the service to know where invoices have been received and the order is being raised retrospectively.
25. This is an area for review in the action plan. Consideration will be given to areas where order raising should be devolved back to the services. For example, the service could be withdrawn if the number of requests exceeds a maximum level, at which it becomes practical to train the users within the department and remove the duplication.

26. A review of the approval process for orders raised by Business Support will also be undertaken to limit delays caused by duplication of efforts.

Exemptions to the policy

27. The exemptions policy states that: *In certain circumstances it is accepted that purchase orders cannot be raised for the supply of certain goods and services. An exemption from the NPONP policy will be granted in these circumstances. Exemptions take the form of either a supplier exemption or type of exemption which covers a number of suppliers for the same service e.g. the pensions liabilities which the Council may not know about in advance.*
28. The policy also sets out the process for requesting new exemptions, a process that is managed by Procurement. A list of the current exemptions should be held on the Council's intranet although currently this is not available. The list was last reviewed at the time of the internal audit report.
29. Discussions so far with Procurement and Creditors indicate that the exemptions list is up to date, following the recent review, but further consultation will be undertaken through the work on the 'invoices@york' inbox.
30. Further revisions will be made if necessary and the list readded to the intranet.
31. All actions are underway, and some changes can be made as soon as the issues have been identified. It is proposed that a further report is brought back to this committee in the Spring of 2024.

Consultation Analysis

32. Initial consultation has taken place with the Systems Finance team; Business Support (responsible for the Creditors function) and Corporate Procurement. As these sections all have a role to play in the purchasing process.

33. Consultation about the changes being made will be shared with these teams and Corporate Management Team to ensure support for the changes.

Risks and Mitigations

34. If the purchasing processes and No PO No Pay policy are not followed correctly, the main risk is to proper budgetary control. In the current economic climate, it is essential that all commitments are forecast as far as is possible and suppliers understand the terms of payment offered by the Council.

Contact details

For further information please contact the authors of this Report.

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Report approved:	Yes
Date:	27 October 2023

Background papers

Background paper: City of York Council Creditors internal audit report, issued 13/03/2023

Background paper: City of York Council Financial Regulations

Background paper: No purchase order no pay communication to staff and suppliers <https://colin.york.gov.uk/besupported/finance-purchasing/purchase-to-pay/>

Background paper: NPONP Exemptions Policy and List

Annexes

Annex A: Action Plan

Annex B: Invoices received internally by Creditors, August 2023

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Action Plan – No Purchase Order No Pay

Audit Recommendation	Actions Proposed	Status?	Target Completion Date	Responsible Officer
Policy & Processes	<ol style="list-style-type: none"> 1. Review appropriateness of the policy 2. Consult with key stakeholders 3. Review invoice data and identify services that need support 4. Make necessary changes 5. Issue exemptions in consultation with Procurement 	In progress	30/12/2023	Principal Accountant
Training provision	<ol style="list-style-type: none"> 6. Review training offered and attendance. 7. Refresher training on the policy 8. Consider whether mandatory training is required. 	In progress	31/03/2024	Systems Accountant
Role of Business Support	<ol style="list-style-type: none"> 9. Identify users within business support that are undertaking retrospective ordering 10. Discuss with services if orders can be raised by someone in the dept 11. Review authorisation processes 	Not started	31/03/2024	Principal Accountant/ Head of Business Support
Exemptions list	<ol style="list-style-type: none"> 12. Review current list of exemptions in consultation with Procurement 13. Makes revisions and notify suppliers of changes 14. Reissue to Creditors team and make available on the intranet 	In progress	31/12/2023	Principal Accountant/ Head of Procurement

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Invoices received internally by Creditors, by Department (August 2023)

Directorate	Department	Number of Internal Invoices
Place	Building Services	111
Customers & Communities	Business Support	104
Place	Facilities Management	61
Public Health	Public Health	55
Place	Highways	51
Place	Housing Operations	39
Customers & Communities	Benefits and Trans Services	29
Customers & Communities	Creditors	20
Place	Public Protection	13
Childrens	Education SEN	12
Place	Housing Delivery	11
Total		506

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Meeting:	Audit & Governance Committee
Meeting date:	8 November 2023
Report of:	Debbie Mitchell, Chief Finance Officer
Portfolio of:	All Executive Members

Audit and Governance Committee Report:

Monitor 2 2023/24 – Key Corporate Risks

Subject of Report

1. The purpose of this paper is to present Audit & Governance Committee (A&G) with an update on the key corporate risks (KCRs) for City of York Council (CYC), which is included at Annex A.

Policy Basis

2. The effective consideration and management of risk within all of the council's business processes helps support the administration's key commitments and priorities as outlined in the Council Plan 2023-2027.

Recommendation and Reasons

3. Audit and Governance Committee are asked to:
 - a) Consider and comment on the key corporate risks included at Annex A, summarised at Annex B;
 - b) Provide feedback on any further information that they wish to see on future committee agendas.

Reason: To provide assurance that the authority is effectively understanding and managing its key risks.

Background

4. The role of A&G in relation to risk management covers three major areas;
 - Assurance over the governance of risk, including leadership, integration of risk management into wider governance arrangements and the top-level ownership and accountability for risk
 - Keeping up to date with the risk profile and effectiveness of risk management actions; and
 - Monitoring the effectiveness of risk management arrangements and supporting the development and embedding of good practice in risk management

5. Risks are usually identified in three ways at the Council;
 - A risk identification workshop to initiate and/or develop and refresh a risk register. The risks are continually reviewed through directorate management teams (DMT) sessions.
 - Risks are raised or escalated on an ad-hoc basis by any employee.
 - Risks are identified at DMT meetings.

6. Due to the diversity of services provided, the risks faced by the authority are many and varied. The Council is unable to manage all risks at a corporate level and so the main focus is on the significant risks to the council's objectives, known as the key corporate risks (KCRs).

7. The corporate risk register is held on a system called Magique. The non KCR risks are specific to the directorates and consist of both strategic and operational risk. Operational risks are those which affect day to day operations and underpin the directorate risk register. All operational risk owners are required to inform the risk officer of any updates.

8. In addition to the current KCRs, in line with the policy, risks identified by any of the Directorates can be escalated to Council Management Team (CMT) for consideration as to whether they should be included as a KCR. KCRs are reported and discussed quarterly with CMT and Portfolio Holders.

Key Corporate Risk (KCR) update

9. There are currently 12 KCRs which are included at Annex A in further detail, alongside progress to addressing the risks.
10. Annex B is a one-page summary of all the KCR's and their current gross and net risk ratings.
11. In summary the key risks to the Council are:
 - KCR1 – Financial Pressures: The Council's increasing collaboration with partnership organisations and ongoing government funding cuts will continue to have an impact on Council services.
 - KCR2 – Governance: Failure to ensure key governance frameworks are fit for purpose.
 - KCR3 – Effective and Strong Partnership: Failure to ensure governance and monitoring frameworks of partnership arrangements are fit for purpose to effectively deliver outcomes.
 - KCR4 – Changing Demographics: Inability to meet statutory deadlines due to changes in demographics.
 - KCR5 – Safeguarding: A vulnerable child or adult with care and support needs is not protected from harm.
 - KCR6 – Health and Wellbeing: Failure to protect the health of the local population from preventable health threats.
 - KCR7 – Capital Programme: Failure to deliver the Capital Programme, which includes high profile projects.
 - KCR8 - Local Plan: Failure to develop a Local Plan could result in York losing its power to make planning decisions and potential loss of funding.
 - KCR9 – Communities: Failure to ensure we have resilient, cohesive, communities who are empowered and able to shape and deliver services.
 - KCR10 – Workforce Capacity: Reduction in workforce/ capacity may lead to a risk in service delivery.
 - KCR11 – External market conditions: Failure to deliver commissioned services due to external market conditions.
 - KCR12 – Major Incidents: Failure to respond appropriately to major incidents.

12. Risks are scored at gross and net levels. The gross score assumes controls are in place such as minimum staffing levels or minimum statutory requirements. The net score will take into account any additional measures which are in place such as training or reporting. The risk scoring matrix is included at Annex C for reference.
13. The following matrix categorises the KCRs according to their net risk evaluation. To highlight changes in each during the last quarter, the number of risks as at the previous monitor are shown in brackets.

Impact					
Critical					
Major		1 (0)	5 (6)	1 (1)	
Moderate		1 (1)	3 (3)	1 (1)	
Minor					
Insignificant					
Likelihood	Remote	Unlikely	Possible	Probable	Highly Probable

14. By their very nature, the KCRs remain reasonably static with any movement generally being in further actions that are undertaken which strengthen the control of the risk further or any change in the risk score. In summary, key points to note are as follows;
- New Risks- No new KCRs have been added since the last monitor.
 - Increased Risks – No KCRs have increased their net risk score since the last monitor.
 - Removed Risks – No KCRs have been removed since the last monitor.
 - Reduced Risks – No KCRs have reduced their net risk score since the last monitor.

Updates to KCR risks, actions, and controls

15. All KCRS have had the risk owner highlighted in the register.
16. KCR 2 – Governance: the ongoing action to embed the action from the public interest report has been reviewed and the target date revised to the end of the year. A new action has now been included regarding compliance with the Freedom of Information (FOI) action plan and dealing with the backlog of outstanding FOIs, with a deadline of 31 October 2023.
17. KCR 4 – Changing Demographics: The action to develop a transition strategy has been completed. A new action to develop a frailty hub in cooperation with health partners has been set. This will improve support for early intervention.
18. KCR 5 – Safeguarding: Risk details and controls have been added to acknowledge the risk from the demand on the national children's care market. Controls are already in place to mitigate this. Also, a new action has been added to recruit to a new post by the end of this year, utilising government grant funding.
19. KCR 8 – Local Plan: Revised target dates have been set to align with the progress being made to approve the local plan later this year. As previously reported, a further update is expected on this KCR once the inspection report has been issued in Autumn 2023. A more detailed report will then come to a future meeting of this committee.
20. KCR 9 – Communities: A revised date has been set to establish the new equalities and access team. The action is in progress: access and migrant support has been combined and there is an equalities expert helping the Council with its self-assessment. They will report back in January 2024. In early 2024/25, a manager should be in place to bring the service together.
21. KCR 10 – Workforce/Capacity: All ongoing actions have been reviewed and revised dates set.

Consultation Analysis

22. Not applicable

Risks and Mitigations

23. In compliance with the council's Risk Management Strategy, there are no risks directly associated with the recommendations of this report. The activity resulting from this report will contribute to improving the council's internal control environment.

Contact details

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Date:	20 October 2023

Background papers

None

Annexes

- Annex A: Key Corporate Risk Register
- Annex B: Summary of Key Corporate Risks
- Annex C: Risk Scoring Matrix

KEY CORPORATE RISK REGISTER AT OCTOBER 2023**Changes to Risk Register since last update (August 2023)**

Key Corporate Risk	Changes
KCR1 Financial Pressures	Minor updates to risk details
KCR2 Governance	Revised date for ongoing action; new action regarding FOI compliance
KCR3 Effective and Strong Partnerships	No changes at this monitor
KCR4 Changing Demographics	Completed action around the transition strategy and new action for frailty hub
KCR5 Safeguarding	New control added new risk details and controls
KCR6 Health and Wellbeing	No changes at this monitor
KCR7 Capital Programme	No changes at this monitor
KCR8 Local Plan	Revised action dates
KCR9 Communities	New controls added
KCR10 Workforce/ Capacity	Revised dates for ongoing actions
KCR11 External Market Conditions	No changes at this monitor
KCR12 Major Incidents	No changes at this monitor

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 1 FINANCIAL PRESSURES: The ongoing government funding cuts and more recently the impact of Covid and cost of living crisis will continue to have an impact on council services. Over the course of the last 10 years there has been a substantial reduction in government grants leading to significant financial savings delivered. The council needs a structured and strategic approach to deliver the savings in order to ensure that any change to service provision is aligned to the council's key priorities. In addition, other partner organisations are facing financial pressures that impact on the council.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
Reduction in government grants leading to the necessity to make savings	Potential major implications on service delivery	Highly Probable	Major (21)	Regular budget monitoring	Probable	Major (20)	No change	RISK OWNER: Debbie Mitchell
Increased service demand and costs (for example an aging population).	Impacts on vulnerable people			Effective medium term planning and forecasting				
Financial pressures on other partners that impact on the council	Spending exceeds available budget			Chief finance officer statutory assessment of balanced budget				
The spending review is one year only for 2022/23 and 2023/24	Lack of long term funding announcements from central government creates uncertainty which hinders long term financial planning			Regular communications on budget strategy and options with senior management and politicians				
Financial impact of the pandemic on Council budgets	Lack of long term funding announcements from central government may impact on staff retention as it creates uncertainty for temporary posts funded by external funding			Skilled and resourced finance and procurement service, supported by managers with financial awareness.				
Financial impact of the pandemic on the economy as a whole				Climate change mitigation and adaptation programme				
Increased severity and frequency of climate hazard events (e.g. flooding)	An economic downturn will affect the Council's main sources of funding; reducing business rates income if premises are vacant and reducing council tax income if more individuals require			Financial Strategy 2023/24 approved.				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>UPDATED General cost pressures due to continued high inflation (latest CPI figures are 6.7% August 2023, and has been slower to fall than anticipated)</p> <p>Increased risk of UK recession</p> <p>General cost pressures due to impact of Ukraine conflict.</p> <p>UPDATED UK Bank of England Interest rate expected to remain high until late 2024</p>	<p>support due to unemployment.</p> <p>Increased cost of responding to emergency situations, as a result of climate change, and impact on service delivery.</p> <p>Increased interest rates and the continued impact of inflation will reduce the overall funding available to the Council and may therefore lead to reductions in service levels in some areas.</p>							

