20 February, 2008

The Report of the Executive

The Executive met on Tuesday, 8 January 2008. Present:- County Councillor John Weighell in the Chair. County Councillors John Fort BEM, Carl Les, Chris Metcalfe, Caroline Patmore, Helen Swiers, John Watson OBE and Clare Wood.

Also in attendance: County Councillors Andrew Backhouse, Elizabeth Casling, Geoffrey Cullern, Mrs M-A de Courcey-Bayley, Heather Garnett, Michael Knaggs, Leslie Parkes, Chris Pearson and Martin Smith.

The Executive met on Tuesday, 22 January 2008. Present:- County Councillor John Weighell in the Chair. County Councillors John Fort BEM, Carl Les, Chris Metcalfe, Caroline Patmore, Helen Swiers, John Watson OBE and Clare Wood.

The Executive met on Tuesday, 5 February 2008. Present:- County Councillor John Weighell in the Chair. County Councillors John Fort BEM, Carl Les, Chris Metcalfe, Caroline Patmore, Helen Swiers, John Watson OBE and Clare Wood.

Also in attendance: County Councillors Ron Haigh, Michael Knaggs and Paul Richardson.

1. **Revenue Budget 2008/09 and Medium Term Financial Strategy:** At its meeting on 8 January 2008, the Executive considered a report on the provisional local government finance settlement for 2008/09 to 2010/11 and, at its meeting on 5 February, 2008 considered a further, detailed report on the Medium Term Finance Strategy 2008/09 (MTFS) and Revenue Budget for 2008/09, which included details of the final settlement. A copy of the full report has been circulated in advance as part of this agenda, marked Appendix 1. It sets out a context for the development of the MTFS and the revenue budget in which it states that the County Council has a duty to provide efficient, value for money services. This remains the fundamental priority for the County Council and a high expectation from the public of North Yorkshire. The County Council compares very well against the tests set by the Audit Commission and other Inspectorates as well as demonstrating overall value for money.

Particular challenges that are current and will be ongoing include the increasing number of older vulnerable adults who need support; the need to improve further the educational attainment of children and the skill levels of adults; and the disposal of the large amounts of waste produced in the County in an environmentally acceptable way. The County Council priorities reflect the need to address these challenges and the Chief Executive's Management Board, alongside the County Council's Executive Members, are very conscious of the need to keep under review both the challenges and the opportunities that arise.

The Government's Comprehensive Spending Review, covering the next three years, was announced in the Autumn of 2007. Whilst this Review has given some certainty to funding levels from the Government to the County Council, for the next three years there is also the requirement to generate 3% year on year efficiencies. This means a 9.3% target for the whole period. The difference between previous years and the forthcoming period is that these efficiency savings must be cashable. As an already low spending, low taxing and high performing Council, this particular target will be extremely challenging. Plans to deliver this target are now being worked up in detail, so that there is no unnecessary delay in implementing the measures that will be necessary to achieve the target.

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We now know that the Government have decided to continue with two tier local government arrangements in North Yorkshire. This requires all local government organisations in the county area to find ways of cooperating to maximise the Council Tax payers' investment. The Management Board continues to examine very carefully the duties that we are required to deliver and to ensure that proposals for any growth in expenditure and service developments are essential.

The Medium Term Financial Strategy 2008/11 is designed to ensure that resources are effectively deployed to provide and improve County Council services to communities across North Yorkshire, in line with the Council Plan. The County Council's detailed expenditure plans and Revenue Budget for 2008/09 seek to improve efficiency; to avoid service reductions; but provide some investment and strengthening of services; to manage or reduce identified risks; and to raise performance, which has generally continued to improve in 2007/08

Last year's increase in Council Tax was 4.9%. The County Council remains in the lowest taxing quartile of English Shire Counties, however, and is well below the average in terms of net expenditure per head of population. In terms of performance, the County Council is ranked as second out of the 34 County Councils. Audit Commission figures show 65% of performance indicators improved during the year and 38% of indicators are in the best quartile.

An MTFS is required in business process terms because it identifies the resources needed to achieve corporate objectives over the medium / longer term, links the Revenue and Capital budgets and, therefore, enables forward planning to take place with reference to levels of available funding. The objectives of the MTFS, as reaffirmed by the County Council in the 2007/08 Budget cycle, are as follows:

- to support the achievement of the vision and corporate objectives expressed in the Council Plan
- to maintain and improve service quality and the Council's improvement planning priorities, so as to secure high performance, which is sustainable over the medium term
- to meet and respond to the perceived needs and priorities of local people
- to manage and minimise the risks to local services and customers
- to achieve effective use of all land and property assets
- to maintain unallocated revenue balances equivalent to 2% of the net Revenue Budget
- to contain any rise in the Council Tax to a reasonable level

Budget workshops were held for all Members on the 11 July and 12 December 2007. At the Executive meeting held on 8 January 2008, Members received details of:

- the key points arising from the Provisional Local Government Finance Settlement for 2008/09 to 2010/11
- the implications of the Provisional Settlement for the Council Tax Precept
- the situation regarding capping
- an update regarding the expenditure assumptions in the MTFS
- consultation arrangements

Because of the lateness of the ODPM's announcement of the Provisional Settlement figures, the Executive was not in a position to provide details of any proposed Budget package to Members when the County Council met in December 2007. Since that date a package of Budget proposals has been prepared by the Executive and used in the consultation process. The report attached as Appendix 1 explains the details of that package; reflects the responses from the consultation process; and takes into account the details of the ODPM's Final Settlement figures, so that a formal Council Tax Precept and associated Budget package can be recommended to the County Council. The report also includes, in paragraph 12.17 the Section 25 opinion of he Corporate Director – Finance and Central Services, which is:-

"Taking all these factors and considerations into account the Corporate Director – Finance and Central Services is satisfied that the figures used in the Revenue Budget 2008/09 and the MTFS, as proposed, are realistic and robust and that the associated level of balances/reserves is adequate within the terms of the approved policy in relation thereto."

