



**Notice of a public meeting of
Corporate Services, Climate Change and Scrutiny Management
Committee (Calling In)**

- To:** Councillors Fenton (Chair), Merrett (Vice-Chair), Ayre, Baxter, J Burton, Healey, Kelly, D Myers, Rowley, Steels-Walshaw, K Taylor, Waller and Widdowson
- Date:** Tuesday, 7 May 2024
- Time:** 5.30 pm
- Venue:** West Offices - Station Rise, York YO1 6GA

AGENDA

- 1. Declarations of Interest** (Pages 1 - 2)
At this point in the meeting, Members and co-opted members are 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. Minutes** (Pages 3 - 10)
To approve and sign the minutes of the meeting held on 11 March 2024.

3. 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 committee.

Please note that our registration deadlines have changed to 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 Thursday, 02 May 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've made some changes to how we're running council meetings. See our coronavirus updates (www.york.gov.uk/COVIDDemocracy) for more information on meetings and decisions.

4. Called-in Item: Advertising Contract (Pages 11 - 60)

This report outlines the reasons for the call-in of the decision made by the Executive on 18 April 2024, in respect of the Advertising Contract. The report also sets out the powers and role of the Corporate Services, Climate Change and Scrutiny Management Committee (Calling-In) in dealing with the call-in.

5. Urgent Business

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

Democracy Officer:

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

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

Contact details are set out above.

This information can be provided in your own language.

我們也用您們的語言提供這個信息 (Cantonese)

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

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

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

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

 (01904) 551550

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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	Corporate Services, Climate Change and Scrutiny Management Committee (Calling In)
Date	11 March 2024
Present	Councillors Fenton (Chair), Baxter, J Burton (from 5.11 pm), Healey, Rowley, Steels-Walshaw, K Taylor (from 5.16 pm), Clarke (Substitute for Cllr Merrett), Fisher (Substitute for Cllr Widdowson), Wann (Substitute for Cllr Ayre), Crawshaw (Substitute for Cllr Myers), Rose (Substitute for Cllr Kelly) and Knight (Substitute for Cllr Waller)
Apologies	Councillors Merrett, Ayre, Kelly, Myers, Waller and Widdowson

14. **Declarations of Interest**

At this point in the meeting, Members and co-opted members are 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.

Cllr Fisher noted, in relation to item 4 (Called-in item, Bus Service Review), that he was in possession of a bus pass.

15. **Minutes**

Resolved: That the minutes of the last meeting held on 12 February 2024 be approved as a correct record.

16. **Public Participation**

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

Caleb Pell spoke on Item 4 (Called-in item: Bus Service Review) and raised concerns regarding cuts in bus services and the impact that could have on modal shift. He noted that cuts to

services did not support the council's objective to reduce car journeys.

Barbara Boyce, a former Sheriff, spoke in relation to Item 5 (Called-in item: Civic Protocols Review). She made a number of recommendations including reducing the role of Sheriff, a more economical vehicle, a reduction in the number of Guild events, the role of Lord Mayor (LM) should be more secular, and being prescriptive with the LM charities should be avoided. She also raised the possibility of the Mansion House being managed externally.

David Carr, a former LM, also spoke in relation to Item 5. He cautioned against any reduction in allowances for the civic party as this could lead to the role being filled only by those that could afford to do it, he also suggested the limousine could be sponsored 'discretely'. He raised concerns that the elected Mayor for York and North Yorkshire Combined Authority may overshadow the role of LM. Finally, he suggested that the civic party could be reduced to two people; the LM and Sheriff.

Honorary Alderman Brian Watson, a former LM, also spoke in relation to Item 5 (Called-in item: Civic Protocols Review). He raised concerns regarding the operation of the Mansion House as the LM's official residence and questioned the fire risk assessment relating to the use of the lift.

17. **Called-in Item: Bus Service Review**

Members considered a report which set out the reasons for the call-in of the decisions made by the Executive on 20 February 2024 in respect of the above matter, along with the committee's remit and powers in relation to the call-in.

The decisions were contained in the extract from the relevant Decision Sheet at Annex 1 to the report. The original report and associated annexes A to F were attached at Annex 2. The decisions had been called in by Cllrs Pearson, Steward and Hollyer for the following reasons:

- *The stated policy objective of the Draft Local Transport strategy is to increase bus patronage by 50% – the consultation that has been produce for the Local Bus Service Update shows that this decision would result in a*

reduction in bus patronage. It only proposes modifications to the services and makes no attempt to deliver on patronage uplift required in the administration's draft transport strategy.

- *The Executive rushed through the consultation over the Christmas period which reduced the amount of engagement with the public that the consultation had generated. The report shows that the cuts proposed will lead to a reduction in patronage and the views of residents and bus users have been ignored in the decision making process.*
- *The report makes no reference to the consultation on the reduction in patronage and there is no policy discussion on the effects of the reduction in bus patronage. The Bus Service Review was available in December but was not consulted on. The review contained a number of factual errors, and omissions in key details which are not a basis on which to make an informed decision. It judges accessibility just on the bus stop locations served and frequency of calls and not about where the buses go and the journeys people want to make at the times they need to make them, it does not mention or refer to the increased transport deprivation this change would cause. There is also no reference or consideration given to the 10 to 15 year plan that the council has to submit to government on their long term vision for buses in York.*

The Calling-in Members, Cllr Pearson, Steward and Hollyer, each addressed the committee in turn, expanding on their reasons for the call-in and then responding to questions from Members.

The Deputy Leader and Executive Member for Economy and Transport then addressed the committee regarding his decisions, and responded to questions. Officers responsible for the report to Executive spoke to clarify aspects of their report and to answer questions.

[5.59 – 6.01pm, Cllr Steels-Walshaw left the meeting]

Finally, Cllr Pearson summed up on behalf of the Calling-in Members and the Executive Member summed up the Executive position.

During the above process, it was confirmed that:

- There was no government funding for concessionary fares.
- The 1100 responses to the consultation was considered by officers to be a reasonable return, and in line with other consultations.

Under the provisions of the council's constitution at the time the call-in was made, Members were asked to state individually whether they considered the core principles identified in the call-in request (Annex 3) had been breached or not. The following options were available:

- In the event of the majority of Members finding no breach, the call-in request would be immediately closed with no further action unless the Committee identifies any areas worthy of future exploration by the scrutiny function.
- In the event of the majority of Members finding a breach, the called in decision would be referred back in full for further consideration at the next appropriate meeting of the Executive.

With five Members finding there had been a breach, and eight Members finding there had not been a breach, the call-in fell and it was:

Resolved: That the call-in request be closed.

Reason: To determine the outcome of the alleged breach in Executive decision making.

[6.53 - 7.01 pm, the meeting adjourned for a comfort break.]

18. Called-in Item: Civic Protocols Review

Members considered a report which set out the reasons for the call-in of the decisions made by the Executive Member for Finance, Performance, Major Projects and Equalities in consultation with the Executive Leader including Corporate Services, Policy, Strategy and Partnerships on 21 February 2024 in respect of the above matter, along with the committee's remit and powers in relation to the call-in.

[7.02 pm Cllr Rose re-joined the meeting.]

The decisions were contained in the extract from the relevant Decision Sheet at Annex 1 to the report. The original report was attached at Annex 2. The decisions had been called in by Cllrs Mason, Steward and Orrell for the following reasons:

- **Key Decision** *This should have been a key decision as a minimum; the Lord Mayoralty affects all wards and all members of the council. They are by statute the first citizen of the city and York's Lord Mayor is second only to the City of London, holding the title Right Honourable (which only York and London do within England). The ancient right to appoint a Mayor comes from royal charters dating back to 1212 and the office is of immense standing in York, the UK and internationally. Any change to how the office operates is significant to our city and the country. In regard to the office of Sheriff, York is one of only a small number of cities who retain the right to appoint a sheriff independently of the Crown. This right comes from royal charters and letters patent. The office of Sheriff of York dates back to 1396 and its current legal standing is as a "Local Officer of Dignity".*

The paper makes changes to the roles of the Lord Mayor and Sheriff which affect the constitution in regard to their duties, in particular "To act as an ambassador for the City locally, nationally and internationally", "actively promoting and supporting local business and economic activity", "actively promoting and supporting local tourism", "residency in the Mansion House". This alone should have meant a full council decision.

Article 7, 3.2 of the constitution helps define Key Decisions as:

- c) whether the decision is likely to be a matter of political or other controversy*
- d) the extent to which the decision is likely to result in or attract substantial public interest.*

It was clear such significant changes to the Mayoralty and Shrievalty of England's second civic city, which had no consultation whatsoever, would meet the above criteria.