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 2 GOVERNANCE: Failure to ensure key governance frameworks are fit for purpose. With the current scale and pace of transformation taking place throughout the organisation it is now more important than ever that the council ensures that its key governance frameworks are strong particularly those around statutory compliance including information governance, transparency and health and safety.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>UPDATED</p> <p>Increased interactions in relation to FOIA and transparency, and failures to adhere to statutory timescales for responses.</p> <p>Failure to comply with data protection and privacy legislation</p> <p>Serious breach of health and safety legislation</p> <p>Failure to comply with statutory obligations in respect of public safety</p>	<p>Increases in cases held or fines levied by Information Commissioner</p> <p>Failing to meet the legal timescales for responding to FOIA may result in reduced confidence in the council's ability to deal with FOIA and in turn, its openness and transparency</p> <p>Individuals will be at risk of committing criminal offences if they knowingly or recklessly breach the requirements of the GDPR legislation.</p> <p>Potential increased costs to the council if there are successful individual claims for compensation as a result of a breach of GDPR legislation.</p> <p>Impact on the end user/customer</p> <p>Public and staff safety may be put at risk</p> <p>Possible investigation by HSE</p>	Probable	Major (20)	<p>Electronic Communication Policy</p> <p>IT security systems in place</p> <p>Governance, Risk and Assurance Group (GRAG) covers a wide range of governance issues, including Covid-19 impacts</p> <p>Ongoing Internal Audit review of information security</p> <p>Health and Safety monitoring in place</p> <p>Regular monitoring reports to Audit & Governance committee and Executive Member decision sessions</p> <p>Open Data platform providing Freedom of Information (FOI) requested data</p> <p>Regular review of transparency code legislation and compliance</p> <p>Ongoing management of data architecture to provide de-</p>	Possible	Major (19)	New action	<p>RISK OWNER: Bryn Roberts</p> <p>REVISED DATE Ongoing review: Continued implementation and embedding of relevant elements from the action plan. (Bryn Roberts 31/12/23)</p> <p>NEW Compliance with the Action Plan required to remedy the backlog of FOI requests, together with resolution of the backlog. (Bryn Roberts 31/10/23)</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
	<p>Prohibition notices might be served preventing delivery of some services</p> <p>Prosecution with potential for imprisonment if Corporate Manslaughter</p> <p>Adverse media/ social media coverage</p> <p>Reputational impact</p>			<p>personalised data to open data platform</p> <p>Public Protection Annual Control Strategy</p> <p>Additional resource, training and improved processes to deal with FOIA requests</p> <p>All officer and delegated decisions are reported publicly to Executive/ A&G to ensure transparency</p> <p>Ongoing Health and Safety Training programmes at all levels</p> <p>Ongoing regular review of internal audit reviews and recommendations</p> <p>SIRO role has changed to Director of Governance and the relationship between the Senior Information Risk Officer (SIRO) and the Caldicott Guardian is being strengthened</p> <p>Customer Complaints toolkit has been reviewed and reports to A&G</p> <p>Governance training provided for Directors</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
				<p>Process for consistent completion of Data Protection Impact Assessments (DPIA) has been circulated across the council</p> <p>The LGA will review and report on the achievement of PIR actions</p> <p>Member training in respect of the Code of Conduct and conflict of interests. Review of Council constitution completed in 2022. Next review planned for after elections in May 2023.</p> <p>New induction programme for elected members</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 3 EFFECTIVE AND STRONG PARTNERSHIPS: Failure to ensure partnership arrangements are fit for purpose to effectively deliver outcomes. In order to continue to deliver good outcomes and services, the council will have to enter into partnerships with a multitude of different organisations whether they are public, third sector or commercial entities. The arrangements for partnership working need to be clear and understood by partners to ensure they deliver the best possible outcomes.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Failure to effectively monitor and manage partnerships</p> <p>Partner (especially NHS, Academies) financial pressures may affect outcomes for residents</p> <p>Unilateral decisions made by key partners may affect other partners' budgets or services</p> <p>Financial pressure on York and Scarborough Teaching Hospitals NHS Foundation Trust (YTHFT) and the Humber and North Yorkshire Health and Care Partnership ICS Board (previously Vale of York Clinical Commissioning Group (VOYCCG), which may have worsened further due to Covid-19 and the cost of living crisis</p> <p>Cumulative impacts of the pandemic and cost of living</p>	<p>Key partnerships fail to deliver or break down</p> <p>Misalignment of organisations' ambitions and direction of travel</p> <p>Ability to deliver transformation priorities undermined</p> <p>Adverse impact on service delivery</p> <p>Funding implications</p> <p>Reputational impact</p>	Probable	Major (20)	<p>Account management approach to monitoring key partnerships. CMT identified the 60 organisations who have the most potential to influence or affect organisational aims and priority outcomes for residents, and monitors on a quarterly basis. Each Corporate Director and the Chief Executive lead on specific relationships.</p> <p>The Integrated Care System now has a strategy in place that aligns with the Health & Wellbeing Board . The York Place Board will oversee the delivery of this at a Place level. Financial pressure remains, however the Council, ICS and the Acute Trust are working together to reduce delays increase flow to reduce escalation beds and increase staffing.</p> <p>Internal co-ordination such as Creating Resilient Communities Working Group (CRCWG) meet regularly to understand which areas of the council are working with different partners and what is happening across these agendas (including overall monitoring of arrangements with voluntary &</p>	Possible	Moderate (14)	No change	<p>RISK OWNERS: Bryn Roberts / Claire Foale</p> <p>No current actions</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
crisis and a reduction in volunteering on voluntary and community sector				<p>community sector as part of prevention and early help work)</p> <p>There were many positive examples that partnerships worked well together in the event of the Covid-19 emergency and successfully deals with issues; e.g. the YCAB partnership; collaboration with DoE</p> <p>Commissioners and the NHS place directors are working closely to deliver a number of key joint services across health and social care.</p> <p>The York Health and Care Board is now in place chaired by Ian Floyd, which supports an integrated decision-making approach across organisations</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 4 CHANGING DEMOGRAPHICS: Inability to meet statutory duties due to changes in demographics. York has a rapidly changing demographic in relation to both residents and business. This brings with it significant challenges particularly in the delivery of adult social care and children's services. The council needs to ensure that community impacts are planned for and resourced.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Development and regeneration makes York more desirable and accessible to residents, students and business, resulting in increasing inward migration to York.</p> <p>An increase in the aging population requiring services from the council</p> <p>Increase in complexity of needs as people get older</p> <p>Increase in people living with dementia</p> <p>Increase in ethnic diversity of the population means that the council has to understand the needs of different communities in relation to how services are delivered</p> <p>Growing number of people with SEND or complex needs living into adulthood</p>	<p>Increased service demand from residents, including; statutory school placements, SEND, mental health, adult social care and environmental services (eg waste collection)</p> <p>Increased service demand in relation to business (e.g. Regulation, Planning)</p> <p>Impact of additional demands cause significant financial and delivery challenges, such as a rise in delayed discharges, deterioration of people in the community awaiting elective surgery as well as increases in the number of people requiring care as the population ages</p> <p>Reputational impact as these mainly impact high risk adult and children's social care service areas</p> <p>Unable to recruit workers in key service areas eg care worker</p>	Probable	Major (20)	<p>Place planning strategy to ensure adequate supply of school places</p> <p>DfE returns and school population reported every 6 months</p> <p>Local area working structures in frontline services, including Early intervention initiatives and better self-care</p> <p>Assessment and Care management review complete, to better manage adult social care demand on CYC based on community led support</p> <p>Advice and Information Strategy complete, to provide residents with direct access to support and services, to better manage adult social care demand on CYC, resulting in the launch of Livewell York</p> <p>Investment in support brokerage work with NHS integrated commissioning</p> <p>Stakeholder and officer group, to create a more connected and integrated health and social care system.</p>	Possible	Major (19)	Completed action, new action and new controls	<p>RISK OWNER: Jamaila Hussain</p> <p>COMPLETED New transition strategy to be agreed. (Jamaila Hussain, 31/10/2023)</p> <p>Produce CYC specific Anti-Racism Action Plan (Pauline Stuchfield, 31/12/2023)</p> <p>NEW Work with health colleagues to implement an integrated frailty hub and support early intervention. (Jamaila Hussain, 30/11/2023)</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Demographic of workforce supply unable to meet workforce demand</p> <p>Failure to plan for the impact of a rapid change in demographics to front line service provision</p> <p>The impact of the cost of living crisis may disproportionately affect certain demographics; eg BAME and the older community are more likely to suffer health issues, blue badge holders affected by city centre changes, younger people by job losses</p>	To ensure that decisions made in relation to cost of living support are taken with a recognition of the different impacts on certain demographics			<p>Officer caseload monitoring</p> <p>Internal co-ordination such as Creating Resilient Communities Working Group (CRCWG)</p> <p>Establishing a “preparing for adulthood and LD/Autism lead” to ensure smooth transition</p> <p>York Skills Plan</p> <p>The Education Planning Team have completed a review of demographic data to determine the impact on schools</p> <p>Community Impact Assessments are carried out before decision making</p> <p>Redesign and implementation of new arrangements for early help and prevention</p> <p>Ongoing analysis of the Local Plan and Major development projects demographic data to determine the impact on all CYC services.</p> <p>The Covid 19 review ensures that lessons are learned, links to the population hub providing access to the right data ensure services and support is delivered across localities to reduce inequalities</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
				<p>NEW Interim Financial Inclusion Strategy monitored by the Financial Inclusion Steering Group</p> <p>Anti Racism Strategy, Action Plan and Pledge</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 5 SAFEGUARDING: A vulnerable child or adult with care and support needs is not protected from harm. Ensuring that vulnerable adults and children in the city are safe and protected is a key priority for the council. The individual, organisational and reputational implications of ineffective safeguarding practice are acute.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Failure to protect a child or vulnerable adult from death or serious harm (where service failure is a factor)</p> <p>Potential for an increased demand on Children's and Adult services following the pandemic</p> <p>UPDATED Failed statutory inspection (CQC/Ofsted)</p> <p>NEW Supply failure within the national care market for children's placements following OFSTED introduction for ages 16-17</p>	<p>Vulnerable person not protected</p> <p>Children's serious case review or lessons learned exercise</p> <p>Safeguarding adults review</p> <p>Reputational damage</p> <p>Serious security risk</p> <p>Financial implications, such as compensation payments</p> <p>UPDATED Financial and resource implications of an increase in demand as a result of shortage in supply of placements</p> <p>Financial investment required as a result of a failed inspection</p>	Probable	Major (20)	<p>Safeguarding sub groups</p> <p>Multi agency policies and procedures</p> <p>Specialist safeguarding cross sector training</p> <p>Quantitative and qualitative performance management</p> <p>Reporting and governance to lead Member, Chief Executive and Scrutiny</p> <p>Annual self-assessment, peer challenge and regulation</p> <p>Audit by Veritau of Safeguarding Adults processes</p> <p>Children's and Adults Safeguarding Boards (LSCB & ASB)</p> <p>Ongoing inspection preparation & peer challenge</p> <p>Local and Regional Data analysis</p> <p>National Prevent process</p> <p>DBS checks and re-checks</p>	Possible	Major (19)	New action; risk details added with controls	<p>RISK OWNERS: Jamaila Hussain, Martin Kelly</p> <p>NEW Establish and recruit to a new support role for ASC (funded through Market Sustainability and Improvement Fund (Jamaila Hussain, 31/12/2023)</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
				<p>Effectively resourced and well managed service, supported by robust workforce strategy and clear practice model</p> <p>Effective recruitment to senior roles with expert assessment contributing to the process</p> <p>Annual Safeguarding Board annual plan</p> <p>Controls implemented from peer review action plan</p> <p>Chief Officer Group which brings together Chief Officers from relevant organisations in relation to safeguarding e.g. police, CYC</p> <p>Children's Social Care records system is upgraded. This is monitored by a project board. Ongoing development is planned and awaiting costings.</p> <p>UPDATED Ongoing work to ensure capacity is assured to enable any increase in demand to be met after introduction of new OFSTED requirements in children's care homes</p> <p>Use of different methods of contact methods for vulnerable children, such as facetime, alongside working with the DoE and Ofsted</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
