

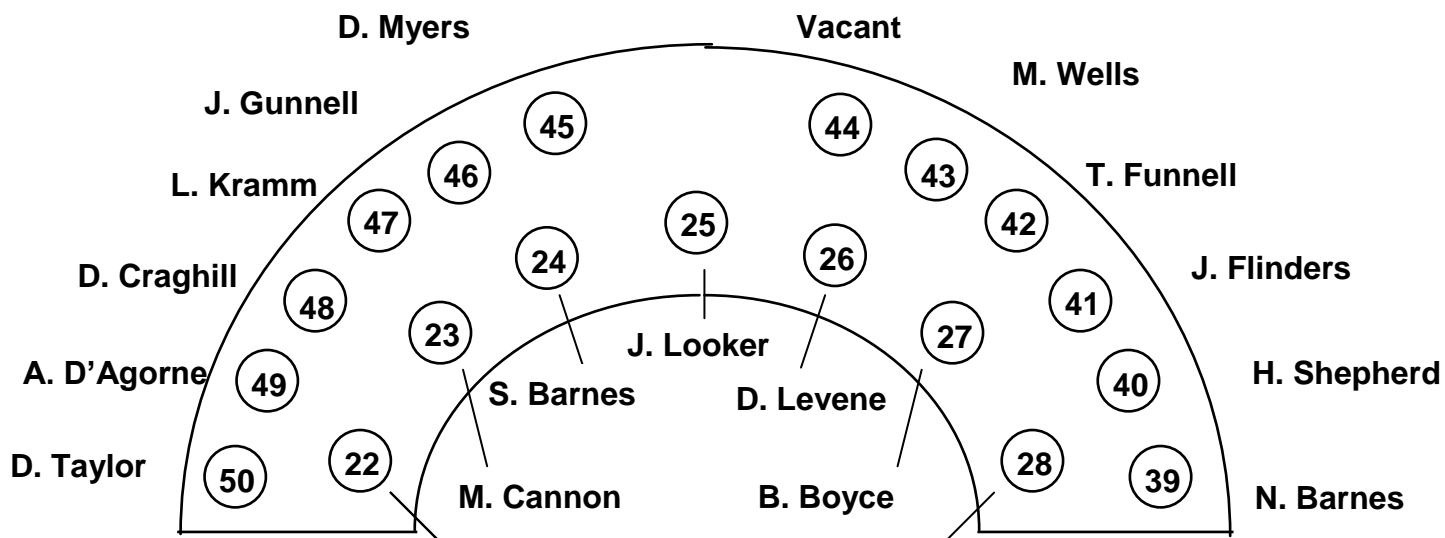
**CITY OF YORK COUNCIL  
SUMMONS**

All Councillors, relevant Council Officers and other interested parties and residents are formally invited to attend a meeting of the **City of York Council** at **The Guildhall, York**, to consider the business contained in this agenda on the following date and time

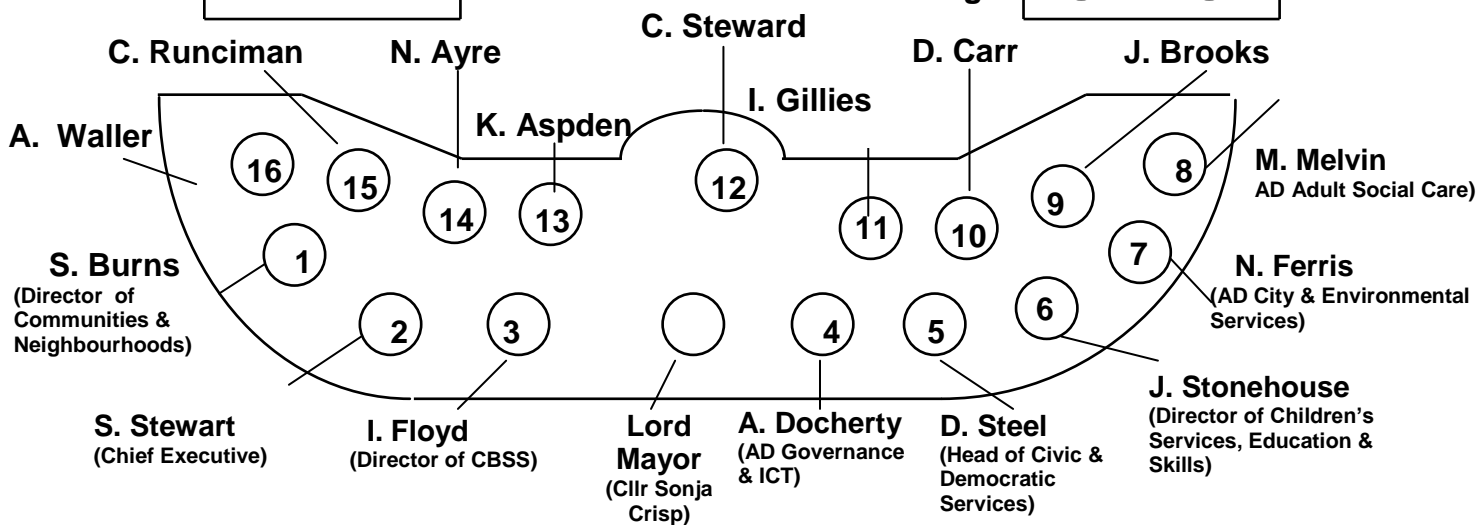
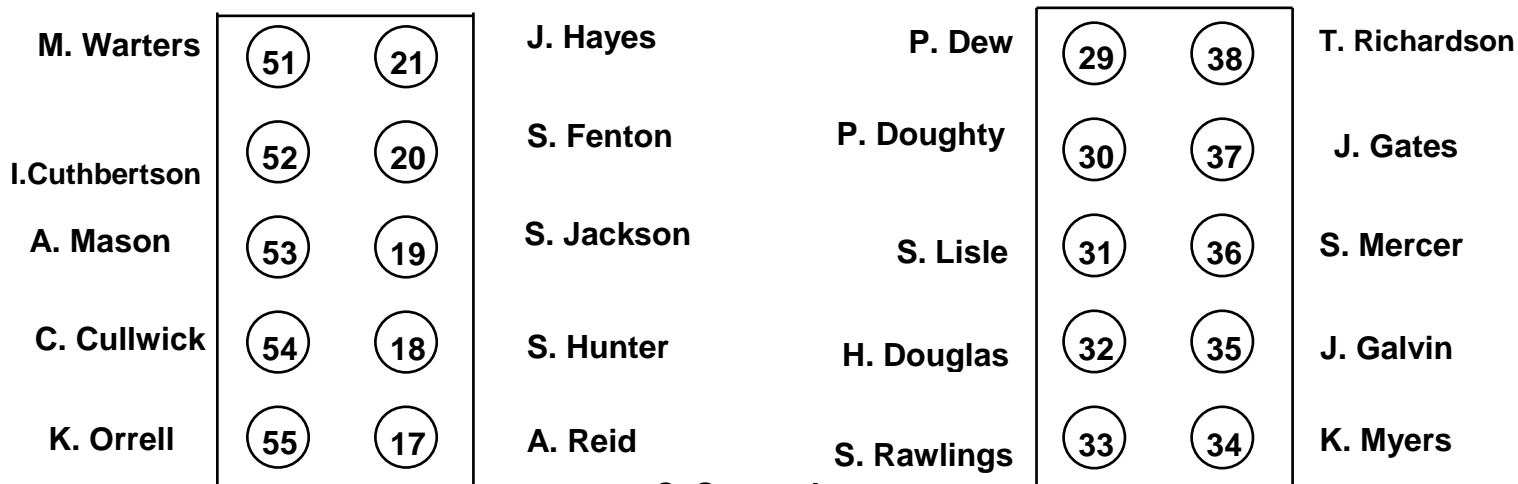
**Thursday, 24 March 2016 at 6.30 pm**



**COUNCIL CHAMBER**



D. Williams *Palantypist* F. Derbyshire



## **A G E N D A**

### **1. Declarations of Interest**

At this point, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

### **2. Minutes (Pages 1 - 38)**

To approve and sign the minutes of the last Ordinary meeting of the Council held on 17 December 2015 and the Budget Council meeting held on 25 February 2016.

### **3. Civic Announcements**

To consider any announcements made by the Lord Mayor in respect of Civic business.

### **4. Public Participation**

At this point in the meeting, any member of the public who has registered to address the Council, or to ask a Member of the Council a question, on a matter directly relevant to the business of the Council or the City, may do so. The deadline for registering is **5:00pm on Wednesday 23 March 2016**.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

## **WEBCASTING NOTICE**

**Please note: this meeting may be filmed for live or subsequent broadcast via the internet - at the start of the meeting the Lord Mayor will confirm if all or part of the meeting is being filmed.**

**You should be aware that the Council is a Data Controller under the Data Protection Act. Data collected during this webcast will be retained in accordance with the Council's published policy.**

**Public seating areas will not be filmed by the Council.**

**5. Petitions**

To consider any petitions received from Members in accordance with Standing Order No.15.

**6. Report of Executive Leader and Executive**

**Recommendations and Questions** (Pages 39 - 48)

To receive and consider a written report from the Leader and, to answer questions on the work of the Executive, and the Executive recommendations for approval, as set out below:

Meeting	Date	Recommendations
Executive	17 March 2015	Minute : Community Stadium & Leisure Facilities Report <i>(copy of minutes to follow)</i>

<http://democracy.york.gov.uk/ieListDocuments.aspx?Clc=733&MId=8847&Ver=4>

**7. Report of Deputy Leader and Questions** (Pages 49 - 52)

To receive and consider a written report from the Deputy Leader and, to question the Deputy Leader thereon.

**8. Motions on Notice**

To consider the following Motions on Notice under Standing Order 22:

**Motions submitted for consideration directly by Council, in accordance with Standing Order 22.1**

(i) From Cllr Galvin

Flooding in the City

“Following the York Christmas floods, council puts on record its thanks to all council staff and emergency services for their work, and further notes the tremendous efforts of volunteers, including Mountain Rescue, York residents, businesses, the York floods Facebook group and those from outside York such as and the

mosques from around the country all of whom contributed valuable help and support.

Council acknowledges and welcomes the assistance provided by other authorities, the willingness of the Government to deploy military resources and sandbags and its long-term additional £10 million of funding for the Foss Barrier.

Whilst welcoming the early announcement of an Independent Inquiry into the floods and without wishing to prejudice any conclusions resulting from said inquiry, council wishes to put forward three recommendations arising from York's recent experiences:

- a) That at the appropriate time the council makes written representations to the Environment Agency regarding the need for more local and regional input into decision-making and programme development;
- b) The council strengthens its working relationship with North Yorkshire County Council regarding flood planning, with a particular emphasis on proposing a specific programme addressing the long-term development of steps which can be taken up river from York to mitigate extreme weather events; and
- c) To ensure that York accesses all possible funding avenues for both the Christmas floods and for future planning and that Executive lobbies government as appropriate."

(ii) From Cllr Fenton

York and the EU Referendum

"Council notes:

The cross-party campaign for Britain to remain in the EU is supported by party leaders including David Cameron, Jeremy Corbyn, Tim Farron and Natalie Bennett

The campaign argues that we are stronger, safer and better off in Europe and the UK can more effectively tackle global threats –

be it terrorism, cross-border crime or climate change – by working with our partners in the EU

More than 3 million jobs in Britain are linked to our trade with other EU Countries, including 350,000 jobs in Yorkshire

Major employers in York including the Chairman of Nestlé and Chief Executive of BT have called for Britain to stay in the EU

Around 70% of tourists visiting the UK come from the EU and the inbound tourism sector have consistently warned against Brexit

200,000 UK businesses, including many small businesses in York, trade with the EU

York and Yorkshire benefits directly from EU investment, which will include between now and 2020:

- £743million from ‘Horizon 2020’ for science in Yorkshire (more than any other UK region)
- £78million from the ‘European Structural and Investment Fund’ to support local economic growth and create jobs via the York, North Yorkshire, East Riding LEP

Council believes:

The interests of York’s economy and the wider UK economy are best served by being within the EU

Brexit would be a leap in the dark for our local economy and could put at risk jobs and businesses in our city.”

Council resolves:

To send a letter to Lord Rose, Chair of ‘Britain Stronger In Europe’, outlining our position that York and the UK are stronger, safer and better off in the EU.

(iii) From Cllr D Myers

Protecting Local Decision Making motion

“Council notes with alarm the Department for Communities and Local Government's recent consultation on new, more restrictive guidelines on Councils' investment and procurement policies.

Council believes that this represents an attack on localism, local decision-making, and local democracy and accountability. This is directly contrary to the Government's claims to support localism, given a statutory basis by the Localism Act 2011, which holds that local authorities are best able to do their jobs when they have genuine freedom to respond to what local people want, not what they are told to do by government.

Council also believes that this is a further erosion of local authorities' ability to achieve their policy aims, in York for example, using procurement to encourage local supply chains, apprenticeships and the Living Wage, or using socially responsible investment strategies to tackle climate change and its consequences such as flooding.

Council therefore resolves to oppose these new measures, including:

- Writing to the Secretary of State for Communities and Local Government to express Council's unequivocal opposition to the proposed changes; and
- Working with other local authorities, the Local Government Association, and other appropriate forums and partner organisations (such as local trade unions and community groups) who share these concerns to raise awareness of the implications of the proposed measures and to campaign against their introduction.”



(iv) From Cllr D'Agorne

Transatlantic Trade and Investment

“Council notes that:

- The European Union (EU) and the USA launched negotiations in July 2013 on a Transatlantic Trade and Investment Partnership (TTIP);
- Negotiations continue, seeking to protect international investors, harmonise standards, reduce tariffs and open new markets throughout the EU and USA;
- Services within TTIP includes not just private but also public services
- There has been no assessment of the potential impact on local authorities and their services;
- There has been no scrutiny or consultation with City of York Council or other local government representatives such as the Local Government Association (LGA) and our local MPs for York Central or York Outer are also unable to scrutinise the negotiating documents;
- Our twin municipality of Munster in Germany passed a resolution in 2014 to reject TTIP;
- Our twin municipality of Dijon in France passed a resolution in 2014 to ask for the full involvement of local authorities in free trade negotiations and public disclosure of all texts on the TTIP negotiations.

Council believes that:

- TTIP could have a significant impact on local services, employment, suppliers and decision-making;
- A thorough impact assessment of TTIP on local authorities must be carried out before the negotiations can be concluded;
- The proposed Investor State Dispute Settlement (ISDS) mechanism has been used by corporations to overturn democratic decisions by all levels of governments at significant public cost. Local decision-making must be protected from ISDS;
- The EU's food, environmental and labour standards are better than those in the US and TTIP negotiations must raise and not lower these standards across the EU and USA;

- Sourcing supplies and employment locally is important to strengthening local economies and meeting local needs. TTIP must not impact on local authorities' ability to act in the best interests of their communities.

Council resolves:

(i) That appropriate officers report to the Executive analysing the potential impact of TTIP upon the Council and its services, with a view to -

writing to the Secretary of State for the Environment and Local Government, the Secretary of State for Business, Innovation and Skills, the MPs for York Central and York Outer and all Yorkshire and the Humber MEPs, as well as the Local Government Association, raising the serious concerns of the City of York Council about the potential impact of TTIP on our local authority and the secrecy of the negotiating process.

(ii) That any report to the Executive addresses the feasibility of and resource implications associated with:

- calling for a full assessment of the impact of TTIP on local authorities;
- joining with other local authorities that are opposed to TTIP across Europe and work with local campaigners to raise awareness about the potential impact of TTIP;
- developing local supply chains and business networks through better advertising and promotion of what local companies can provide;
- reviewing the council's own procurement policies to promote as much as possible the take up of locally produced and fair trade food;
- enhancing the support to York's diversity of small, independent and locally based shops;
- developing a Local Food Strategy for York in conjunction with the health service and producer groups in our region (including

the promotion of local supply chains and networks, support for producers and feasibility studies into increasing the local production of high quality healthy food in the region).”

**9. Questions to the Leader or Executive Members**

To question the Leader and/or Executive Members in respect of any matter within their portfolio responsibility, in accordance with Standing Order 20.

**10. Report of Executive Member (Pages 53 - 58)**

To receive a written report from the Executive Member for the Environment, and to question the Executive Member thereon, in accordance with Standing Order 19.

**11. Scrutiny - Report of the Chair of the Corporate and Scrutiny Management Policy and Scrutiny Committee (Pages 59 - 62)**

To receive a report from Councillor Levene, the Chair of the Corporate and Scrutiny Management Policy and Scrutiny Committee (CSMPSC) on the work of the Committee.

**12. Recommendation of the Staffing Matters and Urgency Committee (Pages 63 - 64)**

Meeting	Date	Recommendations
Staffing Matters & Urgency Committee	1 February 2016	Minute 68: Organisational Review-Senior Management Arrangements within the City of York Council (copy attached)

<http://democracy.york.gov.uk/ieListDocuments.aspx?Clid=120&MId=8791&Ver=4>

**13. Pay Policy 2016/17 (Pages 65 - 86)**

To consider a report seeking approval to the Pay Policy Statement for 2016/17 relating to the pay of the Council’s senior staff, to fulfil the requirements of Sections 38 – 43 of the Localism Act 2011.

**14. Public Interest Report – City of York Trading Ltd** (Pages 87 - 114)

This report is submitted in response to the Public Interest Report issued by Mr Gareth Davies, the Council's external auditor, on 26 February. The Council is legally required to consider this Public Interest report and recommendations within one month of issue.  
*(report to follow)*

**15. Appointments and Changes to Membership** (Pages 115 - 116)

To consider the appointments and changes to membership of committees and outside bodies set out on the list attached to this summons.

**16. Urgent Business**

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

Democracy Officer for this meeting:

Name: Jill Pickering

Contact details:

- Telephone – (01904) 552061
- E-mail – [jill.pickering@york.gov.uk](mailto:jill.pickering@york.gov.uk)

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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**City of York Council**

Resolutions and proceedings of the Meeting of the City of York Council held in the Guildhall, York on Thursday, 17th December, 2015, starting at 6.30 pm

**Present:** The Lord Mayor (Cllr Sonja Crisp) in the Chair, and the following Councillors:

Acomb Ward	Bishopthorpe Ward
S Barnes K Myers	Galvin
Clifton Ward	Copmanthorpe Ward
D Myers Wells	Carr
Dringhouses & Woodthorpe Ward	Fishergate Ward
Fenton Mason Reid	D'Agorne Taylor
Fulford and Heslington Ward	Guildhall Ward
Aspden	Craghill Flinders Looker
Haxby & Wigginton Ward	Heworth Ward
Cuthbertson Gates Richardson	Boyce Funnell Williams
Heworth Without Ward	Holgate Ward
Ayre	Cannon Crisp Derbyshire

Hull Road Ward

N Barnes  
Levene  
Shepherd

Huntington and New Earswick  
Ward

Cullwick  
Orrell  
Runciman

Micklegate Ward

Gunnell  
Hayes  
Kramm

Osbalwick and Derwent Ward

Brooks  
Warters

Rawcliffe and Clifton Without Ward

Dew  
Lisle  
Rawlings

Rural West York Ward

Gillies  
Steward

Strensall Ward

Douglas

Westfield Ward

Hunter  
Jackson  
Waller

Wheldrake Ward

Mercer

Apologies for absence were received from Councillor Doughty



**44. Declarations of Interest**

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests they might have in the business on the agenda.

No additional interests were declared.

**45. Minutes**

Resolved: That the minutes of the Special and the Ordinary meetings of Council held on 8 October 2015 be approved and signed by the Chair as correct records.

**46. Civic Announcements**

The Lord Mayor reported that this was the first meeting of Council, since the death of Dennis Martin, a well known Dunnington Parish Councillor and Vice Chair of the Council's Joint Standards Committee.

Members stood for a moment's silence in memory of Mr Martin.

The Lord Mayor reported receipt of a silver award in the 2015 Defence Employer Recognition Scheme in national recognition of the Council's commitment to the Armed Forces and a signed picture commemorating the 70<sup>th</sup> Anniversary of two French heavy bomber squadrons presented to her at a recent civic reception for the French Veterans Association. Both gifts were on display at the meeting.

The Lord Mayor then invited Cllr D'Agorne to nominate the Lord Mayor Elect for the 2016/17 Municipal Year. Cllr D'Agorne nominated Cllr Dave Taylor as the Lord Mayor Elect and this nomination was unanimously agreed.