- **Consultation and Analysis** *Lack of consultation is of great concern. There are only 3 members of the council with any experience of civic office, none were consulted. Other interested parties were not engaged with, including the Civic Trust and former Lord Mayors and Sheriffs. Indeed, no group leaders, councillors or the public, charities or businesses were consulted. There was no consultation with other CYC officers in terms of the Lord Mayor's and Sheriff's roles in promoting economy development or with organisations such as Visit York in regard to tourism. The only consultation was with the incoming Lord Mayor, who at the point of the decision being made was not known to the public and their views were not shared in the paper. No alternatives or comparisons were given.*
- **Equalities Impacts** *The lack of any equalities impact assessment meant the executive member could not take account of how these changes will affect members with disabilities or those with poorer socioeconomic backgrounds. A full EIA should have been provided.*
- **Lack of Financial Detail** *Details regarding the actual costs were not articulated. The paper fails to offer any detailed financial breakdowns or budgets. There is no cost benefit analysis against monies spent or context on positive impact. The executive member gave the media a figure of £53k ahead of the meeting, but at the meeting a different figure of £130k was given by officers.*

The proposed savings are not articulated, with the exception of the reduction in allowances. The paper fails to properly describe where and how the savings will be made and their impacts.

The paper made no mention of purchasing new "badges of office", nor any costs, yet at the meeting officers said new civic regalia was being commissioned. The executive member was not given any financial costings for these when agreeing this.

The Calling-in Members, Cllr Mason, Steward and Orrell, each addressed the committee in turn, expanding on their reasons for the call-in and then responding to questions from Members.

The Executive Member for Finance, Performance, Major Projects and Equalities and the Leader then addressed the committee regarding their decisions, and responded to questions. Officers responsible for the report to Executive spoke to clarify aspects of their report and to answer questions.

Finally, Cllr Mason summed up on behalf of the Calling-in Members and the Executive Member summed up the Executive position.

During the above process, it was confirmed that:

- There was no expectation that the number of events attended would be reduced, a list had been produced of the funded events, and the events calendar would be agreed with the incoming LM.
- The LM would continue to choose their own charities, in line with the newly codified protocols.
- The decision had been made at the Executive Member's decision session due to the recognised importance of the civic office. The Monitoring Officer had provided advice that in his view the decision would not have a significant impact on two or more wards and was therefore not a key decision.

Under the provisions of the council's constitution at the time the call-in was made, Members were asked to state individually whether they considered the core principles identified in the call-in request (Annex 3) had been breached or not. The following options were available:

- In the event of the majority of Members finding no breach, the call-in request would be immediately closed with no further action unless the Committee identifies any areas worthy of future exploration by the scrutiny function.
- In the event of the majority of Members finding a breach, the called in decision would be referred back in full for further consideration at the next appropriate meeting of the Executive.

With six Members finding there had been a breach, and seven Members finding there had not been a breach, the call-in fell and it was:

Resolved: That the call-in request be closed.

Reason: To determine the outcome of the alleged breach in Executive Member decision making.

Cllr S Fenton, Chair

[The meeting started at 5.06 pm and finished at 8.50 pm].



**Corporate Services, Climate Change and
Scrutiny Management Committee (Calling In)****7 May 2024**

Report of the Director of Governance

Called-in Item: Advertising Contract.**Summary**

1. This report sets out the reasons for the call-in of the decision made by the Executive on 18 April 2024 in respect of the Advertising Contract. The report also sets out the powers and role of the Corporate Services and Climate Change Scrutiny Management Committee (Calling-In) in dealing with the call-in.

Background

2. An extract from the Decision Sheet published after the Executive meeting of 18 April 2024 is attached as Appendix 1 to this report. This sets out the decisions taken on the called-in item. The original report to the Executive, together with its annexes, is attached at Appendix 2.
3. The decisions have been called in for review by the Corporate Services and Climate Change Scrutiny Management Committee (Calling-In) by Cllrs Smalley, Hollyer and Knight, in accordance with the Constitutional requirements, and on the basis of the detailed reasoning set out in Appendix 3 attached.

Consultation

4. In accordance with the requirements of the Constitution, the calling-in Members have been invited to attend and/or speak at the calling-in meeting, as appropriate, together with relevant Executive Member(s) and Officer(s).

Options

5. The Committee must follow the practice for dealing with called in business set out in the Scrutiny Procedure Rules in Appendix 5 of the Constitution. After debate and all contributions have been heard, the Chair will invite each Member of the Committee to state whether they

consider the core principles identified in the call-in request (Appendix 3) have been breached or not.

6. In the event of a majority of Members finding no breach, the call-in request will be immediately closed with no further action unless the Committee identifies any areas worthy of future exploration by the scrutiny function.
7. In the event of a majority of Members finding a breach, the called in decision will be referred back in full for further consideration at the next appropriate meeting of the Executive.

Analysis

8. Members need to consider any breach specifically identified in the call-in request in relation to the original report to the Executive and the consequential decision made. As stated in the options identified above, the Chair will then guide the Committee on the constitutional requirements for handling the meeting and culminating in the Committee determining its position on any breaches.

Council Plan

9. Any implications associated with the delivery of Council priorities for 2023-2027 are addressed in the original report to the Executive set out in Appendix 2.

Implications

10. There are no known Financial, HR, Legal, Property, Equalities, or Crime and Disorder implications in relation to handling the call-in of the issue under consideration.

Risk Management

11. There are no risk management implications associated with the call-in of this matter.

Recommendations

12. Members' views are sought on the call-in request and specific breaches identified in Appendix 3.

Reason: To enable the called-in matter to be dealt with efficiently and in accordance with the requirements of the Council's Constitution.

Contact Details

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Chief Officer Responsible for the report:

Bryn Roberts
Director of Governance
Tel: 01904 555385

Report Approved



Date: 25/04/2024

Wards Affected: All

For further information please contact the author of the report

Annexes

Appendix 1 – Extract from the Decision Sheet produced following the Executive Meeting on 18 April 2024, setting out the decisions made on the called-in item.

Appendix 2 – Report of the Assistant Director, Policy and Strategy to the Executive Meeting on 18 April 2024, Advertising Contract and associated annexes A-C.

Appendix 3 – Call in Request from Councillors Smalley, Hollyer and Knight.

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Executive

Thursday, 18 April 2024

Decisions

Set out below is a summary of the decisions taken at the Executive meeting held on Thursday, 18 April 2024. The wording used does not necessarily reflect the actual wording that will appear in the minutes.

Members are reminded that, should they wish to call in a decision, notice must be given to Democracy Services no later than 4pm on the Thursday 25 April 2024.

If you have any queries about any matters referred to in this decision sheet please contact Robert Flintoft.

5. Advertising contract

Resolved:

- i. Noted the independent market appraisal and the potential revenue opportunities from place-based advertising:

Reason: Understanding the potential value of advertising opportunities across the council's estate and assets to realise maximum revenues, recognising that by doing so there will be a necessary change from analogue to digital advertising, to keep up with market demand and recognise increased revenue opportunities.

- ii. Approved the direct award of a new 15-year (plus a possible 1-year extension) bus shelter advertising and digital free standing unit concession contract to JC Decaux and delegate authority to negotiate and conclude the new concession contract (and the provisions of any subsequent modifications and/or extensions thereto) to the Director of Governance in consultation with the Head of Procurement and the Director of Public Health:

Reason: The bus shelter and digital information board contract expired on 31 December 2023 and is now on a 12-month extension as per the current contract mechanism. By approving the new contract, the council will more quickly benefit from the increased revenue with the supplier being able to more quickly digitise subject to planning approvals.

75% of Out Of Home advertising revenue comes from Digital and as such Paper advertising alone is no longer sustainable for the future operational running of a Bus Shelter and Free- Standing Unit contract.

If direct award is not support, the Council would need to run a new tender awarded prior to 1 January 2025.

- iii. Pursuant to Rule 26.1 of the Council's Contract Procedure Rules ("CPRs"), the Executive approved a waiver of Rules 11.4 and 11.7 of the Council's CPRs in relation to the direct award of the new concession contract to JC Decaux UK.

Reason: Most of the bus shelters in York are currently the property of JCDecaux, who both purchase, install and maintain them. The risks of not continuing the concession contract are set out in the report and can be summarised as, all current bus shelters would be dismantled by JCDecaux in January 2025 with new ones needed to be sourced, installed and maintained introducing a substantial additional cost to the Council in both capacity and, potentially capital expenditure and ongoing operational expenditure if a new supplier is not found through a competitive tender.