				Improvement Plan for Children’s social care in place since 2020 Improvement Plan for Adult Social Care to address current budget pressures in place May 2021 NEW Increasing internal placement options with York by developing LA operated residential care NEW Increasing targeted advertising to attract Foster Carers and increase capacity				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 6 HEALTH AND WELLBEING: Failure to protect the health of the local population from preventable health threats through preventable control measures.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Failure to protect the health of citizens against preventable disease by ensuring appropriate levels of vaccination, immunisation and screening.</p> <p>Failure to ensure there are plans in place to respond to wide-scale impacts on the health of citizens from future pandemics, infectious diseases and the health impacts of adverse weather impacts</p> <p>The impact of the non or late diagnosis of health issues due to the impact of Covid-19 and cost of living increases on health services.</p> <p>Failure to protect citizens from the adverse health impacts of climate change</p>	<p>Likelihood of mass disease outbreaks</p> <p>Late diagnosis & delay in treatment of health conditions that could be identified earlier through routine screening e.g. breast & cervical cancer, diabetic sight loss</p> <p>Reduction in life expectancy and quality of life</p>	Probable	Major (20)	<p>York Health Protection Committee is established with good engagement with partners locally and regionally.</p> <p>The Health Protection Committee will produce an Annual Health Protection Report for the Health and Wellbeing Board and Health & Adult Social Care Policy and Scrutiny Committee</p> <p>CYC Director of Public Health is co-chair of the Humber and North Yorkshire Health and Care Integrated Care Board Local Health Resilience Partnership.</p> <p>Health protection governance arrangements are subject to regular inspection through the internal audit cycle.</p> <p>Mass vaccination programme for flu and Covid</p> <p>The 2020 to 2022 Director of Public Health Annual Report focused on the response to the COVID-19 pandemic and makes several recommendations.</p> <p>Climate change mitigation and adaptation programme</p>	Probable	Moderate (15)	No change	<p>RISK OWNER: Director of Public Health</p> <p>No current actions</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 7 CAPITAL PROGRAMME: Failure to deliver the Capital Programme, which includes high profile projects. The capital programme currently has a budget of £531m from 2022/23 to 2026/27. The schemes range in size and complexity but are currently looking to deliver two very high profile projects, Castle Gateway and York Central, which are key developments for the city.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Complex projects with inherent risks</p> <p>Large capital programme being managed with reduced resources across the Council</p> <p>Increase in scale of the capital programme, due to major projects and lifting of borrowing cap for Housing</p> <p>Cost pressures due to increasing inflation rate (particularly in Construction where 20-30% increases in costs are being seen)</p> <p>UPDATED UK Bank of England interest rate expected to remain high until late 2024</p>	<p>Additional costs and delays to delivery of projects</p> <p>The benefits to the community are not realised</p> <p>Reputational Damage</p> <p>Pausing or stopping projects because of the economic climate may create some compliance issues and may mean that existing projects require extensions</p> <p>Increased interest rates and the continued impact of inflation will reduce the overall funding available to the Council and may therefore lead to reductions in service levels in some areas.</p>	Probable	Major (20)	<p>Project boards and project plans</p> <p>Regular monitoring of schemes</p> <p>Capital programme reporting to Executive and CMT</p> <p>Financial, legal and procurement support included within the capital budget for specialist support skills</p> <p>Project Management Framework</p> <p>Additional resource to support project management</p> <p>Capital Strategy 2023/24 to 2027/28 approved in Feb 2023</p> <p>Capital Programmes are sufficiently staffed to deliver to timescales</p> <p>Internal Audit Report gave reasonable assurance on project management arrangements</p>	Possible	Moderate (14)	No change	<p>RISK OWNER: Debbie Mitchell</p> <p>Development of capital strategy for 2024/25 (Debbie Mitchell, 31/01/2024)</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 8 LOCAL PLAN: Failure to develop a Local Plan could result in York losing its power to make planning decisions and potential loss of funding. The council has a statutory duty to develop a Local Plan, a city wide plan, which helps shape the future development in York over the next 20 years. It sets out the opportunities and policies on what will or will not be permitted and where, including new homes and businesses. The Local Plan is a critical part of helping to grow York's economy, create more job opportunities and address our increasing population needs.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Failure to agree and adopt a Local Plan for the City.</p> <p>The Draft Local Plan has started but not completed the Examination stage. There remains a risk that if the Plan fails this stage more work may be required and / or the plan has to be withdrawn by Council and submitted again after the evidence base has been updated. In these circumstances the overall risk score remains unchanged.</p>	<p>The Local Plan Examination process continues and the policies in draft Local Plan is a "material planning consideration" in the consideration and determination of planning applications. Development proposals which are not in accordance with the Draft Plan may continue to be submitted as planning applications, resulting in refusals of planning permission and an increase in planning appeals. An "adopted" Local Plan following the Examination by the Planning Inspectors would carry greater weight than the draft Plan.</p> <p>There may be a negative impact on the council's strategic economic goals and may have an adverse impact on investment in the city until there is an adopted Local Plan which provides greater direction through land use allocations and policies</p>	Probable	Major (20)	<p>The Plan has completed public inquiry phase and its regulation 19 Consultation is complete. A final report from Inspectors for consideration by full council is expected later in Autumn 2023.</p> <p>Correspondence as to the latest local plan position is regularly published on the Councils website to ensure all parties are kept abreast of the Planning Inspector and CYC dialogue.</p> <p>The plan following national guidance, good practice and specialist legal advice.</p> <p>Continued close liaison with:</p> <ul style="list-style-type: none"> • DLUHC, • Planning Advisory Services • Planning Inspectorate • The appointed planning Inspectors. <p>The Local Plan Working Group (LPWG) , the Executive and full Council have all been engaged in the plan making process at appropriate stages and before submission of Draft Local Plan for Examination.</p>	Unlikely	Major (18)	No change	<p>RISK OWNER: Neil Ferris</p> <p>REVISED DATE Ongoing action: Monitoring of controls (Neil Ferris, 31/12/2024</p> <p>REVISED DATE The intention is for the local plan to be adopted later in 2023. After that the KCR will be considered for removal from the risk register. (Neil Ferris, 31/01/2024</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
	<p>which guide and direct development.</p> <p>For some major planning applications which may be supported by the Council the development processes and decision making is slowed down by need to refer application to the Secretary of State for Levelling Up, Housing and Communities for consideration as to whether a Public Inquiry should be held or not.</p> <p>Central government (DLUHC) have already identified York as a high priority to produce a Local Plan. The failure to prepare and produce a Local Plan in accordance with the timescale accepted by central government could possibly result in action from the Secretary of State for Levelling Up, Housing and Communities to directly intervene in the plan making process.</p>			<p>Corporate Director for Place weekly monitoring / management of the process</p> <p>Additional resources to ensure delivery within timescales</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 9 COMMUNITIES: Failure to ensure we have resilient, cohesive, communities who are empowered and able to shape and deliver services. The council needs to engage in meaningful consultation with communities to ensure decisions taken reflect the needs of residents, whilst encouraging them to be empowered to deliver services that the council is no longer able to do. Failing to do this effectively would mean that services are not delivered to the benefit of those communities or in partnership.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Failure to effectively engage with the communities we serve</p> <p>Failure to contribute to the delivery of safe communities</p> <p>Failure to effectively engage stakeholders (including Members and CYC staff) in the decision making process</p> <p>Failure to manage expectations</p> <p>Communities are not willing/able to fill gaps following withdrawal of CYC services</p> <p>Lack of cohesion in the planning and use of CYC and partner community based assets in the city</p> <p>Failure to mitigate wider determinants of health/deprivation impacts</p>	<p>Lack of buy in and understanding from stakeholders</p> <p>Alienation and disengagement of the community</p> <p>Relationships with strategic partners damaged</p> <p>Impact on community wellbeing</p> <p>Services brought back under council provision – reputational and financial implications</p> <p>Budget overspend</p> <p>Create inefficiencies</p> <p>Services not provided</p> <p>Poor quality provision not focused on need, potential duplication, ineffective use of resources, difficulty in commissioning community services e.g. Library services</p>	Probable	Major (20)	<p>Resilient Communities Strategy Group in place</p> <p>New early help and prevention community based service delivery models in People & Customer & Communities</p> <p>Revised Community Safety Plan</p> <p>Devolved budgets to Ward Committees and delivery of local action plans through ward teams</p> <p>Improved information and advice, Customer Strategy and ICT support to facilitate self service</p> <p>CYC Staff and Member training and development</p> <p>Community Safety Strategy approved on 2 March 2020 covering the period 2020-2023</p> <p>Community Hubs set up to support residents through pandemic</p> <p>Roll-out of the Community hubs model as agreed in Oct 2020</p>	Possible	Major (19)	No change	<p>RISK OWNER: Pauline Stuchfield</p> <p>REVISED DATE Team being established to cover equalities, access & inclusion. (Pauline Stuchfield 30/04/2024)</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
such as world conflicts and the cost of living increases	Increase in cost of living and in deprivation			<p>Management structure (Mar 2021) appointed Director Of Customers and Communities</p> <p>Community Engagement Strategy published</p> <p>Volunteer Centre established through York CVS. 'People Helping People Strategy' being reviewed.</p> <p>Financial Inclusion Steering Group</p> <p>Establishment of Food roles in Communities Team</p> <p>Support for Anti-Racism group provided</p> <p>Maintaining strong relationships with parish councils</p> <p>Access Officer role has been established in Communities</p> <p>NEW Interim Financial Inclusion Strategy monitored by the Financial Inclusion Steering Group</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 10 WORKFORCE/ CAPACITY: Reduction in workforce/ capacity may lead to a risk in service delivery. It is crucial that the council remains able to retain essential skills and also to be able to recruit to posts where necessary, during the current periods of uncertainty caused by the current financial climate and transformational change. The health, wellbeing and motivation of the workforce is therefore key in addition to skills and capacity to deliver.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>The necessity to deliver savings has resulted in a reduced workforce requiring new and specialist skills</p> <p>Recruitment and retention difficulties as the council may be seen as a less attractive option than the private sector</p> <p>Lack of succession planning</p> <p>HR Policies may not be consistent with new ways of working (eg remuneration policy)</p> <p>Uncertainty around long term funding from central government.</p> <p>Reduction in posts due to restructures required to achieve budget savings</p> <p>Potential strike action impacting on delivery of</p>	<p>Increased workloads for staff</p> <p>Impact on morale and as a result, staff turnover in key services impacting on business continuity and performance</p> <p>Inability to maintain service standards</p> <p>Impact on vulnerable customer groups</p> <p>Reputational damage as a current and prospective employer.</p> <p>Single points of failure throughout the business</p> <p>Lack of long term funding announcements from central government may impact on staff retention as it creates uncertainty for temporary posts funded by external funding</p> <p>.</p>	Probable	Major (20)	<p>Organisational Development Plan (replaces Workforce Strategy/ People Plan)</p> <p>Stress Risk Assessments</p> <p>PDRs</p> <p>Comprehensive Occupational Health provision including counseling</p> <p>HR policies e.g. whistleblowing, dignity at work</p> <p>Development of coaching/ mentoring culture to improve engagement with staff</p> <p>Corporate Cost Control Group monitoring of absence and performance reporting</p> <p>Apprenticeship task group</p> <p>Agency and Interim Staffing Policies</p> <p>Absence Management Policies</p> <p>Substance Misuse Policy</p>	Possible	Moderate (14)	No change	<p>RISK OWNER: Helen Whiting</p> <p>Ongoing action: Review of HR policies to ensure they complement the diverse ways in which our workforce deliver services (Helen Whiting, 31/12/2023)</p> <p>Ongoing action: Review of employee T&Cs. Progress has started with costing options ahead of discussions with CMT and Trade Unions. (Helen Whiting, 31/12/2023)</p> <p>Ongoing action - Implementation of creative recruitment initiatives</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>services. Ongoing school strikes and wider transport strikes also implicate on workforce availability.</p> <p>Lack of qualified workforce (eg care staff, HGV drivers)</p> <p>Ongoing national skills shortage</p> <p>Pay structure issues causing pressure at lower end having knock on impact on middle grades and especially supervisory roles around Grade 5</p> <p>Sickness absence levels remain high. COVID infections likely to be a feature of winter months, with reduced testing and no need to test and report, staff may be impacted. Important to remind re flu vaccinations and COVID vaccinations for those eligible.</p> <p>Stress sickness absence remains the highest absence reason, importance of managing stress and potential burnout of staff.</p>	<p>Impact on the health & wellbeing of staff has been and will be significant and may increase early retirements and leavers. Due to</p> <ul style="list-style-type: none"> Remote working (working from home) can have a negative impact on wellbeing. Work life balance – unable to separate work from home due to work being carried out within the home Ongoing vacancies and volume of work in hard to recruit roles <p>However many staff may see an increase in their Health & Well Being due to more agile working. Having greater flexibility between work and home life.</p> <p>More agile and flexible working may also result in increased retention of staff and increase the attraction of candidates for vacant positions.</p> <p>Reduction in agency spend is a positive however, a reduced spend will impact on</p>			<p>A Workplace Health & Wellbeing Group has been established with staff & trade union representation which is chaired by the Head of HR.</p> <p>A staff health & wellbeing survey has been undertaken & this is being followed up by staff focus groups.</p> <p>Increase in regulatory compliance to protect the workforce eg Health and Safety regulations, working time directives</p> <p>Increase in Living wage (although there is no control over this rate and conflicts with NJC rates)</p> <p>Engagement with staff that had concerns about the EU settlement Scheme for European Citizens and offer of support through York Learning, Registrars and Citizens' Advice Bureau</p> <p>Joint Health and Safety Board and regular review of support for staff</p> <p>Improved frequency of informal and formal meetings with Trade Unions to improve communications and relationships</p> <p>Increased help and awareness of staff wellbeing and mental health; monthly</p>				<p>New ideas have already been implemented and these will be ongoing and bespoke to the role and service area. Employer Brand project continues, promoting our employer benefits (Helen Whiting, 31/12/2023)</p> <p>Awaiting the outcome of negotiations of the national 2023/24 pay award and impact on pay model (Helen Whiting, 31/12/2023)</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>NEW All LA's have a heightened awareness of the risk of equal pay claims, following recent events at Birmingham</p>	<p>Teckal arrangements for City of York Trading (operating as Work With York)</p> <p>NEW Financial & reputational impact of successful challenges to T&Cs and claims for equal pay</p>			<p>make a difference communications which focuses on wellbeing</p> <p>Business Continuity Planning to assist with redeployment of staff or reduction of service during times of shortage e.g. HGV drivers</p> <p>Managers being equipped with the right training to manage and lead teams and workforce plan</p> <p>Review of job descriptions and not one size fits all</p> <p>Retention payments and market supplements agreed for key posts</p> <p>HR Advisory circulars now being issued to managers</p> <p>2022/23 pay award accepted and implemented</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 11 EXTERNAL MARKET CONDITIONS: Failure to deliver commissioned services due to external market conditions.