The Executive RECOMMENDS:

(i) That for the year beginning 1 April 2008, a Council Tax precept of £226,708,000 be issued to billing authorities in North Yorkshire, such precept to be paid in instalments on dates to be determined by the billing authorities.

(ii) That a net Revenue Budget requirement for 2008/09 of £322,670,000 be approved.

(iii) That the allocations to each Directorate, various corporate initiatives, and precepts/levies/contributions be as detailed in Appendix D and the Supplementary Papers in Appendix 1 for this report, subject to the Corporate Director – Children's and Young People Service being authorised, in conjunction with Executive Members, to take the final decision on the allocation of the Schools Block for the period 2008/09 to 2010/11.

(iv) That Corporate Directors be authorised to incur expenditure under the terms of any new specific grants.

(v) That the revenue elements of the Area Based Grant be allocated and managed in accordance with the procedures detailed in Appendix E and paragraph 9.26 of Appendix 1 respectively.

(vi) That in relation to the Waste Infrastructure Capital Fund, the Corporate Director – Business and Environmental Services be authorised, in consultation with the appropriate Executive Member, to consult with the Waste Partnership on the most appropriate method of allocating this grant and, having done so, to adhere to the management procedures referred to in paragraph 9.26(c) of Appendix 1.

(vii) That the policy target for the level of the General Working Balance be retained at 2% of the net Revenue Budget.

(viii) That the funds related to LABGI and LPSA Performance Reward Grant be transferred into the provision for the costs of Equal Pay claims and the Job Evaluation exercise.

(ix) That the Pending Issues Provisions be established and their approval arrangements be as detailed in paragraph 9.30 of Appendix 1.

(x) That short term funds to boiler / kitchen ventilation works, EDRMS and the ICT Infrastructure Strategy be allocated as detailed in paragraph 9.31 of Appendix 1.

(xi) That the Section 25 assurance statement provided by the Corporate Director – Finance and Central Services regarding the robustness of the estimates and the adequacy of the reserves be noted.

(xii) That the Medium Term Financial Strategy, and its caveats, as laid out in paragraph 9 and Appendix D of Appendix 1 be approved.

2. **Revision of Prudential Indicators:** The new Capital Finance system introduced in April 2004 is underpinned by the CIPFA Prudential Code for Capital Finance in Local Authorities. This Code requires every local authority to set a range of Prudential Indicators, as part of the Revenue Budget process and before the start of the financial year, to ensure that capital spending plans are affordable, prudent and sustainable.

The Prudential Indicators for 2007/08, covering the period up to 2009/10, were approved by County Council on 21 February 2007 and a full revision of all Indicators was approved by County Council on 10 October 2007.

As part of the 2008/09 Budget process, a fresh set of Indicators for the period up to 2010/11 now needs to be approved. These should be considered in conjunction with the item relating to Treasury Management. Each Prudential Indicator in the attached appendix is set out in terms of:-

- the updated Indicators to 2009/10 approved by County Council on 10 October 2007
- a revised set of Indicators with the addition of 2010/11
- appropriate comments on each Indicator including reasons for any significant variations.

In general the proposed Indicators reflect a number of common factors including

- the latest Capital Plan as adjusted for a number of known and forecast variations.
- updated information on Government Supported Borrowing approvals.
- updated capital financing costs reflecting the above

The Authorised Limit for external debt determined for 2008/09 will be the statutory limit determined under Section 3(1) of the Local Government Act 2003, which requires that a local authority shall determine and keep under review how much money it can afford to borrow in a given financial year.

The Executive RECOMMENDS:

(i) that the updated Prudential Indicators, set out in appendix 2 to the report, be approved.

(ii) That an Authorised Limit for External Debt of £410.7m in 2008/09, under Section 3(1) of the Local Government Act 2003, be approved.

3. **Treasury Management:** The County Council is required to adopt certain procedures in relation to Treasury Management. The County Council is expected to comply

with the terms of the CIPFA Code of Practice on Treasury Management in the Public Services issued in 2001, and adopted by the County Council in May 2002, and the County Council must also comply with the CIPFA Prudential Code for Capital Finance in Local Authorities which, from 1 April 2004, impacts heavily on Treasury Management matters.

The separate item on the Prudential Indicators for the three years 2008/09 to 2010/2011 should be read in conjunction with this item, because of the interaction between the Prudential Indicators and the Treasury Management arrangements. The County Council has to have in place by the start of the new financial year 2008/09 the following:

(a) an up to date Treasury Management Policy Statement which states the County Council's policies and objectives for its Treasury Management activities and which includes a framework of Treasury Management practices, setting out the manner in which the County Council will seek to achieve the policies and objectives and prescribing how it will manage and control those activities. Those Treasury Management practices are currently being reviewed, to ensure they are still fully consistent with statutory requirements. The policy statement has been subject to minor amendments in relation to the newly required Minimum Revenue Provision policy and a new policy relating to the capping of capital financing costs.