- iv. Approved the council's advertising policy which will be embedded into the bus shelter, and all place-based advertising contracts with adverts displayed on council owned or operated land:

Reason: The new advertising contract allows greater controls over the types of advertising that is displayed. The council's advertising policy is designed to restrict

high fat, salt and sugar products being displayed to residents to help promote better health and wellbeing.

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Meeting:	Executive
Meeting date:	18/04/2024
Report of:	Claire Foale Assistant Director Policy and Strategy
Portfolio of:	Cllr Katie Lomas Executive Member for Finance, Performance, Major Projects, Human Rights, Equality, and Inclusion

Decision Report: Advertising Contract

Subject of Report

1. Prior to the ending of the current bus shelter advertising contract, the council conducted an independent market appraisal to understand the value of place-based advertising across the city.
2. The market appraisal provided sufficient information for the Council to negotiate a new 15-year (plus a 1-year option to extend) concession contract with its incumbent partner, J C Decaux UK Limited (“**JC Decaux**”), to provide and maintain bus shelters with either no advertising, paper adverts or digital adverts, and digital Free-Standing Units, subject to the necessary planning consents. The market appraisal is commercial in confidence.
3. In tandem, the council has developed an advertising policy and supporting guidance which aims to restrict high fat, salt or sugar (HFSS) adverts being displayed across the city.

Benefits and Challenges

4. Outdoor advertising in York currently raises around £179k for the Council through a combination of bus shelter adverts, car-parks and park and ride, roundabout and boundary signs. The

independent Market Appraisal demonstrated there is the potential to increase advertising revenue across a range of formats across the city, with a potential value of “anywhere from £456,000 to £479,000 per annum, an uplift of circa £290k per annum.” This estimate is subject to caveats including planning consent, market demand and capacity to grow the offer.

5. The end of the current bus shelter advertising concession contract provides an opportunity for York to benefit from a range of value-added advertising installations which could include air quality monitors, GDPR compliant device counters via publicly available wifi and dedicated digital advertising space for council events, civic promotion and messaging (subject to planning consents). In addition, the new concession contract sets out clear sustainability expectations including community biodiversity projects facilitated by JC Decaux UK, together with restricting the display of high fat, sugar and salt adverts across the advertising on renewal and tenders.
6. JC Decaux UK has a commitment to be net zero by 2030 with sustainability measures in place, such as their energy usage is from 100% renewable energy source (solar, wind, hydro) certified by EDF.
7. There is a challenge resulting in the move from paper advertising to digital advertising. This is demanded by the market and is prevalent in other heritage and conservation areas, however for York this represents a unique challenge to continue to ensure the character of the city remains intact.
8. Each installation with digital advertising (whether bus shelter or free-standing units) will require planning permission. Furthermore, the digital advertising screens will include auto dim technology, and be turned off between 12pm-5am whilst being compliant to the luminance levels stipulated by the planning authority.

Policy Basis for Decision

9. **Equalities:** The design specification of the bus shelters and free-standing units includes features to better support different communities, including seating across all bus shelters, avoiding blocking visibility, wider walk around widths and energy efficient lighting.

10. **Affordability:** The new advertising contract supports the Council's Mid Term Financial Strategy and savings plan. This includes making an annual donation (both monetary and employee volunteering) to York's Community Fund.
11. **Climate:** The new contract responds to the Council's ambition to be net zero by 2030. Air quality measures have been added to bus shelters in key locations together with sustainable measures incorporated within the design and maintenance of the refurbished bus shelters and new digital free-standing units. Direct award of the new concession contract will minimise emissions associated with demolition, disposal and replacement of the existing shelters and advertising infrastructure. Opportunities for bus shelters and advertising infrastructure to support the ambition for York to be Climate Ready by 2030 should be considered in their design.
12. **Health:** There is a strong body of evidence that suggests restricting advertising to avoid high fat, sugar and salt products better supports resident's healthy weight. The council has refreshed the advertising policy to incorporate high fat, salt and sugar policy developed by Public Health and partners. Incorporating the council's advertising policy into the new advertising contract, and all place-based advertising contracts going forward, is aligned to both the Council Plan's commitment to reduce health inequalities and provide the best start for children and young people, and the Joint Health and Wellbeing Strategy 2022-2032.

Financial Strategy Implications

13. The current financial strategy already assumes a total of £500k additional income from advertising, of which £125k was expected in 2023/24 with the balance of £375k expected in 2024/25.
14. The new bus shelter and digital Free-Standing Unit contract, subject to contract and planning for digital advertising, will include an upfront payment commitment of the first years rent. It is anticipated that the increased rent to the Council will be of at least 20%. More than the current income the Council receives.

Executive are invited to:

1. Note the independent market appraisal and the potential revenue opportunities from place-based advertising:
 - Understanding the potential value of advertising opportunities across the council's estate and assets to realise maximum revenues, recognising that by doing so there will be a necessary change from analogue to digital advertising, to keep up with market demand and recognise increased revenue opportunities.

2. Approve the direct award of a new 15-year (plus a possible 1-year extension) bus shelter advertising and digital free standing unit concession contract to JC Decaux and delegate authority to negotiate and conclude the new concession contract (and the provisions of any subsequent modifications and/or extensions thereto) to the Director of Governance in consultation with the Head of Procurement and the Director of Public Health:
 - The bus shelter and digital information board contract expired on 31 December 2023 and is now on a 12-month extension as per the current contract mechanism. By approving the new contract, the council will more quickly benefit from the increased revenue with the supplier being able to more quickly digitise subject to planning approvals.
 - 75% of Out Of Home advertising revenue comes from Digital and as such Paper advertising alone is no longer sustainable for the future operational running of a Bus Shelter and Free-Standing Unit contract.
 - If direct award is not support, the Council would need to run a new tender awarded prior to 1 January 2025.

3. Pursuant to Rule 26.1 of the Council's Contract Procedure Rules ("**CPRs**"), approve a waiver of Rules 11.4 and 11.7 of the Council's CPRs in relation to the direct award of the new concession contract to JC Decaux UK.
 - Most of the bus shelters in York are currently the property of JCDecaux, who both purchase, install and maintain them. The risks of not continuing the concession contract are set

out in the report and can be summarised as, all current bus shelters would be dismantled by JCDecaux in January 2025 with new ones needed to be sourced, installed and maintained introducing a substantial additional cost to the Council in both capacity and, potentially capital expenditure and ongoing operational expenditure if a new supplier is not found through a competitive tender.

4. Approve the council's advertising policy which will be embedded into the bus shelter, and all place-based advertising contracts with adverts displayed on council owned or operated land:
 - The new advertising contract allows greater controls over the types of advertising that is displayed. The council's advertising policy is designed to restrict high fat, salt and sugar products being displayed to residents to help promote better health and wellbeing.

Background

5. The Financial Strategy 2023/24 - 2027/28 approved by Council in February 2023 notes additional income from advertising contracts of £125k in 2023/24 and £375k in 2024/25.
6. The council currently generates revenue from advertising from bus-shelters and other formats (boundary signs, roundabouts, car parks), totalling around £179k per year.
7. The bus shelter contract is with JC Decaux and the other format contract is with Community Partnerships. This report only considers the bus shelter contract, noting not all bus shelters are managed through this contract.
8. To understand the potential value of advertising contracts, the council commissioned an independent market appraisal to better understand income generation opportunities from small and large format out of home media, with options that are deliverable and with 'the estimated value of their recommendations'.
9. *The Advertising and sponsorship income generation feasibility study and audit report* (the market appraisal) was produced independently and identifies several possible new and or enhanced revenue streams for the council from commercial advertising and sponsorship. Council income from place-based advertising could be increased to around £456k-£478k per annum (subject to planning consents) through a combination of:

- Re-tendering the bus-shelter concession contract to include free-standing digital advertising and information units
 - Tendering new large format out of home advertising displays (billboards), primarily digital, with both rental and percentage share income.
 - Add to the commercial value of sponsored roundabouts and boundary signs along with advertising displays in car parks and park & rides, either through engagement with the current supplier or through a tender exercise.
10. In addition, an independent report issued in March 2024 by ¹KPMG and Outsmart explored sustainability comparisons between advertising channels and noted:
- Per impression out of home emits less carbon than all other media measured
 - Out of home is 3.3% of advertising power consumption and less than 3.5% of advertising carbon footprint
 - Control over the supply chain and end to end operations means out of home advertising media owners directly improve sustainability more easily than other advertising channels
 - Out of home is a more sustainable advertising platform for brands than other media types.