The financial pressures experienced by contracted services (in particular Adult Social Care providers) as a result of increases due to the cost of living crisis could put the continued operation of some providers at risk. The Council has a duty to ensure that there is a stable/diverse market for social care services delivery to meet the assessed needs of vulnerable adults/children.

Some services provided by the Council cannot be provided internally (e.g. Park and Ride) and must be commissioned. External market conditions such as the number of providers willing to tender for services may affect the Council's ability to deliver the service within budget constraints.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Increases to the national living wage and wage inflation in general.</p> <p>Recruitment and retention of staff</p> <p>If failure occurs, the Council may remain responsible for ensuring the needs of those receiving the service continue uninterrupted.</p> <p>Providers may go out of business as a result of the cumulative effects of the pandemic and the cost of living crisis</p> <p>Many sectors under financial pressure due to the pandemic and cost of living crisis (reductions in income or increase in expenditure)</p> <p>Costs and cost of living pressures due to increasing inflation rate</p>	<p>Vulnerable people do not get the services required or experience disruption in service provision</p> <p>Safeguarding risks</p> <p>Financial implications: Increased cost of alternative provider Increased cost if number of providers are limited</p> <p>Reputational damage</p> <p>Providers may face short to medium term recruitment issues due to current market conditions, or face an increase in costs which is passed on to the Council</p>	Unlikely	Major (18)	<p>Clear contract and procurement measures in place and have been further updated</p> <p>A clear progression process is now in place together with changes to JDs and HoS posts. Retention and recruitment drives in place to support staff within the council and potential new employees</p> <p>Ongoing review of operating and business models of all key providers and putting further mitigation in place, such as more robust contract monitoring and commissioning some 'enhanced' credit checks. Enhanced contract and quality team in place to work with providers reducing the potential for failure</p> <p>CYC investment in extra care OPHs has reduced recruitment pressure</p> <p>Revised SLA with independent care group and quarterly monitoring meetings with portfolio holders</p>	Unlikely	Moderate (13)	No change	<p>RISK OWNER: Jamaila Hussain</p> <p>No current actions</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>Cost pressures due to conflict in Ukraine</p>				<p>Ongoing work with providers to set a York cost of care</p> <p>Local policies in place for provider failure</p> <p>Ongoing attendance at Independent Care Group Provider Conference</p> <p>DASS will have oversight of market sustainability. The appointment of a Head of Commissioning starting in Jan 2023 will co-produce a market position statement with health colleagues and providers</p> <p>Focus on prevention and early support to ensure residents are supported to stay at home for longer</p> <p>Co-producing model of care with people using services and their carers</p> <p>The Council's market position statement is regularly reviewed</p>				

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

KCR 12 MAJOR INCIDENTS: Failure to respond appropriately to major incidents. Local Authorities are required by law to make preparations to deal with emergencies. Local Authorities have four main responsibilities in an emergency 1. to support the Emergency Services, 2. to co-ordinate non-emergency organisations, 3. to maintain their own services through a robust Business Continuity Management process, 4. to facilitate the recovery of the community and 5. since 2013 the council also has a statutory duty to protect the health of the population under the Health and Social Care Act 2012 and the transfer of public health responsibilities to local authorities. The Council must ensure that its resources are used to best effect in providing relief and mitigating the effects of a major peacetime emergency on the population, infrastructure and environment coming under it's administration. This will be done either alone or in conjunction with the Emergency Services and other involved agencies, including neighbouring authorities.

Risk Detail (cause)	Implications (consequence)	Gross Likelihood	Gross Impact	Controls	Net Likelihood	Net Impact	Direction of Travel	Risk Owner and Actions
<p>An uncoordinated or poor response to a major incident such as:</p> <ul style="list-style-type: none"> • Flood • Major Fire • Terrorist Attack • Pandemic <p>Failure to protect citizens from the adverse impacts of climate change</p> <p>Potential for rolling commercial power outages over winter</p> <p>Increasing frequency of extreme weather events</p>	<p>Serious death or injury</p> <p>Damage to property</p> <p>Reputational damage</p> <p>Potential for litigation</p> <p>Potential for corporate manslaughter charges if risks are identified and proposed actions not implemented</p> <p>Reduction in life expectancy and quality of life</p>	Probable	Catastrophic (24)	<p>Emergency planning and Business Continuity Plans in place and regularly reviewed</p> <p>Strong partnerships with Police, Fire, Environment Agency and other agencies</p> <p>Support to Regional Resilience forums</p> <p>Support and work in partnership with North Yorkshire local resilience forums</p> <p>Investment in Community Resilience (re Flooding)</p> <p>Work with partners across the city to minimise the risk of a terrorist attack</p> <p>Implemented physical measures for certain events</p> <p>Review of city transport access measures</p>	Possible	Major (19)	No change	<p>RISK OWNER: Neil Ferris</p> <p>The Government published a new resilience framework on 19th December 2022. This KCR will need to be reviewed in light of proposed changes when legislation passed (expected Autumn 2023 along with Martyn's law obligations for CYC) (Neil Ferris, 31st December 2023)</p> <p>Directorate risk registers to be updated to include relevant climate change risks</p>

KEY CORPORATE RISK REGISTER AT OCTOBER 2023

				<p>Development of the local outbreak control plan and a variety of internal recovery strategies</p> <p>Local outbreak prevention, management and response in place</p> <p>Climate change mitigation and adaptation program</p> <p>Regular review and reporting of carbon emissions</p> <p>Carbon reduction and climate change action plan regular updates to PH/CMT</p> <p>Communications to citizens about steps they can take to reduce impact of climate change (</p> <p>Sustainability leads group to encourage city partners to work together to reduce impact of Climate change</p> <p>Communications incident management plans, including outbreak</p> <p>Regular review of emergency and business continuity plans</p>				<p>(Claire Foale, 31st December 2023)</p>
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KEY CORPORATE RISK REGISTER SUMMARY

Key Corporate Risk	Gross Likelihood	Gross Impact	Gross Score	Net Likelihood	Net Impact	Net Score
KCR1 Financial Pressures	Highly Probable	Major	21	Probable	Major	20
KCR2 Governance	Probable	Major	20	Possible	Major	19
KCR3 Effective and Strong Partnerships	Probable	Major	20	Possible	Moderate	14
KCR4 Changing Demographics	Probable	Major	20	Possible	Major	19
KCR5 Safeguarding	Probable	Major	20	Possible	Major	19
KCR6 Health and Wellbeing	Probable	Major	20	Probable	Moderate	15
KCR7 Capital Programme	Probable	Major	20	Possible	Moderate	14
KCR8 Local Plan	Probable	Major	20	Unlikely	Major	18
KCR9 Communities	Probable	Major	20	Possible	Major	19
KCR10 Workforce/ Capacity	Probable	Major	20	Possible	Moderate	14
KCR11 External Market Conditions	Unlikely	Major	18	Unlikely	Moderate	13
KCR12 Major Incidents	Probable	Catastrophic	24	Possible	Major	19

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Impact					Likelihood					
Catastrophic	17	22	23	24	25	Remote	Unlikely	Possible	Probable	Highly Probable
Major	12	18	19	20	21	6	8	9	10	11
Moderate	6	13	14	15	16	2	3	4	5	7
Minor	2	8	9	10	11	1	3	4	5	7
Insignificant	1	3	4	5	7	1	3	4	5	7

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Audit & Governance Committee – work plan

Training/briefing events will be held at appropriate points in the year to support members in their role on the Committee.

Theme	Item	Lead officers	Scope
8th November			
Governance	Corporate Governance Report	<u>CYC</u> <u>Lorraine Lunt</u>	To provide Members with an update on corporate governance including issues. To also include an update on FOIs.
Governance	Changes to the Constitution	<u>CYC</u> <u>Bryn Roberts</u>	Report from the Monitoring Officer on suggested Constitutional changes
Governance	Internal audit report publication	<u>CYC</u> <u>Bryn Roberts</u>	
Veritau (internal audit / counter fraud)	Internal audit & counter fraud progress report	<u>Veritau</u> <u>Max Thomas/ Richard Smith</u>	An update on progress made in delivering the internal audit work plan for 2022/23 and on current counter fraud activity.
Finance	Treasury Management Monitor 2	<u>CYC</u> <u>Debbie Mitchell</u>	
Finance	PO Policy & Usage	<u>CYC</u> <u>Debbie Mitchell</u>	
Risk	Key Corporate Risks monitor 2	<u>CYC</u> <u>Helen Malam</u>	Update on Key Corporate Risks (KCRs) including review of KCR12 Major incidents.
29th November			
External Audit	Audit Completion Report 2021/22	<u>Mazars</u> <u>Mark Kirkham</u>	
External Audit	Audit Completion Report 2022/23	<u>Mazars</u> <u>Mark Kirkham</u>	

Finance	Final Accounts 2021/22	<u>CYC</u> <u>Debbie Mitchell /</u> <u>Emma Audrain</u>	
Finance	Final Accounts 2022/23	<u>CYC</u> <u>Debbie Mitchell /</u> <u>Emma Audrain</u>	
Governance	Updates on Member Training and the LGA recommendations	<u>CYC</u> <u>Bryn Roberts / Claire</u> <u>Foale</u>	To review the Council's performance against the 10 recommendations outlined by the LGA and to report on the progress of Member training
31st January			
Finance	Treasury Management Monitor 3	<u>CYC</u> <u>Debbie Mitchell</u>	
Finance	Treasury Management Strategy	<u>CYC</u> <u>Debbie Mitchell</u>	
Governance	Report of the Monitoring Officer	<u>CYC</u> <u>Bryn Roberts</u>	
Risk	Key Corporate Risks monitor 3	<u>CYC</u> <u>Helen Malam</u>	Update on Key Corporate Risks (KCRs) including review of KCR 8 Local Plan.
28th February 2024			
Governance	Corporate Governance Report	<u>CYC</u> <u>Lorraine Lunt</u>	To provide Members with an update on corporate governance including issues.
Veritau (internal audit / counter fraud)	Consultation on the annual audit work programme	<u>Veritau</u> <u>Max Thomas / Richard</u> <u>Smith</u>	To seek the committee's view on priorities for audit work in 2024/25.
Veritau (internal audit / counter fraud)	Internal audit & counter fraud progress reports	<u>Veritau</u> <u>Max Thomas / Richard</u> <u>Smith</u>	An update on progress made in delivering the internal audit work plan for 2023/24 and on current counter fraud activity.
May 2024			
Governance	Corporate Governance Report	<u>CYC</u> <u>Lorraine Lunt</u>	To provide Members with an update on corporate governance including issues.
Risk	Key Corporate Risks monitor 4	<u>CYC</u>	Update on Key Corporate Risks (KCRs)

		Helen Malam	
Veritau (internal audit / counter fraud)*	Annual review of the counter fraud framework	<u>Veritau</u> <u>Max Thomas / Richard Smith</u>	To present the findings of the annual review of the counter fraud framework and risk assessment, and seek comments on any updates needed to counter fraud and related policies.
Veritau (internal audit / counter fraud)	Approval of indicative annual internal audit programme and counter fraud plan	<u>Veritau</u> <u>Max Thomas / Richard Smith</u>	To seek approval for the 2024/25 internal audit work programme, and the counter fraud plan.

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Meeting:	Audit and Governance Committee
Meeting date:	8 November 2023
Report of:	Head of Internal Audit
Portfolio of:	Cllr Lomas Executive Member for Finance, Performance, Major Projects, Human Rights, Equality and Inclusion

Audit and Governance Committee Report:

Audit & Counter Fraud Progress Report

Subject of Report

1. This report provides an update on the delivery of the internal audit work programme for 2023/24 and on counter fraud activity undertaken so far in the year.
2. It also informs members of the outcome of Veritau's recent external quality assessment.

Policy Basis

3. The work of internal audit is governed by the Accounts and Audit Regulations 2015 and the Public Sector Internal Audit Standards (PSIAS). In accordance with the standards, periodic reports on internal audit work are presented to this committee.
4. The work of internal audit and counter fraud helps to support overall aims and priorities by promoting probity, integrity, and accountability and by helping to make the Council a more effective organisation.

Recommendation and Reasons

5. Members are asked to:

- a) Note the progress made in delivering the 2023/24 internal audit work programme, and current counter fraud activity.

Reason

To enable members to consider the implications of internal audit and fraud findings.

- b) Note the 'generally conforms' outcome of Veritau's recent external quality assessment.

Reason

To enable members to fulfil their responsibility for overseeing the performance of internal audit.

Background

Internal Audit

6. The 2023/24 internal audit work programme was approved by this committee at its meeting on 15 March 2023.
7. Annex 1 to this report provides an update on progress made against the 2023/24 internal audit work programme. This includes a summary of current work in progress and revised internal audit priorities for the year. It also updates members on the outcome of the internal audit function's recent external quality assessment, the full report from which is contained in annex 2.