(b) a combined Annual Treasury Management and Investment Strategy

Refinements to the Annual Treasury Management Strategy are also being proposed in relation to:

(a) updated credit rating criteria for organisations being included on the County Council's Approved Lending List and a consequential updated list of organisations (counterparties) to which the County Council may make investments together with the maximum sum at any time that can be placed with each.

(b) a proposal to allow borrowing from the money markets for periods up to 70 years.

(c) A new policy for making Minimum Revenue Provision (MRP) in the Budget for debt repayment in the light of new pending statutory guidance.

(d) A new policy to cap capital financing costs as a proportion of the annual Net Revenue Budget

The key elements of the Strategy are:-

(a) an authorised limit for external debt of £410.7m in 2008/09

(b) an operational boundary for external debt of £390.7m in 2008/09

(c) a borrowing limit on fixed interest rate exposure of 60% to 100% of outstanding principal sums and a limit on varied interest rate exposure of 0% to 40% of outstanding principal sums

(d) an investment limit on fixed interest rate exposure of 0% to 30% of outstanding principal sums and a limit on variable interest rate exposure of 70% to 100% of outstanding principal sums

(e) a limit of 20% (estimated at £12m) of the total cash sums available for investment (both in house and externally managed) to be invested in Non Specified Investments over 364 days.

(f) The Corporate Director – Finance and Central Services to report to the County Council, if and when necessary during the year, on any changes to this Strategy arising from the use of operational leasing, PFI or other innovative methods of funding

Attempts are being made to reduce the consequential interest charge impact on the Revenue Budget which arises from the long term debt position of the County Council, which is essentially related to the level of capital expenditure undertaken. The growth of the County Council's long term outstanding debt is demonstrated by the following table –

@ Year end	Debt Outstanding	Year on Year Increase
	£m	**£m**
31 March 2001 actual	147.3	
2002 actual	148.9	+ 1.6
2003 actual	180.2	+ 31.3
2004 actual	215.1	+ 34.9
2005 actual	231.7	+ 16.6
2006 actual	274.4	+ 42.7
2007 actual	299.0	+ 24.6
2008 forecast	329.8	+ 30.8
2009 forecast	364.3	+ 34.5
2010 forecast	406.9	+ 42.6
2011 forecast	432.6	+ 25.7

The County Council's external debt has effectively doubled over a period of six years from March 2001 to March 2007. Particularly noticeable is the increase in the years since 2002, which is primarily attributable to the increase in the value of annual LTP allocations and the availability of Prudential Borrowing, which has been deliberately used by the County Council to boost the size of the Capital Plan not related to Government borrowing approvals. The ratio of borrowing related to Government borrowing approvals, as opposed to being locally determined under the prudential regime, is approximately 80/20. The revenue cost of servicing the debt impacts directly on the County Council's Revenue Budget/Medium Term Financial Strategy and will be about £32m in 2008/09. This consists of interest payments of £18.1m and a revenue provision for debt repayment of £13.9m. The annual capital spending funded by borrowing significantly exceeds the statutory Minimum Revenue Provision for debt repayment that must be made each year. For example, in 2008/09 the revenue provision for debt repayment is £13.9m, whereas capital spending to be funded from borrowing is £50.7m. The difference of £36.8m will increase the outstanding debt position further in 2008/09 and could only be reduced by

(a) significantly curtailing new capital investment and removing Capital Plan provisions that are funded from external borrowing, most of which are supported by borrowing approvals, specifically the Highways LTP and several Education initiatives and/or

(b) significantly increasing the revenue budget/MTFS provisions for debt repayment above the statutory minimum, about 4% of debt, that is currently made, and/or

(c) removing Capital Plan schemes funded by capital receipts and using those receipts, together with future additional receipts and the current corporate “Capital pot”, for debt repayment, rather than new capital investment.

Given the size of the County Council’s current Capital Plan, the Revenue Budget/MTFS position and forecast level of Government borrowing approvals for future years, it is unlikely that any of the above three options could be realistically adopted, and therefore external debt levels will continue to increase into the foreseeable future. This growth in debt is not unique to the County Council, however, as the reasons for the growth apply to most county and unitary councils throughout the country. Based on statistics available, the tables below demonstrate this continuing debt growth of comparable County Councils, together with a comparison of capital financing costs as a percentage of net revenue budgets.

External Debt Outstanding Levels

Year	Actual (A)/Forecast (F)	Lowest	Average	NYCC	Highest
Actual Levels		£m	£m	£m	£m
31/03/05	A }all	109.9	275.0	231.7	830.7
31/03/06	A }34 counties	157.1	329.3	274.4	882.6
31/03/07	F }	125.9	343.1	299.0	1,010.0
31/03/08	F }20 counties	144.8	380.0	329.8	1,112.0
31/03/09	F }where data	144.3	410.4	364.3	1,145.0
31/03/10	F }available	139.7	435.6	406.9	1,149.0
growth in debt					
actual 5 year growth from 31/03/01 to 31/03/06		21%	81%	86%	386%
forecast 3 year growth from 1/04/07 to 31/03/10		4%	27%	36%	53%

Capital financing costs interest plus a required revenue provision for principal as a percentage of net revenue budgets based on latest comparative figures

Year	Lowest	Average	NYCC	Highest
	%	%	%	%
2006/07 estimates	3.4	8.6	10.5	14.0
2007/08 estimates	5.1	9.0	10.1	14.2

It can be seen from these tables that:

(a) the County Council's absolute external debt level is below the average of other shire counties, and

(b) historical debt growth to date is broadly comparable to the average of other shire counties, but