Bus shelter and free-standing digital unit contract

11. The Financial Strategy 2023/24 - 2027/28 approved by Council in February 2024 notes additional income from advertising contracts of £125k in 2023/24 and £375k in 2024/25.
12. JCDecaux UK currently holds the concession contract for providing and maintaining bus shelters across the council's geography. Although they are not the only provider of bus shelters, they own 142 bus shelters (of which 80 including paper advertising). The concession contract was extended for 12 months in December 2023 to allow the negotiation of a new concession contract to take place.
13. A new 15-year concession contract has been negotiated with JC Decaux UK to provide and maintain the majority of bus shelters

[OOH is just 3.3% of UK Advertising's Power Consumption & under 3.5% of its Carbon Footprint - New Report \(outsmart.org.uk\)](https://www.outsmart.org.uk)

and digital Free-Standing Unit advertising across the council's geography on council-owned land. This includes future development opportunities. There are other bus shelters managed outside of this concession contract, which do not feature advertising.

14. Subject to planning consents, the concession contract makes provision for internally illuminated and digital advertising and non-advertising bus shelters, together with free standing digital units.
15. If digital advertising is not supported, the independent market appraisal has made clear the market will not be interested in entering into a new contract as it will no longer be commercially viable.
16. As a result, this could expose the Council to having to develop and maintain its own Bus Shelter estate at an initial fee of around £1.4m in Capex (asset, foundations, installation, power connection) as well as an ongoing annual operational costs of around £200k taking into account electricity costs, business rates and associated cleaning and maintenance costs.
17. The new concession contract will provide the council with an annual revenue comprised of a minimum guarantee and profit share. Subject to contract and planning for digital advertising, the Council will see an increase of at least 20% in income from the previous concession contract. To alleviate pressure in this year's budget, the contract will also make provision for an upfront payment of the minimum guarantee.
18. The value of the proposed concession which is subject to contract and planning for digital advertising is based on both the resident population and the high number and high value of the visitor economy which is extremely attractive to advertisers, benefiting the council indirectly through increased revenue.
19. The proposed concession contract has been negotiated on a single tender basis. This is because the market appraisal report sets out the likely revenues which was derived through consultation with providers and negating the requirement for a competitive tender.
20. The addition of digital adverts is a market requirement. Digital advertising both increases revenue to the council and provides the council with the opportunity of advertising its own information, with complete autonomy to promote council messaging and events, at

the time the council wants, and to the audience that's most appropriate.

21. The construction and maintenance of bus shelters has changed since the existing contract was negotiated in 1996. JC Decaux UK's commitment to be net zero will work in unison with the council's own commitment to reach net zero by 2030. Sustainability measures are included within the new concession contract. These include:
- a. Lighting should be LED
 - b. Energy from 100% renewable sources certified via private meter connection (solar on-site has been discounted due to the variable conditions, with only 18% energy at most which cannot power the full unit, leading to reliance on grid provision.)
 - c. 100% electric fleet for maintenance crews.
 - d. Rainwater collated for cleaning where feasible.
 - e. Recycled or upcycled production and maintenance.
 - f. Community biodiversity initiatives.
 - g. Monitor and minimise embedded carbon, contributing to the council's annual emission reporting.
22. In addition, following discussion with Planning, illuminated panels will have restricted luminance levels as set by the Planning Authority, to reduce both visual impact and keep emissions low. This is similar to the current illuminated advertising panels that are set by the Planning Authority.
23. Maintenance of the bus shelters is included in the new concession contract. Response times remain the same, with a slight enhancement - residents and officers will now be able to report issues via an app developed by JC Decaux UK which enables JC Decaux UK to arrange timely responses to faults reported. Response times of maintenance issues are listed below:
- a. all items shall be cleaned at least once a fortnight throughout the year - including sides and clear roofs;
 - b. graffiti and fly posters shall be removed within one working day of JC Decaux UK becoming aware or being notified;
 - c. offensive graffiti shall be removed within four (4) Normal Working Hours of the JC Decaux UK becoming aware or being notified;
 - d. routine repairs shall be carried out within two working days of the JC Decaux becoming aware or being notified of the fault;
 - e. Brandsabotage/Brandalism - on notification the JC Decaux shall replace within a day.

24. The design of the bus shelters includes provision to include air quality sensors for the council's Air Quality Team to consider, free public Wi-Fi, together with sustainability measures above. The Yorkshire Rose has been added to be consistent with street furniture installed across the city, which is currently included on the wayfinding signage across the city centre. The new design is subject to internal approval following consultation with disabled community groups.
25. The design includes requirements such as ensuring advertising improves visibility for approaching buses.
26. Given the length of time of the new concession contract (ie. 15 years), JC Decaux UK will support community activity and build a relationship with the city. This includes making an annual donation (both monetary and employee volunteering) to York's Community Fund together with facilitating tree-planting and community-led biodiversity activities.
27. All bus shelters are, and will remain, the property of JC Decaux UK, who both purchase, install and maintain them. The risks of not continuing the concession contract are set out in the report and can be summarised as, all current bus shelters would be dismantled by JC Decaux UK and new ones needed to be sourced and installed, introducing additional cost to the council in both capacity and, potentially both capital and ongoing operational expenditure if a new supplier is not found through a competitive tender, and increasing waste and embodied carbon.
28. Executive are therefore invited to endorse the direct award of a new 15-year concession contract to JC Decaux UK (with an option to extend by up to 1-year) and delegate authority to negotiate and conclude the contract (and the provisions of any subsequent modifications and/or extensions thereto) to the Director of Governance and their delegated officers.
29. The council will develop the other place-based advertising opportunities identified in the report when appropriate, with Executive subsequently invited to endorse any future contracts.

Advertising policy

30. The council's Public Health team have been working on a number of policies and guidance which promotes a healthy food environment in York; this is in line with the city's 'Healthy Lives,

31. There is strong evidence that the promotion and advertising of food products which are high in fat, sugar and salt (HFSS) drives higher consumption of these products (hence the billions spent globally on this type of marketing). The UK population now get over 50% of their calories from this type of ultra processed food.
32. The number of children living with an unhealthy weight has been increasing in York and nationally, as evidenced by the National Child Measurement Programme. In 2007-08, 29.8% of year six children were overweight or obese, and the most recent data in 2022-23 shows that has risen to 32.5%. Approximately 1 in 4 reception-aged children, 1 in 3 year six children and 2 in 3 adults in York are not living with a healthy weight.
33. Whilst obesity and its consequences cost society more than the budget of the police, fire and criminal justice services combined, public health promotion efforts to try and tackle it – often focussing around communications with the public encouraging healthier diets and increased physical activity – are dwarfed by the power of advertising. The global marketing budget of one HFSS product – Coca-Cola – in 2022 (\$4.2bn) was similar in size to the entire public health grant in England (£3.5bn), and junk food marketing in general is estimated to be worth 30 times the amount the UK government spends on promoting healthy eating.
34. Children and young people have been shown to have a high degree of exposure to HFSS advertising, to be more susceptible than adults to its effects, and that children with higher levels of HFSS advertising exposure have measurably higher calorie intake.
35. This has led public health experts and a strong body of research evidence to suggest that tackling the advertising and marketing environment is a valid and necessary policy to supporting a healthy weight in our population. One of the areas which the council can influence is the types of adverts that are shared on council land. This has informed a refresh of the council's advertising policy (**Annex A**) informed by HFSS guidance (**Annex B**) developed by York's Public Health team.
36. The new policy implements an evidence-based model used by Transport for London and now several other local authorities to shape the types of products the council will allow to be advertised through its new contract.

37. An initial evaluation of the policy as implemented in London, carried out by The London School of Hygiene and Tropical Medicine, was published in February 2022. It found that the policy contributed to households buying up to 1,000 fewer calories of energy from unhealthy foods each week and a reduction in sugar purchases per week of up to 81% from products such as chocolate and confectionary. A second independent evaluation from the University of Sheffield's School of Health and Related Research was published in July 2022. It estimated that the policy was associated with 94,867 fewer cases of obesity, among other health benefits, and projected savings for the NHS of over £200 million.
38. In summary, the proposed advertising policy bans the marketing of HFSS products on any council-controlled or tendered advertising material. HFSS products are easily identifiable to advertisers through use of a national database held by the Food Standards Agency (the Nutrient Profiling Model).
39. The impact of the HFSS guidance (Annex B), in terms of advertising income to the council, was explored in the report (Annex A), which concluded any income effect was likely to be negligible, with the food industry having recognised that policies like this are becoming usual practice and adjusting their portfolios and adapting their approach accordingly.
40. The advertising policy has been embedded into the contract. Executive are invited to approve the refreshed council advertising policy, including measures on restricting HFSS advertising as set out in the HFSS guidance (Annex B).
41. The advertising policy will be reviewed over the duration of the contract and updated for Executive future considerations when appropriate.