Counter Fraud

8. The counter fraud progress report is contained in annex 3. It reports on progress against the counter fraud work programme. A range of work is detailed including activity to promote awareness of fraud, work with external agencies, and information on the level of fraud reported to date.

Consultation Analysis

9. Not relevant for the purpose of the report.

Risks and Mitigations

10. The council will be non-compliant with the PSIAS if the performance of the internal audit function, and the results of its work, are not reported to the committee and could therefore be exposed to increased levels of scrutiny and challenge.

Contact details

For further information please contact the authors of this Report.

Author

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Telephone:	01904 552940
Report approved:	Yes
Date:	27 October 2023

Background papers

Internal Audit and Counter Fraud Work Programmes 2023/24
[Agenda for Audit and Governance Committee on Wednesday, 15 March 2023, 5.30 pm \(york.gov.uk\)](#) item 48

Annexes

- Annex 1: Internal Audit progress report
- Annex 2: Veritau EQA final report 2023
- Annex 3: Counter Fraud progress report
- Exempt Annex 4: ICT remote access internal audit report
- Exempt Annex 5: Data breach management internal audit report
- Exempt Annex 6: Risk management internal audit report
- Exempt Annex 7: Insurance internal audit report

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INTERNAL AUDIT PROGRESS REPORT

Date: 8 November 2023



BACKGROUND

- 1 Internal audit provides independent and objective assurance and advice about the council's operations. It helps the organisation to achieve its overall objectives by bringing a systematic, disciplined approach to the evaluation and improvement of the effectiveness of risk management, control and governance processes.
- 2 The work of internal audit is governed by the Accounts and Audit Regulations 2015 and relevant professional standards. These include the Public Sector Internal Audit Standards (PSIAS), CIPFA guidance on the application of those standards in Local Government and the CIPFA Statement on the role of the Head of Internal Audit.
- 3 In accordance with the PSIAS, the Head of Internal Audit is required to report progress against the internal audit plan (the work programme) agreed by the Audit and Governance Committee, and to identify any emerging issues which need to be brought to the attention of the committee.
- 4 The internal audit work programme was agreed by this committee in March 2023.
- 5 Veritau follows a fully flexible approach to work programme development and delivery, to keep pace with developments in the internal audit profession and to ensure that we can continue to deliver a responsive service. In line with this approach, work is being kept under review to ensure that audit resources are deployed to the areas of greatest risk and importance to the council.
- 6 The purpose of this report is to update the committee on internal activity up to 27 October 2023. It also informs members of the outcome of Veritau's recent external quality assessment.

INTERNAL AUDIT PROGRESS

- 7 Four audits have been finalised since the last report to this committee in September. A further five audits are currently at the draft report stage. e. We expect to finalise these audits in time for the February meeting of this committee.
- 8 At the time of reporting, 17 audits are in progress. A number of audits that are currently in progress are nearing the final stages of fieldwork. We expect to be able to report on findings from the following audits at the next meeting of this committee:
 - CIPFA Financial Management Code (consultative)
 - Adult education
 - Treasury management
 - Budget management
 - Section 106 agreements

- 9 In addition, a number of other audits in progress are a good way through the fieldwork stage and may also be in a position to be reported to the committee in February.
- 10 We are in the process planning a further 16 audits, with fieldwork set to commence over the coming weeks.
- 11 A summary of internal audit work currently underway, as well as work finalised in the year to date, is included in appendix A.
- 12 The work programme, showing current priorities for internal audit work, is included at appendix B.
- 13 Five audits are shown in the 'do next' category where we expect work to begin during the final quarter of 2023/24. Some of these audits already have agreed start dates. Start dates for the remaining audits will be determined through liaison with responsible officers across the directorates.
- 14 The programme also includes 13 audits in the 'do later' category. The internal audit work programme is designed to include all potential areas that should be considered for audit in the short to medium term, recognising that not all of these will be carried out during the current year (work is deliberately over-programmed).
- 15 In determining which audits will actually be undertaken, the priority and relative risk of each area will continue to be considered throughout the remainder of the year, and as part of audit planning for 2024/25 which will commence towards the end of quarter 3. Consideration will also be given to the coverage of each of the 11 key assurance areas when prioritising any remaining work during 2023/24.
- 16 The four audits that have been finalised since the last report to this committee in September 2023 are included in appendix C. The appendix summarises the key findings from these audits, and includes actions agreed with officers to address identified control weaknesses. The finalised reports in appendix C are included as exempt annexes to this report.
- 17 Appendix D lists our current definitions for action priorities and overall assurance levels.



EXTERNAL QUALITY ASSESSMENT (EQA)

- 18 To comply with the Public Sector Internal Audit Standards (PSIAS), internal auditors working in the public sector are required to maintain a quality assurance and improvement programme (QAIP). As part of this programme, providers are required to have an independent external assessment of their working practices at least once every five years.
- 19 An external assessment of Veritau's internal audit working practices was undertaken between June and August 2023 by John Chesshire, an approved reviewer for the Chartered Institute of Internal Auditors (the UK and Ireland's local chapter).

- 20 The assessment involved a full independent validation of Veritau’s own self-assessment of conformance to the PSIAS, as well as to the wider International Professional Practices Framework which governs the performance of internal auditing globally.
- 21 The report concluded that Veritau’s internal audit activity generally conforms to the PSIAS¹ and, overall, the findings were very positive.
- 22 The feedback included comments that the internal audit service was highly valued by its clients. Key stakeholders felt confident in the way Veritau had established effective working relations, both in our approach to planning and the way in which we engage flexibly with our clients throughout the internal audit process, at the strategic and operational levels.
- 23 The report concluded that Veritau generally conforms to 59 of the 60 applicable Standards. A copy of the full EQA report is separately included in annex 2.
- 24 One area for improvement was highlighted. This related to assurance mapping². The recommendation and our response are included in the table below:

Recommendation	Response and action date
<p>The CAE [Head of Internal Audit] should continue to develop a proportionate, formal approach to assurance mapping, coordination and where appropriate, reliance, to enhance the function’s risk-based planning, delivery and the effectiveness of assurance provided to key stakeholders.</p>	<p>Agreed – we will develop our approach to assurance mapping and work with other internal and external assurance provision. The approach will be flexible to reflect the different sectors and clients we provide internal audit services to.</p> <p>Target implementation date: 31 March 2024</p>

- 25 At the time of writing this report, the Global Institute of Internal Auditors is making its final revisions to the new Global Audit Standards following a period of worldwide consultation earlier in 2023. The Global Audit Standards will effectively replace the International Standards for the Professional Practice of Internal Auditing, combining all mandatory elements which form the International Professional Practices Framework.
- 26 According to current timescales, the Global Audit Standards are expected to be published in January 2024. Internal audit providers will then have 12 months to adapt and adopt before the Standards come into effect in 2025.

¹ PSIAS guidance suggests a scale of three ratings, ‘generally conforms’, ‘partially conforms’ and ‘does not conform’. ‘Generally conforms’ is the top rating.

² The process of identifying and visually representing an organisation’s risks, and all the internal and external providers of assurance relating to those risks. Its purpose is to establish the existence, strength and coverage to then act on any gaps or overlaps in assurance.

- 27 Veritau is tracking development of the Global Audit Standards closely, and we will ensure that any changes to required practice are reflected in our processes.

 **FOLLOW UP**

- 28 All actions agreed with services as a result of internal audit work are followed up to ensure that issues are addressed. As a result of this work we are generally satisfied that sufficient progress is being made to address the control weaknesses identified in previous audits. A summary of the current status of follow up activity is included at appendix E.

APPENDIX A: INTERNAL AUDIT WORK IN 2023/24

Audits in progress

Audit	Status
Local authority trading company governance: Make it York	Draft
Adherence to constitution: decision-making	Draft
Residents' Parking Scheme (ResPark)	Draft
Housing rents (inc. data quality)	Draft
Schools themed audit: SFVS	Draft
Foster carer payments	In progress
CIPFA Financial Management Code (consultative)	In progress
Adult education	In progress
Highway maintenance scheme development review	In progress
Transparency	In progress
Section 106 agreements	In progress
Agency staff (C&E / ASC&I)	In progress
Payroll	In progress
Budget management	In progress
Treasury management	In progress
Asset management (Place directorate)	In progress
Health and Safety (Place directorate)	In progress
Officer declarations of interest	In progress
Business continuity	In progress
Adult social care: safeguarding	In progress
Placements and commissioning (children's services)	In progress
Safety Valve (implementation review)	In progress
NHS Data Security and Protection Toolkit	Planning
ICT procurement and contract management	Planning
Full school audit: Dringhouses Primary School	Planning
Full school audit: St. Oswald's CE Primary School	Planning
Full school audit: Elvington CE Primary School	Planning
Integrated care partnerships	Planning
Ordering and creditor payments	Planning
Sundry debtors	Planning
Project management	Planning

Housing benefits	Planning
Member induction programme	Planning
Contract management	Planning
Physical information security compliance (WO & HC)	Planning
Absence management	Planning
Public protection	Planning
Additional landlord duties	Planning

Final reports issued

Audit	Reported to Committee	Opinion
ICT remote access	November 2023	Substantial Assurance
Data breach management	November 2023	Reasonable Assurance
Risk management	November 2023	Reasonable Assurance
Insurance	November 2023	Reasonable Assurance
Climate Change Strategy: governance framework	September 2023	Reasonable Assurance
Public health: procurement and contract management	September 2023	Reasonable Assurance
Jewson managed stores contract	September 2023	Reasonable Assurance
Health and safety	September 2023	Reasonable Assurance
CCTV: Surveillance Camera Code of Practice	September 2023	Reasonable Assurance
Council tax and NNDR	September 2023	Reasonable Assurance
Commercial procurement and compliance	July 2023	Substantial Assurance
Sundry debtors	July 2023	Substantial Assurance
Savings plans	July 2023	Reasonable Assurance
Ordering and creditor payments	July 2023	Substantial Assurance
Main accounting system	July 2023	Substantial Assurance

Other work in 2023/24

Internal audit work has been undertaken in a range of other areas during the year, including those listed below.

- Follow up of agreed actions
- Grant certification work:
 - Scambusters
 - UKSPF assurance return support (2022/23)
 - UKSPF mid-year assurance return support (2023/24)
 - ESFA 2022/23 academic year subcontracting standard

- Rough Sleeping Accommodation Programme
- Supporting Families
- Pooling of housing capital receipts
- WYCA Transport Fund and Transforming Cities Fund
- UKSPF assurance framework development support
- Review of the council's PDR policy framework and related guidance, training uptake, and appraisal completion rates
- Completion of consultation work on the system for booking of hire cars and the monitoring of their use

Provision of support and advice:

- Housing benefits – supported housing claims (rent review process)
- Compliance efforts relating to additional payments to care workers, including feedback to the Adult Social Care & Integration DMT
- Administration of adults' direct payments

APPENDIX B: CURRENT PRIORITIES FOR INTERNAL AUDIT WORK

Audit / activity	Rationale / comments on progress
Strategic risks / corporate & cross cutting	
Category 1 (do now)	
Local authority trading company governance: Make it York	Key area of corporate governance.
CIPFA Financial Management Code (consultative)	Provides broader assurance. Support being provided to CFO.
Adherence to constitution: decision-making	Key area of corporate governance.
Transparency	Provides coverage of key assurance area.
Agency staff (C&E / ASC&I)	Significant risk area.
Officer declarations of interest	Provides coverage of key assurance area.
Business continuity	Risks / controls are changing. Provides broader assurance.
Member induction programme	Risks / controls are changing. Provides coverage of key assurance area.
Contract management	Provides coverage of key assurance area.
Physical information security compliance (WO and HC)	Provides coverage of key assurance area.
Absence management	Significant risk area. Requested by Audit & Governance Committee.
Category 2 (do next)	
Category 3 (do later)	
Management of external funding sources	
Climate adaptation / carbon reduction	
Public health	
York 2032: The 10-year Plan	
Risk management	
Data and decision-making	

Audit / activity	Rationale / comments on progress
Fundamental / material systems	
Category 1 (do now)	
Payroll	Risks / controls are changing. Provides coverage of key assurance area.
Budget management	Emerging risk area.
Treasury management	Provides coverage of key assurance area.
Housing rents (inc. data quality)	Risks / controls are changing. Provides coverage of key assurance area.
Ordering and creditor payments	Provides coverage of key assurance area.
Sundry debtors	Provides coverage of key assurance area.
Housing benefits	Provides coverage of key assurance area.
Category 2 (do next)	
Main accounting system	Provides coverage of key assurance area.
Category 3 (do later)	
Operational / regularity	
Category 1 (do now)	
Residents' parking scheme (ResPark)	Emerging risk area.
Foster carer payments	Emerging risk area.
Asset management (Place directorate)	Emerging risk area.
Highway maintenance scheme development review	Identified in discussions with officers.
Section 106 agreements	Risks / controls are changing. Provides broader assurance.
Health and Safety (Place directorate)	Emerging risk area. Identified in discussions with officers.
Adult education	Significant risk area.
Adult social care: safeguarding	Significant risk area.
Placements and commissioning (children's services)	Emerging risk area.