(c) is higher looking ahead to 2010, principally due to the County Council's Waste Procurement Strategy, and

(d) the County Council's capital financing costs (interest + principal) as a %age of the net revenue budget is above the average of other shire counties

(e) the range of debt levels and %age of capital financing costs relative to the net revenue budget can depend on a number of factors such as

- historical borrowing levels and rates of interest on those borrowings
- the population size of the County
- comparative levels of borrowing approvals issued by the Government
- comparative levels of agreed Prudential Borrowing
- relative levels of internally financed capital borrowing
- debt re-scheduling activities, which can reduce ongoing interest costs at the expense of accumulated repayment premiums, which are written back to revenue over a period of years and result in lost interest earned
- additional voluntary set aside for repayment of debt

(f) because of the factors mentioned in **(e)** above, the overall comparison of debt and financing costs between authorities will become increasingly difficult over a period of time

Because of these factors and arising from discussions held during the Budget process, a new policy to cap capital financing costs as a proportion of the annual Net Revenue Budget is proposed below.

The criteria for monitoring and assessing organisations (counterparties) to which the County Council may lend are incorporated into the detailed Treasury Management Practices (TMP's) that support the Treasury Management Policy Statement (TMPS). Applying these criteria enables the County Council to produce an Approved List of organisations in which it can make investments, together with the maximum sum at any time that can be placed with each. The credit rating criteria currently in use, together with the full Lending List, was last submitted to Council in February 2007 as part of the 2007/08 Treasury Management Report.

As a result of the recent market conditions, connected with the ‘credit crunch’ in the US and consequential liquidity problems experienced by Northern Rock, a comprehensive review of the credit rating criteria for organisations to be included on the County Council’s Approved Lending List has been carried out. The revised criteria are set out in the Annual Treasury Management and Investment Strategy 2008/09. The changes take into account more detailed credit criteria information and include reference to an institution’s overall creditworthiness, based on their long term and short term rating (ie the capacity to service and repay debt obligations punctually), financial strength/individual ratings and support rating. The table below shows the changes that have been made to the credit criteria in the Treasury Management Strategy for 2008/09 for specified investments up to 364 days.

Period	**Credit Limit**			
	Strategy 07/08		**Strategy 08/09**	
	Minimum	**Highest**	**Minimum**	**Highest**
Short Term (less than 1 year)	F2	F1+	F1	F1+
Long Term	N/A	N/A	A	AA-

For the 2008/09 Strategy, the table highlights that both long and short term ratings are taken into consideration when setting the credit rating criteria in the short term. This provides more detail as to how to select institutions and further safeguards the County Council’s funds. The relationship between the credit ratings is fully explained in the Strategy document. The credit criteria reflected in the Treasury Management Strategy 2008/09 are in line with the credit matrix of the County Council’s Treasury Management Adviser. The use of these more detailed credit criteria enables the County Council to set two different levels of credit criteria on which to invest its funds. This approach will provide greater safeguards, because more of the available funds will now be invested for longer periods of time with those institutions that have a higher credit rating, and reduces the risk with institutions that have a slightly lower credit rating, because less money will be placed with them and for shorter periods. The credit criteria chosen reflect a 3 month limit for some organisations (building societies and banks) and a 364 day limit for others. The intended impact of these changes to the credit criteria is to ensure that the County Council’s funds are managed in a way that balances risk with return, but with the overriding consideration being given to the security of the County Council’s invested sum. For longer term (non-specified investments) over 364 days, the credit rating criteria remain substantially unchanged from 2007/08.

As a result of the revised credit rating criteria, it has been necessary to revise the Approved List of organisations to which the County Council may make investments, together with the maximum length of time and sums at any time that can be placed with each. These sums/periods vary for Specified and Non-Specified investments and details of these are provided in Appendix 3, together with a full and updated Lending List.

For Specified investments – a maximum of 364 days - institutions which have a credit rating of F1,A are limited to £8 million and 3 months. Institutions which are rated F1+, AA- or above, have limits of £15 million and 364 days. Foreign Banks and UK clearing banks are all considered according to their credit ratings, and there is therefore no amount or length of time differential between the banks. For foreign banks transactions are in sterling and the banks are based in the UK. For Non-Specified Investments – Investments over 1 year to 5 years – institutions which have a credit rating of F1+,AA- have a time limit of 2 years and institutions that are rated F1+, AA or above have a limit of 5 years. The maximum amount for all investments over 1 year to 5 years is £5 million. The changes that are proposed to the Lending List in the 2008/09 Strategy are set out below:

(a) Organisations included on the 2007/08 Lending List for 364 days and £8m or £15m to be restricted to 3 months and £8 million in 2008/09 are Dresdner (Germany); Anglo Irish Bank (Republic of Ireland); EBS (Republic of Ireland); Alliance & Leicester (UK) and Bradford & Bingley (UK).

Northern Rock is being removed from the list for further investment at this time as it no longer reaches the required credit criteria.

(b) Organisations included on the 2007/08 Lending List for 364 days to be increased to £15 million for 2008/09 are National Australia Bank (Australia);Dexia Bank Belgium (Belgium); Allied Irish Bank (Ireland); Bank of Ireland (Ireland) and Depfa (Ireland).

(c) Rabobank (Netherlands); ING Bank (Netherlands) and Banco Bilbao Vizcaya (Spain) included on the Lending List 2007/08 for 364 days are to be removed from the lending list even though they meet the credit rating criteria F1+,AA- due to the large sums (£20-£50 million) that would need to be invested with them at one time to gain competitive market rates. The County Council is not in a position to invest such large sums at one time.