Consultation Analysis

42. An internal group including Communications, Planning, Regeneration and Highways was convened to inform the development of the market appraisal and contract. The contract has been finalised through consultation with Procurement and Legal.
43. The design of the bus shelters will be tested with disabled community groups prior to contract approval.

44. An independent consultation with key stakeholders was conducted by Fortuna who produced the market appraisal. Responses from key stakeholders covering conservation and the city are included against the advertising 'opportunities' in the *Advertising and sponsorship income generation feasibility study and audit report*.
45. The budget consultation focus groups conducted throughout December 2023 and January 2024 highlighted that residents are comfortable raising additional income from tourists. Although indirectly, because the revenue share of the contract is predicated on York's high value, high volume visitor economy, the council can attract a higher income than other places.

Options Analysis and Evidential Basis

There are only two options presented today:

1. Accept the recommendations above and progress the direct award of the new concession contract with JCDecaux UK, embedding the refreshed advertising policy, recognising that by doing so, digital advertising will be introduced to public spaces leading to an increased revenue to the council;

Or

2. Reject the recommendations and ask officers to run a competitive tender exploring whether any provider would be prepared to only feature paper adverts. This presents a considerable risk, as the market appraisal notes, the market has changed over the last 20 or so years and digital is now an expected part of the offer. In addition, by doing so, it would create an additional capacity requirement to both run the tender process at an additional cost and time to the council, and then arrange for the dismantle of existing bus shelters, and installation of new ones with a new provider, leading to disruption to the public and highways network.

Organisational Impact and Implications

Financial

The current level of income generated by place-based advertising is c£179k and, as outlined elsewhere in the report, a budget saving of £125k was approved for 2023/24.

This new contract will provide the council with an annual revenue comprised of a minimum guarantee and profit share. Subject to contract and planning for digital advertising, the Council will see an increase of at least 20% in income from the previous concession contract. This is to alleviate pressure in this year's budget.

In addition, the bus shelter contract mitigates additional council expenditure by providing the bus shelters and bus shelter maintenance (see financial risks).

Human Resources

Should there be additional resources required to undertake aspects of these projects, consideration should be taken to assess and possibly re-prioritise existing resources or seek short term additional capacity. All options will be considered in line with the current financial climate and HR processes.

Legal

Power: The Council has power under the general power of competence under section 1(1) of Localism Act 2011 to raise income through outdoor advertising.

Specific Legislation: Outdoor advertising is subject to a legal control system predominantly contained in the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, SI 2007/783. Consents would need to be in place. Where a local authority seeks planning consent from itself there is a mechanism in place to maintain probity.

Guidance: Following an Office of Fair-Trading investigation, non-statutory guidance was issued in 2012 entitled "*Street furniture advertising: Recommendations to Local Authorities*". This focuses on ways Local Authorities might procure street furniture advertising in future to encourage greater competition. It highlights the risks of long duration contracts and recommends Local Authorities separate out contracts for installing and maintaining street furniture from contracts to advertise on that street furniture. It also recommends that Local Authorities tender out contracts which come to the end of their current term, rather than simply renegotiating an extension with the incumbent provider for reasons of transparency and encouraging new entrants.

CPRs: Under Rule 26.1 of the Council's CPRs, except where the Procurement Regs apply, the Executive has the power to waive any requirements within these CPRs for specific projects upon request.

Contract Implications: The new concession contract has been negotiated with JC Decaux with advice and input from Legal Services.

If the Executive decide not to proceed with the proposed concession contract with JC Decaux UK, this will mean the current contract with JC Decaux will expire on 31st December 2024 and the Council would have to commission a new concession contract on the open market with advice from the Commercial Procurement team (see **Procurement** below) and a new contract drafted with advice from Legal Services in readiness for the new concession contract to start from 1 January 2025. As all the bus shelters and equipment under the current concession contract belong to JC Decaux, any re-procurement would also necessitate the additional costs of procuring and installing new bus shelters and equipment, as well as potential TUPE and pension implications in relation to the relevant transfer of any JC Decaux UK staff to the Council or any replacement provider, all of which would need to be addressed in any new contract(s) drafted by Legal Services.

Procurement

The contract has resulted in the requirement for a waiver. It is important to note, a waiver request is submitted for consideration to waive the council's Contract Procedure Rules, and potentially waive and breach the Public Contract Regulations 2015 (cost depending) and not seek competition or test the market. Justifications have been provided that meet the waiver grounds detailed within the Contract Procedure Rules.

Health and Wellbeing

Public Health fully supports the implementation of the new advertising policy and associated HFSS policy and guidance. The inclusion in this contract negotiation of the HFSS policy drawn up by CYC and reviewed by Fortuna will improve the long-term health impacts and nutritional benefits of food advertised to York residents and will therefore be a net health gain for the city.

Environment and Climate action

Direct award of the new concession contract will minimise emissions associated with demolition, disposal and replacement of the existing shelters and advertising infrastructure that remain fit for purpose. Carbon emissions savings could also be achieved by replacing paper-based signs with energy efficient digital signs. However, the move to digital

advertising will increase the energy usage, and therefore, measures to reduce energy usage should follow the energy hierarchy:

- Lean – minimise usage through LED lighting and smart controls;
- Clean – use of onsite renewable generation should be considered;
- Green – use of grid electricity should be from renewable sources.

Opportunities for bus shelters and advertising infrastructure to support the ambition for York to be Climate Ready by 2030 should be considered in their design.

Affordability

The council will have 10% of all advertising time, allowing it to provide messages direct to specific groups, including carers, or low income groups, to promote council services that could better support.

There was a concern expressed in the government's EIA that by promoting non HFSS products, people on lower income will no longer have the same choice of food products, potentially making choices more expensive. The government propose mitigating this by providing more information about healthy food choices, and that the cost of products is not changing which is at the discretion of the food and drink industry. Advertising HFSS products can still be promoted on non-council advertising channels as appropriate.

Equalities and Human Rights

The Council recognises, and needs to take into account its Public Sector Equality Duty under Section 149 of the Equality Act 2010 (to have due regard to the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct; advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and foster good relations between persons who share a relevant protected characteristic and persons who do not share it in the exercise of a public authority's functions).

In addition to the benefits in the policy section of this report, the Equalities Impact Assessment shows potential positive impacts on several protected characteristics.

Data Protection and Privacy

Data protection impact assessments (DPIAs) are an essential part of our accountability obligations and is a legal requirement for any type of processing under UK data protection and privacy legislation. Failure to

carry out a DPIA when required may leave the council open to enforcement action, including monetary penalties or fines.

DPIAs helps us to assess and demonstrate how we comply with all of our data protection obligations. It does not have to eradicate all risks but should help to minimise and determine whether the level of risk is acceptable in the circumstances, considering the benefits of what the council wants to achieve.

The DPIA screening questions were completed for this report and as there is no personal data being processed for the options set out in this report, there is no requirement to complete a DPIA. This will be reviewed where required following the decision on this report.

Communications There are no Communications service implications of this report over any media management requirements.

Economy No impact

Risks and Mitigations

The opportunities for income uplift through advertising revenue, are not insignificant, which go some way towards mitigating the risks outlined below:

Market acceptance risk The Out of Home Advertising market is no longer developing 100% paper advertising given the increasing move to Digital which now represents 75% of revenue. As such, there is a risk that if digital advertising is not supported, the market will not be interested in entering into a new 15yr term for the development of paper display shelters as the contract will no longer be commercially viable.

Financial risks relate to a) retention of the current level of income, and b) failure to realise the opportunities for increased income as described. c) If the contract does not go forward, this could expose the Council to having to develop and maintain its own Bus Shelter estate at an initial fee of around £1.4m in Capex (asset, foundations, installation, power connection) as well as an ongoing annual operational costs of around £250k-£300k taking into account electricity costs, business rates and associated cleaning and maintenance costs.

Installation risks relate to whether as a Planning Authority, and constraints imposed by conservation areas, the ability to switch from paper to digital is possible, with the risk that revenue is compromised.

Reputationally although the digital advertising units have been tested and are designed to be no more obtrusive than existing bus shelter advertising units, residents might not support them and will make representations through Planning. Resident engagement will take place once the installation plan has been completed.