Audit / activity	Rationale / comments on progress
Safety Valve (implementation review)	Emerging risk area.
Public protection	Emerging risk area.
Additional landlord duties	Emerging risk area.
Integrated care partnerships	Risks / controls are changing. Provides broader assurance.
Schools themed audit: SFVS	Emerging risk area.
Full school audit: Dringhouses Primary School	Identified in discussions with officers.
Full school audit: St. Oswald's CE Primary School	Identified in discussions with officers.
Full school audit: Elvington CE Primary School	Identified in discussions with officers.
Category 2 (do next)	
Continuing healthcare	Risks / controls are changing.
Payments to care providers and contract management	Emerging risk area. Provides broader assurance.
Section 17 payments	Significant risk area.
Schools themed audit (topic TBC)	Identified in discussions with officers.
Category 3 (do later)	
Reablement and independent living	
Mental health services	
Ward committee model / locality working	
Public EV Charging Strategy (tariff management)	
Community Infrastructure Levy	
Technical / projects	
Category 1 (do now)	
ICT procurement and contract management	Provides coverage of key assurance area.
Project management	Provides coverage of key assurance area.
NHS Data Security and Protection Toolkit	Risks and / or controls are changing.
Category 2 (do next)	

Audit / activity	Rationale / comments on progress
Category 3 (do later)	
ICT disaster recovery	
ICT OneDrive & MS Teams information governance	

APPENDIX C: SUMMARY OF KEY ISSUES FROM AUDITS FINALISED SINCE THE LAST REPORT TO THE COMMITTEE

System/area (month issued)	Opinion	Area reviewed	Comments / Issues identified	Management actions agreed
ICT remote access (October 2023)	Substantial Assurance	This audit reviewed authentication controls for remote users, the security of data transmission to and from the council's network, and the network's capacity to accommodate demands for remote access.	<p>The council uses two-factor authentication, and password requirements are in line with National Cyber Security Centre guidance. The remote connection from end user devices to council servers is encrypted, and the latest security updates are regularly applied to the remote access platform. Network penetration tests involve review of firewalls to verify that no unauthorised connections can be made.</p> <p>Remote connections are assessed for suspicious activity and any required third-party access (e.g. to update an application) is authorised and recorded by the ICT team.</p> <p>Remote access demand and use is closely monitored by the ICT team to ensure there is sufficient capacity. Alerts are set up to trigger if capacity is close to being exceeded, with suitable measures in place to respond when this occurs.</p>	None.

System/area (month issued)	Opinion	Area reviewed	Comments / Issues identified	Management actions agreed
Insurance (September 2023)	Reasonable Assurance	This audit involved a review of the council’s processes for administering the claims process. It focused on arrangements for logging, tracking and gathering evidence to support or refute claims. It also included a review of management information available to support learning and continuous improvement.	<p>Claims are effectively administered by the insurance team despite the corporate system, QLAS, having been unavailable for a prolonged period. The QLAS system failed in 2021, requiring the team to revert to manual recordkeeping. A new claims management system has been procured and is being implemented. The system is expected to be in place by the end of 2023.</p> <p>Obtaining sufficient and timely information from service areas to refute claims from third parties (or to claim on the council’s own insurance) remains an ongoing issue. Production of management information reports on the volume, cause, and status of claims has been hampered by the unavailability of QLAS.</p>	<p>The new claims management system will be used to send notifications and alerts to service areas where there are active claims.</p> <p>Management information will be shared at health and safety meetings biannually. This will help services to identify any patterns in causation and to inform action.</p>
Risk management (September 2023)	Reasonable Assurance	The audit focused on the design and operation of controls in place for managing risk at the directorate and service levels. Information gathered from across directorates was then	There is a lack of consistency between directorates in terms of the risk information being recorded. Some risk registers do not follow the requirements of the council’s risk management policy and strategy. Others lacked clear evidence of how ‘critical’ and ‘high’ risks are being managed. None are held on the corporate risk management system, Magique. However, directorate risk	The role of the corporate risk team in supporting the directorate risk process will be reinstated through attendance at quarterly DMTs. Support will also be provided in compiling risk registers in

System/area (month issued)	Opinion	Area reviewed	Comments / Issues identified	Management actions agreed
		<p>compared with the requirements set out in the council's risk management policy and strategy and guidance documents to assess how effective arrangements are at these levels.</p>	<p>registers are reviewed regularly by Directorate Management Teams (DMTs).</p> <p>The council's corporate risk team has been unable to fully undertake its facilitation role in the risk management framework for an extended period. This has been due to resource limitations.</p>	<p>line with corporate requirements.</p> <p>Additionally, the council's key risk management documentation will be reviewed, and revised / clarified where necessary.</p> <p>A review of the Magique system will be undertaken to determine whether to discontinue its use or to bring it up to date.</p>
<p>Data breach management (September 2023)</p>	<p>Reasonable Assurance</p>	<p>This audit involved a review of the council's processes for identifying, reporting and investigating personal data breaches.</p>	<p>The council has a Data Breach Management Policy and Procedures document which is regularly reviewed and meets Information Commissioner's Office requirements. However, the most recent version was not available via the intranet. In addition, accompanying guidance and related policies provide conflicting information on the breach reporting process.</p> <p>A log of data breaches and near misses is maintained by the Corporate Governance Team (CGT) on the case management</p>	<p>The information available on the intranet will be reviewed and replaced.</p> <p>Reporting in place to raise awareness and ensure increased training completion rates will be reviewed. Training completion rates, which will include essential training for statutory, regulatory or compliance</p>

System/area (month issued)	Opinion	Area reviewed	Comments / Issues identified	Management actions agreed
			<p>system, Aptean Respond. Data breach investigations are conducted promptly once the breach is reported to the CGT and most were reported to the team in a timely manner. Breach investigations were found to have been conducted in line with the council's policies and procedures, with actions followed up.</p> <p>The council's Data Protection Officer receives regular reports from the Workforce Development Unit on the completion of data protection training. However, uptake of the training is limited, and varies across directorates.</p>	<p>roles such as SIRO and Caldicott Guardians, will go back onto the regular update report to the Governance, Risk and Assurance Group.</p>

APPENDIX D: AUDIT OPINIONS AND PRIORITIES FOR ACTIONS

Audit opinions	
Our work is based on using a variety of audit techniques to test the operation of systems. This may include sampling and data analysis of wider populations. It cannot guarantee the elimination of fraud or error. Our opinion relates only to the objectives set out in the audit scope and is based on risks related to those objectives that we identify at the time of the audit.	
Opinion	Assessment of internal control
Substantial assurance	A sound system of governance, risk management and control exists, with internal controls operating effectively and being consistently applied to support the achievement of objectives in the area audited.
Reasonable assurance	There is a generally sound system of governance, risk management and control in place. Some issues, non-compliance or scope for improvement were identified which may put at risk the achievement of objectives in the area audited.
Limited assurance	Significant gaps, weaknesses or non-compliance were identified. Improvement is required to the system of governance, risk management and control to effectively manage risks to the achievement of objectives in the area audited.
No assurance	Immediate action is required to address fundamental gaps, weaknesses or non-compliance identified. The system of governance, risk management and control is inadequate to effectively manage risks to the achievement of objectives in the area audited.

Priorities for actions	
Priority 1	A fundamental system weakness, which presents unacceptable risk to the system objectives and requires urgent attention by management
Priority 2	A significant system weakness, whose impact or frequency presents risks to the system objectives, which needs to be addressed by management.
Priority 3	The system objectives are not exposed to significant risk, but the issue merits attention by management.

APPENDIX E: FOLLOW UP OF AGREED AUDIT ACTIONS

Where weaknesses in systems are found by internal audit, the auditors agree actions with the responsible manager to address the issues. Agreed actions include target dates and internal audit carry out follow up work to check that the issue has been resolved once these target dates are reached. Follow up work is carried out through a combination of questionnaires completed by responsible managers, risk assessment, and by further detailed review by the auditors where necessary. Where managers have not taken the action they agreed to, issues are escalated to more senior managers, and ultimately may be referred to the Audit and Governance Committee.

A total of 67 actions have been followed up so far during 2023/24, up to 27 October 2023. A summary of the priority of these actions and the directorate they relate to is included below.

Actions followed up		Actions followed up by directorate			
Priority of actions	Number of actions followed up	Other (Customers, Governance, Finance, HR)	Place Directorate	Adult Social Care and Integration	Children and Education
1	0	0	0	0	0
2	34	27	6	1	0
3	33	19	6	2	6
Total	67	46	12	3	6

Of the 67 agreed actions, 31 (46%) had been satisfactorily implemented and 14 (21%) had been superseded. The number of actions marked as superseded is relatively high due to the continuing impact of a review of all outstanding actions dating back to the Covid period, which found that in some cases circumstances had changed significantly and the previous actions were no longer appropriate. In some cases controls were re-examined and new actions raised if issues were found. In 22 cases (33%) the action had not been implemented by the target date and a revised date was agreed. This is done where the delay in addressing an issue will not lead to unacceptable exposure to risk and where, for example, the delays are unavoidable. The number of actions with a revised target date is high due to the impact of 16 linked actions arising from one audit.

REPORT



External Quality Assessment (EQA)

A report for Veritau



Prepared by John Chesshire, approved reviewer for
The Chartered Institute of Internal Auditors

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Setting the standards **together**

External Quality Assessment
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1.1 Background and Scope

The Veritau Group (Veritau) comprises 78 inhouse team members and is wholly owned by four local authorities, following the recent local government reorganisation in North Yorkshire. 34 of these team members are currently involved in delivering Internal Audit services. This focus is supplemented by specialist teams covering Counter Fraud and Information Governance.

Veritau provides Internal Audit and other assurance services to local authorities and other public sector bodies including national park authorities, a children's trust, academy and multi-academy trusts. Client arrangements are established for each contract. Clients appoint a chief officer to manage internal audit contracts with Veritau. Reporting arrangements are established at each client via an Internal Audit Charter.

Veritau previously had an external quality assessment (EQA) in 2018, undertaken by SWAP. We are delighted that Veritau have commissioned us to undertake this EQA.

Our review included a full validation of Veritau's own self assessment against the Public Sector Internal Audit Standards (PSIAS) and International Professional Practices Framework (IPPF), interviews with key stakeholders from across the primary client base, and short discussions with members of the Internal Audit function .

We conducted this EQA in a remote format - over June-August 2023.

1.2 Key Achievements

Veritau are a well-established Internal Audit service, valued by the key stakeholders we spoke to during this EQA review.

The governance framework over Veritau is mature, with well-established board oversight. The board primarily comprises directors appointed by member councils. Operationally, Veritau report to client Audit Committees (or equivalent) with effective relationships marked by appropriate support, challenge, oversight, engagement, reporting, and performance monitoring.

The Chief Executive - with an extensive local government background - leads Veritau, supported by a deputy, and seven Assistant Directors, four of which manage Audit Assurance teams. Stakeholders view the Chief Executive as a trusted and respected leader. A clearly written and effective Internal Audit Strategy highlights key priorities and areas of focus for the service.

Veritau undertake a range of diverse assurance engagements. These include coverage of traditional and emerging areas of governance, risk, and control relevant to the public sector.

We received positive responses to our questions about the wider function and its services from those we interviewed. Key stakeholders felt confident in the way Veritau had established effective working relations, their approach to planning, and the way in which the function engages flexibly with its clients throughout the internal audit process, at both strategic and operational levels.

Veritau develop and deliver an annual risk-based audit plan for their clients. Key stakeholders felt clearly engaged and appropriately involved in the design of this. The CAE and their senior colleagues actively monitor the function's performance and

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have implemented appropriate engagement-level quality assurance checks. We believe that the function's supporting operational, engagement-level procedures, documentation and associated templates are primarily fit for purpose.

1.3 EQA Assessment Conclusion

We are pleased to report that Veritau conforms with nearly all the Standards, as well as the Definition, Core Principles, and the Code of Ethics, which form the mandatory elements of the PSIAS and the Institute of Internal Auditors' IPPF, the globally recognised standard of quality in Internal Auditing.

To summarise, we are pleased to report that Veritau are good in their:

- Reflection of the Standards
- Focus on performance, risk and adding value
- Operating with efficiency

We believe that Veritau are satisfactory in their:

- Quality Assurance and Improvement Programme

Finally, like many Internal Audit functions at the present time, we consider that Veritau needs improvement in their:

- Coordinating and maximising assurance

The need to consider how best to rely on and coordinate with other assurance providers remains an emerging area of internal audit, and assurance practice, as does assurance mapping. It depends as much on the nature and effectiveness of the other assurance providers, and the willingness and awareness of the value in this from senior management and audit committees, as it does on internal audit.

In addition to the conformance recommendations, there is scope for improvement in a small number of other areas as summarised in Section 3.2 below. It will be appropriate for the function to say in reports and other literature, once it has addressed the issues raised, that it "conforms to the IIA's Professional Standards".

Our overall opinion is that the Internal Audit function "generally conforms" to the PSIAS and the IIA Standards (See [Appendix A1](#) for our Grading definitions) (See [Section 2](#) for more detail).