(d) Organisations not included on the Lending List in 2007/08 to be introduced for 3 months at £8 million are Bayrische Landesbank (Germany); HSH Nordbank AG (Germany); Landesbank Baden-Wuttemberg (Germany); Norddeutsche Landesbank (Germany); Glitner Banki hf (Iceland); Landesbankl Islands (Iceland); Irish Intercontinental Bank (Ireland); Irish Life & Permanent (Ireland); Banco Espirito Santo (Portugal); Co-operative Bank (UK) and Kaupthing Singer and Friedlander Ltd (UK).

(e) Organisations not included on the 2007/08 Lending List to be introduced for 364 days at £15 million are Fortis Bank (Belgium);KBC Bank (Belgium); Canadian Imperial Bank of Commerce (Canada); Nordea Bank Finland (Finland); CAYLON (France); Credit Industrial et Commercial (France); Credit Agricole (France); Societe Generale (France); Deutsche Bank (Germany); DBS Bank (Hong Kong); Itesa Sanpaolo Spa (Italy) and Nordea Bank (Sweden).

(f) County Councils; English Unitary Councils; and Metropolitan District Councils included on the 2007/08 Lending List for £5 million are to be increased to £15 million and District Councils; Police Authorities; Fire Authorities and National Park Authorities included for £2.5m are to be increased to £15m. Local Authorities are all supported by the Government so are classed as having the highest credit rating

(g) Money Market Funds (highest credit ratings possible-AAA) and UK Government Debt Management Account included on the 2007/08 Lending List for £2.5-£5 million are to be increased to £15 million

(h) Building Societies included on the Lending List in the 2007/08 Strategy for 364 days are to be restricted to 3 months and £8 million in accordance with their credit rating criteria in the current volatile market – Britannia; Chelsea; Cheshire; Coventry; Derbyshire; Dunfermline; Leeds; Newcastle; Norwich & Peterbrough; Principality; Skipton; Yorkshire and West Bromwich

(i) Scarborough Building Society was not included on the 2007/08 Lending List and is to be introduced for 3 months and £8 million

As Building Societies fall into the lower credit rating criteria described in the Annual Treasury Management and Investment Strategy 2008/09, they are being included on the updated 2008/09 Lending List for periods up to three months. This is considered appropriate in the current market climate.

At some point in the future, however, when market conditions are less volatile than at present, lending to Building Societies for up to one year will be considered. Even though their credit rating is lower than the County Council's prescribed 'high' rating requirement (F1+, AA-) it is still deemed prudent to consider investing with Building Societies for 1 year. The Building Society sector is unique because of its asset size and there are a number of reasons for considering them slightly different from other organisations, including

- no Building Society has ever failed (Northern Rock was not a Building Society)
- even with their lower credit ratings, their assets (ie houses) are very safe
- they are subject to stringent supervision by the Financial Services Authority
- a Building Society in financial difficulty would be 'supported' (ie taken over) by another Building Society

It is worth mentioning that only 15 out of 60 English Building Societies have credit ratings because obtaining such a rating is costly and most of their investors are private individuals who have no interest in credit ratings.

(j) Organisations included on the 2007/08 Lending List for up to 5 years to be restricted to 2 years are Abbey; Clydesdale Bank (Trading as Yorkshire Bank); Credit Suisse International (UK bank); Allied Irish (Ireland); Bank of Ireland (Bristol & West); Depfa (Ireland) and Nationwide.

(k) Organisations not included on the 2007/08 Lending List to be introduced for up to 2 years at £5 million are Fortis Bank (Belgium); KBC Bank (Belgium); Canadian Imperial Bank of Commerce (Canada); Nordea Bank (Finland); Credit Industriel et Commercial (France); Deutsche Bank (Germany); DBS Bank (Hong Kong); Intesa Sanpaolo Spa (Italy); Nordea Bank AB (Finland) and Societe General (France).

(l) Organisations not included on the 2007/08 Lending List to be introduced for up to 5 years at £5 million are CAYLON Bank (France) and Credit Agricole (France).

(m) Alliance and Leicester included on the 2007/08 Lending List for 5 years is to be restricted to investments of 3 months only

Following a recent consideration of the Corporate Risk Register and other financial risks facing the County Council, the Audit Committee has expressed an interest in reviewing the arrangements the County Council has in place to lend and borrow money in the money markets. This interest will no doubt have increased due to the current turbulence in financial markets. Given that the Annual Treasury Management Strategy contains proposals to upgrade the credit rating criteria; overhaul the Approved Lending List; as well as to define the parameters for Specified and Non-Specified Investments, a review by the Audit Committee could be considered as an additional level of scrutiny to these proposals. The Executive, therefore, recommends that the Audit Committee be asked to review the Policy/Strategy documents, with a view to submitting any proposals for change to a subsequent meeting of the Executive. If any of the proposals required a change to the Policy/Strategy documents, the Executive would submit a revised Policy/Strategy to the Council at its meeting in May 2008.

The Annual Treasury Management Strategy includes sections that explore the prospects for Interest Rates and their consequential impact on the Borrowing Strategy. The financial markets have been experiencing some turbulence in January 2008. Unless this turbulence translates itself into a permanent impact on the interest rate markets the text included in the Annual Treasury Management Strategy is still considered relevant to the Borrowing Strategy. This position will, of course, be reviewed continuously during the year and a revised Borrowing Strategy will be submitted to Members if considered necessary.