Wards Impacted

ALL

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

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Background papers

Executive February 2024 Financial Strategy 23/24-27/28 Savings
[Agenda for Council on Thursday, 22 February 2024, 6.30 pm](#)
york.gov.uk

Healthy Lives Healthy Weight Strategy [Healthy-Weight-Healthy-Lives-Strategy.pdf \(healthyork.org\)](#)

Annexes

- Annex A** Council Advertising Policy
- Annex B** High Fat, Salt, Sugar (HFSS) Guidance
- Annex C** Equalities Impact Assessment

Annex A City of York Council Advertising Policy

We strive to be an open and honest organisation which actively engages with our residents, businesses, visitors and partners. Our communication with stakeholders should be a two-way process, so everyone's views can help shape the services we provide. We're a listening council.

This policy is intended to provide clear guidance regarding the requirements to advertise on council property and/or public estate.

The policy covers you if you're:

- an advertiser agency or organisation hoping to advertise on City of York Council's property or public estate
- a marketing communications or sponsorship agency hoping to use the council's public estate for commercial gain (such as licencing or promotion of specific events)

Council property, assets and public estate is defined as:

- boundary signs
- roundabouts
- car parks
- roads and highways
- council-owned buildings including the Stadium, City Walls and Mansion House
- bus stops
- information boards
- ward notice boards

For more information contact: claire.foale@york.gov.uk

General approach to advertising and sponsorship

We're looking to maximise revenue from advertising or sponsorship on its public and digital space, including public highways, car parks, roundabouts, Park & Ride sites, bus stops, billboards, boundary signs and city-centre Wi-Fi, and wherever it's within the constraints of this policy and acceptable to the council to permit advertising or sponsorship.

The council officers, who are appointed to administer the advertising and sponsorship processes, will ensure that the acceptance and display of

advertising or sponsorship does not conflict with any other policy or operational objectives of the council.

Such broader objectives can include the need to generate revenue through promoting certain services we provide, and it would not be appropriate to display advertising for 'competing services'; what constitutes a competing service will change from time to time.

There will be other examples of advertising which might conflict with broader council objectives. Where advertising cannot be accepted due to such conflicts, the reasons will always be clearly explained to advertisers or their agents.

The council does not take a 'white-listing' approach (which is when specific permitted advertising is defined), but rather follows a 'black-listing' approach (which is when the basic assumption is that advertising is permitted unless it falls into a number of **prohibited products, services and advertisers** categories).

National legislation and policy

We take note of relevant national policy such as:

- **Advertising Codes regulated by the Advertising Standards Authority**
- **Consumer Protection from Unfair Trading Regulations, 2008**
- **The Calorie Labelling (Out of Home Sector) (England) Regulations, 2021**
- **The Soft Drinks Industry Levy Regulations, 2018**
- **The Food (Promotion and Placement) (England) Regulations 2021**
- Restrictions on multi-buy deals (due October 2023)
- Restrictions on advertising on TV and online (due January 2024)

We particularly take note of the **Consumer Protection from Unfair Trading Regulations 2008**, which seek to protect consumers from unfair, misleading or aggressive marketing practices and require all advertisers to **strongly comply** with not only the letter, but also the spirit, of these regulations.

Prohibited products, services and advertisers

Other than the specific categories of products and services which may not be promoted by the council, as defined below, most products and

services may be promoted, although all submissions are subject to individual scrutiny as to their acceptability.

Private sector competitors who offer services provided by City of York Council or other public sector organisations may advertise on council owned advertising space subject to individual case approval. This policy toward competitor advertising will be reviewed on a quarterly basis, or as required.

Political organisations **may not** advertise on council owned advertising space. We, while actively encouraging the engagement of citizens and community groups in policy setting and other democratic processes, do not encourage, and will generally not permit, advertising from what might broadly be called 'lobby groups'. Whether those lobby groups be very local and temporary, perhaps centred on a particular planning decision, or national or international and more permanent in nature.

Gambling organisations are not considered appropriate advertisers.

Organisations offering entry into a competition following completion of a form containing any personal information will not be allowed to advertise.

In addition to the [specific exemptions](#) listed, there may also be some specific controls and policies associated with individual placements.

Specific exemptions

The following categories of organisations, products or services are **strictly prevented** from, and will not advertise or be advertised on council owned advertising space:

Types of organisations:

- political organisations
- manufacturers of tobacco or tobacco related products
- manufacturers of alcohol products
- advertising from any organisation associated with 'adult industries' will not be permitted
- organisations whose values, products, services or views, conflicts with the cores values or policies of the Council in any way

Those who affect public support for a political party, a person identified with such a party, or a point of view or question of political controversy.

Associates with organisations in financial or legal conflict with the council:

- any organisation which discriminates on the grounds of race, colour, national origin, religion, sexual orientation or disability
- any organisation which appears to compete directly with a council service or income stream will be considered on a case by case basis; or example, if the council is running fostering advertising, it will not expect to see competing private foster agencies advertising

Named organisations:

- none specified at this stage, but organisations will be added to this list as and when they are identified

Types or products and services, or any advertising implying or relating to the sale, promotion or use of:

- tobacco or tobacco related products
- vaping products
- alcohol
- gambling
- pornography
- adult content
- unhealthy food or drinks defined as high saturate fat, salt and/or sugar (HFSS)
- cosmetic surgery
- loans and speculative financial products
- weapons, violence or anti-social behaviour of any description
- any product or service which is deemed or perceived to discriminate on the grounds of race, colour, national origin, religion, sexual orientation or disability

Additional policy guidance on HFSS restrictions is available in the council's [High Fat, Salt or Sugar Advertising Guidance](#).

We'll ensure that there can be no questions as to content suitability and retains the right to refuse any content that we're not happy with. Any content or advertising which has an overtly 'sexual tone' will be excluded without exception.

Named products and services:

- none specified at this stage, but products or services will be added to this list as and when they are identified

Style and content of advertising

We expect adherence to the Advertising Codes regulated by the [Advertising Standards Authority](#) and the Committee of Advertising Practice.

We will not hesitate to support complainants and subsequent engagement with the Advertising Standards Authority if the code is not followed.

Advertising on public highways (including roundabouts or boundary signs) cannot include arrows or directions that would conflict with highways signs and could represent a safety risk.

Behavioural targeting, cookies and privacy

Advertising across the council's public estate is managed and maintained by third-party suppliers.

The third-party and advertiser will have regard to [Regulation \(EU\) 2016/679 \(the General Data Protection Regulation, 'GDPR'\)](#) and the [Data Protection Act 2018](#) in the case of personal data, and the [Privacy and Electronic Communications \(EC Directive\) Regulations 2003](#) in the case of activities relating to electronic communications.

Advertisers must comply with this legislation and guidance is available from the [Information Commissioner's Office](#). Although the legislation has a wide application, these rules relate only to data used for direct marketing purposes. The rules should be observed in conjunction with the legislation, and do not replace it.

The third-party suppliers who provide, maintain and manage advertising are listed below, together with links to their individual privacy statements.

- JC Decaux Group - [JCDecaux's Privacy and Personal Data Protection Policy](#)
- Community Partnerships Media - [CP Media's Privacy Policy](#)

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Annex B
City of York Council
High Fat, Salt or Sugar Advertising Guidance

This guidance is an addition to the City of York Council's Advertising Policy and should be read and applied alongside that policy. It details guidance relating to restrictions of High Fat, Salt or Sugar (HFSS) products and requirements for advertising approvals.

Find guidance about:

1. The general principles:
 - a. The **UK Nutrient Profiling Model** (NPM) was developed by the **Food Standards Agency**, which was subsequently exposed to rigorous scientific scrutiny and extensive consultation, with ongoing technical support being provided by the **Department of Health and Social Care**. The model uses a scoring system, balancing the contribution made by beneficial nutrients that are particularly important in children's diets with components in the food that children should eat less of. It has therefore been concluded that the NPM model is the best way of identifying food that contributes to child obesity. Such food and drink is not only purchased directly by children but is bought for them by others.
 - b. Read guidance on how to identify whether a product is considered HFSS under the **UK Nutrient Profiling Model**.
 - c. The outcome of any reviews or revisions of the NPM will be taken into consideration in applying our policy.
 - d. City of York Council or its representatives may request evidence of nutrition information of food and drink products advertised, and in line with the **Food Standards Agency** recommendations, City of York Council expects any laboratory used for nutrition analysis to have ISO 17025 accreditation and this should be by the **United Kingdom Accreditation Service** (UKAS).
2. Exceptions:
 - a. There are no exceptions to the policy offered on council-owned advertising sites. City of York Council understands there may be some limited unintended consequences of applying this policy, but has concluded that these consequences do not justify a general exceptions process.