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1.4 SWOT Analysis

Strengths What works well	Weaknesses What could be done better
<ul style="list-style-type: none"> • Internal Audit management are experienced, work well together and key stakeholders respect - and have confidence - in their competence, public sector expertise, and capabilities • The function draw upon work with different clients to add value when conducting similar reviews across their client base • An effective, well-presented Internal Audit Strategy guides the service, with the next iteration due later this year • Risk-based annual plans cover relevant, topical areas and are developed through effective stakeholder engagement and remain flexible, agile in nature and can be modified • Stakeholders value the function's professionalism, communications, and engagement reporting. • The work and skills of the wider Counter Fraud and Information Governance teams support internal audit delivery • The function maintains an up-to-date view of skills and competencies that is regularly revisited and refreshed. • The Learning and Development policy and Audit Trainee Development Programme show commitment to personnel 	<ul style="list-style-type: none"> • Formal assurance mapping, coordination, and reliance - where appropriate - should be progressed with some key clients • Response rates to post-audit and wider customer satisfaction surveys are low and the function may miss out on operational stakeholder insights
Opportunities What could deliver further value	Threats What could stand in your way
<ul style="list-style-type: none"> • Further development of the function's data analytics and AI capabilities would add additional value and insights • An updated strategy covering data analytics and IT auditing, integrated with the results of the QAIP and the function's development needs, could usefully drive improvement priorities • The Internal Audit Manual could include specific reference to relevant standards to reinforce why certain activities are needed • A Balanced Scorecard, with revised KPIs, could usefully focus internal audit effort more on outputs, outcomes, insight and added value • Further agile, efficient planning and delivery could prove more beneficial 	<ul style="list-style-type: none"> • Failure to retain experienced internal audit staff could threaten service resilience and delivery. Succession could become a challenge • Emerging risks and increasing complexity in the external environment could threaten the function's ability to deliver insight and add value in specialist service areas • Client budget cuts could impact service delivery and threaten the CAE's ability to deliver an effective service and annual opinion • Over-expansion could be seen negatively by some existing clients who may worry that they will see a loss of quality in service provision • Automatic public release of internal audit reports by some clients can cause delays in engagement finalisation and communication of results • Excessive remote working could impact client engagement and relationships, particularly for new team members or when clients change

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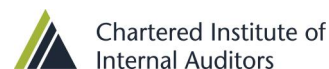
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1.5 Conformance Opinion

The mandatory elements of the IPPF include the Definition of Internal Auditing, Code of Ethics, Core Principles and International Standards.

There are 64 fundamental principles to achieve with 118 points of recommended practice. We assess against the principles.

It is our view that Veritau conforms to 59 of the 64 relevant principles, with partial conformance on one principle. The four remaining principles were not applicable to Veritau as they relate to situations that have not occurred to date.

This is summarised in the table below.

Summary of conformance	Standards	Generally conforms	Partially conforms	Does not conform	Not relevant	Total
Definition of IA and Code of Ethics	Rules of conduct	12				12
Purpose	1000 - 1130	8				8
Proficiency and Due Professional Care (People)	1200 - 1230	4				4
Quality Assurance and Improvement Programme	1300 - 1322	6			1	7
Managing the Internal Audit Activity	2000 - 2130	11	1			12
Performance and Delivery	2200 - 2600	18			3	21
Total		59	1		4¹	64

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¹ We have marked four principles as 'not applicable' as they relate to situations that have not occurred to date (Attribute Standard 1322, Performance Standards 2421, 2430 and 2431).

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1.6 Further Improvement Opportunities

In addition to our one recommendation to improve conformance, there is scope for improvement in areas as summarised below:

Proficiency

- We support the CAE's intention to further develop the function's data analytics and AI capabilities to add additional value and insights.

Enhancing Internal Audit due professional care and policies and procedures

- The CAE could consider direct referencing of the Standards in relevant sections of the Veritau Internal Audit Manual to clearly demonstrate why particular activities, actions and steps are required. This will be more beneficial for new entrants who join the function in the future.

Quality Assurance and Improvement Programme

- The CAE could document a formal improvement plan that captures and integrates the various teams, methodology, data and other service enhancement actions and initiatives to underpin key priorities and objectives in the Internal Audit Strategy refresh.
- Response rates to post-audit and wider customer satisfaction surveys are low and the function may miss out on operational stakeholder insights. The CAE could revisit the approach and process for soliciting customer feedback to help ensure it maximises added value.
- We support the CAE's intention to develop a balanced scorecard for the internal audit service and revisit the function's KPIs.

Planning

- The CAE should continue the move away from traditional annual planning to further enhance agility.

1.6 Acknowledgement

We would like to thank Max Thomas and his team, for their time, assistance and support during this review, and all of those who took part in the review, for their cooperation, together with their open and honest views.

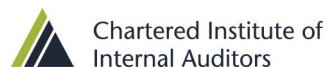
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2.1 Area for Improvement [Standards 2050]

Standard 2050, Coordination and Reliance

The chief audit executive should share information, coordinate activities and consider formal reliance upon the work of other internal and external assurance and consulting service providers to ensure proper coverage and minimise duplication of efforts.

While some reliance is placed on the work of some internal and external assurance providers, and the CAE is exploring opportunities to place reliance and better coordinate activity with other second-line assurance providers, this could usefully be formalised and supplemented with assurance mapping across all key clients to add further value.

The function have approached this to varying degrees, with some clients, while others have been less interested. Further engagement with Audit Committees and senior management may help raise awareness of the value of this activity.

	Recommendation	Response and action date
1	The CAE should continue to develop a proportionate, formal approach to assurance mapping, coordination and – where appropriate – reliance, to enhance the function's risk-based planning, delivery and the effectiveness of assurance provided to key stakeholders.	Agreed – we will develop our approach to assurance mapping and working with other internal and external assurance provision. The approach will be flexible to reflect the different sectors and clients we provide internal audit services to. Target implementation date – 31 March 2024.

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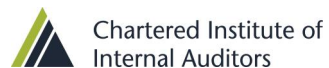
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The Chartered Institute regards conformance to the IPPF as the foundation for effective Internal Audit practice. However, our EQA reviews also seek feedback from key stakeholders and we benchmark each function against the diversity of professional practice seen on our EQA reviews and other interviews with Chief Audit Executives/Heads of Internal Audit, summarised in an Internal Audit maturity matrix.

We then interpret our findings into suggestions for further development based upon the wide range of guidance published by the Chartered IIA UK and Ireland.

It is our aim to offer advice and a degree of challenge to help Internal Audit functions continue their journey towards best practice and excellence.

In the following pages we present this advice in two formats:

- A matrix describing the key criteria of effective Internal Audit, highlighting the level of maturity the Internal Audit function has achieved and the potential for further development, recognising that effective Internal Audit goes further than purely conformance with the IIA Standards. [\(See 3.1\)](#)
- A series of improvement opportunities and suggestions which the Internal Audit function could use as a basis for an action plan. [\(See 3.2\)](#)

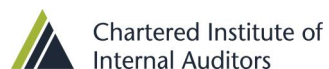
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3.1 Internal Audit matrix

		IIA Standards	Focus on performance, risk and adding value.	Coordination and maximising assurance	Operating with efficiency	Quality Assurance and Improvement Programme
Assessment levels	Excellent	Outstanding reflection of the IIA standards, in terms of logic, flow and spirit. Generally Conforms in all areas.	IA alignment to the organisation's objectives risks and change. IA has a high profile, is listened to, and is respected for its assessment, advice, and insight.	IA is fully independent and is recognised by all as a 3 rd line. The work of assurance providers is coordinated with IA reviewing reliability of.	Assignments are project managed to time and budget using tools/techniques for delivery. IA reports are clear, concise, and produced promptly.	Ongoing efforts by IA team to enhance quality through continuous improvement. QA&IP plan is shared with and approved by AC.
	Good	The IIA Standards are fully integrated into the methodology – mainly Generally Conforms.	Clear links between IA engagement objectives to risks and critical success factors with some acknowledgement of the value-added dimension.	Coordination is planned at a high level around key risks. IA has established formal relationships with regular review of reliability.	Audit engagements are controlled and reviewed while in progress. Reporting is refined regularly linking opinions to key risks.	Quality is regarded highly, includes lessons learnt, scorecard measures and customer feedback with results shared with AC.
	Satisfactory	Most of the IIA Standards are found in the methodology with scope to increase conformance from Partially to Generally Conform in some areas.	Methodology requires the purpose of IA engagements to be linked to objectives and risks. IA provides advice and is involved in change, but criteria and role require clarity.	The 3 lines model is regarded as important. Planning of coordination is active, and IA has developed better working relationships with some review of reliability.	Methodology recognises the need to manage engagement efficiency and timeliness, but further consistency is needed. Reports are informative and valued.	Clear evidence of timely QA in assignments with learning points and coaching. Customer feedback is evident. Wider QA&IP may need formalising.
	Needs improvement	Gaps in the methodology with a combination of Non-conformances and Partial Conformances to the IIA Standards.	Some connections to the organisation's objectives and risks but IA engagements are mainly cyclical and prone to change at management request.	The need to coordinate assurance is recognised but progress is slow. Some informal coordination occurs but reviewing reliability may be resisted.	Multiple guides that are slightly out of date and form a consistent and coherent whole. Engagement go beyond deadline and a number are referred.	QC not consistently embedded across the function. QA is limited / late or does not address root causes.
	Poor	No reference to the IIA Standards with significant levels of non-conformance.	No relationship between IA engagements and the organisation's objectives, risks, and performance. Many audits are ad hoc.	IA performs its role in an isolated way. There is a feeling of audit overload with confusion about what various auditors do.	Lack of a defined methodology with inconsistent results. Reports are usually late with little perceived value.	No evidence of ownership of quality by the IA team.

Note: The maturity level of the function will depend on several factors, including the maturity and the risk appetite of the organisation. Consequently, not all audit functions will aspire to being "Excellent" across the board.

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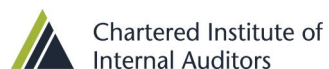
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3.2 Further improvement opportunities

This section of the report details additional feedback and observations which, if addressed, could further strengthen the impact of Veritau. These observations are not conformance points but support Veritau's ongoing development.

These suggestions do not require a response; they will not form part of any subsequent follow up if undertaken.

Opportunity A: Standard 1210 Proficiency

Improvement opportunity	
1	We support the CAE's intention to further develop the function's data analytics and AI capabilities to add additional value and insights.

Opportunity B: Standard 1220 Due Professional Care and 2040 Policies and Procedures

Improvement opportunity	
2	The CAE could consider direct referencing of relevant Standards in specific sections of the Veritau Internal Audit Manual to clearly demonstrate why particular activities, actions and steps are required. This will be more beneficial for new entrants who join the function in the future, but is also useful as a reminder of what internal audit does, and why, to existing team members.

Opportunity C: Standard 1300 Quality Assurance and Improvement Programme

Improvement opportunity	
3	The CAE could document a formal improvement plan that captures and integrates the various methodology, data and other service enhancement actions and initiatives to underpin key priorities and objectives in the Internal Audit Strategy refresh.

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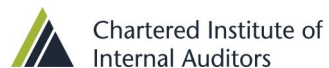
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Opportunity D: Standard 1300 Quality Assurance and Improvement Programme and 1311 Internal Assessments

Improvement opportunity

4	The CAE could revisit the approach and process for soliciting customer feedback to help ensure it maximises added value.
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Opportunity E: Standard 1300 Quality Assurance and Improvement Programme and 1311 Internal Assessments

Improvement opportunity

5	We support the CAE's intention to develop a Balanced Scorecard for the Internal Audit function and revisit the associated KPIs.
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Opportunity F: Standard 2010 Planning

Improvement opportunity

6	The CAE should consider whether a move away from traditional annual planning - at least with some clients - may further enhance agility.
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A1 Global Grading Definitions

We have used the following rating scale in this report:

Generally Conforms (GC)	The reviewer has concluded that the relevant structures, policies, and procedures of the activity, as well as the processes by which they are applied, comply with the requirements of the individual Standard or element of the Code of Ethics in all material respects. For the sections and major categories, this means that there is general conformance to a majority of the individual Standards or elements of the Code of Ethics, and at least partial conformance to the others, within the section/category. There may be significant opportunities for improvement, but these must not represent situations where the activity has not implemented the Standards or the Code of Ethics, has not applied them effectively, or has not achieved their stated objectives. As indicated above, general conformance does not require complete/perfect conformance, the ideal situation, successful practice, etc.
Partially Conforms (PC)	The reviewer has concluded that the activity is making good-faith efforts to comply with the requirements of the individual Standard or element of the Code of Ethics, section, or major category, but falls short of achieving some major objectives. These will usually represent significant opportunities for improvement in effectively applying the Standards or Code of Ethics and/or achieving their objectives. Some deficiencies may be beyond the control of the activity and may result in recommendations to senior management or the board of the organisation.
Does Not Conform (DNC)	The reviewer has concluded that the activity is not aware of, is not making good-faith efforts to comply with, or is failing to achieve many/all of the objectives of the individual Standard or element of the Code of Ethics, section, or major category. These deficiencies will usually have a significant negative impact on the activity's effectiveness and its potential to add value to the organisation. They may also represent significant opportunities for improvement, including actions by senior management or the board.

Often, the most difficult evaluation is the distinction between general and partial. It is a judgement call keeping in mind the definition of general conformance above. The reviewer must determine if basic conformance exists. The existence of opportunities for improvement, better alternatives, or other successful practices does not reduce a “generally conforms” rating.

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A2 Stakeholder Interviews and feedback

We interviewed the following individuals as part of the review.