In October 2006 the County Council approved an amendment to the Annual Treasury Management Strategy to allow borrowing for capital purposes for periods up to 50 years. This was in response to the Public Works Loan Board (PWLB) extending the repayment period for their loans to local authorities from 30 to 50 years in December 2005. Money market loans in the form of LOBO's (Lender option, borrower option) are, however, available to local authorities for periods in excess of 50 years – generally up to 70 years. Banks offer these longer term loans because of their business requirements (eg 99 year leases) and interest rates on offer have tended to be lower than for 50 year loans in recent times. On the advice of the County Council's Treasury Management Adviser, it is now proposed that the Annual Treasury Management Strategy is amended again to allow borrowing from the money markets using LOBO's for periods up to 70 years. Such long period loans would, however, only be taken if there was a clear benefit (ie interest rate differential) in doing so, and following discussion with the Treasury Management Adviser. In reality, borrowing for 70 years is little different to taking a 50 year loan. The risk of taking such long period loans is that the County Council could potentially be locked into paying current interest rates on a loan for up to 70 years, which would be disadvantageous if medium/long term rates subsequently fell below current rates, at some point in the future. There is also the psychological factor of borrowing for such a long period. In practice, however, it is highly unlikely that such loans would ever run the full period because, at some point, interest rates are likely to rise above the fixed rate agreed, at which point the lender would request an increase and the County Council would have the option of repaying the loan. The Annual Treasury Management and Investment Strategy therefore been updated to reflect this proposal to allow longer term borrowing.

The statutory requirement for local authorities to charge to Revenue each year a specific sum for debt repayment is being replaced with more flexible statutory guidance. The current Capital Finance Regulations, which are in the process of being replaced, require a Minimum Revenue Provision (MRP) of 4% of the County Council's Capital Financing Requirement (CFR). The CFR basically consists of external debt, plus capital expenditure financed by borrowing from internal sources (surplus cash balances). The County Council's statutory 4% MRP in 2007/08 is £12.7m. The amendments to the Capital Finance Regulations are currently still draft, but are expected to be issued in the current financial year. They will replace the present detailed rules with a simple duty for an authority, each year, to charge an amount of MRP which it considers to be prudent. The new Regulations will not, in themselves, define prudent provision, but MRP guidance to be issued by CLG will make recommendations to authorities on the interpretation of that term. Authorities will therefore be legally obliged to have regard to this MRP guidance, in the same way as applies to other statutory guidance. The new 'statutory guidance' will require authorities to prepare an Annual Statement of their policy on making MRP for submission to their full Council. This mirrors the existing requirements to report to the County Council on the Prudential Borrowing Limit and Investment Strategy. The aim is to give Members the opportunity to scrutinise the proposed use of the additional freedoms conferred under the new arrangements. Based on the draft document that has been used for consultation, the main part of the new statutory guidance will be concerned with the interpretation of the term 'prudent provision' and the principle that provision for borrowing to finance a capital asset should bear some relation to the period over which the asset continues to have a useful life. The present system of 4% MRP does not necessarily provide this link. A number of options, which the CLG say they consider would constitute prudent provision, are detailed in the Guidance. CLG also state, however, that authorities are free to make additional MRP if they so require. The County Council must therefore now approve an Annual MRP Policy Statement which will satisfy the 'prudent provision' requirement, based on options provided by the CLG. Having assessed the various options provided by the CLG, it is recommended that the following MRP policy is adopted from 1 April 2008 –

(a) for all capital expenditure incurred before 1 April 2008, MRP will be based on 4% of the Capital Financing Requirement (CFR) at that date. This to include expenditure supported by Government borrowing approvals and locally agreed Prudential Borrowing up to 31 March 2008. This is in effect a continuation of the old MRP regulations for all capital expenditure up to 31 March 2008 that has been financed from borrowing

(b) for capital expenditure incurred after 1 April 2008 which is supported by Government borrowing approvals, MRP to be based on 4% of such sums reflected in subsequent CFR updates. This reflects the fact that the Revenue Support Grant formula for supported borrowing approvals will still be calculated on that basis

(c) for locally agreed Prudential Borrowing on capital expenditure incurred after 1 April 2008, MRP will be calculated based on equal annual instalments over the estimated life of the asset for which the borrowing is undertaken. This method is a simpler alternative to depreciation accounting. The estimated life of each asset will be assessed each year, based on types of capital expenditure being incurred but, in general, will be 25 years for buildings, 50 years for land (as advised by CLG), and 5 to 7 years for vehicles/plant and equipment. This option also allows an authority to defer the introduction of an MRP charge for new capital projects/land purchase until the year after the new asset becomes operational, rather than in the year borrowing is required to finance capital spending. This approach is beneficial for projects that take more than one year to complete and is therefore included in the proposed MRP Policy.

The change from the current 4% MRP calculated on a reducing balance to equal instalments over the assets life for Prudential Borrowing after 1 April 2008 does, potentially, result in additional revenue provision being required, compared to current arrangements. The forecast implications of this change are reflected in the 2008/09 Revenue Budget and MTFS, although the overall effects are minimal, after taking into account financing contributions from Directorate Revenue budgets in relation to Invest to Save capital schemes funded from Prudential Borrowing. The new Regulation is expected to come into force before 31 March 2008 and does, therefore, require a Policy Statement to be approved before 31 March 2008 which would specify the policy for 2008/09. In terms of financial impact, however, MRP has been and continues to be calculated based on capital expenditure incurred to the previous 31 March. The proposed new MRP policy relates to capital expenditure incurred after 1 April 2008, with the consequential impact first affecting the MRP charge for 2009/10, and has been incorporated into the attached Annual Treasury Management and Investment Strategy. An annual review of this new MRP policy will be undertaken and reported to Members as part of this annual Treasury Management report.