- b. The only circumstance in which an exception will be considered is within the footprint of an event operating on council-owned land, where the application of the policy would make the event unviable or logistically unfeasible to run; for example, directional signage to stalls at a food and drink festival.
3. Content featuring only non-HFSS products:
 - a. These would normally be approved but would still need to comply with other sections of the City of York Council's Advertising Policy.
4. Content featuring only HFSS products:
 - a. Where proposed content features only food and/or drink which is rated HFSS, such copy would be rejected, unless a practical exception has been agreed by the council as per **paragraph 2.b.**
 - b. It's therefore recommended that, before committing to advertising production agreements, advertisers should discuss their eligibility with the council or its agents.
5. Content where there is a range of food and drink featured, some of which is HFS:
 - a. The advertising or promotion of HFSS products is unacceptable under the policy, so a range or meal could not feature them (for example, fish, chips and peas could only be advertised if all products were non-HFSS). This would also apply to any meal settings being shown, including those for restaurants, aggregator platforms and delivery services.
 - b. It's the responsibility of advertisers and/or sponsors and their agents to verify the status of the products featured using the NPM.
6. Content where no food or drink is featured directly but the advertisement is from or features a food and drink brand:
 - a. This may include:
 - i. advertisements where the brand's logo is included but no products, such as a brand values campaign
 - ii. directional signage to a store, app or website
 - iii. promotional advertising which is price-led but features no products such as '50% off everything' or similar
 - iv. advertising about a business or its performance

- v. content such as slides delivered by a sponsor at an event sponsored by a food or drink brand
 - b. Food and drink brands (including food and drink service companies or ordering services) will only be able to place such advertisements if the advertisement promotes healthier options (for example, non-HFSS products) as the basis of the copy.
 - c. Where advertisers and sponsors are uncertain about the classification of proposed copy under these guidelines, they should discuss this with the council or its agents.
- 7. Advertisements or other content where food and drink is shown 'incidentally' for example, it's not the subject of the advertisement but is included (or implied) by visual or copy:
 - a. HFSS products should not be promoted by being featured in advertisements for other products. It's the responsibility of advertisers and their agents to verify the HFSS status of the products featured using the NPM.
 - b. Where a food or drink item is featured incidentally and does not relate to a specific identifiable product which can be assessed for its HFSS status, advertising copy may be rejected by the council or its agents on the basis that the advertisement promotes the consumption of HFSS foods.
- 8. Advertisements or other content where food and drink is referenced in text, through graphical representations or other visual representation:
 - a. HFSS products should not be promoted through references in text, graphical images or other visual representations of food and drink. Where a food or drink item is featured in this way and does not relate to a specific identifiable product which can be assessed for its HFSS status, copy may be rejected by the council or its agents on the basis that it promotes the consumption of HFSS foods.
- 9. Indirect promotion of HFSS food and drink:
 - a. Where a product is non-HFSS but falls within a category covered by Public Health England's (PHE) recommendations for sugar or calorie reduction, the product should always carry a prominent product descriptor to help differentiate it from noncompliant products (for example, where an advertisement features a non-HFSS pizza or burger, the

image should be accompanied by prominent text that names the specific product and retailer).

- b. Children should not usually be shown in advertisements for products which are compliant in a category which is covered by PHE's recommendations for sugar or calorie reduction.

10. Portion sizes:

- a. The NPM model is based on nutrients per 100g of a product, rather than recommended portion size. Advertisers should always ensure that they promote products in portion sizes which encourage healthy eating. For products that are non-HFSS but fall within a category covered by PHE's recommendations for sugar or calorie reduction, the product should be displayed as a single portion, unless agreed otherwise by the council or its agents.
- b. If advertisers, sponsors and agencies are unsure about how to interpret this, or any other aspect of these guidelines, they are encouraged to get in touch with the council or its agents and work together on a solution to avoid submitted copy requiring changes or being rejected.

**City of York Council
Equalities Impact Assessment**

Who is submitting the proposal?

Directorate:	Governance		
Service Area:	Policy and Strategy		
Name of the proposal :	Advertising Contract		
Lead officer:	Claire Foale		
Date assessment completed:	March 2024		
Names of those who contributed to the assessment:			
Name	Job title	Organisation	Area of expertise
David Smith	Access Officer	CYC	Access
Laura Williams	AD Communities and Equalities	CYC	Equalities
Michael Howard	Head of Highways and Transport	CYC	Highways
Peter Roderick	Director of Public Health	CYC	Public Health
Olly Willmore	Regional Director	JCDecaux UK	Bus Shelter and Digital Free-Standing Units

Step 1 – Aims and intended outcomes

<p>1.1</p>	<p>What is the purpose of the proposal?</p> <p>The proposal is to</p> <ul style="list-style-type: none"> a) Approve a new 15-year contract for place-based advertising on Bus Shelter and Digital Free-Standing Units (subject to planning consents) b) Approve the amendment of the Council’s current advertising policy which is designed to restrict high fat, salt and sugar products being displayed to residents to promote better health and wellbeing
<p>1.2</p>	<p>Are there any external considerations? (Legislation/government directive/codes of practice etc.)</p> <p>Out of home (OOH) advertising is covered by the Town and Country Planning (Control of Advertising) Regulations 2007 and amendment 2021 https://www.legislation.gov.uk/ukxi/2021/617/contents/made ; The UK Code of Non-broadcast Advertising (ASA) ; and the Code of Recommended Practice on Local Authority Publicity 2011. Advert content is covered by:</p> <ul style="list-style-type: none"> • <u>Consumer Protection from Unfair Trading Regulations, 2008</u> • <u>The Calorie Labelling (Out of Home Sector) (England) Regulations, 2021</u> • <u>The Soft Drinks Industry Levy Regulations, 2018</u> • <u>The Food (Promotion and Placement) (England) Regulations 2021</u> • Restrictions on multi-buy deals (due October 2023) • Restrictions on advertising on TV and online (due January 2024) • <u>Consumer Protection from Unfair Trading Regulations 2008,</u> <p>The High Fat, Salt and Sugar guidance is covered by The <u>UK Nutrient Profiling Model</u> by the <u>Food Standards Agency</u>, and the <u>Department of Health and Social Care</u></p>

1.3	<p>Who are the stakeholders and what are their interests?</p> <p>Residents, commuters, businesses – who view the advertising, or purchase advertising space and/or use the bus network and bus shelters</p>
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1.4	<p>What results/outcomes do we want to achieve and for whom?</p> <ul style="list-style-type: none"> • Modern, accessible and sustainable bus shelters and Digital Free-Standing Units – improved / high standard street furniture • Continued, high standard maintenance & cleaning regime of the bus shelters and Digital Free-Standing Unit estate • Increase in revenue from place-based advertising due to digitisation • Increase Council’s time on screen on Digital Bus Shelters and Free-Standing Units to promote messaging and civic events • Partnership to promote social benefit – biodiversity initiatives and support of the York Community Fund • Reduced High Fat, High Salt, High Sugar advertising on council owned land • Greater awareness of healthy food and drink choices
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Step 2 – Gathering the information and feedback

2.1	What sources of data, evidence and consultation feedback do we have to help us understand the impact of the proposal on equality rights and human rights?	
Source of data/supporting evidence	Reason for using	
A range of national evidence has been used to inform the development of the proposal and advertising policy including national/international best practice.	Place based advertising is informed by data and evidence which informed the Town and Country Planning (Control of Advertising) regulations.	
Budget consultation 2022 and 2023	Residents indicated they would be comfortable with the council seeking increased revenue from tourists	
Local Transport Consultation and Blue Badge Access Consultation	How disabled people move through the city, and understanding the barriers they face has helped inform the contract specifications.	
The High Fat, High Salt, High Sugar evidence base	Transport for London and the London School of Hygiene and Tropical Medicine evidence base about the benefits of implementing this policy informed the council's approach.	
The government's EIA which was published when introducing HFSS guidance	Equality assessment: introducing further advertising restrictions on TV and online for products high in fat, salt and sugar - GOV.UK (www.gov.uk) The government have already consulted on the introduction of HFSS guidance which supports the introduction in York	

Step 3 – Gaps in data and knowledge

3.1	What are the main gaps in information and understanding of the impact of your proposal? Please indicate how any gaps will be dealt with.	
Gaps in data or knowledge		Action to deal with this
The view of different people with different protected characteristics.		Feedback will continue to be collated and inform the regular review of the contract and advertising policy.
The views of residents in the development of this proposal.		Feedback will continue to be collated and inform the regular review of the contract and advertising policy.