Cllr Taylor confirmed that he would be honoured to accept this office for the 2016/17 Municipal Year with the assistance of his Consort Susan Ridley. He also announced Jonathan and Brenda Tyler as his Sheriff and Sheriff's Lady for the 2016/17 Municipal Year.

**47. Public Participation**

Richard Bridge spoke in relation to Councillor Carr's motion, due for debate later in the meeting, on the Broad Rental Market Area (BRMA). He expressed concern that he had been informed in November that the Council had no plans to seek a review of the BRMA. However a Council motion for a review of the Market Area had now been put forward for consideration at this meeting.

Rebecca Jeffrey, from Advice York, spoke to thank Members for recommending an increase in the Council Tax Support cap however she indicated that a 7.5% increase would provide insufficient support for customers and requested the Council to support additional increases in future years.

Andrew Dickinson spoke in relation to the recommendations of the Independent Remuneration Panel to increase the allowances paid to Members. He expressed concern at the reports recommendation, particularly in light of Government cuts to public services.

**48. Petitions**

Under Standing Order 15, a petition was presented by the following Member for reference to the Corporate and Scrutiny Management Policy and Scrutiny Committee, in accordance with the Council's new petition arrangements:

- Cllr Shepherd, on behalf of local residents, requesting the Council to implement a ban on letting boards in the Hull Road Ward.<sup>1</sup>

Action Required

1. Add to petitions schedule and update CSMC on progress with request.

MS, MD

**49. Independent Remuneration Panel**

Council received the written report of the Council's Monitoring Officer which annexed the final report and recommendations of the Independent Remuneration Panel in relation to allowances which should be payable to Members, at pages 27 to 49 of the agenda papers.

Councillor Steward moved and Councillor Aspden seconded the recommendations and it was

Resolved: That Council:

- (i) Thank the members of the Independent Remuneration Panel for their work. <sup>1.</sup>
- (ii) Adopt the scheme of allowances now recommended by the Panel.
- (iii) Authorise the Director of Customer and Business Support Services to implement the changes with effect from 1<sup>st</sup> January 2016. <sup>2.</sup>
- (iv) Ask the Monitoring Officer to make any consequential constitutional changes. <sup>3.</sup>

Reason: To enable the Council to adopt a revised scheme of allowances having regard to its statutory obligations to receive and consider a report on allowances from an independent panel.

Action Required

- |  |        |
|--|--------|
| 1. Convey the Council's thanks to the IRP.                                       | JC     |
| 2. Adopt the new scheme of allowances and implement changes from 1 January 2016. | DS     |
| 3. Update Council's Constitution accordingly.                                    | AD, JC |

**50. Report of Executive Leader and Executive Recommendations and Questions**

**A Executive Leaders Report**

A written report was received from the Executive Leader, Cllr Chris Steward, on the work of the Executive.

Members were then invited to question Cllr Steward on his report and questions were received from the floor from the following Members in relation to the subjects listed:

- Cllr S Barnes – Letter from Cuadrilla regarding the exploration of fracking in the area and reference to the greater protection of communities as requested by the Local Plan Working Group

- Cllr Kramm – minimum distance to drill sites from human settlements not being specified in the Council’s Joint Minerals and Waste Plan
- Cllr Levene – changes in Council Tax benefits
- Cllr Kramm – the allocation of sites in the Green Belt as starter homes for young families and whether this was possible in York
- Cllr Lisle – development of small scale sites in the Green Belt
- Cllr Levene – changes to Universal Credit
- Cllr S Barnes – inclusion of Whinthorpe site in Local Plan

Cllr Steward responded directly to all the questions put to him.

## **B Executive Recommendations**

### **Capital Programme – Monitor 2 2015/16**

Cllr Steward moved, and Cllr Aspden seconded the following recommendation contained in Minute 83 of the Executive meeting held on 26 November 2015:

Recommended: That Council agree a decrease in the 2015/16 capital programme of £901k as detailed in the report and contained in Annex A.

Reason: To enable the effective management and monitoring of the Council’s capital programme.

On being put to the vote, the recommendation was declared CARRIED and it was

Resolved: That Council agree the above recommendation in respect of a decrease in the 2015/16 capital programme.<sup>1</sup>

### **York Central and Access Project**

Cllr Steward moved, and Cllr Aspden seconded the following recommendation contained in Minute 95 of the Executive meeting held on 15 December 2015, details of which were circulated at the meeting:

Recommended: That Council delegate the Executive the agreement of all future expenditure against the

£10m capital budget allocated to the delivery of the York Central capital budget.

Reason: To enable timely progress on delivery of the York Central site.

On being put to the vote, the recommendation was declared CARRIED and it was

Resolved: That Council agree the above recommendation in respect of delegation of expenditure in relation to York Central.<sup>2</sup>

### **Council Tax Support – Consultation Decision Report**

Cllr Steward moved, and Cllr Aspden seconded the following recommendation contained in Minute 96 of the Executive meeting held on 15 December 2015, details of which were circulated at the meeting:

Recommended: That Council agree to increase the Council Tax Support (CTS) cap by 7.5% to 77.5% cap at a cost of approximately £300k pa, which following changes to welfare benefit will deliver an average annual benefit to CTS customers of approximately £55 pa.

Reason: To support financial inclusion and protect financially vulnerable customers from planned Welfare Benefit changes.

Cllr N Barnes then moved, and Cllr Cannon seconded, an amendment to the above motion, as follows:

In the second line of the recommendation **delete** the figures '7.5% to 77.5% cap' replace with '13% to an 83% cap' followed by the **additional** words 'in line with the recommendations of Advice York',

In the third line of the recommendation **delete** '£300k pa' and **replace** with ' £487k pa'

In the fifth line **delete** 'customers' and **replace** with 'recipients' Also in the fifth line **delete** '£55 pa' and **replace** with '£94 pa'

On being put to the vote, the above amendment was declared LOST.

The original motion was then put to the vote, and declared CARRIED and it was

Resolved: That the original Executive recommendation in respect of an increase to the Council Tax Support cap be approved. <sup>3</sup>

Action Required

- |   |        |
|---|--------|
| 1. Amend the Council's 2015/16 capital programme accordingly. | DM     |
| 2. Note delegation to Executive.                              | TC     |
| 3. Increase the CTS cap as agreed.                            | PS, DW |

**51. Report of the Deputy Leader and Questions**

A written report was received from the Deputy Leader, Cllr Keith Aspden, on his portfolio area.

Members were then invited to question Cllr Aspden on his report and questions were received from the floor from the following Members in relation to the subjects listed:

- Cllr Kramm – steps to become the Greenest City in the North
- Cllr Galvin – whether any unspent ward funding would be clawed back if unused at the end of the financial year
- Cllr Galvin – purpose of the Deputy Leader's report
- Cllr Gates – additional information on work undertaken to increase apprenticeships
- Cllr Kramm – Ward budgets for the city centre wards and their use for the upkeep of bowling greens, flower displays at the railway station/West Offices, war memorials etc
- Cllr Ayre – possible partnership assistance/BID funding for upkeep of above ward areas

Cllr Aspden responded directly to all the questions put to him.

52. **Motions on Notice**

**Motions submitted for consideration directly by Council, in accordance with Standing Order 22.1**

(i) Broad Rental Market Area

(moved by Cllr Carr and seconded by Cllr Boyce)

“Council notes that

Local Housing Allowance rates set the maximum amount of Housing Benefit for private tenants and are set by the Valuations Office Agency (‘VOA’) and determined by the region in which tenants make their claim, called the Broad Rental Market Area (‘BRMA’);

The ‘York BRMA’ was once roughly the size of the City of York Council, but in recent years has been expanded in all directions to include Easingwold, Malton, Pocklington, Selby and beyond;

Because York’s BRMA now includes rental markets markedly different from those in York, including less expensive rural and market towns, York residents are at a disadvantage in the maximum benefit they can receive, which is not in line with York’s higher housing costs; therefore

In order to redress this disadvantage to York residents, for whom access to the private rental sector in York has become more challenging as the rate of rent rises in York continues to exceed Local Housing Allowance rates as set for the BRMA, Council instructs officers to seek a review of the BRMA by the VOA as permitted under statute and pledges all-party support for the Council’s application.”

On being put to the vote, the motion was CARRIED and it was

Resolved: That the motion be approved. <sup>1</sup>.

(ii) Public Health Cuts

(moved by Cllr Runciman and seconded by Cllr Cullwick)

“Council Notes:

The Conservative Government has confirmed it will apply a flat rate cut of 6.2% to all local authority public health grant allocations to be applied in the 4th quarter of this financial year. The impact for City of York Council is an in-year budget cut of £508,830.

Services affected by the cuts could include school nursing and children’s health services, suicide prevention and domestic violence prevention, drug and alcohol work, sexual health, weight loss support, smoking cessation services and wider mental health provision including befriending services for older people.

In taking this decision, the Government has ignored opposition from organisations representing 220,000 doctors, 300,000 nurses, health service leaders, public health specialists and local authority leaders.

The Government has further ignored analysis by the Faculty of Public Health saying that the cut to the preventative work funded by the grant could have a knock-on cost to the NHS in excess of £1bn.

The Royal College of Nursing’s Regional Director for Yorkshire and the Humber has said “The NHS will end up paying for these savings many times over.....these plans will also disproportionately hit poorer communities in harder to reach areas and will make health inequalities worse”.

Last month’s Comprehensive Spending Review confirmed that the Government will make further cuts in local authority public health spending, as well as consult on options to transfer funding responsibility to local authorities as part of the move towards 100% business rate retention.

Council Believes:

The in-year cut to public health funding puts at risk crucial support and services for residents and risks significantly increasing pressure on NHS services in York.



By cutting the budget in the middle of the financial year it means it will be particularly difficult to make the necessary savings.

It is imperative to maintain access to essential service provision, but stark choices will need to be made from January.

Council Resolves:

- (i) To write to the Government to further outline this Council's opposition to the in-year cuts and the plan for further cuts in 2016/17 and 17/18.
- (ii) To request that the Public Health Grant Spending Task Group set-up by the Health and Adult Social Care Policy and Scrutiny Committee considers the impact of this cut on current and future spending as part of its work."

An amendment was proposed by Cllr Craghill as follows:

"The **addition** of the following resolutions at the end of 'Council Resolves:'

- iii) To ensure that the Public Health Grant Spending Task group has sufficient resources to complete its work as quickly as possible.
- iv) To encourage the group and the wider council to engage pro-actively with voluntary and community sector groups as well as health service partners and the general public in order to find ways of responding to these cuts, whilst also highlighting the damage that they will do."

On being put to the vote the amendment was declared CARRIED.

A vote was then taken on the original motion, as amended by Cllr Craghill's amendment, which was also CARRIED and it was

Resolved: That the original motion, as amended by Cllr Craghill's amendment, be approved. <sup>2</sup>.

(iii) Bootham Park Hospital

(moved by Cllr Cannon and seconded by Cllr Funnell)

“Council notes the challenges faced by the NHS and the ongoing impact on patient care for people in York.

It further notes:

- The detrimental impact on patients, carers and clinical staff caused by the closure of Bootham Park Hospital and the subsequent lack of accountability;
- The recent impact on physiotherapy patients from across York caused by the CCG’s failed procurement of MSK (Muscular Skeletal) services;
- The operational challenge presented by a fragmented NHS landscape, with a multitude of different organisations involved in both the Bootham Park closure and the failed MSK services procurement;
- The spate of recent CQC reports, all with ‘requiring improvement’ judgments:
  - Yorkshire Ambulance Service
  - York Teaching Hospital NHS Foundation Trust
  - Leeds and York Partnership Foundation Trust
- The inability of York Teaching Hospital NHS Foundation Trust to meet targets for A&E waiting times and for cancer treatment;
- The recent announcement that NHS Vale of York CCG is now classed as an organisation which is in ‘turnaround’ due to the ongoing deterioration of its financial position, leaving it categorised as ‘not assured’;
- The unprecedented £1.6bn mid-year deficit facing NHS Trusts across the country.

Council believes the Government has no credible plan for improving NHS services for people in York.

Council resolves:

- (i) To endorse the request made to the Health Secretary, Jeremy Hunt MP, by the Health and Adult Social Care Policy and Scrutiny Committee, in support of a call by the MP for York Central for an Inquiry/urgent investigation into the

circumstances surrounding the closure of Bootham Park Hospital; and

- (ii) To fully support the Council's Health and Adult Social Care Policy and Scrutiny Committee in its continuing efforts to scrutinise local NHS services to ensure they cater for, and are responsive to, the needs of local people and that lessons are learnt from the Bootham Hospital closure."

On being put to the vote, the motion, was CARRIED and it was

Resolved: That the motion be approved. <sup>3</sup>.

- (iii) Loneliness and Social Isolation  
(moved by Cllr Rawlings and seconded by Cllr Gates)

"Council notes that:

Loneliness and social isolation are public health and moral societal issues which as a result of changes in social patterns and increased longevity can adversely affect individuals of all backgrounds and income levels;

Although difficult to measure, the problem is worst amongst the elderly and it is estimated one in ten people of pensionable age living in York are likely to be classed as lonely or extremely lonely; Loneliness and social isolation is known to have a particularly negative impact on older peoples' mortality, morbidity and quality of life;

Department of Health figures show one in ten older people do not see their family even monthly and in just five years' time there will be a million more people in the U.K. over 70.

Whilst there are things Council does to support residents and local communities to engage with neighbours who may be at risk of social isolation, it should look in a more joined up way with partners at what more can be done.

Council therefore pledges to support the following initiatives and requests the Director of Adult Social Care to:

- work closely with York's Health and Wellbeing Board to imbed the prevention and reduction of loneliness as part of its Health and Wellbeing Strategy.

- set up a dedicated Steering Group to include organisations such as the Council, health partners, charities and support groups for the elderly in particular, to raise residents' awareness of both the issue of potential loneliness amongst their neighbours and of services currently available for anyone feeling lonely and isolated;
- Work with neighbourhood teams to set up a pilot scheme in Haxby and Wigginton Ward (which has the oldest age profile of the three member wards) to map local assets for and barriers to keeping connected in older age, involving residents, local businesses and other partners and to assess how such a scheme, if successful, could be rolled out city-wide; and
- ensure that the potential for suffering loneliness and social isolation is embedded as part of all strategic needs assessments or local surveys and that this information is made known and available to council officers and others who are involved in providing or assessing relevant council services as a matter of course.”

An amendment was proposed by Cllr Craghill as follows:

“In the final paragraph, following the words ‘requests the Director of Adult Social Care to’ the **addition** of the words ‘ensure that the necessary funding and additional officer time is available to:’

In the third bullet point after ‘pilot scheme’ the **deletion** of the words ‘in Haxby and Wigginton Ward (which has the oldest age profile of the three member wards)’”.

On being put to the vote the amendment was declared LOST.

A vote was then taken on the original motion, which was CARRIED and it was

Resolved: That the original motion, be approved. <sup>4</sup>.

Action Required

1. Officers to apply for a review of the BRMA by the VOA.

IF, JM, DW

2. Write to Government on the lines stated and ensure Task Group considers the impact of cuts and engage with partners and the general public as part of their work.

SE, DS, SS

3. Note Council motions support for inquiry/investigation regarding closure of hospital and for Committee's scrutiny of local NHS services. SE, DS
4. Implement the listed initiatives and requests outlined in the motion. SB, MM

**53. Questions to the Leader or Executive Members**

In accordance with Standing Order 20. Members were then invited to question Cllr Steward and/or the Executive Members in respect of any matters within their portfolio responsibility. Questions were received from the floor from the following Members in relation to the subjects listed:

- (i) To Cllr Aspden, Deputy Leader, Economic Development & Community Engagement:
- Cllr Williams – changes made to quarterly performance monitoring reporting
  - Cllr Williams – difficulties in checking performance against set monitoring targets
  - Cllr Levene – inclusion of key performance indicator (KPI) scorecards in future reports
  - Cllr Looker – inclusion of KPI's as an aid to identifying significant variations in performance for transparency purposes
  - Cllr N Barnes – the need to provide performance information in an easily accessible format
  - Cllr N Barnes – need for accountability against new Council Plan
  - Cllr Williams – why decision taken not to publish performance data against targets
  - Cllr Shepherd – comments made at the Local Plan Working Group meeting, that a 'couple of thousand homes were required to make a proper community'
- (ii) To Cllr Carr, Executive Member for Housing & Safer Neighbourhoods:
- Cllr Boyce – outcome of consultation in respect of possible changes in relation to Newbury Avenue housing scheme

- Cllr Williams – whether the cost of the delay in progressing the Newbury Avenue scheme would be published
- Cllr S Barnes – concern at suggestion that the original consultation on this housing scheme was not robust

(iii) To Cllr Gillies, Executive Member for Planning and Transport:

- Cllr Flinders – how did the Built Environment Fund differ from the Reinvigorate York Fund

The Executive Members responded directly to all the questions put to them.

#### **54. Report of Executive Member and Questions**

A written report was received from the Executive Member for Transport and Planning, Cllr Ian Gillies, on work in his portfolio area.

Members were then invited to question Cllr Gillies on his report and a question was received from the floor from the following Member in relation to the subject listed:

- Cllr Levene - the need for high priority to be given to a parking review

Cllr Gillies responded directly to the question put to him, however

At this point in the meeting, the guillotine fell and the following business was deemed moved and seconded. Where a proposer and seconder were before Council, at the time of the guillotine falling, details are listed below:

#### **55. Scrutiny - Report of the Chair of the Corporate and Scrutiny Management Policy and Scrutiny Committee**

Council received the report of the Chair of the Corporate and Scrutiny Management Policy and Scrutiny Committee, at pages 69 to 72 of the agenda papers, on the work of the Committee, since the last report to Council in October.

Resolved: That the scrutiny report be received and noted.

**56. Recommendations of the Gambling, Licensing & Regulatory Committee**

Consideration was given to the following recommendation contained in Minute 18 of the meeting of the Gambling, Licensing & Regulatory Committee held on 16 November 2015:

**Statement of Licensing Policy – Gambling Act 2005**

Recommended: That Full Council adopt the policy.

Reason: In order that the Council meets legislative requirements.

On being put to the vote, the recommendation was declared CARRIED and it was

Resolved: That the recommendation in relation to the Statement of Licensing Policy – Gambling Act 2005 from the Gambling, Licensing and Regulatory Committee meeting held on 16 November 2015 be approved. <sup>1</sup>.

Action Required

1. Implement revised policy.

LC

**57. Appointments and Changes to Membership**

Resolved: That the appointments and changes to membership of Committees and outside bodies, as set out in the list circulated with the agenda papers, be approved. <sup>1</sup>.

Action Required

1. Inform bodies and update membership lists.

JP

Cllr Sonja Crisp

LORD MAYOR OF YORK

*[The meeting started at 6.30 pm and concluded at 9.55 pm]*





**City of York Council**

Resolutions and proceedings of the Meeting of the City of York Council held in the Guildhall, York on Thursday, 25th February, 2016, starting at 6.30 pm

**Present:** The Lord Mayor (Cllr Sonja Crisp) in the Chair, and the following Councillors:

Acomb Ward	Bishopthorpe Ward
S Barnes K Myers	Galvin
Clifton Ward	Copmanthorpe Ward
D Myers Wells	Carr
Dringhouses & Woodthorpe Ward	Fishergate Ward
Fenton Mason Reid	D'Agorne
Fulford and Heslington Ward	Guildhall Ward
Aspden	Craghill Flinders Looker
Haxby & Wigginton Ward	Heworth Ward
Cuthbertson Gates Richardson	Boyce Funnell Williams
Heworth Without Ward	Holgate Ward
Ayre	Cannon Crisp Derbyshire

Hull Road Ward	Huntington and New Earswick Ward
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N Barnes Levene Shepherd	Cullwick Orrell Runciman
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Micklegate Ward	Osballdwick and Derwent Ward
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Gunnell Hayes Kramm	Brooks Warters
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Rawcliffe and Clifton Without Ward	Rural West York Ward
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Dew Lisle Rawlings	Gillies Steward
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Strensall Ward	Westfield Ward
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Doughty Douglas	Jackson Waller
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Wheldrake Ward
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Mercer

Apologies for absence were received from Councillors Taylor and Hunter

## 58. Declarations of Interest

Members were invited to declare at this point in the meeting any personal interests not included on the Register of Interests, any prejudicial interests or any disclosable pecuniary interests they might have in the business on the agenda.

It was noted that the Monitoring Officer had confirmed that Government guidance stated that Members did not have a disclosable pecuniary interest in the business of setting the council tax and that the Council's Code of Conduct also confirmed that

Members did not have a prejudicial interest in the that business on the agenda.