During the preparation of the Revenue Budget/MTFS 2008/09, concerns were expressed about the possible ongoing impact on the annual Revenue Budget of capital expenditure, generated either by government borrowing approvals or approved locally under the Prudential Borrowing regime. The relationship between levels of capital expenditure and the consequential capital financing costs that they generate is demonstrated in the following table.

Year	**Net Budget Requirement (based on 4.75% Council Tax increase from 2008/09** £m	**Budgeted Capital Financing Costs *** £m	**Costs as a %age of Budget** %	**1% of Budget** £m	**Potential Capital Spend from 1% on BR** £m
2007/08	295.8	30.5	10.3	3.0	35.3
2008/09	322.7	32.6	10.1	3.2	37.6
2009/10	339.7	35.4	10.4	3.4	40.0
2010/11	358.1	38.2	10.7	3.6	42.4

* Based on Capital Plan to 2010/11 and includes interest on external debt plus lost interest earned on internally financed capital expenditure, together with a minimum revenue provision for debt repayment.

In addition to showing the direct link between the level of capital spend and impact on the Revenue Budget to date, the table also includes an estimate of the impact that planned levels of future capital expenditure, based on the current Capital Plan, will have on the proportion of the Revenue Budget that will be required to meet the consequential capital financing costs; and shows how much additional capital spend an 1% increase in the Budget requirement will support. The Executive believes that some form of policy based regulator or cap should be provided to this proportion when Members are considering the Capital Plan. A cap could be set at 11% - this would accommodate existing Capital Plan requirements, but would act as a regulator if Members were considering, at a future date, expanding the Capital Plan using Prudential Borrowing. Members would, of course, have the ability to review the % at any time, but would have to do so in the light of its explicit impact on the Revenue Budget/MTFS. A new policy to cap capital financing costs as a proportion of the annual Net Revenue Budget is therefore included in the Annual Treasury Management and Investment Strategy.

The Executive RECOMMENDS:

(i) That the updated Treasury Management Policy Statement as attached at Appendix 3A be approved.

(ii) That the Annual Treasury Management and Investment Strategy for 2008/09 as detailed in Appendix 3B be approved and, in particular,

(a) an authorised limit for external debt of £410.7m in 2008/09.

(b) an operational boundary for external debt of £390.7m in 2008/09.

(c) a borrowing limit on fixed interest rate exposure of 60% to 100% of outstanding principal sums and a limit on variable interest rate exposure of 0% to 40% of outstanding principal sums.

(d) an investment limit on fixed interest rate exposure of 0% to 30% of outstanding principal sums and a limit on variable interest rate exposure of 70% to 100% of outstanding principal sums.

(e) a limit of 20% (estimated at £12m) of the total cash sums available for investment (both in house and externally managed) to be invested in Non Specified Investments over 364 days.

(f) the Corporate Director - Finance and Central Services to report to the County Council, if and when necessary during the year, on any changes to this Strategy arising from the use of operational leasing, PFI or other innovative methods of funding.

(g) updated credit rating criteria for investment purposes together with an updated Approved Lending List of organisations in Schedule C attached to Appendix 3B be approved.

(h) an amended Borrowing Strategy to allow borrowing for capital purposes from the money markets, using LOBOs) for periods up to 70 years be approved.

(i) a revised Annual Minimum Revenue Provision for debt repayment set out in Appendix 3B be approved.

(j) a new policy to cap capital financing charges as a proportion of the annual Net Revenue Budget as set out in Appendix 3B be approved.

(iii) that the Audit Committee be invited to review the Treasury Management Policy Statement and Annual Treasury Management and Investment Strategy for 2008/09 above and submit any proposals to the Executive for consideration at the earliest opportunity.

4. **Special Educational Needs (SEN) Policy 2007-2010:** Regulations require the County Council to publish information relating to:

- the SEN provision the County Council would expect normally to be met from mainstream school budgets and that which the Local Authority makes form resources held centrally;

- the general arrangements the County Council makes for the identification and assessment of children with SEN;

- the support provided to schools with regard to making provision for children with SEN;

- auditing, planning, monitoring and reviewing provision for children with SEN in their area;

- securing training, advice and support for staff working with children with SEN.

This information should be regularly revised when there have been significant changes to the way in which provision is made for children with SEN, and the SEN Policy must be published on the County Council's web site and made available to schools by post or electronic communication.

A review of the SEN Policy took place in 2005 and a revised policy was published as part of the SEN Strategy 2005-2008. The Strategy also included the actions that the County Council intended to take to improve outcomes for children with SEN and disabilities and their families in response to the DFES 10 year strategy for 'Removing Barriers to Achievement' for children with SEN.

The SEN Policy remains a statutory requirement, but the publication of the Children and Young People's Plan and the annual self-evaluation tool from the Department for Children, Schools and Families has now enabled the actions and performance indicators in SEN Strategy to be located within these frameworks. In addition, the JAR action plan sets out the work plan for an emerging strategy for learners with learning difficulties and disabilities, which has the potential to overlap significantly with an SEN Strategy Action Plan. There have also been significant changes to the way in which the County Council monitors the inclusion of children with SEN and the provision being made for them. A revision of the SEN policy and Strategy is therefore both timely and needed strategically.