Stakeholders	Title / Position
Tracy Davies	Assurance Manager, Sunderland City Council
Rob Davisworth	Chief Accountant, Redcar and Cleveland Council
Gary Fielding	Section 151 Officer, North Yorkshire Council
Richard Flinton	Chief Executive, North Yorkshire Council
Anton Hodge	Assistant Director - Resources, North Yorkshire Council
Barry Khan	Assistant Chief Executive Legal and Democratic Services, North Yorkshire Council
Cllr Nigel Knapton	Former chair of Hambleton DC audit committee
Cllr Cliff Lunn	Chair of the North Yorkshire Council Audit Committee
Debbie Mitchell	Section 151 Officer, City of York Council
Cllr Carole Morgan	Chair of Governance Committee, Redcar and Cleveland Borough Council
David Portlock	Independent member of North Yorkshire Council Audit Committee and Chair of the Pension Fund Board
Bryn Roberts	Monitoring Officer, City of York Council
Lee Yale-Helms	Director of Finance & Resources, Birmingham Children's Trust
Internal Audit Function	Title / Position
Stuart Cutts	Assistant Director - Audit Assurance
Connor Munro	Assistant Director - Audit Assurance
Richard Smith	Deputy Chief Executive
Max Thomas	Chief Executive

Feedback from stakeholder interviews

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Working with the business

“The Internal Audit service have delivered some real added value and have helped save a lot of time as we have involved them actively in our recent period of change. They have been great in responding flexibly and delivering helpful advice.”

“The Internal Audit service is well-regarded on the whole.”

“Veritau and their plan is flexible, and topics can be moved around to better meet operational needs.”

“Remote working has gone well, but it would be good to see them more in-person.”

“We have good, effective relations, with a fortnightly catch up, a monthly review of progress against plan and other meetings as, and when required.”

“The wider perspective they bring from working with other organisations is very useful for us.”

“I see just the right amount of balance between support, advice and challenge.”

“They are very professional and have handled the occasional disagreements effectively and well.”

“They are respected by Audit Committee members and listened to.”

“In the pandemic they were very patient with operational areas, and this was highly valued.”

Communication

“Audit Committee reporting is good - Max is a seasoned professional and his team support him well.”

“They could be a little more robust from time to time with the business. I sometimes feel that they been a bit soft.”

“Veritau are very fair and very open – they certainly bring to our attention what they think we will need.”

“Their reports are good, well-structured and clear.”

“How they phrase recommendations can be a bit pessimistic and their reports can be a bit negative in tone sometimes. There can sometimes be a lengthy delay between draft and final, but some of that may be down to us.”

“Veritau are not afraid to say when things are wrong and to highlight the need for improvement.”

“Reports for the Audit Committee are always very detailed and give us good value.”

“Their reporting is just about right, and I have got used to their reports over the years.”

Internal Audit plans and coverage

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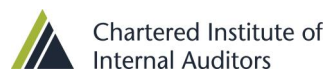
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“Internal Audit’s plans are absolutely focussed on the key objectives and risks of the Authority.”

“I feel that we are suitably involved in the annual planning process, with one-to-one meetings, conversations with service leads and discussion at Audit Committee. As a result, the plans tend to look at the right things.”

“They involve the Committee in developing the forward plan and definitely seek our input.”

“I do get the assurance that I need from them. They can’t look at everything, so their work is targeted well.”

“I think that I am getting the assurance I need. They do give us good value, respond to requests well, and are looking at the right things.”

“Their work on cyber security and business continuity has added real value.”

“Key stakeholders here have the opportunity to feed into the Internal Audit plan and Veritau are certainly open to suggestions of subjects to audit.”

“They have done some good work with us on assurance mapping, but I am unclear what happens next and how it will integrate into future internal audit planning here.”

Value

“My impression of Max and the team is that they are excellent and strive to add real value.”

“Given their size, they have access to specialists and expertise that is really helpful for us. This is also beneficial as Veritau can bring a richness of experience and wider perspectives from what they have seen with other clients.”

“As a whole, the service is high quality and I’m a very happy stakeholder when it comes to Internal Audit.”

“The service has been excellent, and the clients have all been happy here. They have delivered quality and benefit to us.”

“I have been incredibly impressed with the quality of their anti-fraud work.”

“The demonstrate a real willingness not just to audit us, but to understand the organisation.”

“I am generally very happy with the Internal Audit service, with their leadership and I have absolute trust in them.”

“They support us hugely, are incredibly versatile, and very flexible in focussing on the right things at the right time.”

“The have added value in everything they have looked at so far and have really helped change things away from the traditional internal audit we had before. Their experience of other clients – and their own risk-based approach – are all most welcome.”

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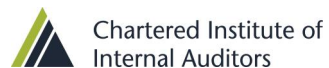
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Disclaimer: John Chesshire undertook this review in Quarters Two and Three 2023 on behalf of the Chartered Institute of Internal Auditors. This report provides management, Veritau Group and client Audit Committees with information about Veritau of that date. Future changes in environmental factors and actions taken to address recommendations may have an impact upon the operation of Internal Audit in a manner that this report cannot anticipate.

Considerable professional judgment is involved in evaluating. Accordingly, it should be recognised that others could draw different conclusions. We have not re-performed the work of Internal Audit or aimed to verify their conclusions. This report is provided on the basis that it is for your information only and that it will not be quoted or referred to, in whole or part, without the prior written consent of the Chartered Institute of Internal Auditors.

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COUNTER FRAUD PROGRESS REPORT

Date: 8 November 2023





BACKGROUND

- 1 Fraud is a significant risk to the public sector. The government estimated that between £33.2 and £58.8 billion of public spending was lost to fraud in 2020/21¹. Financial loss due to fraud can reduce a council's ability to support public services and can cause reputational damage.
- 2 Veritau delivers a corporate fraud service to the council which aims to prevent, detect and deter fraud and related criminality. The counter fraud team investigate allegations of fraud, plan and take part in counter fraud campaigns (eg the National Fraud Initiative), undertake fraud awareness activities with staff and the public, and maintain and update the council's counter fraud framework and associated policies.
- 3 The purpose of this report is to update the Committee on counter fraud activity in 2023/24.



FRAUD MANAGEMENT

- 4 A key objective for the counter fraud team is to raise awareness of fraud risks amongst council employees. In October 2023 the counter fraud team worked with the communications team to highlight the danger of cybercrime as part of cybersecurity awareness month. Employees were advised to:
 - set strong passwords
 - be aware of data breaches
 - log out of remote systems when not in use
 - familiarise themselves with tips on how to spot suspicious emails.

This campaign follows a similar exercise to raise awareness of whistleblowing in June. Bespoke counter fraud training has also been provided to the business rates, benefits, and customer service teams in 2023/24.

- 5 The team is supporting the council to develop a fraud management plan for the Home Upgrade Grant scheme. The Department for Energy Security and Net Zero is releasing funding to local authorities to provide energy efficiency upgrades and low carbon heating for homes that meet the eligibility criteria, eg low income households. The fraud management plan seeks to ensure that there are suitable checks and balances to help ensure that the scheme is not subject to fraud.



MULTI-AGENCY WORK

- 6 The National Fraud Initiative (NFI) is a large-scale data matching exercise that involves all councils and other public sector bodies in the UK. The work of the NFI is overseen by the Public Sector Fraud Authority (PSFA) and the exercise runs every two years. The results of the 2022/23 datamatching exercise (7500 data matches) are currently being reviewed by the counter

¹ [Tackling fraud and corruption against Government](#), National Audit Office

fraud team and other services across the council. To date over 6000 matches have been reviewed with £88k of fraud and error identified.

- 7 The council are required to respond to requests for information from the Department for Work and Pensions (DWP) who investigate Housing Benefit fraud. In cases where council tax support is in payment, the counter fraud team can jointly investigate with DWP counterparts. The team have responded to 23 requests for information to date this year.

INVESTIGATIVE WORK

- 8 In 2023/24, the counter fraud team has received 179 reports of suspected fraud. These cover areas including adult social care, social housing, council tax, council tax support, internal fraud, parking, and business rates.
- 9 Up to 15 October 2023, the counter fraud team helped the council to make £149k in savings following investigation work. The team has completed 68 investigations and there are currently 64 ongoing. One person has been successfully prosecuted. Two internal fraud investigations have been completed. Eighteen people have been issued with formal warnings about their conduct. Nine residential parking permits have been removed from owners of holiday lets. In addition, the team has helped the council verify 35 Right to Buy applications, resulting in one application being blocked.
- 10 A summary of investigative work can be found in appendix A, below.

APPENDIX A: SUMMARY OF INVESTIGATIVE WORK 2023/24

The table below shows the success rate of investigations and levels of savings achieved through counter fraud work in 2023/24.

	2023/24 (As at 15/10/23)	2023/24 (Target: Full Yr)	2022/23 (Actual: Full Yr)
Amount of actual savings (quantifiable savings - eg repayment of loss) identified through fraud investigation	£148,942	£200,000	£263,715
% of investigations completed which result in a successful outcome (for example payments stopped or amended, sanctions, prosecutions, properties recovered, housing allocations blocked)	59%	30%	50%

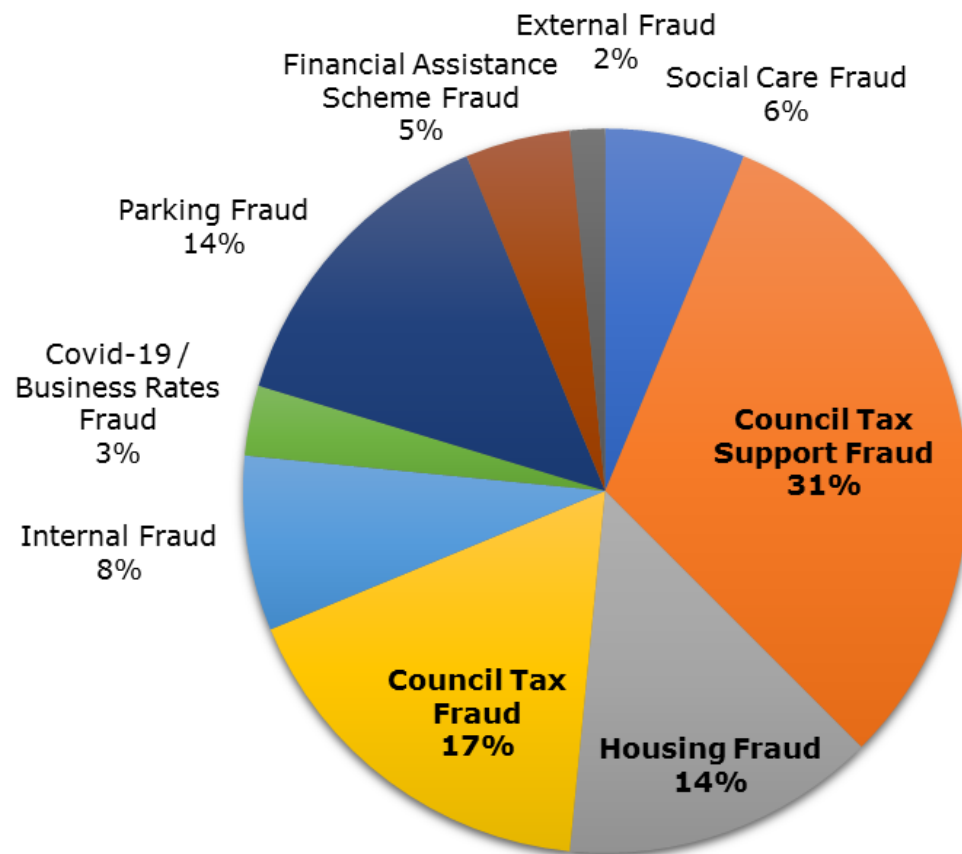
Caseload figures for the period are:

	2023/24 (As at 15/10/23)	2022/23 (Full Year)
Referrals received	179	319
Number of cases under investigation	64	85 ²
Number of investigations completed	68	146
Number of verifications completed ³	35	54

² As at the end of the financial year (ie 31/03/2023)

³ Verification cases are reviews of applications for Right to Buy and school placements.

The chart below shows the proportion of different case types under investigation as at 15 October 2023.



Activity	Work completed or in progress
Fraud detection and investigation	<p>The service promotes the use of criminal investigation techniques and standards to respond to any fraud perpetrated against the council. Activity to date includes the following:</p> <ul style="list-style-type: none"> • Adult Social Care fraud – The team has completed two investigations in this area and four are ongoing. Fraud in this area relates to deprivation of capital, financial abuse, direct payment fraud, and abuse of position. Investigative work has assisted the council to recover £85k to date. • Housing fraud – There are nine investigations ongoing in this area. The majority of cases relate to sub-letting and abandonment of council properties, but the team also investigates false applications for Right to Buy and Homelessness. Eight investigations have been completed to date. • Internal fraud investigations – Two internal fraud investigations have been completed. There are five ongoing. • External (or third party) fraud – Fraud in this area relates to financial scams perpetrated against the council, eg mandate fraud or cybercrime. There are two ongoing investigations. • Council Tax Support fraud – Seventeen council tax support (CTS) investigations have been completed and there are 20 cases under investigation. Fraud in this area can occur when claimants provide false information when they apply, or fail to declare changes to their circumstances, relating to income or capital. Six CTS claimants have received formal warnings in 2023/24. Work in this area has resulted in £27k of savings for the council. • Council Tax fraud – Council Tax fraud often involves households falsely claiming single person discount, however other types of discounts can also be abused. Nine investigations have been completed this year and eleven are ongoing. • Parking fraud – Parking fraud usually relates to blue badge abuse however, there have been a rising number of investigations of misuse of residential parking permits by owners of holiday lets. Twenty-one investigations have been completed – eleven relating to blue badges and ten to parking permits. One person has been successfully prosecuted and five others have received formal warnings for the misuse of blue badges. Nine holiday let owners have had their residential permits removed, five of whom were issued with formal warnings.

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