The following **personal** interest was declared:

<u>Councillor</u>	<u>Agenda Item</u>	<u>Description of Interest</u>
Reid	6 – Recommendations of Executive on the Council’s Capital and Financial Strategy 8 – Council Tax Resolution	Son is a Council tenant

#### 59. **Civic Announcements**

The Lord Mayor expressed her sadness at the recent death of former Councillor Robert Glew, a Labour Councillor during the 1950’s and 60’s for the Bootham Ward. Members stood for a moment’s silence in memory of former Councillor Glew.

#### 60. **Public Participation**

The Lord Mayor announced that one registration had been received to speak at the meeting.

Andrea Dudding, on behalf of Unison, spoke on the budget proposals. She expressed disappointment at the proposal to increase Council Tax by 3% rather than 3.9% and expressed concerns regarding the impact that the proposals would have on the delivery of services and on staffing.

#### 61. **Petitions**

The Lord Mayor stated that she had not received notification of any petitions to be presented to Council in relation to the setting of the Council’s budget.

#### 62. **Recommendations of Executive in respect of the Capital Programme 2015/16 Monitor 3**

Councillor Steward moved and Councillor Aspden seconded the recommendation made by Executive at their meeting held on 11 February 2016, following consideration of the third monitor report on the Capital Programme (minute 118 refers) as follows:

“That Council agree a decrease in the 2015/16 programme of £40.654m as detailed in the report and contained in Annex A.”

On being put to the vote the recommendation was declared CARRIED and it was

Resolved: That the recommendation contained in minute 118 of the Executive meeting on 11 February 2016 be approved. <sup>1</sup>.

Action Required

1. Adjust Capital Programme.

DM

**63. Recommendations of Executive on the Council's Capital Strategy for 2016/17 to 2020/21, the Financial Strategy 2016/17 to 2020/21 (including the Council's detailed Revenue Budget Proposals for 2016/17) and the Treasury Management Strategy Statement and Prudential Indicators for 2016/17 to 2020/21**

Councillor Steward requested the consent of Council to the alteration of the original Executive motions to incorporate the amendment previously circulated with the Council agenda papers.

Following receipt of Council's consent, Cllr Steward moved and Councillor Aspden seconded, the motions relating to the following proposals, as set out at pages 1 to 4 of the papers circulated at the meeting (now included in the republished agenda), in relation to:

- a) The Council's Capital Programme Budget for 2016/17 to 2020/21
- b) The Council's Revenue Budget proposals for 2016/17 to 2020/21 and
- c) The Council's Treasury Management Strategy Statement and Prudential Indicators for 2016/17 to 2020/21

**Capital Strategy**

32. Executive recommends that Council;
  - i. Agree to the revised capital programme of £180.206m that reflects a net overall increase of £28.451m (as set out in paragraph 54 table 10 and in Annex B). Key elements of this include:

- a. Extension of prudential borrowing funded Rolling Programme schemes totalling £4.921m as set out in table 3 and summarised in table 10;
  - b. New schemes totalling £2.415m including an increase in prudential borrowing of £643k as set out in tables 4 & 5 and summarised in table 10;
  - c. Extension of externally funded Rolling Programme schemes totalling £9.878m as set out in table 6 and summarised in table 10;
  - d. An increase in Housing Revenue Account funded schemes totalling £12.009m funded from a combination of HRA balances/Right to Buy receipts of £12.009m as set out in table 7 and summarised in table 10.
- ii. Approve the full restated programme as summarised in Annex A totalling £180.206m covering financial years 2016/17 to 2020/21 as set out in table 11 and Annex A.
  - iii. Approve the appropriation of the Housing Revenue Account shops into the General Fund as set out at paragraph 5 in the report.

Reason: To set a balanced capital programme as required by the Local Government Act 2003.

## **Revenue Budget**

33. Executive recommends that Council;

- i) approve the budget proposals outlined in the Financial Strategy report, in particular;
  - a. The net revenue expenditure requirement of £117.900m
  - b. A Council Tax requirement of £77.072m
  - c. The revenue growth proposals as outlined in the body of the report, subject to the following amendments;

- An additional £35k to fund the ongoing cost of maintenance for new litter and dog bins across the city
- d. The revenue savings proposals as outlined in Annex 2, subject to the following amendments;
- Removal of saving CES9 Design and Conservation £45k on an ongoing basis
  - Reduction of saving CSES2 Prevention and Early Intervention Services (New Operating Model) £300k for two years until 2018/19
- e. The fees and charges proposals as outlined in Annex 4
- f. The Housing Revenue Account (HRA) budget set out in annex 5 and the HRA savings proposals set out in annex 6
- g. The dedicated schools grant proposals outlined in paragraphs 114 to 122.
- ii) Note that the effect of approving the income and expenditure proposals included in the recommendations would result in a 3% increase in the City of York Council element of the council tax, 2% of which would relate to the social care precept.
- iii) To note receipt of an additional £781k transitional grant which will support additional investment as follows;
- An additional £35k to fund the ongoing cost of maintenance for 70 new litter and dog bins across the city
  - Removal of saving CES9 Design and Conservation £45k on an ongoing basis
  - Reduction of saving CSES2 Prevention and Early Intervention Services (New Operating Model) £300k for two years until 2018/19

- Additional investment of £50k for one year to support the remodelling of bus subsidies as part of the work under CES1.
- Additional investment of £150k for one year (with a further £150k in 17/18) to support the Pride in York local delivery of environmental projects, grounds maintenance and build capacity in the voluntary sector.
- Additional investment of £26k for one year to ensure that substance misuse advice can continue to be offered at York Carers Centre ahead of a review and the move towards greater service integration
- Additional investment of £20k for one year to support the building of greater capacity in planning enforcement work.
- Additional investment of £30k for one year to support the continuation of elements of the Local Sustainable Transport Fund programme.
- A one off increase of £125k in contingency to meet any further flood and drainage costs.

Reason: To ensure a legally balanced budget is set.

### **Treasury Management Strategy Statement and Prudential Indicators**

34. Executive recommends that Council approve;
- i. The proposed treasury management strategy for 2016/17, including the annual investment strategy and the minimum revenue provision policy statement
  - ii. The prudential indicators for 2016/17 to 2020/21 in the main body of the report
  - iii. The specified and non specified investments schedule (Annex B) of the report
  - iv. The scheme of delegation and the role of the Section 151 officer (Annex D) of the report

- v. The Council's entry into the Framework Agreement and its accompanying schedules for the Municipal Bonds Agency, including the joint and several guarantee
- vi. Delegation of authority to the Director of Customer and Business Support Services as Section 151 Officer and the Assistant Director for Governance, ICT and Legal as Monitoring Officer to sign those documents, as appropriate, on behalf of the Council
- vii. Granting the Section 151 Officer delegated authority to agree amendments to the Framework Agreement as appropriate

Reason: To enable the continued effective operation of the Treasury Management function and ensure that all Council borrowing is prudent, affordable and sustainable.

### **Labour Amendment**

Councillor Looker then moved and Councillor Neil Barnes seconded, an amendment to the above recommendations on behalf of the Labour Group, as follows:

#### **“Revenue Budget**

In relation to the Executive's recommendations on the revenue budget (paragraph 33 of page 10 of Council papers refers):

**In (i) sub paragraph (a)** delete '£117.900m' and replace with '£118.620m'

**In sub paragraph (b)** delete '£77.072m' and replace with '£77.792m'

**In sub paragraph (c)** add at the end of the sentence 'subject to the following amendments;

- An additional £100k to provide additional investment in Mental Health services
- An additional £151k to increase the gully and drain cleaning budget, including one 1FTE officer
- An additional £36k to fund 1FTE Planning Enforcement Officer



- An additional £50k to fund 1FTE Community Engagement Officer

**In sub paragraph (d)** add at the end of the sentence 'subject to the following amendments;

- Removal of saving CAN14 Grounds Maintenance £72k
- Removal of saving CAN18 York Learning £38k
- Removal of saving ASC6 Care Home Fees £68k
- Removal of saving ASC8 Contracted Services £35k
- Removal of saving CES3 Transport Planning £60k
- Reduction in saving CES4 to reverse Respark charge increase for first car permit £20k
- Reduction of saving CES1 Bus Subsidies £90k

**In sub paragraph (e)** add at the end of the sentence 'subject to the following amendments;

- Removal of saving ASC6 Care Home Fees £68k
- Reduction in saving CES4 to reverse Respark charge increase for first car permit £20k

In order to decrease fees and charges by £88k

**In paragraph 33 (ii)** second line, delete '3%' and replace with '3.99%'.

**In paragraph 33 (iii)** add at the end of the sentence; which will support additional one off investment as follows;

- £100k to build capacity and support transforming care for learning disability customers
- £131k to build capacity and support the new operating model for prevention and early intervention services

- £150k for a Green Space Fund to improve parks and open spaces
- £150k to invest in local high street environment and shopping parades in communities outside of the city centre
- £50k to invest in Financial Inclusion Steering Group activities to support pressures on related services as result of introduction of Universal Credit by the Government
- £200k to invest in one-off public health projects to offset the impact of Government cuts.”

In accordance with the regulations a named vote was then taken in relation to the Labour amendment relating to the setting of the budget, with the following result:

<b>For</b>	<b>Against</b>	<b>Abstained</b>
Cllr Crisp (Lord Mayor)	Cllr Aspden	Cllr Hayes
Cllr N Barnes	Cllr Ayre	
Cllr S Barnes	Cllr Brooks	
Cllr Boyce	Cllr Carr	
Cllr Cannon	Cllr Cullwick	
Cllr Craghill	Cllr Cuthbertson	
Cllr D'Agorne	Cllr Dew	
Cllr Derbyshire	Cllr Douglas	
Cllr Flinders	Cllr Doughty	
Cllr Funnell	Cllr Fenton	
Cllr Gunnell	Cllr Galvin	
Cllr Kramm	Cllr Gates	
Cllr Levene	Cllr Gillies	
Cllr Looker	Cllr Jackson	
Cllr D Myers	Cllr Lisle	
Cllr Shepherd	Cllr Mason	
Cllr Wells	Cllr Mercer	
Cllr Williams	Cllr K Myers	
	Cllr Orrell	
	Cllr Rawlings	
	Cllr Reid	
	Cllr Richardson	
	Cllr Runciman	
	Cllr Steward	

	Cllr Waller	
	Cllr Warters	
<b>18</b>	<b>26</b>	<b>1</b>

The Labour amendment was declared LOST.

### **Green Amendment**

Councillor D'Agorne then moved, and Councillor Craghill seconded, an amendment on behalf of the Green Group.

### **“Capital Strategy**

In relation to the Executive’s recommendations on the revenue budget (paragraph 32 of page 9 of Council papers refers):

**In paragraph 32 (i)**, first line, replace ‘£180.206m’ with ‘£180.506m’ and second line, replace ‘£28.451m’ with ‘£28.751m’

**Under paragraph 32 (i), insert new sub paragraph:**

**(e)** Include a scheme to bring Fossgate into the footstreets following further consultation, increasing prudential borrowing by £300k

**In paragraph 34 (ii)**, second line, replace ‘£180.206m’ with ‘£180.506m’

### **Revenue Budget**

In relation to the Executive’s recommendations on the revenue budget (paragraph 33 of page 10 of Council papers refers):

**In (i) sub paragraph (a)** delete ‘£117.900m’ and replace with ‘£120.081m’

**In sub paragraph (b)** delete ‘£77.072m’ and replace with ‘£79.253m’

**In sub paragraph (c)** add at the end of the sentence ‘subject to the following amendments;

- An additional £36k to fund 1FTE York Financial Assistance Scheme (YFAS) Outreach Worker, to promote awareness and access to taking up the scheme from least well-off residents

- An additional £217k to invest in an Adult Social Care (ASC) Mitigation Fund, which is to be allocated by Executive to mitigate budget reductions in the ASC budget e.g. care budgets, support for people with learning disabilities, day care services and residential fees
- An additional £36k to fund 1FTE External Funding Officer to generate income across the Council from external funding
- An additional £24k to support the revenue cost of additional prudential borrowing (£300k capital amendment)
- An additional £100k investment in a Public Health Investment Fund

**In sub paragraph (d)** add at the end of the sentence 'subject to the following amendments;

- Removal of saving CAN1, CAN2 and CAN3 Homelessness support £35k
- Removal of saving CAN16 Tree Service £25k
- Removal of saving CES3 Transport Planning £60k
- Removal of saving CES9 Design and Conservation £45k
- Removal of saving CBSS11 YFAS and focus budget on supporting less well off residents to pay their council tax costs £200k
- Removal of saving CSES7 The Glen Respite Care Centre £50k
- Removal of Public Health Savings CAN23 to CAN29 £665k
- Reduction of saving CSES2 Prevention and Early Intervention £491k
- Reduction of saving CES4 to reverse charge increase for first car permit £20k

**In sub paragraph (e)** add at the end of the sentence 'subject to the following amendments;

- Reduction of saving CES4 to reverse charge increase for first car permit £20k
- Reduce the Minster badge permit fee to £15 per annum
- Increase the evening visitor car parking charge to £3

In order to increase fees and charges by a net amount of £3k

**In sub paragraph (f)** add at the end of the sentence 'subject to the following amendments;

- Deferral of saving HRA2 Housing Repairs general maintenance budget £75k

**In paragraph 33 (ii)** second line, delete '3%' and replace with '6%'.  
**Insert new text** after the end of the paragraph as follows 'This would result in the Council having to hold a referendum.'

**In paragraph 33 (iii)** add at the end of the sentence; which will support additional one off investment as follows;

- £155k to cover the cost of a referendum and rebilling as a result of proposing a basic Council tax increase (excluding social care precept) higher than 2%
- £76k to set up a contingency fund over two years to support savings proposals under development in CAN14 (Ground Maintenance)
- £375k to set to set up a contingency fund over two years to support savings proposals under development in CSES2 (Prevention and Early Intervention) to ensure that any new operating model does not reduce service levels
- £25k to defer saving CAN19 (Parking Services) for one year until the parking review is complete
- £40k to defer saving CSES 5 (Home to School Transport) for one year until the review is complete
- £20k to invest in a part-time post to complete the Tree Strategy

- £54k to invest in a feasibility study and implementation plan for a Renewable Energy Company, to reduce energy bills for the Council itself and for York residents
- £36k to invest in 1FTE Affordable Warmth/ Energy Poverty Officer, to draw in funds to improve insulation in public and private properties, reduce energy bills and tackle fuel poverty.”

A named vote was then taken on the Green Group amendment, with the following result:

<b>For</b>	<b>Against</b>	<b>Abstained</b>
Cllr Craghill	Cllr Aspden	Cllr Crisp (Lord Mayor)
Cllr D'Agorne	Cllr Ayre	Cllr N Barnes
Cllr Kramm	Cllr Brooks	Cllr S Barnes
	Cllr Carr	Cllr Boyce
	Cllr Cullwick	Cllr Cannon
	Cllr Cuthbertson	Cllr Derbyshire
	Cllr Dew	Cllr Flinders
	Cllr Douglas	Cllr Funnell
	Cllr Doughty	Cllr Gunnell
	Cllr Fenton	Cllr Hayes
	Cllr Gates	Cllr Levene
	Cllr Galvin	Cllr D Myers
	Cllr Gillies	Cllr Looker
	Cllr Jackson	Cllr Shepherd
	Cllr Lisle	Cllr Wells
	Cllr Mason	Cllr Williams
	Cllr Mercer	
	Cllr K Myers	
	Cllr Orrell	
	Cllr Rawlings	
	Cllr Reid	
	Cllr Richardson	
	Cllr Runciman	
	Cllr Steward	
	Cllr Waller	
	Cllr Warters	
<b>3</b>	<b>26</b>	<b>16</b>

The Green amendment was declared LOST.

A named vote was then taken on the original motion, with the following result:

<b>For</b>	<b>Against</b>	<b>Abstained</b>
Cllr Aspden	Cllr N Barnes	Cllr Crisp (Lord Mayor)
Cllr Ayre	Cllr S Barnes	Cllr Hayes
Cllr Brooks	Cllr Boyce	
Cllr Carr	Cllr Cannon	
Cllr Cullwick	Cllr Craghill	
Cllr Cuthbertson	Cllr D'Agorne	
Cllr Dew	Cllr Derbyshire	
Cllr Douglas	Cllr Flinders	
Cllr Doughty	Cllr Funnell	
Cllr Fenton	Cllr Gunnell	
Cllr Galvin	Cllr Kramm	
Cllr Gates	Cllr Levene	
Cllr Gillies	Cllr Looker	
Cllr Jackson	Cllr D Myers	
Cllr Lisle	Cllr Shepherd	
Cllr Mason	Cllr Wells	
Cllr Mercer	Cllr Williams	
Cllr K Myers		
Cllr Orrell		
Cllr Rawlings		
Cllr Reid		
Cllr Richardson		
Cllr Runciman		
Cllr Steward		
Cllr Waller		
Cllr Warters		
<b>26</b>	<b>17</b>	<b>2</b>

The original motion was then declared CARRIED and it was

Resolved: That the Executive recommendations, in respect of the Capital Strategy, Financial Strategy and Treasury Management Strategy Statement and Prudential Indicators be approved. <sup>1</sup>.

#### Action Required

1. Revise the capital strategy and implement the budget proposals.

DM

**64. Council Tax Resolution 2016/17**

A named vote was then taken on the Council Tax recommendation, with the following results:

<b>For</b>	<b>Against</b>	<b>Abstained</b>
Cllr Aspden	Cllr N Barnes	Cllr Crisp (Lord Mayor)
Cllr Ayre	Cllr S Barnes	Cllr Craghill
Cllr Brooks	Cllr Boyce	Cllr Kramm
Cllr Carr	Cllr Cannon	
Cllr Cullwick	Cllr D'Agorne	
Cllr Cuthbertson	Cllr Derbyshire	
Cllr Dew	Cllr Flinders	
Cllr Douglas	Cllr Funnell	
Cllr Doughty	Cllr Gunnell	
Cllr Fenton	Cllr Levene	
Cllr Galvin	Cllr Looker	
Cllr Gates	Cllr D Myers	
Cllr Gillies	Cllr Shepherd	
Cllr Hayes	Cllr Wells	
Cllr Jackson	Cllr Williams	
Cllr Lisle		
Cllr Mason		
Cllr Mercer		
Cllr K Myers		
Cllr Orrell		
Cllr Rawlings		
Cllr Reid		
Cllr Richardson		
Cllr Runciman		
Cllr Steward		
Cllr Waller		
Cllr Warters		
<b>27</b>	<b>15</b>	<b>3</b>

The motion was declared CARRIED and it was

Resolved:

- (i) That it be noted on 21 December 2015 the Director of Customer and Business Support Services, under his delegated authority, calculated the Council Tax Base for the year 2016/17:



- (a) for the **whole Council area** as 64,199.6 [Item T in the formula in Section 31B of the Local Government Finance Act 1992, as amended (the “Act”)]; and
  - (b) for those dwellings in those parts of its area to which a **Parish** precept relates as in column 1 in the attached Schedule A.
- (ii) Calculate that the Council Tax requirement for the Council’s own purposes for 2016/17 (excluding Parish precepts) is £77,072,020.
- (iii) That the following amounts be calculated for the year 2016/17 in accordance with Sections 31 to 36 of the Act:
- (a) £380,390,731.00 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(2) of the Act taking into account all precepts issued to it by Parish Councils.
  - (b) £302,651,255.00 being the aggregate of the amounts which the Council estimates for the items set out in Section 31A(3) of the Act.
  - (c) £77,739,476.00 being the amount by which the aggregate at 14(a) above exceeds the aggregate at 14(b) above, calculated by the Council in accordance with Section 31A(4) of the Act as its Council Tax requirement for the year. [Item R in the formula in Section 31B of the Act].
  - (d) £1,210.90 being the amount at 14(c) above [Item R], all divided by Item T (12(a) above), calculated by the Council, in accordance with Section 31B of the Act, as the basic amount of its Council Tax for the year (including Parish precepts).
  - (e) £667,456.00 being the aggregate amount of all special items (Parish precepts) referred to in Section 34(1) of the Act (as per the attached Schedule A).

- (f) £1,200.51 being the amount at 14(d) above less the result given by dividing the amount at 14(e) above by Item T (12(a) above), calculated by the Council, in accordance with Section 34(2) of the Act, as the basic amount of its Council Tax for the year for dwellings in those parts of its area to which no Parish precept relates.
- (iv) To note that North Yorkshire Police and Crime Commissioner and the North Yorkshire Fire and Rescue Authority have issued precepts to the Council in accordance with Section 40 of the Act for each category of dwellings in the Council's area as indicated in the tables below.
- (v) That the Council, in accordance with sections 30 and 36 of the Act, hereby sets the aggregate amounts shown in the tables below, and at Schedule B for Parished areas, as the amounts of Council Tax for 2016/17 for each part of its area and for each of the categories of dwellings.