Step 4 – Analysing the impacts or effects.

4.1	<p>Please consider what the evidence tells you about the likely impact (positive or negative) on people sharing a protected characteristic, i.e. how significant could the impacts be if we did not make any adjustments? Remember the duty is also positive – so please identify where the proposal offers opportunities to promote equality and/or foster good relations.</p>		
Equality Groups and Human Rights.	Key Findings/Impacts	Positive (+) Negative (-) Neutral (0)	High (H) Medium (M) Low (L)
Age	<p>The introduction of the HFSS guidance into the new advertising contract is a positive impact on children, with evidence suggesting that children are more likely to be influenced by advertising and as a result, less HFSS products could lead to healthier food choices and so lower childhood weight.</p> <p>There might be a small impact on all ages due to reducing freedom of choice.</p> <p>Advertising copy must comply with ASA Guidelines and CYC’s Advertising Policy.</p>	+	M
Disability	<p>The bus shelter design now includes provision for more space to support greater accessibility through the city, and seating in all bus shelters. The design of the bus shelter will be tested with community groups prior to approval. All bus shelters and digital free-standing units are subject to planning consents which would mitigate the risk of inaccessibility becoming an issue.</p>	0	L

	<p>Disabled children are at greater risk of developing obesity-associated conditions as adults, such as T2 diabetes and that the HFSS policy might help disabled children develop healthier choices into adulthood. There is evidence to show a causal link between advertising and consumption with children (see age above).</p> <p>Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.</p>	+	L
Gender	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.	-	-
Gender Reassignment	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.	-	-
Marriage and civil partnership	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.		
Pregnancy and maternity	The carbon emissions and digital frequencies emitted from digital advertising does not have an impact on children/maternity.	0	L
	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.	+	L
Race	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.	-	L
Religion and belief	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.	0	L

	If cultural foods are classified in the policy as HFSS products their advertising will be restricted due to their high fat, salt or sugar content, and not due to their religious connotation.		
Sexual orientation	Advertising copy must comply with ASA Guidelines and CYC's Advertising Policy.	-	L
Other Socio-economic groups including :	Could other socio-economic groups be affected e.g. carers, ex-offenders, low incomes?		
Carer	The council will have 10% of all advertising time, allowing it to provide messages direct to specific groups, including carers, or low income groups, to promote council services that could better support.	0	L
Low income groups	<p>The council will have 10% of all advertising time, allowing it to provide messages direct to specific groups, including carers, or low income groups, to promote council services that could better support.</p> <p>There was a concern expressed in the government's EIA that by promoting non HFSS products, people on lower income will no longer have the same choice of food products, potentially making choices more expensive. The government propose mitigating this by providing more information about healthy food choices, and that the cost of products is not changing which is at the discretion of the food and drink industry. Advertising HFSS products can still be promoted on non-council advertising channels as appropriate.</p>	0 -	L L

Veterans, Armed Forces Community	The council will have 10% of all advertising time, allowing it to provide messages direct to specific groups, including to promote council services that could better support.	0	L
Other			
Impact on human rights:			
List any human rights impacted.	By restricting HFSS advertising, there is an impact on the rights of the individual to choose what they eat or drink, this impact is minimal as the restrictions only apply to advertising on council land, with other channels able to provide wide range of advertising as appropriate.	0	M

Step 5 - Mitigating adverse impacts and maximising positive impacts

5.1	Based on your findings, explain ways you plan to mitigate any unlawful prohibited conduct or unwanted adverse impact. Where positive impacts have been identified, what is been done to optimise opportunities to advance equality or foster good relations?
<p>Residents and businesses will be able to continue to inform the annual review of the advertising contract and keep the council informed about any issues or changes required.</p> <p>Healthy food and drink support will be promoted to children and their parents to provide greater choice around costs of healthy food and drink.</p> <p>The design of the bus shelters will be tested with the disabled community.</p>	

Step 6 – Recommendations and conclusions of the assessment

6.1	Having considered the potential or actual impacts you should be in a position to make an informed judgement on what should be done. In all cases, document your reasoning that justifies your decision. There are four main options you can take:
<p>- No major change to the proposal – the EIA demonstrates the proposal is robust. There is no potential for unlawful discrimination or adverse impact and you have taken all opportunities to advance equality and foster good relations, subject to continuing monitor and review.</p>	

Step 7 – Summary of agreed actions resulting from the assessment

7.1	What action, by whom, will be undertaken as a result of the impact assessment.		
Impact/issue	Action to be taken	Person responsible	Timescale
Resident and business feedback	Promote how residents and businesses can inform the annual review of the contract	Claire Foale	July 2024
Healthy, cheap, food and drink choices	Promote the cost and availability of healthy food and drink options	Claire Foale	Ongoing
Bus shelter design	Set out how the bus shelters meet space and accessibility arrangements	JCDecaux UK	May 2024. Planning applications to be submitted post contract completion.
Free Standing Unit design	Set out the space and accessibility arrangements in the design	JCDecaux UK	When submitting planning applications. Post contract completion.

Step 8 - Monitor, review and improve

8. 1	How will the impact of your proposal be monitored and improved upon going forward? Consider how will you identify the impact of activities on protected characteristics and other marginalised groups going forward? How will any learning and enhancements be capitalised on and embedded?
	The contract will be reviewed annually, with quarterly progress meetings. The above points will be covered in the annual meeting.

Appendix 3

Call-in Request Form

This form must be completed and signed by THREE City of York Councillors and MUST be returned to Democratic Services within 5 working days of the decision being published (not including the day of publication).

Decision taker:	Executive
Date of publication of decision:	18/04/24
Title of Decision Called in:	Advertising Contract
Date Decision Called in:	23/04/2024

	REASONS FOR CALL-IN	Tick which reason applies
1.	Decision contrary to the policy framework?	
2.	Decision contrary to or not wholly consistent with the budget?	
3.	Decision is Key but it has not been dealt with in accordance with the Council's Constitution.	
4.	Decision does not follow principles of good decision-making set out in Article 7 of the Council's Constitution.	x
	If reason 4, please tick which specific element of Article 7 the decision maker has not followed, did he or she not:	
a)	Meaningfully consider all alternatives and, where reasonably possible, consider the views of the public.	
b)	Understand and keep to the legal requirements regulating their power to make decisions.	
c)	Take account of all relevant matters, both in general and specific, and ignore any irrelevant matters.	x
d)	Act wholly for proper purpose and/or in the interests of the public.	
e)	Keep to the rules relating to local government finance.	
f)	Follow procedures correctly and be fair.	x
g)	Make sure they are properly authorised to make the decisions.	
h)	Take appropriate professional advice from Officers.	

Detailed Reason(s) for Call-in.

Please explain below why one of the reasons for call-in applies (e.g. for number 1- which major policy affected and how/why).

PLEASE NOTE: *If you wish to produce and rely on significant supplementary, external evidence in support of your reasons for this call-in it must be provided to Democratic Services prior to the publication of the agenda. It will not be permissible to introduce and rely upon evident at the meeting without it being subject to prior circulation unless by consent of the Chair.*

4c – The report did not set out the difficulties that previous applicants that have applied for free standing digital advertising boards have had in getting their applications approved by the planning department. Therefore, the level of additional advertising revenue that would be achieved in this circumstance was not taken account for when this decision was made.

- No consideration for the reputational risk of the City of York Council and it's relationship with key stakeholders in the city (such as manufacturing and tourism stakeholders).

4f – Normal procurement rules have not been followed and there is no justification within the report as to why a waiver was sought and approved to bypass the ordinary procurement processes. This should only be a last-minute emergency provision. The bypassing of the ordinary procurement processes by Executive has to align with the Contract Procedure Rules and there is no justification of how this process has followed those rules or why the waiver has sought and granted.

	Name (please print)	Signature (<i>please note that signatures will not be published with the agenda. Electronic signature will be accepted</i>)	Date
1.	Darryl Smalley	D Smalley	23/04/23
2.	Andrew Hollyer	A Hollyer	23/04/23
3.	Emilie Knight	E Knight	23/04/23

For office use only:

Received on behalf of the Monitoring Officer by: (signature)

Name: Jane Meller	Date: 23/04/24	Time: 15:51
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Validation check (if necessary):

Monitoring Officer / ~~Chief Operating Officer~~

Valid: YES / ~~NO~~

Reason: If correct, the pleaded grounds would give rise to a valid reason for the report to be reconsidered

Completed by: 

Date: 24 April 2024	Time: 14:55
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