## City of York Council

A	B	C	D	E	F	G	H
£	£	£	£	£	£	£	£
800.34	933.73	1,067.12	1,200.51	1,467.29	1,734.07	2,000.85	2,401.02

## North Yorkshire Police and Crime Commissioner

A	B	C	D	E	F	G	H
£	£	£	£	£	£	£	£
144.67	168.78	192.89	217.00	265.22	313.44	361.67	434.00

## North Yorkshire Fire and Rescue Authority

A	B	C	D	E	F	G	H
£	£	£	£	£	£	£	£
43.92	51.24	58.56	65.88	80.52	95.16	109.80	131.76

## Aggregate of Council Tax Requirements (excluding Parished Areas)

A	B	C	D	E	F	G	H
£	£	£	£	£	£	£	£
988.93	1,153.75	1,318.57	1,483.39	1,813.03	2,142.67	2,472.32	2,966.78

- (vi) Determine that the Council's basic amount of Council Tax for 2016/17 is not excessive in accordance with the

principles approved under section 52ZB of the Act. As the billing authority, the Council has not been notified by a major precepting authority that its relevant basic amount of Council Tax for 2016/17 is excessive and that the billing authority is not required to hold a referendum in accordance with Section 52ZK Local Government Finance Act 1992.

Cllr Sonja Crisp  
LORD MAYOR OF YORK

*[The meeting started at 6.30 pm and concluded at 9.25 pm]*

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## Leader's Report to Council

### Flooding

The floods now seem some time ago, but we must remember some residents and businesses are still not back in their properties. Aside from Budget Council this is the first time Full Council has met since the floods and it is therefore right we put on record our thanks for all those that helped. Many have also worked hard on the recovery effort and getting people the support they need, whether council staff, Make it York or other agencies. Amidst the horrors of the floods we have seen some positives in the great community spirit and the willingness of volunteers which we must further utilise and I think it has also given a new impetus to some businesses including the likes of the new organisation launched to support our excellent businesses. The message remains that York is absolutely open for business. We must however learn lessons and this is therefore why we set up the Independent Inquiry.

### Community Stadium

Executive will hopefully approve the plans for the Community Stadium. I have always been clear that I support the stadium and we will deliver it, to not do so would let down football and rugby fans and would also see the broader population miss out on the community facilities being built. Officers have done some great work recently in bringing down the costs from the project we inherited but ultimately I believe the previous administration was wrong to expand the project as they did and also to give the contract for so many different aspects of the project to one provider. This is not a model that has been followed elsewhere and that is for good reason. However none of that changes our commitment that we will deliver the stadium, we cannot travel back in time to amend the things we would have done differently.

### Schools

Over recent months we have seen a number of schools convert to academies and it is likely by the time this report is published the Chancellor will have increased the pace at which schools will be converting. Views differ in the chamber on the benefits of academisation and Free Schools but we must discuss what we can as local politicians do and what is best for children. We have also seen significant interest in the plans for new school places in the

Micklegate area and I think Executive and Cllr Brooks in particular, have done well in listening to these views in the way we have consulted with residents and furthered the consultation to give people more say. It is hugely welcome and of course understandable that residents are so passionate and we have endeavoured to engage fully, I also think the Micklegate ward councillors have worked hard in this area.

### One Planet York

I am sure Cllr Waller will touch on this in his report but this is an important part of the administration's focus as we look to make York one of our greenest cities. We have seen good news on green buses, ultra low emission vehicles and we are investing in new lighting technology and we are keen to reduce air pollution and improved sustainability. One Planet York covers numerous areas of focus and there are ten areas in which we will look to improve lives of residents. It is something all councillors can work together on.

### Business

It is pleasing to see the new Business Improvement District about to go live with the appointment of a new BID manager. I reiterate my thanks to all who have worked so hard on the BID. As I take a place on the board I am very mindful that the services will be very much in addition to what the council provides. When the vote to renew the bid comes due in a few years we must look to turn businesses who were rightly concerned about a new outflow of funds to being supportive due to the difference the scheme has made. It has been pleasing to see unemployment in the city continuing to fall and also the positive recent events promoting apprentices.

### York Central

We have seen the consultation on York Central and I am grateful to all that have involved themselves. We as a city need to work better on a cross party basis and York Central is a great example of where we can do this. My door is open to any councillors who wish to discuss the project and I do feel this engagement is a better way forward than the press releases some instead choose to submit of their concerns. Officers have done a great job on the plans but the consultation is just that, it is not a done deal, I am

therefore grateful to the many people who have approached me and Executive colleagues to share their thoughts and legitimate questions which have provided much food for thought.

### Transport

Issues of transport remain a key issue for the city whether congestion at a local level on the Outer Ring Road or our key place in the rail network. It was good to recently have David Higgins in York discussing High Speed2 and what it means for York and hopefully in the budget we will see positive news on HS3. York Central as a site is of course significantly aided by its location next to the station and this is a key part of the necessary joined up vision.

### Devolution

We have continued to work hard as the administration to get the best deal for York, but unfortunately as people will be aware the path to a deal has been a far from smooth journey – primarily unfortunately due to politics as well as the lack of a clear and obvious geography. The Labour leader has said their group believes York's future is in the West Yorkshire Combined Authority, seemingly whatever the evidence of economic geography or the views of residents. It may well be that things move fast in the weeks ahead or equally it may be that no deal emerges, but we will only do a deal that is right for York rather than having a pre-set unchangeable position.

### Military

It was a great honour for me to recently represent the Council at the Memorial Gardens Gun Salute to mark the Queen's accession to the throne. Her service to the country has been superb and as ever with the military the day ran like clockwork. Full Council rightly signed the Military Covenant to commit to helping the military whenever we can in recognition of the way they serve and help us. Given York's large military presence, with of course soldiers helping recently with the floods, it is right we continue to focus on any ways we can help whether serving military or issues like homelessness or mental illness which unfortunately often disproportionately affect our former troops.

Cllr Chris Steward

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City of York Council	<i>Extract from Draft Committee Minutes</i>
Meeting	Executive
Date	17 March 2016
Present	Councillors Steward (Chair), Aspden (Vice-Chair), Ayre, Brooks, Carr, Gillies, Runciman and Waller
Other Members participating in the meeting	Councillor Looker
In Attendance	Councillors Doughty, Hayes and Levene
Apologies	Councillor D'Agorne

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## **Part B - Matters Referred To Council**

### **133. Community Stadium and Leisure Facilities Report**

Consideration was given to a report which set out the background to the approval for a new stadium and leisure complex at the Vangarde Retail Park and confirmation of Greenwich Leisure Ltd as the preferred bidder for the procurement exercise.

Further information was presented to highlight the significant work undertaken to progress the scheme. This included works to incorporate a large community hub and space for a number of Community Partners together with details of the wider city leisure facilities and operation together with the maintenance of Energise Leisure Centre and Yearsley Swimming Pool. The timetable for delivery of the new complex in early 2018 and key milestones were also reported.

Officers expressed their thanks to the project team for their work on both the report and in progressing the scheme. They highlighted the enhanced facilities for the city, the reduction in capital cost by in excess of £4m and receipt of business rates in the region of £3m over the 13 year period. Members were also asked to note the funding of the project costs summarised in the

report at paragraphs 44 to 77, and in particular the legal risks and implications of not proceeding.

Members expressed their thanks to Officers for their work on the project and to earlier speakers and residents who had submitted comments and attended recent drop-in sessions. In particular Members reiterated the need to work closely with the football and rugby clubs to ensure delivery of the scheme.

Following further lengthy discussion it was

Recommended: That Executive recommend Council approval of the following:

- (i) Agreement to proceed with the Community Stadium and Leisure Facilities Project.
- (ii) The Director of Customer and Business Support Services, in conjunction with the Leader and Executive Member for Leisure & Culture be authorised to complete all final negotiations and arrange execution of the following legal documents:
  - a) the Design, Build, Operate and Maintain contract (“DBOM Contract”) and ancillary documents to the DBOM Contract;
  - b) Freehold transfer of the land adjacent to the proposed South Stand of the NSLC (“Southern Block”);
  - c) Agreement for lease of the East Stand Retail Units;
  - d) Agreement for lease of commercial space on first floor of the Southern Block;
  - e) Agreements for lease with the Community Partners.
- (iii) The approval of a total capital budget of £44.2m for the Project (as set out at table 2).
- (iv) Funding for the Project as set out below:

- a) £15.3m Stadium s106 contribution
  - b) £2.0m Football Club contribution
  - c) £1.2m Highways s106 contribution
  - d) £11.3m Commercial Capital Land Receipt
  - e) £13.4m Prudential borrowing
  - f) £1.0m Venture Fund
- (v) That additional borrowing of £5.4m, within the revised total Capital budget of £44.2m, is undertaken to fund the Project (as set out at paragraph 63 of the report).
- (vi) That the annual additional borrowing costs (£0.4m) relating to the prudential borrowing set out under recommendation (v) be included as a committed growth item in the 2017/18 Revenue Budget.
- (vii) That the Venture Fund be used to fund £1.0m of the capital expenditure which will be repaid from later years leisure revenue budget savings (as set out at paragraph 75 of the report).
- (viii) The use of the Venture Fund to manage early years deficits on the leisure revenue budget, up to a total of £0.3m. This to be repaid from later years savings on the leisure revenue budget (as set out at paragraph 75).
- (ix) That £1.2m of the transport mitigation monies from the Vangarde Section 106 Agreement be used to fund the Project (further detail of which are set out at paragraph 58).
- (x) That £0.4m be used from the existing stadium capital budget for continued early design works through to DBOM Contract signature ("Financial Close"). This £0.4m will be netted off from the overall DBOM Contract capital

cost set out in the report and is therefore not an additional cost.

- (xi) That the Commercial Development proposal be approved bringing the “Capital Land Receipt” and capital contribution to Stadium works to the Project (further detail of which are set out at paragraphs 32 - 41).
- (xii) That the freehold land transfer from the Council to the Investment Fund of the Southern Block is approved.
- (xiii) That the terms of Agreement for Lease of the East Stand Retail Units under which the Council will grant a 250 year lease to the Investment Fund be approved.
- (xiv) That the Director of Customer and Business Support Services, in conjunction with the Leader and Executive Member for Leisure & Culture be authorised, following further negotiations, to finalise and arrange execution of a 15 year lease with the Investment Fund for a portion of commercial space in the Southern Block (further detail of which are set out at paragraphs 42 - 43).
- (xv) That the Director of Customer and Business Support Services, in conjunction with the Leader and Executive Member for Leisure & Culture be authorised to complete all final negotiations and arrange execution of the Stadium Naming Rights Sponsorship agreement.
- (xvi) That the terms of the current Design Build Operate and Maintain (DBOM) Contract, as set out at paragraphs 22 - 29 be acknowledged and in relation to Yearsley Pool note the continuing Review which will be subject of a separate Executive report to be brought in Autumn 2016.
- (xvii) That the current anticipated Project timetable for delivery of the New Stadium and Leisure

Complex (NSLC) in the report is acknowledged, as set out at table 7.

- (xviii) That the risks of the Project as set out in the report, that cover the period to reaching DBOM Contract signature and through the NSLC construction period and the ongoing operation of the full term of the DBOM Contract, are noted.

Reason: To progress with the Project and enter into all legal agreements to deliver NSLC and operation by Greenwich Leisure Ltd of the NSLC and the city's wider leisure facilities.

Cllr C Steward, Chair

[The meeting started at 5.30 pm and finished at 6.45 pm].

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## **Report of the Deputy Leader of the Council**

### **Flooding**

Work has continued since the Boxing Day floods to help residents and local businesses recover. I would like to take this opportunity to thank everyone who has helped both during and after the floods – the community spirit on show has been fantastic. As an Executive we are doing all we can to support business in York and get out the message that the city is open for business. In our budget we took the decision to freeze council car park charges and contribute £50,000 towards York's largest-ever UK-wide tourism campaign.

Last week, I had the pleasure to visit Jorvik and business on Walmgate with Tim Farron MP to hear at first hand how traders are getting back on their feet. A range of support is available for businesses and I would also encourage residents who were affected by the floods to apply to the Two Ridings Community Foundation for financial support. Please contact me directly if you know of any businesses in your wards that need extra support or are having difficulty accessing any funding.

Locally, we are also increasing gulley cleaning to deal with surface water drainage issues and I will continue to lobby nationally to ensure the Government gives the necessary long-term support and funding for York.

### **Ward Committees**

Last July, we agreed a new system to devolve decisions and budgets down to Ward Committees. At my Decision Session earlier this month, I received a report on the progress to date and the feedback from the system we have put in place.

The report showed that 30 Ward Committee meetings have taken place to date with the majority of wards having had at least 2 of their 4 ward committee meetings. A number of positive projects and good practice examples were highlighted across the city. These include a consultation with Canon Lee students in Clifton and Rawcliffe & Clifton Without, monthly reports in Dringhouses and Woodthorpe summarising the work of the ward team, and consultation events in Holgate on topics such as York Central. A number of community projects have of course already received funding.

We have listened to the feedback of ward councillors including through scrutiny on how we can promote more engagement and a better understanding of the system. We have also put in extra money in our budget to increase the support offered to wards, but there will be further opportunities for feedback.

### **Budget / Frontline Services**

I was pleased to pass our budget which focused on key priorities such as protecting frontline services, supporting vulnerable children and adults, and our ambitions to make York the Greenest City in the North.

As I am writing this, we are awaiting the national budget from George Osborne. I am sure that whatever is announced, the financial environment for local government will remain extremely challenging in the coming years and we are already working with officers on our 2017/18 proposals. I will continue to make the case to the national Government that York and its residents deserve a fair deal when it comes to national funding for public services.

### **Apprentices**

I was delighted to attend the Apprentice Recruitment Event held at West Offices recently. The event has gone from strength to strength and I was very pleased to meet both current apprentices and those applying for roles. As an Executive we will continue to do all we can to boost the number of apprenticeships both inside and outside the Council. Already York is currently the sixth best performing local authority in the UK, with the latest figures showing a 30% year-on-year rise in the number of apprenticeship starts.

### **Refugees**

I am continuing to work with partner organisations including Migration Yorkshire on plans to resettle Syrian refugees in York. Earlier this year, the Government announced that it would change the system for distribution of refugees to a regional model. Unfortunately, this has further delayed the process and it remains frustrating that the Government has not done more to keep local authorities informed about timescales and the support on offer. I would like to reiterate my thanks to all residents and groups in York who have already offered support.



## **York Central / Economic Strategy**

I would like to thank all the residents and businesses who have responded to our consultation on the plans for York Central. We will listen to the specific feedback although plans are of course at an early stage. Later this week, I will be meeting the Director of the National Railway Museum to hear more about their proposals.

York Central has the potential to be a game-changing development for York and is a key part of the emerging economic strategy. I am currently working on this document with officers. This strategy outlines some of the key challenges for our city, including how we can secure more high-value jobs and improve how we as the Council engage with businesses. The new Business Improvement District will also of course play a major part in this. As a Council our job is to work with business on achieving their goals, including to progress plans to be a Business Friendly Council.

I am aware that a number of local businesses have raised concerns about the increasing cost of business rates and the ending of the previous rate relief system. I will continue to make the case that we need a wide overhaul of business rates and the Government should do more to support local businesses, which are the lifeblood of our local economy.

## **Military Covenant**

I am currently working with officers to ensure that the council does all it can to support the military and backs up the Military Covenant we signed at Full Council during the last council term. It is important to work with the armed forces community, so I chaired a meeting of the Military Covenant this week and will bring forward further plans on this in the coming months.

Please get in touch if you would like any further information or would to discuss any of the issues in this report: [cllr.kaspden@york.gov.uk](mailto:cllr.kaspden@york.gov.uk)

Cllr Keith Aspden  
Deputy Leader of the Council

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## **Report of the Executive Member for Environment**

The objective has been to make the council more sustainable, and responsive to residents' priorities. Executive Decision sessions will now detail performance data which had previously either not been reported, or in some instances had stopped being collected. A focus has been put on improving the ease with which the public can report street level complaints, and this is ongoing.

### **1. Street cleaning and litter bins**

Improvements to the kerbside cleaning regime have been made through Executive Member Decision Sessions to ensure a more thorough clean to remove detritus. This will improve the appearance of the city's streets and remove a source of weed growth. Wards are being consulted on increased numbers of litter bins, and dual purpose litter and dog bins.

### **2. Flood Defence**

The Boxing Day Floods have resulted in a large number of council teams being involved in the response and recovery operations. The Flood Risk team has been working with residents and agencies to assist with the recovery and development of plans for the future. The council has been working with the Environment Agency, Inland Drainage Boards, Yorkshire Water and other agencies to assess damage to flood defences, and respond to requests from residents and businesses. The team will be providing information to the Independent Flood Inquiry which is being set up by the council.

A major project for the city will be the upgrading of the Foss Barrier to take account of the assessments of the capacity required for future demands on that defence system. As the funding for this work is coming direct from government there is not the requirement for a proportion of that to come from external (in practice largely local government) sources. However, the upgrade of the city centre defences which are planned for 2022/23 would currently require an element of the costs (currently estimated at £25 million but anticipated to be higher) to be met by 'external support'.

The council is working with the Environment Agency on improvements to the warning systems which are issued by the agency, and a review is being undertaken on ensuring that residents and businesses understand the action that needs to be taken in response to the situation.

Nationally, there is considerable interest in 'slowing the flow' in upland sources of rivers to produce a benefit to urban areas downstream. This

is being pursued by the Local Enterprise Partnership's for Leeds City Region and York, North Yorkshire & East Riding. The work with the former is being taken up via the Green Economy Panel, and the latter is working with the North Yorkshire Flood Risk Partnership (NYFRP). I will be able to report further on the work coming from these bodies as there are a number of organisations working on this front, but the outcomes need to be measurable in order to have a clear impact on the work which is required in the city.

I have taken up concerns via the Local Government Association about the operation of the Bellwin Funding as some aspects of the flood recovery (such as provision of skips for the immediate aftermath of the flood and which the council had to pay for) are not covered.

### **3. Flood Resilience and advice on insurance**

A newsletter is being delivered or posted to residents whose homes have been confirmed as being internally flooded. The newsletter advises residents about a range of matters. In particular it encourages them to apply for the Flood Resilience Grant and tells them about our new caseworker. The caseworker is employed by Yorkshire Housing, but will be working both with the council and the Two Ridings Community Foundation to help residents access all the funding available to them. To date we have received 39 applications, 15 have been approved the others are incomplete and require further information which we are helping residents to gather. Businesses will be receiving a communication from Make it York on the support which is available for them.

For many residents the issue of insurance will be an important concern going forward and I have attended briefings on the operation of 'Flood Re' - a national scheme to ensure that households (built before 2009) have access to reasonably priced insurance. More details are available via [www.floodre.co.uk](http://www.floodre.co.uk). I would encourage councillors to familiarise themselves with this scheme as it will affect houses at risk of river or surface water flooding (with the decisions being made by the insurance industry).

### **4. Community Centres**

Across the city the council's community centres played their part in the volunteer response to the flooding. This demonstrates that our support to volunteer community management committees was the right decision to make. The committees should have received the outcome of an

energy audit to help improve their operation and to help with reducing their environmental impact.

## **5. Gulley Cleaning and Surface Water Drainage**

Gulley Cleaning is a key aspect of responding to surface water drainage issues and a new approach has been approved to provide a more proactive service to residents. In addition to the gulleys cleaned on the winter maintenance gritting routes being cleared out on an annual basis, a further 1,200 have been identified by officers as being in areas where Environment Agency maps indicate that locations may be at risk from surface water drainage or run off. Therefore, these will be added to the annual clean up. An active list of locations where there are ongoing investigations has been established and members are encouraged to review these for their own wards as on occasions there are deep seated problems which can need investigation and work with Yorkshire Water, the Drainage Board, or other organisations before drainage systems are properly functioning.

## **6. Air Quality**

There has been significant progress in this area with the city having been selected as one of eight exemplar cities nationally, having been awarded 'Go Ultra Low' city status by the Office of Low Emission Vehicles for the uptake of ultra low emission vehicles.

The council has been awarded £816,000, following a successful bidding process that will fund an ultra low emission programme including a city wide network of rapid charging hubs. These will provide state-of-the-art, ultra fast, reliable and convenient rapid charging for key vehicle groups such as taxis, private motorists and business users.

## **7. One Planet York**

To ensure Sustainability is a thread which runs through all the work that the council does a report is currently being presented to Executive for 'One Planet York'. This sets the objectives for all departments and staff to look at how they can contribute to the improved use of resources, reduction of carbon emissions, and improved quality of life to improve the sustainability of the city.

## **8. Green Jobs Task Force**

An Initial meeting on 23<sup>rd</sup> February helped to get the process going and to set out the terms of reference and objectives. This will link with the two local LEPs to promote the opportunities for 'green jobs' in the area.

The Leeds City Region Green Economy Panel (which I have recently joined) links in closely with these objectives with the plans for Green Infrastructure and the Energy Accelerator programme (for which York is significantly represented in the list of potential schemes for renewable energy) and for which an application is being made to the European Investment Bank.

## **9. Improving recycling**

Work is ongoing to improve recycling across the city with the additional green bin collections having taken place towards the end of 2015 to extend the period of collections for the garden waste.

During March/April we will develop a costed action plan to promote recycling which will be presented to the Executive Member during May. The agreed action plan will then be implemented from May 2016 to March 2017.

This work will include identifying areas/locations with low recycling rates including:

- Flats - Residents of flats often have difficulties managing their waste because no individual has ownership of the shared waste containers and this leads to problems such as messy bin stores, dumped rubbish, contaminated recycling bins, and overflowing rubbish bins.
- Areas of Student Accommodation - For students living in private rented accommodation this is often their first experience of being responsible for refuse and recycling and we need to ensure that they have sufficient information to manage their waste responsibly.

We will explore opportunities to work with other council teams and external organisations to help maximise the potential from this project. This will include CYC Estate Managers, Neighbourhood Enforcement Officers (NEOs), Environment & Community Officers (ECO's), relevant student and landlord organisations and local community groups etc.

As the aim of this project is to increase recycling we will establish baseline data to measure any success against. The data collection methods will be a combination of methods which use existing data on tonnages and gather new data which is appropriate to the work. These will include:

- Data from our collection rounds – we can look at existing data on tonnages collected for refuse/recycling from areas

- Visual checks – as we cannot weigh individual communal bins we may instead do a visual estimate of how full communal bins are and whether there is evidence of contamination in the recycling bins
- Visual checks on the presentation of recycling e.g. presence of contaminants, mixed materials containers, boxes put in the wrong location
- Participation monitoring/set out rate measurement
- Resident surveys to establish barriers to recycling.

### Activities

The project will tailor activities to the chosen areas based on the local resident's needs which will include;

- Maintenance and re-labelling of bins at flats
- Improved signage for communal bin stores clearly identifying who should/should not be using them
- Provision of storage bags for individual flats
- Provision of free recycling boxes, lids and nets
- Promotion of the One Planet York App – residents can sign up for alerts about collection days and find out what can be recycled
- Improved communications and tailored local waste service information
- Activities to encourage reuse
- Activities to encourage composting.

We will make the following items available at ward meetings, community meetings, and community facilities (libraries, community centres etc) from May.

- Recycling boxes
- Lids
- Nets
- Useful information leaflets
- Face to face advice.

We will promote the environmental message with schools (litter, recycling, and local clean ups) in a way which would extend the number of people who could deliver the presentation. We will, in conjunction with the Environment & Community Officers (ECO's) and the Neighbourhood Enforcement Officers (NEO's) visit schools in targeted

areas to raise awareness on all aspects of our environmental works, this will not only share the workloads but ensure joined-up services.

### Better vehicle fleet

New vehicles are needed for the collection of recycled materials presented by residents living in the city centre as the age of the existing vehicles mean that they are sometimes out of commission and the recycling is coming for later separation by Yorwaste.

This has created the impression that the recycling which is segregated at kerbside by residents is being landfilled. This is not the case as it does get separated at a facility near Scarborough and avoids the environmental costs, and Landfill Tax charges to the council. However, the cost of the process of separation leads to higher costs for the council than if the recycled materials had been presented in a segregated way to Yorwaste.

We have been consulting with our frontline staff on their views on replacement vehicles as part of our overall review of our waste service provision. We have now commenced trials using various types of vehicles to ensure they are fit for purpose. We will engage with the public on this selection to make sure that we obtain the right vehicles and that there is a general understanding of the objectives of the council to improve recycling rates.

Once we have identified the type of vehicle we wish to purchase, we will have to select an appropriate purchasing framework that would access suitable manufacturers, go through a mini tender to obtain prices, and compare the responses. Once the responses had been evaluated and the contract awarded, orders could then be placed. Taking into account vehicle specification, manufacturers' timescales and available build slots this will take between 10 and 12 months until final delivery.

Cllr Andrew Waller



## **Report of the Chair of Corporate & Scrutiny Management Policy & Scrutiny Committee**

**March 2016**

1. This report is submitted by the Chair of Corporate & Scrutiny Management Policy & Scrutiny Committee (CSMC), in accordance with the constitutional requirements set out in Standing Order 4.2.1 (i) to update Council on scrutiny work and to set out any recommendations such as may be made to Council in relation to that work.

### **Finance and performance**

2. Since the last report to Council on 17 December 2015 CSMC and the four standing scrutiny committees have all received the 2<sup>nd</sup> and 3<sup>rd</sup> quarter Finance and Performance monitoring reports with the exception of the Health & Adult Social Care Policy & Scrutiny Committee which received the 2<sup>nd</sup> quarter report in early December.

### **Attendance of Executive Members**

3. The Executive Member for Environment and the Leader of the Council attended the January meeting of the Communities and Environment Policy & Scrutiny Committee to provide a verbal update on the Christmas floods in York.

### **Corporate & Scrutiny Management Policy & Scrutiny Committee**

#### Call-ins

4. Since the last report to Council there have been no pre-decision or post-decision call-ins.

#### Petitions

5. At each of its meetings, CSMC continues to receive its standing report on Council petitions providing details of new petitions received by the Council and the appropriate course of action.

#### Scrutiny Work

6. CSMC has met twice since the last report to Council. In January, in addition to its regular consideration of the schedule of petitions, the

Committee received two overview reports one on procurement and one on the council's consultation process. The Committee also considered an interim report on its scrutiny review of eDemocracy and as a result agreed to conclude the review and make its recommendations to the Executive. Finally, as part of its scrutiny management role, the Committee considered scrutiny expenditure in this financial year and the scrutiny budget for the coming year.

### Consideration of New Ways of Working

7. A meeting of all scrutiny Chairs and Vice Chairs was held to consider a report on the various options for changing scrutiny committee remits. The report presenting those options reflected national best practice and provided consultation feedback from CYC's corporate management team.
8. Subsequently in early March, CSMC considered the report and all of the consultation feedback. They noted that forthcoming changes to Directorates were as yet unknown and agreed those changes would have a significant impact on some of the options under consideration. They therefore agreed it was too early to make an informed decision, and requested that the options be further explored and reported on once Directorate changes became clearer.

### **Communities & Environment Policy & Scrutiny Committee**

9. The Committee has met twice since the last report to Council. In January, Members received a bi-annual performance report and a report on domestic violence from Safer York partnership. They were also consulted on the review of neighbourhood working arrangements
10. Earlier this month, the Committee met again and received a number of updates on the Community Safety Unit; the Council's Hate Crime Action Plan; CYC's Housing Allocations and Choice Based Lettings process and the council's Tenancy Strategy. In addition the Committee received a briefing on the programme of works associated with the recent flooding and the draft final report arising from their recently completed Goose Management scrutiny review.

### **Economic Development and Transport Policy & Scrutiny Review**

11. This committee has met twice since the last report to Council. In January 2016 the committee received a verbal update on proposed regular transport briefings for all members and update reports on the economic

dashboard and the Business Improvement District. They also considered the implementation of recommendations from the previously completed Online Skills / E-Commerce Scrutiny Review.

12. In March 2016 Members were provided with a further update report on the economic dashboard, and the interim report of the Economic Strategy Task Groups. They also considered a further report on the implementation of outstanding recommendations from the Online Skills / E-Commerce Scrutiny Review and a proposed scrutiny review around the protection of grass verges.

### **Health & Adult Social Care Policy and Scrutiny Committee.**

13. This Committee has met four times since the last report of this nature. In December 2015 the committee received a report on the re-procurement of community equipment and wheelchair services and an update report on an interim solution for Bootham Park Hospital.
14. In January 2016 Members were provided with a report on York Teaching Hospital NHS Foundation Trust's action plan following a recent Care Quality Commission inspection, a six-monthly assurance report on the safeguarding of vulnerable adults and an update report on the Health Child Service Project Board.
15. In February 2016 the committee received reports on the merger of Clifton, Petergate and York Medical Group medical practices and on the co-commissioning of primary care services in the Vale of York and an update report on the Vale of York Clinical Commissioning Group's turnaround plans.
16. Finally, in March 2016 the committee was provided with the annual report of the Health and Wellbeing Board. This meeting should have considered a major item around the closure of Bootham Park Hospital including the NHS England Reflections, Learning and Assurance Report on the transfer of services between Leeds & York Partnership FT and Tees, Esk & Wear FT; the initial conclusions of the committee's independent expert adviser and Healthwatch York's report: Bootham Park Hospital: What next for mental health in York? but the item was taken off the agenda as the NHS England report had still to be signed off and pending a decision on a request for a judicial review.

## **Learning & Culture Policy & Scrutiny Committee**

17. This Committee has met twice since the last report to Council. In January Members received an update from Make it York on their response to two petitions relating to the Parliament Street Carousel, together with an overview on the success of St Nicholas Fair. The Committee went on to discuss with Make it York their views on the future of Parliament Street fountain. In addition, the Committee received the Annual Report from SACRE and a school improvement update on Key Stage 4 Performance. They also received their bi-annual update on Safeguarding and Looked After Children.
18. The Committee met again earlier this month to receive a bi-annual update on the work of York Safeguarding Board, and an update on the implementation of recommendations arising from a number of their previously completed reviews. In addition, the Committee considered the draft final report arising from their York Museums Trust Scrutiny Review. And finally, the Chair of York@Large attended to give the committee an overview of ongoing work to deliver joint services.
19. Work continues on the committee's ongoing scrutiny review of the Tour de France.

City of York Council

*Extract from Committee Minutes*


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Meeting	Staffing Matters & Urgency Committee
Date	1 February 2016
Present	Councillors Steward (Chair), Looker and Reid (Substitute)
Apologies	Councillor Aspden

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### **Part B- Matters Referred to Full Council**

#### **68. Organisational Review-Senior Management Arrangements within the City of York Council**

*[See also under Part A Minute]*

Members received a report which sought approval to establish two Appointment Sub Committees for Chief Officer appointments and to delegate sufficient powers to those Sub Committees to enable them to conduct the recruitment process, select and appoint a Director of City and Environmental Services and a Director of Public Health, subject to the instrument NHS (Appointment of Consultants) Regulations 1996 as amended (S.I. 1996/701 as amended by S.I. 2002/2469, S.I. 2003/1250, S.I. 2004/696 and S.I. 2004/3365).


**Recommend:** That Council approves a salary package for the Director of City and Environmental Services and the Director of Public Health which is in excess of £100,000, should it be necessary.

**Reason:** To allow for the appointments to be made.

Councillor C Steward, Chair

[The meeting started at 5.30 pm and finished at 5.55 pm].

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 <p>CITY OF <b>YORK</b> COUNCIL</p>	
<b>Council</b>	24 <sup>th</sup> March 2016
Executive Leader, Finance and Performance	

## **Pay Policy 2016/17**

### **Summary**

1. The purpose of the report is to present the council's Pay Policy Statement for 2016/17 for approval.
2. To note that Annex A reflects the Chief Officer structure in existence at the time of adoption of the Policy.

### **Background**

3. Section 38 – 43 of the Localism Act 2011 introduced a requirement for the council to produce and publish an annual policy statement that covers a number of matters concerning the pay of the council's senior staff, principally Chief Officers and relationships with the pay of the rest of the workforce.
4. Further guidance was issued in February 2013 by the Secretary of State for Communities. This guidance has been followed in the production of the Pay Policy Statement.

### **Consultation**

5. Approval of the Policy Statement is by full council, consultation with other management bodies is not required. However, where changes to policy are proposed that affect terms and conditions of employment appropriate consultation with the relevant parties will be carried out.

### **Options**

6. Option one - To endorse the Pay Policy Statement.

7. Option two - To reject / amend the Pay Policy Statement.

### **Analysis**

8. The Localism Act 2011 sets out specific details of what should be included in the Policy Statement. Local Government Yorkshire and Humber have provided guidance and templates which comply with these requirements. The council has adopted these templates as have many others in the region.
9. The salaries quoted in the documents are based on full time equivalent salaries and the median average has been used in calculating the pay multiple. It should also be noted that apprentices have been excluded from the statement as they are employed on training contracts, and paid outside of the council's grading structure.
10. The Living Wage Supplement rate will be increased on 1st April 2016, taking the rate of pay for the lowest paid individuals £8.25 per hour.
11. A review of senior management pay will be undertaken during 2016/17 any changes will be reflected in the next annual policy statement.
12. Salary information is already published for certain senior staff under the requirements of The Accounts and Audit (England) Regulations (2011). Information can also be found in the council's website at:  
[https://www.york.gov.uk/downloads/file/2783/summary\\_of\\_seni\\_or\\_officers\\_salaries](https://www.york.gov.uk/downloads/file/2783/summary_of_seni_or_officers_salaries)  
The Pay Policy Statement and its Annexes will also be published in this section of the website.
13. The pay multiple (the ratio between the highest paid base salary in the council and the median salary) has decreased this year to 5.59:1, from 6.2:1 reported in the 2015/16 Statement.

### **Council Plan**

14. The production of this Policy Statement contributes to the Council's key priorities of being a prosperous city for all, by meeting its legal obligations in a timely and effective way.



## **Implications**

### **(a) Financial**

There are no financial implications for the report.

### **(b) Human Resources (HR)**

There are no human resources implications for the report, other than this statement reflects current HR Policy in relation to senior pay in the council.

### **(c) Equalities (Contact – Equalities Officer)**

There are no equalities implications for the report.

### **(d) Legal**

The Pay Policy Statement meets the requirements of the Localism Act and also meets the requirements of guidance issued by the Secretary of State for Communities and Local Government to which the authority is required to have regard under Section 40 of the Act.

### **(e) Crime and Disorder**

There are no implications for crime and disorder.

### **(f) Information Technology (IT)**

There are no implications for IT.

### **(g) Property**

There are no implications for property.

### **(h) Other**

Other implications are covered in the body of the report.

## Risk Management

15. There are no significant risks associated with production of the Policy.

## Recommendations

16. That in order to fulfil the requirements of Sections 38 - 43 of the Localism Act 2011:
- (i) Council approves the Pay Policy Statement for 2016/17 relating to the pay of the Council's senior staff.
  - (ii) Council notes that Annex A reflects the Chief Officer structure in existence at the time of adoption of the Policy.

Reason: In order to fulfil the requirements of Section 38 – 43 of the Localism Act 2011 for the council to produce and publish an annual policy statement that covers a number of matters concerning the pay of the council's senior staff, principally Chief Officers and relationships with the pay of the rest of the workforce.

## Contact Details

<b>Authors:</b>	<b>Executive Member Responsible for the report:</b>		
Linda How/ Judith Bennett Performance & Reward Manager <i>Tel No. 01904 551716</i>	Executive Leader		
	<b>Report Approved</b>	√	<b>Date</b> 14/03/16
Pauline Stuchfield AD Customers & Employees 01904 551706			

**Specialist Implications Officer(s)**

AD Governance &amp; ICT

**Wards Affected:** None**All****For further information please contact the author of the report****Background Papers:**

None

**Annexes:**

Annex A - City of York Council Pay Policy Statement 2016 to 2017

Annex B – Chief Officer Remuneration Details

Annex C - Chief Officer Remuneration Policies

Annex D – NHS Public Health Remuneration Policies

Annex E - Publication Requirements

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## Annex A

### **City of York Council –Pay Policy Statement for the period 1 April 2016 to 31 March 2017.**

#### **Introduction**

Under Sections 38 – 43 of the Localism Act 2011 the council is required to produce a Policy Statement that covers a number of matters concerning the pay of the council’s senior staff.

This Policy Statement meets the requirements of the Localism Act in this regard and also meets the requirements of guidance issued by the Secretary of State for Communities & Local Government to which the council is required to have regard under Section 40 of the Act. This Policy also relates to the data on pay and rewards for staff which the council publishes under the Local Authorities (Data Transparency) Code 2015 and the data which is published under The Accounts and Audit (England) Regulations (2011). It should be noted that the requirements to publish data under the Secretary of State guidance, the Code of Practice and the Regulations do differ and the respective requirements are summarised in Annex E to this Policy Statement. This Policy Statement does not cover or include school staff and is not required to do so.

#### **Publication of this Policy Statement**

This Policy Statement was considered and approved by full Council at its meeting on 24<sup>th</sup> March 2016. The council has taken the following action to ensure that this Policy Statement is easily accessible to the public: it is publicised on the council website in a readily accessible place - Senior Salary information, under Governance and Transparency. It can also easily be found under global web searches.

#### **Definition of officers covered by the Policy Statement**

This Policy Statement covers the following posts:

1. Head of the Paid Service, which in this council is the post of Chief Executive.
2. Monitoring Officer, which in this council is the post of Assistant Director of Governance and ICT.

3. Statutory Chief Officers, which in this council are the posts of:

Director of Children's Services, Education and Skills.  
Director of Customer and Business Support Services.  
Director of Public Health

4. Non-statutory Chief Officers which in this council are the posts of:

Director of Communities & Neighbourhoods  
Director of City and Environmental Services  
Director of Adult Services  
Assistant Director - Adults and Social Care Operations  
Assistant Director - Housing and Community Safety  
Assistant Director - Communities, Culture and Public Realm  
Assistant Director - Education and Skills  
Assistant Director - Children's Specialist Services  
Assistant Director - Customers & Employees  
Assistant Director - Finance, Property & Procurement  
Assistant Director - Transformation  
Assistant Director - Highways, Transport & Waste  
Assistant Director - Development Services, Planning & Regeneration  
Assistant Director (Consultant) in Public Health

**Policy on remunerating Chief Officers**

It is the policy of this council to establish a remuneration package for each Chief Officer post based on evaluation of the role to determine its size and consequently its position in the Chief Officer grading structure. The salaries attached to the structure are derived from the national framework for Chief Officers.

Increases to the salary scales are based on nationally negotiated settlements by the Joint Negotiating Committee for Chief Officers of Local Government, and progression through a salary scale is incremental and based on performance.

The remuneration of the Chief Executive is set by the council and is that which is sufficient to attract and retain staff of the appropriate skills, knowledge, experience, abilities and qualities that is consistent with the council's requirements of the post in question at the relevant time. The last market comparison of Chief Executive pay took place in 2011 and showed City of York Council to be paying around the average for Unitary Chief Executives but the regional picture showed that York was the lowest paying single tier council.

Further details on the council's Policy on remunerating Chief Officers is set out in the schedule that is attached to this policy statement at Annex B.

### **Policy on remunerating the lowest paid in the workforce**

The council applies terms and conditions of employment that have been negotiated and agreed through appropriate collective bargaining mechanisms (national or local) or as a consequence of council decisions, these are then incorporated into contracts of employment.

The council is a Living Wage accredited employer which means its lowest pay point is currently £7.85 per hour (£15,145 per annum) increasing to £8.25 per hour (£15,917 per annum) with effect from 1<sup>st</sup> April 2016. The Living Wage rate is a consolidation of basic salary and a Living Wage supplement.

Increases to the council's salary scales are in accordance with national pay settlements reached through negotiation by the National Joint Councils.

### **Apprenticeship Pay**

With effect from 1<sup>st</sup> October 2015 apprentices pay was linked to the National Minimum Wage (NMW). Year 1 apprentices receive the equivalent of the NMW hourly rate for 18 to 20 year olds. Year 2 apprentices receive the equivalent of the NMW hourly rate for 21 year olds. Both rates will increase annually following any change that is made to the NMW in October 2016.

### **Policy on the relationship between Chief Officer remuneration and that of other staff**

The highest paid base salary in this council is £130,000 which is paid to the Chief Executive. The average median salary in this council (not including schools) is £23,255. The ratio between the two salaries, the 'pay multiple' is 5.59:1.

This council does not have a policy on maintaining or reaching a specific 'pay multiple', however the council is conscious of the need to ensure that the salary of the highest paid employee is not excessive and is consistent with the needs of the council as expressed in this Policy Statement.

The council's approach to the payment of other staff is based on locally or nationally negotiated grading and salary structures. It is to pay that which the council needs to pay to recruit and retain staff with the skills, knowledge and experience needed for the post in question and to ensure that the council meets any contractual requirements for staff

including the application of any local or national collective agreements, or council decisions regarding pay.

### **Policy on other aspects of Chief Officer remuneration**

Other aspects of Chief Officer remuneration are appropriate to be covered by this Policy Statement, these other aspects are defined as recruitment, pay increases, additions to pay, performance related pay, earn back, bonuses, termination payments, transparency and re-employment when in receipt of an LGPS pension or a redundancy/severance payment. These matters are addressed in the schedule that is attached to this policy statement at Annex C.

### **Approval of Salary Packages in excess of £100k**

The council will ensure that, at the latest before an offer of appointment is made, any salary package for any post (not including schools) that is in excess of £100k will be considered by full Council. The salary package will be defined as base salary, any bonuses, fees, routinely payable allowances and benefits in kind that are due under the contract.

### **Flexibility to address recruitment issues for vacant posts**

In the vast majority of circumstances the provisions of this Policy will enable the council to ensure that it can recruit effectively to any vacant post. There may be exceptional circumstances when there are recruitment difficulties for a particular post and where there is evidence that an element or elements of the remuneration package are not sufficient to secure an effective appointment. This Policy Statement recognises that this situation may arise in exceptional circumstances and therefore a departure from this Policy can be implemented without having to seek full Council approval for a change of the Policy Statement. Such a departure from this Policy will be expressly justified in each case and will be approved through an appropriate authority decision making route.

A review of senior management pay will be undertaken during 2016/17 any changes will be reflected in the next pay policy statement produced.

### **Amendments to the policy**

If a change is considered to be appropriate during the year then a revised policy will be presented to full Council for consideration.



## **Public Health**

Responsibilities for Public Health functions transferred to the council, together with staff on 1<sup>st</sup> April 2013. The staff transferred under TUPE principles, and their Terms and Conditions of Employment are set out in the NHS Terms and Conditions – Consultants (England 2003)'.

The Public Health posts in this council are:

NHS Clinical Advisor

Details of Public Health remuneration details and policies can be found in Annex D.

### **Policy for future years**

This Policy Statement will be reviewed each year and will be presented to full Council each year for consideration in order to ensure that a policy is in place for the council prior to the start of each financial year.

## **Annexes:**

- Annex B - Chief Officer Remuneration Details
- Annex C - Chief Officer Remuneration Policies
- Annex D – Public Health Remuneration Details and Policies
- Annex E - Publication Requirements

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Senior Employees Remuneration Details (Excludes Public Health)

Annex B

Post (Job Title)	Base Salary	Employers pension Contributions (mandatory)	Market Supplement	Stand by Payment	Expenses	Bonus	PRP	Earn Back	Honoraria	Ex gratia Payment	Election Fees	Joint Authority Duties	Severance Arrangements
Chief Executive	£130,000	£0		N/A	Travel and other expenses are reimbursed through normal authority procedures	The terms of the contract of employment do not provide for the payment of bonuses	The terms of the contract of employment provide for a performance element to the salary scale .	The terms of the contract of employment do not provide for an element of base salary to be held back related to performance	Honoraria payments for any increased duties and responsibilities do not apply	There are no plans for the post holder to receive any ex-gratia payments	Paid as Returning Officer during Elections.	There are no payments related to joint authority duties	The authority's normal policies regarding redundancy and early retirement apply to the postholder.
Director of Children's Services Education & Skills	£102,766	£19,488	£12,234	£192.24	The details above also apply to this and all jobs below.	The details above also apply to this and all jobs below.	The details above also apply to this and all jobs below.	The details above also apply to this and all jobs below.	The details above also apply to this and all jobs below.	The details above also apply to this and all jobs below.		The details above also apply to this and all jobs below.	The detail above also apply to this and all jobs below.
Director of Customer & Business Support Services	£102,766	£20,901		£192.24									
Director of Community & Neighbourhoods	£102,766	£20,901		£192.24									
Director of Adult Services	£102,766	£7939 (5 months contributions)		£192.24									

Senior Employees Remuneration Details (Excludes Public Health)

Director of City & Environmental Services (Acting up)	£89,842	£13,851		£192.24									
Assistant Director of Governance & ICT	£74,869	£12,698		£192.24									
Assistant Director Housing & Community Safety	£74,869	£12,698		£192.24									
Assistant Director Communities Culture & Public Realm	£74,869	£12,698		£192.24									
Assistant Director Education & Skills	£74,869	£12,698		£192.24									
Assistant Director Children's Specialist Services	£74,869	£17,267	£9,999.96	£192.24									
Assistant Director Customers & Employment	£74,869	£12,698		£192.24									
Assistant Director Finance, Property & Procurement	£74,869	£12,698		£192.24									
Assistant Director Development Services, Planning & Regeneration	£74,869	£12,698		£192.24									
Assistant Director Transformation & Change (Post will end 31 <sup>st</sup> March 2016)	£67,389	£0		£192.24									

Senior Employees Remuneration Details (Excludes Public Health)

Assistant Director – Adults Social Care Operations	£67,389	£13,719		£192.24									
Assistant Director (Consultant) in Public Health  Currently occupied by fixed term employee whilst subject to recruitment	£74,869	£0											
Assistant Director Adults Commissioning	Vacant												
Assistant Director Highways, Transport & Waste	Vacant												
Director of Public Health  Subject to recruitment	Vacant												

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Aspect of Chief Officer Remuneration	Council Policy
Recruitment	The post will be advertised and appointed to at the appropriate approved salary for the post in question level unless there is good evidence that a successful appointment of a person with the required skills, knowledge, experience, abilities and qualities cannot be made without varying the remuneration package. In such circumstances a variation to the remuneration package is appropriate under the authority's policy and any variation will be approved through the appropriate authority decision making process.
Pay Increases	The council will apply any pay increases that are agreed by relevant national negotiating bodies and/or any pay increases that are agreed through local negotiations. The council will also apply any pay increases that are as a result of council decisions to significantly increase the duties and responsibilities of the post in question beyond the normal flexing of duties and responsibilities that are expected in senior posts.
Additions To Pay	The council would not make additional payments beyond those specified in the contract of employment.
Market Supplement	A Market Supplement Policy is in place for Chief Officers which allows where there is objective justification and evidence, a supplement to pay to reflect a market premium for a specific role.
Stand by Policy	A contractual standby requirement is in place for Chief Officers to participate in a Stand By rota to provide emergency cover out of hours. Payment for hours on Standby is at the agreed rate in force under the Council's standard Stand By Policy.
Performance Related Pay	Chief Officer and Chief Executive pay link incremental progression to the achievement of objectives as set in the annual performance development review (PDR) process. This allows for where agreed targets and standards have been achieved an individual may progress by one increment annually until they reach the top of the grade. The council does not currently operate a performance related pay system for other posts.
Earn-Back ( Withholding an element of base pay related to performance)	The council does not operate an earn-back pay system as it believes that it has sufficiently strong performance management arrangements in place to ensure high performance from its senior officers. Any areas of under-performance are addressed rigorously.
Bonuses	The council does not pay bonus payments to senior officers.

<p>Termination Payments</p>	<p>The council applies its normal redundancy payments arrangements to senior officers and does not have separate provisions for senior officers. The council also applies the appropriate Pensions regulations when they apply. The council has agreed policies in place on how it will apply any discretionary powers it has under Pensions regulations. Any costs that are incurred by the council regarding senior officers are published in the authority accounts as required under the Accounts and Audit (England) Regulations 2011. Chief Officer severance packages over £100k in value are subject to approval by the Council's Staffing Matters &amp; Urgency Committee.</p>
<p>Returning Officer Fees</p>	<p>The statutory appointed position of Returning Officer for the relevant election is paid a fee, either dependant on the Regulations in force for that election or in the situation of elections for the local authority area, in respect to the fee schedule set by North Yorkshire Councils for the conduct of elections. The fee is variable depending on the election, based on electorate or the relevant Regulations.</p>
<p>Transparency</p>	<p>The council meets its requirements under the Localism Act, the Code of Practice on Data Transparency and the Accounts and Audit Regulations in order to ensure that it is open and transparent regarding senior officer remuneration.</p>
<p>Re-employment of staff in receipt of an LGPS Pension or a redundancy/severance payment</p>	<p>The council is under a statutory duty to appoint on merit and has to ensure that it complies with all appropriate employment and equalities legislation. The council will always seek to appoint the best available candidate to a post who has the skills, knowledge, experience, abilities and qualities needed for the post. The council will therefore consider all applications for candidates to try to ensure the best available candidate is appointed. If a candidate is a former employee in receipt of an LGPS pension or a redundancy payment this will not rule them out from being re-employed by the council. Clearly where a former employee left the authority on redundancy terms then the old post has been deleted and the individual cannot return to the post as it will not exist. The council will apply the provisions of the Redundancy Payments Modification Order regarding the recovery of redundancy payments if this is relevant. Pensions Regulations also have provisions to reduce pension payments in certain circumstances to those who return to work within the local government service.</p>



<b>Post</b>	<b>Base Salary</b>	<b>Clinical Excellence Award Supplement</b>	<b>Supplement based on band of post and population of the post</b>	<b>Additional Programmed Activity</b>	<b>Expenses</b>	<b>Performance Related Pay (PRP)</b>	<b>Severance Arrangements</b>
Clinical Advisor	£84,667.00 0.3 FTE Pro rata £25,400.10	There are no payments made related to supplements	Not Applicable	Not Applicable	Travel and other expenses are re-imbursed through normal authority procedures	Annual Progression through pay threshold on anniversary of appointment subject to meeting pay threshold criteria.	The NHS terms and conditions for consultants regarding redundancy and early retirement apply to the post holder.

<b>Aspect of Public Health Remuneration</b>	<b>NHS Terms and Conditions – for Consultants</b>
Clinical Excellence Award	Clinical Excellence Awards recognise and regard NHS consultants and academic GPs who perform 'over and above' the standard expected of their role. Awards are given for quality and excellence, acknowledging exceptional personal contributions.
Additional Programmed Activity	Additional payment for undertaking remunerated clinical work that falls under the definition of Private Professional Services that does not fall within their Job Plan.
Post and Population Supplement	Only payable to Director of Public Health – depending upon the band within which their posts fall and the weight of the post as assessed by their employing organisation.

Pay thresholds – Performance Related Pay PRP	The employee will progress to the next pay threshold provided they have met the pay threshold criteria, based upon length of service and performance.
Expenses	Expenses are paid in line with NHS nationally agreed rates.
Severance Arrangements	Redundancy, early retirement and retirement are managed in accordance with NHS terms and conditions of employment for consultants.

## **Publication Requirements - Pay Policy Statement – Annex E**

In addition to the requirement Under Sections 38 – 43 of the Localism Act 2011 the council has further obligations to publish information.

The Local Government Transparency Code 2015 (current code) indicates that local authorities should publish the following data concerning staff:

- The number of employees whose remuneration in that year was at least £50,000 in brackets of £5,000
- Details of remuneration and job title of certain senior employees whose salary is at least £50,000 employees whose salaries are £150,000 or more must also be identified by name.
- A list of responsibilities (for example, the services and functions they are responsible for, budget held and number of staff) and details of bonuses and 'benefits in kind', for all employees whose salary exceeds £50,000.
- The 'pay multiple' – the ratio between the highest paid salary and the median average salary of the whole authority workforce
- Publish an organisation chart covering staff in the top three levels of the organisation. The following information must be included for each member of staff included in the chart: grade, job title, local authority department and team whether permanent or temporary staff, contact, salary in £5,000 brackets, consistent with the details published for Senior Salaries, salary ceiling (the maximum salary for the grade).

The Accounts and Audit (England) Regulations (2011) require that the following data is included in the authority's accounts:

- Numbers of employees with a salary above £50k per annum (pro-rata for part-time staff) in multiples of £5k
- Job title, remuneration and employer pension contributions for senior officers. Senior officers are defined as Head of Paid Service, Statutory Chief Officers and Non-Statutory Chief Officers by reference to Section 2 of the 1989 Local Government & Housing Act.
- Names of employees paid over £150k per annum

For the above remuneration is to include:

- Salary, fees or allowances for the current and previous year
- Bonuses paid or receivable for the current and previous year

- Expenses paid in the previous year
- Compensation for loss of employment paid to or receivable, or payments made in connection with loss of employment
- Total estimated value of non-cash benefits that are emoluments of the person

For the above pension contributions to include:

- The amount driven by the authority's set employer contribution rate
- Employer costs incurred relating to any increased membership or award of additional pension



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**Meeting of Full Council****24 March 2016**

Report of the Chief Executive

**Public Interest Report – City of York Trading Ltd****Summary**

1. This report is submitted in response to the Public Interest Report (PIR) issued by Mazars LLP, the council's external auditor, on 26<sup>th</sup> February (attached at Annex 1). The council is legally required to consider the report and recommendations within one month of issue.
2. In summary, the Auditor's conclusions were :
  - that there were failings in governance by the Council;
  - action is now needed to regularise the position in relation to remuneration in March 2015 made by City of York Trading Limited (CYT) to two of its executive directors who are also officers of the Council; and
  - important governance lessons should be learned and applied to ensure future good governance of the Council's relationships with its trading companies.
3. The Public Interest Report makes 10 specific recommendations and these are set out within this report. Council is asked to note the actions that have either been taken or are planned in order to address the Auditor's recommendations.

**Background to CYT**

4. There were two reports to CYC's Cabinet seeking to authorise the establishment of City of York Trading Limited. The first was presented on 15 February 2011 and this authorised the creation of the company with the objective of providing business support activity to public sector and other organisations. The company was to be formed as a trading company with a number of Council Officers appointed as directors on the board, including the:
  - Director of Customer and Business Support Services (CBSS) who was to act as Chief Executive;

- Assistant Director Financial Services, to act as Head of Finance for the company;
  - Assistant Director of CBSS for Customers and Employees, who would have responsibility for staffing matters; and
  - The Assistant Director Governance and Legal to act as Company Secretary.
5. On 4 October 2011 the Cabinet formally authorised the creation of CYT, the approval of the business case and the general principles of governance and operation as set out in the report and the five Annexes.
  6. In addition to the previously reported directors, as set out above, the Cabinet Member for Corporate Services was nominated to serve as a director (non-Executive) on the Board and to act as Chairman. The same Cabinet Member was authorised to approve the final Articles of Association and the Leader of the Council was authorised to agree and sign off the Shareholder Agreement.
  7. The Cabinet also approved the establishment of a Shareholder Committee, to be made up of the Leader of the Council and two other members of CYC chosen by the Leader. The purpose of the Shareholder Committee, as resolved by the Cabinet on 4 October 2011, was:
    8. *"to properly exercise the Council's powers and responsibilities as the sole shareholder of the LATC". The report went on to state "**Reason:** In order to properly exercise the Council's powers and responsibilities as the sole shareholder of the LATC".*
  9. That Committee was therefore intended to have all of the powers and responsibilities of CYC as the sole shareholder of the company i.e. authority to decide on all matters reserved in the Shareholder Agreement as "Corporate Covenants" for CYC decision.
  10. The final recommendation in relation to the October 2011 report authorised the Director of CBSS to bring forward proposals on which activities should be considered for trading through CYT, subject to approval of business cases approved by CYC's Management Team, the Board of Directors and the Shareholder Committee.
  11. Appended to the report was an Executive Summary of the Shareholder Agreement, along with the Articles of Association. That summary report notes that the Shareholder Committee was not intended to take an operational role, but was to be the means by which CYC would appoint and remove directors, review the annual business plan, discuss and

review the financial performance of the company and its performance as a whole. The Shareholders' Agreement at clause 8.2 noted that the Shareholder Committee was authorised to "exercise the functions flowing from its ownership of shares".

12. The Shareholder Agreement reserved a number of matters to CYC for CYC's consent. These matters require the "prior written consent of the Council" before taking action. Such matters include a range of usual matters including whether to enter into or establish any joint venture with another third party, incurring material levels of expenditure or financial indebtedness, or making amendments to the business plan etc. One of those "Corporate Covenants" as they were termed was to:
  - *"vary the emoluments of any of its Directors or Shareholders or of any Shareholder or of any Associate of a Director or Shareholder"*.
13. CYT was required to provide quarterly information to CYC on the financial and other performance of the business. The annexes to the report also included guidance on directors' conflicts of interest and the Companies Act duties and guidance on how to avoid/manage them. The advice covered both transactional conflicts and situational conflicts and a process for considering authorisation in the event that such conflicts arose.
14. Annex 5 explained that staff would be seconded to the company, at least initially.
15. CYT has continued to be a profitable company for CYC and plans to broaden its service offer in the near future.

### **Auditor's Findings**

16. On 30<sup>th</sup> September 2015, Mazars issued an unqualified audit opinion on the council's accounts and an unqualified value for money conclusion. However the audit of accounts was extended whilst further consideration was given to the governance arrangements covering the payments made by City of York Trading Ltd to two of the company's executive directors who were also officers of the council. Section 2 of the Public Interest Report sets out the overall conclusions from the audit. In the following section of the report, the Auditor's subsequent recommendations are set out with the council's response.

## **PIR Recommendations**

17. It should be noted that Executive and the Chair of the CYT Board have already taken steps to address the auditor's recommendations. It has been agreed that the Board structure of the company will be revised so that there are two elected Members providing cross party representation, two external non-executive directors, one officer non-executive director and a Managing Director (who will be externally recruited). On 4<sup>th</sup> April, the shareholder group will consider more detailed proposals for the Managing Director role. The result of this is that 'no payment will be made by CYT in future to Board members other than to the full-time Managing Director and any agreed amount paid to external Directors. Additionally, the Shareholder Committee is now meeting in public.

The Auditors specific recommendations are as follows -

### **Council approval of the payments**

18. R1 The Council should take steps to rectify the omission of Council approval for the payments made to the two directors of City of York Trading Ltd in March 2015 for work for the company in 2013/14.

*CYC Response – In light of the auditor's findings, this matter will be considered by Executive on April 28<sup>th</sup>. (The decision is one for Executive rather than Full Council).*

### **Governance arrangements**

19. R2 Where the Council envisages a role for a committee within a Council-owned trading company to fulfil a Council function, as appears to have been the case with the Shareholder Committee of City of York Trading Ltd, the Council should ensure that the Constitution is amended to reflect this role and that the composition of the Committee is consistent with the Council's decision making and governance arrangements.
20. R3 The Council should review its approach to the establishment and governance of Council-owned companies to ensure that it fully reflects good practice and the lessons from this report.
21. R4 In the light of the conclusions of the review recommended in R3, the Council should prepare specific guidance to members and officers on their involvement in Council-owned companies.



*CYC Proposed Response to Recommendations R2/R3/R4 – A full review of the constitution will be undertaken for all CYC companies by the Monitoring Officer and the recommendations in relation to Executive and Policy matters will be reported to Executive and any proposed changes to the constitution will be reported to Audit & Governance Committee within 3 months of the Full Council meeting held on March 24th.*

- 22.R5 The guidance recommended in R4 should address the conflict of interest risks likely to arise where members and officers hold both Council and Council-owned company roles (unpaid and paid) and set out clear advice on how these should be managed. The guidance should also specifically address how the conflict of interest risks should be managed where the Council officers involved hold one of the three Statutory Officer roles of Head of Paid Service, Chief Finance Officer and Monitoring Officer.

*CYC Proposed Response – This recommendation will be addressed when drafting new guidance. The Monitoring Officer, supported by the Head of Human Resources will be responsible for this recommendation. In general, statutory officers, will not be appointed as directors of council companies because their office requires them to advise the Council and this may conflict with the position of a company in which the Council is involved. However there are occasions where it would be appropriate, and in these circumstances, officers will set out for Executive how conflicts of interest will be managed as part of the decision making process.*

- 23.R6 The Council should review its arrangements for ensuring that internal legal advice is followed, and that any instances where such advice is not followed are identified.

*CYC Proposed Response – We note the Auditor's recommendations. On a daily basis the council is in dialogue with its lawyers over a range of matters including property & assets, procurement and safeguarding. Much of this advice is given to aide decision making by setting out the risks the organisation may face. However, where legal advice is prescriptive, it will be followed unless there are good reasons for the decision-maker choosing not to follow the advice; the impact and consequences of not following the advice are understood; all relevant considerations are taken into account; the decision would be a reasonable one for the authority to make (i.e. not irrational or perverse;) and the reasons for departing from the legal advice are recorded in writing.*

*The Monitoring Officer must be notified of instances where legal advice is not followed and will keep a record.*

## Disclosures in financial statements

- 24.R7 Where there are unusual or sensitive transactions such as the remuneration paid to Council officers for their work for a Council-owned trading company, particularly where they take place for the first time, the Council should bring the matter to the auditor's attention during the audit.

*CYC Response – agreed and this will be the responsibility of the Section 151 Officer.*

- 25 .R8 Where senior Council officers receive remuneration for their work for a Council-owned trading company, the Council should recognise this as a related-party transaction and disclose it in the notes to the financial statements.

*CYC Response – Agreed and this will be the responsibility of the Section 151 Officer.*

## Register of interests

26. R9 The Council should update the officer register of interests form and guidance notes to require disclosure of the value of any remuneration received for an individual officer's role in a Council-owned trading company.
- 27.R10 The Council should review its system for ensuring that all annual returns are received for the officer register of interests.

*CYC Proposed Response to recommendations R9/R10 – This is currently under review and a series of changes are planned for the end of March 2016. In due course the council will publish Chief Officer declarations of interest on the council website. It is the Section 151 Officer, supported by the Monitoring Officer who has responsibility for this recommendation.*

28. The Chief Executive will have overall responsibility for ensuring that all of the Mazars recommendations are addressed.

## Implications

- **Financial** – There are no direct financial implications in this report
- **Human Resources (HR)** - The recommendations within the PIR will require changes in the way that the council manages companies that it creates.

- **Equalities** - None
- **Legal** - Section 8 of the Audit Commission Act 1998 requires the Council to consider the Public Interest report and recommendations at a meeting of the full Council within one month of issue. The Council's response to the report and recommendations must then be published. Members are reminded that should they wish to discuss anything in detail relating to the two Council Officers who are the subject of the payments or the other staff referred to in the report then Council Procedure Rule 36.2 states "If any question arises at any meeting of the Council relating to the appointment, dismissal, promotion, conduct, remuneration or conditions of service of any member of the Council's staff no discussion shall take place until the meeting has considered whether or not to exclude the public and press in accordance with the Access to Information Procedure Rules." Members should therefore consider the points they wish to make about the report carefully and limit any statements that they may wish to make in public session about the two officers. At some point the Lord Mayor may require the exclusion of the press and the public and go into private session, should members wish to raise any issues about the officers concerned.
- **Crime and Disorder** - None
- **Information Technology (IT)** - None
- **Property** - None
- **Other** - None

### **Recommendations**

- 1) Members are asked to read the Public Interest Report that the Auditor has published.

Reason: It is a legal requirement for Members to consider the Public Interest Report.

- 2) Members are asked to note and endorse the proposed responses that CYC has made to the recommendations (set out from Para 19) and those that will be considered by the Executive.

Reason: There is a legal requirement for the Council to respond to the Auditors recommendations.

**Contact Details**

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**Steve Stewart – Chief Executive**

**Report  
Approved**



**Date** *17 March 2016*

**Specialist Implications Officer(s)** *List information for all*

**Wards Affected:** *List wards or tick box to indicate all*

**All**

**For further information please contact the author of the report**

**Annexes**

**Annex 1 – Mazars report**

**Abbreviations**

CYT – City of York Trading Ltd  
LATC – Local Authority Trading Company  
PIR – Public Interest Report



## Public Interest Report

### Governance issues in relation to remuneration of Council officers for work as Directors of City of York Trading Ltd

City of York Council – audit of year ended 31 March 2015

February 2016

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*Our reports are prepared in the context of the Audit Commission's 'Statement of responsibilities of auditors and audited bodies'. Reports and letters prepared by appointed auditors and addressed to members or officers are prepared for the sole use of the audited body and we take no responsibility to any member or officer in their individual capacity or to any third party.*

*Mazars LLP is the UK firm of Mazars, an international advisory and accountancy group. Mazars LLP is registered by the Institute of Chartered Accountants in England and Wales.*

## 01 Context of our work and status of this report

### Context of our work

Mazars LLP is the independent appointed auditor of City of York Council (the Council)<sup>1</sup>.

We are required to carry out our work in accordance with the Audit Commission Act 1998 (the 1998 Act) and the Code of Audit Practice which is approved every 5 years by both Houses of Parliament. The Code of Audit Practice relating to the 2014/15 audit was approved by Parliament in 2010 and published in March 2010 (the 2010 Code). The 2010 Code prescribes the way that the auditor should discharge their functions under the 1998 Act and summarises the auditor's responsibilities and powers under the 1998 Act.

The Local Audit and Accountability Act 2014 introduces new arrangements for local audit, and a new Code of Audit Practice was approved by Parliament and published by the National Audit Office in March 2015, which applies to the 2015/16 financial year onwards. In relation to the 2014/15 audit, most of the requirements of the 1998 Act are transitionally saved and it is the 2010 Code which applies to this audit.

Under the 1998 Act and the 2010 Code we are required to consider:

- whether the accounts comply with all applicable statutory requirements and that proper practices have been followed in their preparation – this results in our audit opinion on the Council's financial statements; and
- whether proper arrangements have been made for securing economy, efficiency and effectiveness in the use of resources – this results in our Value for Money (VFM) conclusion.

### Status of this report

Section 8 of the 1998 Act requires that auditors should consider whether, in the public interest, they should report on any matter that comes to their attention in the course of the audit, so that it may be considered by the body concerned or brought to the attention of the public.

This report is a public interest report under Section 8 of the Audit Commission Act 1998 due to the nature and significance of our findings, the level of local public interest in this issue, and the further actions which are now needed to address the issues that have been identified. Whilst the total value of the payments that are the subject of this report is small in relation to the Council's overall expenditure, the payments relate to the sensitive issue of senior officer remuneration and our findings address important governance matters. We also consider that, in view of the increasing use of local authority trading companies by councils across the country, the report provides relevant learning that may be of value to those responsible for the governance of other local authorities.

The 1998 Act specifies requirements about how the Council should respond to a public interest report, including the time within which it must consider the report, the arrangements for publicising the meeting at which the Council will consider the report and publicising the Council's response to the report.

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<sup>1</sup> Note that we use the term 'Council' to refer to the statutory corporation as a whole. Where we refer to a Council decision therefore this includes decisions taken under Executive Arrangements

## 02 Executive summary

### Background to this issue

When we presented our Audit Completion Report for the 2014/15 audit to the Audit and Governance Committee on 23 September 2015, we indicated that we expected to issue an unqualified opinion, Value for Money (VFM) conclusion and audit certificate on 30 September 2015.

Between this meeting and our planned sign off date we were made aware of payments made in March 2015 by City of York Trading Ltd (a trading company specialising in the provision of temporary staff and wholly owned by the Council) to two of the company's executive directors who were also officers of the Council. Almost all of the company's trading income resulted from its supply of temporary staff to the Council and schools.

On 30 September 2015, we issued an unqualified audit opinion and an unqualified VFM conclusion, but we did not issue a certificate to close the 2014/15 audit. We explained why we had not formally concluded the 2014/15 audit in our audit report which is included in the statement of accounts on the Council's website.

*"The audit cannot be formally concluded and an audit certificate issued until we have completed our consideration of matters brought to our attention shortly before the date of this audit report. We are satisfied that these matters do not have a material effect on the financial statements."*

The matters we needed to consider were the governance arrangements relevant to our audit of the Council covering the payments by City of York Trading Ltd to two of the company's executive directors who were also officers of the Council. These payments are relevant to our audit because the company is wholly owned by the Council and the two executive directors receiving the payments are officers of the Council, one of them being the Council's Chief Finance Officer.

We have now concluded our review of these arrangements.

### Overall conclusions

We have reached the following key conclusions:

- we have identified failings in the governance of this issue by the Council;
- action is now needed by the Council to regularise the position in relation to remuneration in March 2015 made by City of York Trading Ltd (the company) to two of its executive directors who are also officers of the Council; and
- there are important lessons to be learnt and applied to ensure the future good governance of the Council's relationships with its trading companies.

The main failings we have identified are:

- the decision to pay the two executive directors was taken by the company's Board on the recommendation of the Shareholder Committee which did not however have the authority to take a decision on behalf of the Council or provide the written consent which was required by the Shareholder Agreement between the company and the Council;



- the required written consent of the Council to the remuneration was not obtained;
- the Council wrongly omitted to include the remuneration in the relevant related parties note to its 2014/15 financial statements;
- the effect of these omissions was that the process for approving the payments lacked transparency and was not subject to the usual scrutiny process for Council decisions;
- there was a lack of clarity over senior officer responsibility for (i) overseeing the advice to the company on the proposed director remuneration and (ii) protecting the Council's interests in relation to this issue;
- there was insufficient challenge to the initial proposal for remuneration prepared by the Director of Customer and Business Support Services (one of the direct beneficiaries of the proposal), resulting in the key elements of his original proposal being presented largely verbatim to the Shareholder Committee and the Board;
- legal advice given on the need for Council approval for the proposed remuneration was not followed;
- insufficient attention was paid to the increased conflict of interest risk created by the proposal to remunerate the two executive directors of the company, particularly as the proposal included a growth and profit related element and the Council and schools were the company's main customers; and
- no additional safeguards to protect the Council against the increased conflict of interest risk were implemented by the Council following the approval of the remuneration by the company's Board.

Our findings illustrate the need for complete clarity of process and decision-making when senior council officers with a statutory role to protect the Council's interests also take on directorships in Council-owned companies, especially when those directorships are paid. That clarity is essential in protecting both the Council and the individual officers involved.

Since September 2015, the Council has taken action to improve the governance of its relationship with City of York Trading Ltd. It should consider the findings set out in this report to ensure that the mistakes made on the issue of remuneration for company directors are not repeated, whether for City of York Trading Ltd or any other Council-owned company. We make recommendations to this effect at the end of the report.

## 03 Detailed findings

### The payments

In March 2015, City of York Trading Ltd made a payment of £6,000 to its Managing Director and £3,000 to its Operations Director as remuneration for their work for the company in 2013/14. The Managing Director was also the Council's Director of Customer and Business Support Services (and Chief Finance Officer) and the Operations Director was also the Council's Assistant Director of Customer and Business Support Services (Customers and Employees).

The payments were made following a recommendation by the Shareholder Committee which was approved by the City of York Trading Ltd Board.

We were not aware of these payments at the time they were made and they were not brought to our attention during the 2014/15 audit of the Council's accounts. If we had been made aware of these payments, our view would have been that they should have been disclosed in the notes to the Council's 2014/15 financial statements. Although the payments were not made by the Council (and were not material in size for the purposes of our audit), they were made by a related party to the Council and were therefore a relevant disclosure in the financial statements under the related parties note to the accounts, as the two company directors receiving the payments were also senior officers of the Council.

We have subsequently identified that these payments did not receive the proper authorisation required from the Council, and that there were failings in the governance arrangements leading to the payments being made.

In September 2015, both directors of the company voluntarily waived any further payments to be made to them as a result of the company's performance in 2014/15. We understand that no further remuneration payments are to be made in relation to the scheme considered as part of this report and more transparent arrangements for Council oversight have been put in place through revised arrangements for a Shareholder Group (previously a Shareholder Committee) which met for the first time on 30 September 2015.

The focus of this report is on the governance of the process which led to the payments being made. We make no comment on the operation or management of the company itself, which we have not reviewed for this report.

The issues highlighted in this report coincided with a period of significant political upheaval in the Council. In December 2014, there was a change in Leader of the Council, and after the May 2015 elections there was a change in political administration. In our view, this turbulence in the autumn and winter of 2014/15 contributed to the lack of clarity in the governance of the issue that is the subject of this report.

### Background to City of York Trading Ltd

In 2011 the Council set up City of York Trading Ltd as a local authority trading company.

The company's main activities are to provide temporary staff on an agency basis for the Council, schools and other customers. As the company was set up and developed, decisions were taken by the Cabinet. Initially, the company provided school agency staff only, but following a decision by Cabinet in June 2013, from 1 September 2013 the responsibility for supplying all of the Council's casual staff transferred to the company.

The company has grown in size over time, with turnover increasing in each year of operation:

- in the period from 18 November 2011 to 31 March 2013 turnover was £604,798;
- in the year ended 31 March 2014 turnover was £2,389,132; and
- in the year ended 31 March 2015 turnover was £5,368,618.

We understand that the company's turnover from Council activity increased more significantly than originally expected because of the nature of recruitment activity and the need for more casual and temporary staff. This trend is not expected to continue. Most of the company's work is for the Council and schools, but the future challenge for the company is to grow and develop its external business.

At its inception several Council officers became directors of the company. This was approved by the Cabinet in February 2011. These included:

- the Council's Director of Customer and Business Support Services who became Managing Director of the company; and
- the Council's Assistant Director of Customer and Business Support Services (Customers and Employees) who was also Operations Director of the company.

In his role for the Council, the Director of Customer and Business Support Services is also the Chief Finance Officer charged with the statutory duties of Section 151 of the Local Government Act 1972 to be responsible for the proper administration of the financial affairs of the Council.

The Assistant Director of Governance and ICT, who is also the Council's Monitoring Officer, also became a Director of the company.

There is nothing to prevent Council officers from becoming directors of a local authority trading company. In fact, this is quite common and can be advantageous as part of the Council's arrangements for getting a trading company established, keeping it on track and ensuring an appropriate level of Council oversight. Although it does create a potential conflict of interest, in normal circumstances potential conflicts of this nature can be managed by introducing appropriate safeguards. Where the Council officers appointed as company directors are also Statutory Officers of the Council (in this case, the s151 Chief Finance Officer and the Monitoring Officer), there is greater likelihood of conflicts arising with their statutory office and their primary duties to the Council.

We understand that in this case the safeguards included arrangements to ensure that work was commissioned from the company by the Council without the involvement of the Council officers holding office as directors of the company. Indeed, in June 2013, the Cabinet approved the transfer of all Council agency staff work to the company from 1 September 2013.

### **Corporate governance framework**

The Council's Constitution sets out its framework of corporate governance.

The Code of Corporate Governance, which is part of the Constitution, defines the corporate governance framework:

*“Corporate governance is the system by which local authorities direct and control their functions and relate to the communities they serve. This extends to how the organisation accounts to, engages with and, where appropriate, leads their community. Good corporate governance requires local authorities to carry out their functions in a way that demonstrates accountability, transparency, effectiveness, integrity and inclusivity.”*

Unlike the Members' Code of Conduct, there is no statutory basis for an Officers' Code of Conduct, but in common with most local authorities, the Council has adopted an Officers' Code of Conduct and this also forms part of the Constitution.

There are two key extracts from the Officers' Code of Conduct which are relevant to our considerations.

First, it highlights that the Code, like many aspects of the Council's Constitution, provides checks and balances designed to protect individuals from accusations of impropriety:

*"It is important that employees are protected from accusations of impropriety. Employees should declare in writing to their Chief Officer any financial or non-financial interests which they consider could conflict with the interests of the Council or adversely affect the performance of their duties."*

In this case, it was well known that the two Council officers were also directors of the company, this had been approved by Cabinet in February 2011 and declarations of interests were also made to this effect.

Second, it highlights that employees should not normally take a second employment, because of the potential impact on their role for the Council:

*"Full time employees should not normally take outside employment as this may have a detrimental effect on their job performance and health and safety. All employees graded above spinal column point 28 of the National Joint Council scheme of conditions of service need Chief Officer approval to take outside employment. All requests should be discussed with the appropriate Chief Officer, or the Directorate Human Resources Manager."*

In this case, we note that in February 2011 it was the Cabinet which approved the role of Council officers as directors when the company was being established. This was on the basis that the relevant officers remained solely employed by the Council. However, between this time and the later proposals for remuneration of company directors, the company had grown significantly, which was one of the key reasons put forward as the case for paying directors' remuneration. In our view, the Council could reasonably have been expected to revisit whether the directors' roles had exceeded what they could reasonably do whilst properly fulfilling their other employment duties to the Council or whether these roles now constituted a second employment that was appropriate for the officers to undertake in light of the changed circumstances. There is a reference to a need to consider this in the report presented to the Shareholder Committee on 20 October 2014 and to the Board on 19 February 2015. The appropriate time to consider this would have been alongside the remuneration proposals.

The Constitution also highlights the key roles of the Council's statutory officers:

- the Chief Executive, as the Head of Paid Service;
- the Director of Customer and Business Support Services, as the s151 Chief Finance Officer; and
- the Assistant Director of Governance and ICT as the Monitoring Officer.

The Constitution sets out the corporate governance framework and it is essential that the framework is applied in practice. The statutory officers have an important role in overseeing the proper application of the framework.

### Initial proposals for remuneration of company directors

The initial proposal for remuneration was generated within the Council rather than the company. We understand that the discussions around remuneration began when the Council's Director of Customer and Business Support Services had sought alternative employment. In discussing his reasons for seeking a new job with the then Chief Executive, he suggested that the growth in his responsibilities had not been matched by an increase in his remuneration. The Chief Executive invited him to share his thoughts on possible ways of addressing his concern.

On 28 November 2013, the Director of Customer and Business Support Services provided a proposal in relation to remuneration of City of York Trading Ltd executive directors to the Chief Executive. The proposal, which was written in a report format, was to pay two executive directors of the company, the Managing Director (i.e. himself) and the Operations Director. The proposal was for remuneration of £6,000 and £3,000 per annum respectively based on current operational levels plus a potential growth element based on company profits. If profits for the preceding financial year exceeded £300,000, the amounts payable would be increased by 100% and if profits exceeded £500,000 a further 100% (of the original amounts) would be payable.

In the covering e-mail to his proposal, the Director of Customer and Business Support Services stated that "I have not sought any additional advice (HR, legal) as clearly it's for the Council to consider and determine". The Director of Customer and Business Support Services has told us that his proposal was meant to be illustrative and that later he was concerned to find that it had been accepted without more scrutiny and challenge. In our view, he made an error of judgement in preparing an initial proposal for his own remuneration as a director of the company which included a mechanism for increasing the remuneration if certain growth and profit targets were met (when the Council and schools were overwhelmingly the company's main source of income). He should have recognised the heightened conflict of interest risk inherent in his draft proposal.

The Chief Executive sought input from the Head of Human Resources in December 2013. The Head of Human Resources consulted with legal colleagues and provided advice to the Chief Executive on 27 March 2014 and followed this up on 13 May 2014. The focus of the advice was around whether remuneration should be paid as part of Council employment or whether it should be a separate employment contract with City of York Trading Ltd, and whether there was anything preventing the Council's Director of Customer and Business Support Services from being paid as a Director of the company. The advice given, which included internal legal advice, was that any payments should be made by the company under separate employment contracts and that there was nothing preventing the Chief Finance Officer from being a director of the company and being paid for this.

The Head of Human Resources had seen the brief as primarily to address the issue of which organisation the contract of employment should be with, and not to question the basis for the proposed remuneration. The Head of Human Resources told us that he thought the amounts proposed were reasonable and he could see that additional work had been required of the two directors for their work on the company.

One concern about the growth and profit element of the proposals is that the basis for a growth in profits had already been put in place in June 2013, when the Cabinet approved the transfer of all Council agency staff work to the company from 1 September 2013. In our view, there was insufficient challenge of the remuneration proposed and the increased risks of the profit and growth element, or whether the triggers for additional payments were sufficiently challenging in the context of the company's current business performance, particularly as significant time elapsed between the original proposals and the point at which the decision was taken.

The Head of Human Resources was asked by the Chief Executive to approach and work with the Board of the company to take the remuneration proposals forward. The then Chief Executive's view was that it was reasonable for her to ask the Head of Human Resources to take this issue forward as he was experienced in dealing with matters relating to the employment of senior officers. The then Chief Executive had asked for appropriate legal advice to be taken and highlighted the potential conflicts of interest and unusual circumstances of this situation. She would have expected the Head of Human Resources to alert her if there were any concerns, but none were raised with her.

In our view, the Head of Human Resources would have benefited from a greater degree of supervision and support in taking forward these issues. In particular, a clear steer was needed that it was not appropriate to accept the level of and mechanism for calculating the remuneration originally proposed by the Director of Customer and Business Support Services himself without further scrutiny and challenge. This risk should have been addressed internally, but failing this, it could have been identified by seeking independent HR and legal advice.

### **Monitoring Officer Advice**

The Head of Human Resources shared the Director of Customer and Business Support Services' proposals with the Monitoring Officer on 23 June 2014. The Monitoring Officer later advised on the processes that should be followed in relation to the approval of remuneration, in particular, the need for the Board of the company to obtain the approval of the Council.

On 4 October 2011, the Cabinet agreed to the establishment of a Shareholder Committee "in order to properly exercise the Council's powers and responsibilities as the sole shareholder of the LATC [Local Authority Trading Company]."

A Shareholder Agreement was entered into between the Council and the company in 2012. Clause 8.2 of the Shareholder Agreement stated:

"The role of the Shareholder Committee shall not be operational and shall be the means by which the Council shall:

8.2.1 appoint all Directors, and approve best practice policies in relation to such appointments, the constitution of the Board and the employment and recruitment of staff;

8.2.5 exercise the functions flowing from its ownership of shares."

The Shareholder Agreement includes a number of corporate covenants. The corporate covenants in Part 1 of Schedule 2 set out a number of matters that the company shall not act on without the prior written consent of the Council. This included needing written prior consent of the Council to "vary the emoluments of any of its Directors or of any Shareholder or of any Associate of a Director or Shareholder" (paragraph 1.2.27 of Schedule 2).

The view the Monitoring Officer reached was that the intention of the Cabinet decision in October 2011 and the Shareholder Agreement was that the Shareholder Committee would provide the approval required from the Council in this case in relation to the remuneration of the directors.

However, for this to be effective the approval of the remuneration would need to amount to the Shareholder Committee exercising Council decision-making powers under the Council's executive arrangements. The Monitoring Officer explained how executive decision making could be exercised:

"The allocation of decision making responsibilities for executive functions is, by law, the responsibility of the Leader. The law identifies those to whom he is entitled to allocate

responsibilities and chief amongst these are the Executive [at that time named the Cabinet at York], individual executive Members and Officers. He is also entitled to exercise any function himself.

Importantly he cannot allocate functions to a politically balanced committee or even a non-politically balanced committee unless it consists wholly of members of the executive.”

The issue in this case, correctly identified by the Monitoring Officer, is that the composition of the Shareholder Committee did not fulfil these criteria. The Chair of the Shareholder Committee was the Leader, but the other two members of the Committee were non-executive Council members. Consequently, the Monitoring Officer advised that separate Council approval was needed for the remuneration of directors.

Subsequently, the Council has received advice that challenges the Monitoring Officer’s view and argues that the Shareholder Committee had fully delegated authority from the Cabinet to provide the written Council consent for the directors’ remuneration. In our view, the Monitoring Officer was correct and the evidence is clear that the Shareholder Committee had not been constituted in such a way that would allow it to take an executive decision on behalf of the Council and therefore provide the required consent.

### **Shareholder Committee approval on 20 October 2014**

The Head of Human Resources prepared a report to take to the Shareholder Committee of City of York Trading Ltd, and shared his draft report by e-mail with the then Leader of the Council and the Chief Executive on 10 October 2014, including a summary e-mail which was very clear about the proposal being made.

Much of the content of the draft report produced by the Head of Human Resources was taken verbatim from the draft proposal prepared by the Director of Customer and Business Support Services in November 2013. This included the remuneration considerations, the general case for remuneration, the amount of remuneration and the growth or profit related element.

The Director of Customer and Business Support Services has told us that he was surprised that so much of his original note had been used to prepare the report to the Shareholder Committee, but his understanding at that point was that a proper process had been followed in relation to the proposals. In particular, he took assurance from an e-mail from the Head of Human Resources on 24 October 2014, which stated:

*“I’m aware that this has been discussed with the Leader, the Chief Executive, HR and Legal and no concerns have been raised and as I have described in the paper there are already effective mechanisms to monitor the relationship going forward.”*

The report to the Shareholder Committee did not indicate who had prepared it. However, in circulating the report the Head of Human Resources did indicate that it was his report.

There were some differences from the original proposal prepared by the Director of Customer and Business Support Services.

The main point on which the report differed from the original proposal was in suggesting that the remuneration should be paid by the company. The report said:

“2) Who should pay the remuneration

HR and legal advice has been taken on this issue and it is recommended that the Directors should hold separate contracts of employment for their role with CYC [the Council] and as a Director of CYT [the company].”

The Director of Customer and Business Support Services' original proposal had been that the Council pay the remuneration as a separate contractual amount to reflect the two directors' roles for the company. We note that if this course of action had been taken, it would have needed Council or, under delegated authority, line manager (Chief Executive) approval, and also then that the remuneration is more likely to have been properly disclosed in the financial statements as part of the officers' Council remuneration, potentially with increased transparency about its payment.

The report also stated that:

“Both CYC and CYT would need to give consideration to whether there would be any implications upon their ability to fulfil their contracts with CYC or CYT and how to deal with any potential conflict of interest. This will require good governance, transparency and open dialogue between CYC and CYT. The mechanisms to ensure this happens are already well established and working effectively.”

In our view, the payment of remuneration created an additional conflict of interest, and this required measures above and beyond those already in place. These measures were all the more necessary with the addition of a potential growth or profit element to the remuneration, which could incentivise the directors to maximise company profits in a way that could be in conflict with their roles as Council officers (where for example, savings for the Council may have been a higher priority than profit for the company). Whether this actually created such a conflict is secondary to the perception that such a conflict was created. In our view, the Council did not take the actions necessary to either fully consider or effectively manage the potential conflicts of interest that arose from these proposals. An example of a potential measure that could have been considered might be a stipulation that the growth or profit element would only be triggered if the additional growth and profit could be shown to be attributable to sales to customers other than the Council.

The Head of Human Resources did not receive any feedback on the draft report from the then Leader of the Council and it became the report that was presented to the Shareholder Committee on 20 October 2014. The report was presented at the end of the meeting under 'any other business'.

Only two of the three Members of the Shareholder Committee attended the meeting, and the then Leader of the Council, who was the normal Chair for the meeting, was not present. Neither of the two Members who attended the Shareholder Committee were members of the Cabinet, and for the reasons outlined above the Shareholder Committee was unable to exercise an executive function for the Council and take a decision on the proposals.

The report was presented to the Shareholder Committee by the Head of Human Resources and the two potential recipients of the remuneration were not present when it was discussed.

The proposals were approved and the minutes of that meeting record that the Shareholder Committee recommended them to the company board. The Committee further noted that the Council 'should be formally consulted on this proposal'.

The agendas and minutes of the Shareholder Committee were not published or made widely available and the meetings were held in private. Since then, a decision has been taken to publish the papers of the Shareholder Committee (now the Shareholder Group) and the first minutes published for the new group were of the meeting on 30 September 2015.

We asked the then Leader of the Council (i.e. the Leader of the Council on 20 October 2014) about the report. He said that he was not aware of the report and if he had been aware of it, he would not have supported it. As he saw it, the Managing Director's role was part of his work for the Council and he did not agree with an additional remuneration. He said that copies of the report may have been e-mailed to him,



but he had no recollection of seeing those e-mails, and that at the time of the report he was involved in a difficult by-election and dealing with issues that subsequently led him to stand down from the Council.

He explained that when something so important was occurring, if he had inadvertently not managed to respond to such an e-mail, officers would normally speak to him directly about the paper before it was issued. He was therefore surprised this did not happen on this occasion.

The then Leader also said that if he was not attending a meeting he would normally sign off the agenda for the meeting, that he was not aware of a paper about remuneration for the directors, and if he had seen this as an agenda item, he would have queried it. As noted earlier, the report was considered under 'any other business' rather than being a separate item in its own right.

Finally, the then Leader told us that he was clear that whatever the Shareholder Committee decided, the decision to pay an additional remuneration would have still required Council approval.

The then Chief Executive of the Council has told us that in 2014 there was clear political support for the proposal to remunerate the two company directors, which explained why the report was produced and taken through the company's governance structures. The Director of Customer and Business Support Services also understood, from his discussions with the Chief Executive, that there was political support for the proposals provided that the payments were made by the company and not by the Council.

#### **Approval by the company Board on 19 February 2015**

Following approval by the Shareholder Committee, there was a delay until the remuneration was approved by the Board of the company on 19 February 2015.

Between 20 October 2014 and 19 February 2015, there were significant changes at the Council, including a new Leader. The Shareholder Committee changed from being composed of Members of the majority political party to being politically balanced. The Shareholder Committee met once between these dates on 15 January 2015. The issue of directors' remuneration was not on the agenda although the minutes of the 15 January meeting show that the minutes of the previous meeting of the Shareholder Committee were approved. The previous meeting was the 20 October 2014 meeting which included the decision about directors' remuneration.

Prior to the Board meeting on 19 February 2015, the Head of Human Resources sent an e-mail to Board members on 16 February 2015 (excluding the two directors affected by the proposals) and this said:

"As the HR Advisor to CYT I was asked by the CYT shareholder committee to produce a report on the possible options for payment to the Executive Directors. The paper attached to this email is the report I produced and was considered by the shareholders committee in October 2014.

As you can see from the minutes of the shareholder committee the arrangements sent out in the report were agreed and recommended to the CYT Board for approval, with the intention being that the first payment would be made in 2014/15, based on the company performance in 2013/14."

Attached to this e-mail were the relevant minute from the 20 October 2014 Shareholder Committee meeting and the report that had been presented to that meeting in relation to the remuneration.

The minutes of City of York Trading Ltd Board meetings are published, which is unusual for a company. However, the minutes of the Board meeting on 19 February 2015 make only a very oblique reference to what was approved at the meeting, and the agenda items referred to are not published.

"Item Deferred from 12 February Board Meeting – Agenda Item 4 of the original decision - Shareholder recommendation (item 2 on the attached)

The motion was carried with AD [the Council's Monitoring Officer] abstaining from the vote."

This is the only public record that was made of the remuneration decision, and a reader would not know what had been agreed.

The minutes of the Board meeting record that the meeting lasted one minute. The matter had been scheduled to be considered on 12 February 2015, but was deferred because the Chair of the Board, the newly appointed Leader of the Council, had not been able to attend that meeting.

The two potential recipients of the remuneration were properly not present for this Board meeting.

We spoke to the then Leader of the Council who had taken office in December 2014 and chaired the 19 February 2015 Board meeting. He explained that although the Board meeting on that day was very short, he saw this as the end of a period of discussion. He had been Chair of the Board for two years and he had been aware of the proposals for the additional remuneration. He was aware that he wore two hats, one as the Leader of the Council and another as Chair of the Board. He fully understood that the Board decision needed to be ratified by the Council, and he intended to declare an interest and withdraw from the discussion when Council approval was sought.

### **Failure to obtain Council approval**

The report that had been prepared for the Shareholder Committee on 20 October 2014 and which was shared with the Board on 19 February 2015 stated that "the proposal also needs the approval of Council".

The required Council approval was not obtained.

On 1 October 2014, the Monitoring Officer informed the Head of Human Resources that the Board would need the approval of the Council to vary the emoluments of any of its directors.

As noted earlier the Shareholder Agreement included a corporate covenant that the written prior consent of the Council was needed to "vary the emoluments of any of its Directors or of any Shareholder or of any Associate of a Director or Shareholder" (paragraph 1.2.27 of Schedule 2).

In our view, this corporate covenant was an appropriate measure to enable the Council to exercise reasonable control over the company, given that it is a local authority owned company. The requirement for Council approval would also have enabled the remuneration to be considered in an open and transparent way in accordance with the Council's Constitution and Code of Corporate Governance.

As described earlier in this report, the Monitoring Officer advised that the decision was an executive function and could have been discharged by the Cabinet, the Leader or allocated to another Cabinet member to discharge. The Monitoring Officer also indicated that the decision could have been made by an officer such as the Chief Executive.

The Monitoring Officer has subsequently argued that the documentary evidence is clear that it was always intended that the Chief Executive would make this decision on behalf of the Council, and further that it was clear that the Chief Executive did support making the payments.

The then Chief Executive has told us that neither the Monitoring Officer nor the Head of Human Resources brought the requirement for Council approval to her attention or asked her to approve any payment. Further, she has indicated that she was unaware that the payments had been authorised.

Clearly, something went wrong in fully understanding that Council approval was required, in understanding what constituted Council approval and in ensuring that the required approval was obtained and recorded. Whatever the method chosen for the obtaining and recording Council approval, if this course of action had been followed, the decision would have been put on the public record, and it could then have been

scrutinised. As Council approval has not been given or recorded, the company is in breach of its agreement with the Council. The Council should seek to regularise the position.

Although the payments were made by the company, we considered whether these indirect payments could constitute unlawful expenditure by the Council. Having taken our own legal advice, we are satisfied that, despite the breach of the Shareholder Agreement by the company, the Council has not itself incurred unlawful expenditure on this matter. However, the Council still needs to rectify the lack of Council approval for the remuneration made by the company.

### **Making the payments**

On 24 October 2014, following approval of the proposals by the Shareholder Committee, the Head of Human Resources e-mailed the Managing Director and Operations Director of the company and said "When / if approved by the CYT board my advice would be that CYC [i.e. the Council] should be formally approached by CYT [i.e. the company] and asked whether there is any reason why you would not be able to take up a second contracted role." This advice was not followed.

Following approval by the Board, the Managing Director of the company asked the Work With York Manager to action the payments in the light of the Board's decision. The payments were made in March 2015. We understand that despite the recommendation that these be paid under the terms of separate employment contracts with the company, no separate employment contracts were issued.

To ensure the proper governance of the company, separate employment contracts should have been prepared setting out the basis for the remuneration.

The Director of Customer and Business Support Services has explained that he sought clarification on when the payments would start from and what 'Council approval' meant from the Head of Human Resources on 26 October 2014. The response he received indicated that the payments would start from the 2013/14 financial year's performance and that 'Council approval' meant consultation with the then Chief Executive rather than formal approval. On 11 November 2014, the Head of Human Resources provided e-mail clarification:

"I'm clear that the shareholder committee were of the view that the payments should be made in 2014/15, based on the 2013/14 company performance. So a payment can be made any time after the 2013/14 accounts have been published (i.e. now).

The payment is dependent on board ratification, consultation with the Chief Executive (I've made that clearer in the draft minutes), and the company payroll being able to deliver."

The Director of Customer and Business Support Services took the assurances he received from the Head of Human Resources as the authority for the payments to be made. In the circumstances, and as it related to his own remuneration, it would have been more appropriate to wait for others to request that payment be made, or if this did not happen because there was a lack of clarity on roles and responsibilities, to raise this with the Chair of the Board so that arrangements could be made to take the necessary steps to initiate the payments independently of the Director of Customer and Business Support Services.

In February 2015, before any payments were made, the Assistant Director of Customer and Business Support Services (Customers and Employees) e-mailed the Head of Human Resources to ask whether the payments would need to be included in the Council's formal Pay Policy. The Head of Human Resources replied that this would not be necessary because the payments were to be made by the company under a separate employment contract and not by the Council.

### **Proposals for further remuneration that were subsequently not paid**

The company's financial results for 2014/15 would have triggered the growth/profit element payment of remuneration for that year. This would have led to a 100% increase in remuneration for the two directors under the remuneration framework that had been put in place:

- An increase in the Managing Director's remuneration from £6,000 to £12,000; and
- An increase in the Operations Director's remuneration from £3,000 to £6,000.

The Director of Customer and Business Support Services has told us that, from May 2015 onwards, it appeared that the financial performance of the company for 2014/15 might begin to trigger the profit related element in his remuneration from the company. This caused him some concern as he felt that it may result in potential comment. He has told us that he also considered over the months that followed whether he should continue in his role as Managing Director. The factors he was considering included whether he had taken the role as far as he could without it distracting from his primary role, his own career development, and the general direction of the new Administration of the Council. He intended to have discussions with the new Administration, and gather their thoughts on these matters.

The Director of Customer and Business Support Services also told us that during August and September 2015, there was significant discussion with Members on the matters of pay and future direction of the company, leading in September 2015 to the Managing Director (and Operations Director) declining any further remuneration. The Managing Director informed the Shareholder Group (and leading Members) that he would like to be removed from his company role in due course, but would stay on until the Board had appointed a replacement.

### **Disclosures in the officers' register of interests**

We asked to see the register of interests in relation to the two Council officers who received remuneration for their work for the company.

We were provided with the annual registration of interests form for each of these two officers for 2014/15. Both disclosed their roles for the company. The value of remuneration was not disclosed. We note that the form and guidance notes do not require the level of remuneration to be disclosed.

In our view, the officer register of interests form and guidance notes should be updated to require any remuneration to be disclosed in relation to any local authority trading company.

We asked for the register of interests forms for 2011/12, 2012/13 and 2013/14. These were not available for 2012/13 and 2013/14 in relation to the Director of Business and Customer Services. The Director of Customer and Business Support Services believes that he did complete returns for these years, and a consolidated record of officer interests for 2013/14 has been found which included his role as Managing Director of the company. The Director of Customer and Business Support Services also points out that his role was unchanged from 2011/12 and his returns for 2012/13 and 2013/14 would have been exactly the same as the previous year. It is also the case that his role on the company was approved by the Cabinet in February 2011.

The issue here is the importance of maintaining a complete record of interests, supported by individual declarations. It is important to ensure that all senior officers complete their annual register of interests form, and that where this is not the case or individual returns have not been received, that this is followed

up to ensure that records are complete. It is of course incumbent on all officers to update the register of interests whenever there is a change in circumstances and not to wait for the annual review process.

#### **Action already taken by the Council and the company**

The company's Shareholder Group met on 30 September 2015 and improved arrangements for governance have been put in place.

It has been agreed that the Board structure of the company will be revised so that there are two elected Members providing cross-party representation, two external non-executive directors, one officer non-executive director and a full time Managing Director (externally recruited). The result of this will be that "no payment will be made by CYT in future to Board members other than to the full-time Managing Director and any agreed nominal amount paid to external Directors." If the officer non-executive director is to be considered for additional remuneration, this will be done through their contract of employment with the Council.

The company envisages that the Director of Customer and Business Support Services will remain as Managing Director on an unpaid basis until a new full-time Managing Director can be recruited by April 2016.

In addition, the Shareholder Group will meet in public, follow the Council's public participation arrangements and minutes will be published, although it is recognised that some items will be confidential or commercially sensitive and therefore considered privately.

The company is also to consider whether there is a need for internal audit and an Audit Committee.

## 04 Recommendations

We acknowledge that measures have been taken to improve the Council's oversight of the company and the transparency of relevant decisions. We make the following recommendations for further action.

### Council approval of the payments

R1 The Council should take steps to rectify the omission of Council approval for the payments made to the two directors of City of York Trading Ltd in March 2015 for work for the company in 2013/14.

### Governance arrangements

R2 Where the Council envisages a role for a committee within a Council-owned trading company to fulfil a Council function, as appears to have been the case with the Shareholder Committee of City of York Trading Ltd, the Council should ensure that the Constitution is amended to reflect this role and that the composition of the Committee is consistent with the Council's decision making and governance arrangements.

R3 The Council should review its approach to the establishment and governance of Council-owned companies to ensure that it fully reflects good practice and the lessons from this report.

R4 In the light of the conclusions of the review recommended in R3, the Council should prepare specific guidance to members and officers on their involvement in Council-owned companies.

R5 The guidance recommended in R4 should address the conflict of interest risks likely to arise where members and officers hold both Council and Council-owned company roles (unpaid and paid) and set out clear advice on how these should be managed. The guidance should also specifically address how the conflict of interest risks should be managed where the Council officers involved hold one of the three Statutory Officer roles of Head of Paid Service, Chief Finance Officer and Monitoring Officer.

R6 The Council should review its arrangements for ensuring that internal legal advice is followed, and that any instances where such advice is not followed are identified.

### Disclosures in financial statements

R7 Where there are unusual or sensitive transactions such as the remuneration paid to Council officers for their work for a Council-owned trading company, particularly where they take place for the first time, the Council should bring the matter to the auditor's attention during the audit.

R8 Where senior Council officers receive remuneration for their work for a Council-owned trading company, the Council should recognise this as a related-party transaction and disclose it in the notes to the financial statements.

**Register of interests**

R9 The Council should update the officer register of interests form and guidance notes to require disclosure of the value of any remuneration received for an individual officer's role in a Council-owned trading company.

R10 The Council should review its system for ensuring that all annual returns are received for the officer register of interests.

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**Membership of Committees, Working Groups and  
Outside Bodies**

**Committees and Working Groups**

**Joint Standards Committee**

To appoint Ms Angharad Davies as an Independent Person on the Council's Joint Standards Committee.

**Outside Bodies**

**Tees, Esk and Wear Valleys NHS Foundation Trust**

To appoint Cllr Douglas as a CYC Governor of the Foundation Trust

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