A draft SEN Policy document, to replace the existing SEN Strategy is attached to this report as Appendix 4. This document sets out:

- The SEN Policy Framework
- The information to be provided by the County Council in accordance with Schedule 2 of the SEN Regulations 2001
- The North Yorkshire Inclusion Statement and Inclusion Quality Mark
- The aims and principles that underpin our strategies
- The SEN Accountability Framework

It has been brought up to date to reflect the Council's position as a Children's Services Authority, the revised Inclusion Quality Mark and the changes to the way in which the Children and Young People's Service will monitor, challenge, intervene and support schools in relation the provision it makes for children with special educational needs or learning difficulties.

The draft policy was circulated to all schools in September 2007, together with a letter asking for feedback. Feedback was also sought through the Autumn Term School Improvement Networks (SINs). Written feedback was limited to responses from two special school headteachers and a governor with designated responsibilities for SEN in a mainstream secondary school. This was overall very positive, with some queries regarding the future pattern of SEN provision from the mainstream school governor, who concluded that "the new policy has been well thought out and deserves to be successful." There were no concerns raised by head teachers at the SINs meetings regarding the information provided in the policy or the strategic approach being taken to support schools in making provision for children with SEN. The draft policy was also circulated to the Parent Partnership Service and the County Parents Group for their consideration who recommended some minor changes to the text.

The Executive RECOMMENDS:

That the draft Special Educational Needs Policy 2007-2010 be approved for publication.

5. **School Admissions Arrangements 2009/2010:** The County Council is required to determine its admission policy and admission limits by 15 April each year. Prescribed consultations must be completed by 1 March each year, which means that schools are first consulted in Autumn Term each year for admissions nearly two years later. The process is, therefore, based to some degree on schools' best estimates of the numbers of requests for places and is informed by the LA's forecasting model, which takes into account the patterns of parental preference over the years.

The Department for Children Schools and Families (DCSF) encourages Local Authorities to carry out the admission arrangements consultation on behalf of Voluntary Aided and Foundation Schools. For the 2009/10 consultation, after discussion with Diocesan Directors, the County Council agreed to carry out the admission arrangements consultation for 2009/10. Voluntary Aided schools supplied their admission arrangements so that this could be carried out.

The proposed admissions policy for community and voluntary controlled schools, attached as Appendix 5A, has been updated in line with requirements of the statutory Code on School Admissions. The overall criteria are broadly the same, but the criterion relating to children with statements of special needs is no longer listed as one of the orders of priority. This is because the Code clearly states that this is not an oversubscription criterion.

All governing bodies are required by Section 324 and the Education Act 1996 to admit to the school a child with a statement of special needs that names the school. Schools must admit such children whether they have places or not. Priority group 2 now covers social or medical reasons for admission and the situation where the enhanced special educational needs provision available at a school is the most appropriate provision to meet the child's needs. Applications within each priority group will now be considered equally, as the new Code prohibits first preference first systems.

The proposed admission policy for nursery classes remains unchanged, though it does now also apply to admissions to pre reception classes.

Of the 376 schools consulted, only South Craven School made comments regarding the proposed policy which were:

> "The Governing Body does not believe that the Adjudicator's comments in relation to referral ADA001076 have been fully or properly addressed."
>
> The County Council has complied with the Adjudicator's determination of 10 July 2007. At its meeting on 16 October 2007 the Executive resolved 'that following consideration of the Adjudicator's determination of 10 July 2007 and consultation with Ermysted's Grammar School and Skipton Girls' High School, which are Admissions Authorities for their schools, the Local Authority will revise its information to parents but intends to maintain the selection standards as currently operated. In 2006, the Authority took Counsel's advice which confirmed that the requirement for Admission Authorities to act is only on that set out in the Determination and not on that which is set out in the body of the report. This was also confirmed by Dr Philip Hunter, the Chief Adjudicator. No changes are proposed to the draft wording previously circulated.

The proposed admission limits for 2009/10 are attached as Appendices 5D and 5E. The County Council can only comment on those for the Voluntary Aided Schools, who are their own admissions authorities, but it sets those of Community and Voluntary Controlled schools.

Of the 327 schools consulted, negotiated agreements have been reached with 308. The Governing Bodies of 10 schools have requested a Maximum Admission Limit (MAL) which is lower than the Indicated Admission Limit (IAL) number of the school. The School Admissions Code states 'admission authorities may fix an admission number for a relevant age group that is lower than the capacity assessment, but if they do so they must publish this information for parents who may object to the admission number. In relation to admission numbers applicable to infant classes, the admission number must be compatible with the duty to comply with the infant class size limit'. In June 2006 the DCSF wrote to local authorities about the law relating to infant class sizes. Nationally the number of large classes has been creeping up since 2001 despite falling rolls. DCSF intend to ensure that admission authorities do comply with Infant Class Size legislation and where necessary to direct schools and/or admission authorities to comply with the law. In June 2007 the DCSF wrote to confirm that this Council has done well and has no unlawfully large infant classes.

Following careful consideration of the individual schools' circumstances and the potential impact on other schools and parental preference, it is proposed that Notices for admission limits lower than the capacity assessment be published in respect of the following schools: -

The Indicated Admission Limit at Airy Hill CP School is 34. Previous MAL has been 30. Governors requested a MAL of 30 for 2009/10 on the basis that to admit over 30 would cause organisational problems, due to infant class size limitations. Any reorganisation of classes would lead to mixed age and mixed key stage classes. It is considered that a MAL of 30 is appropriate in these circumstances.

The IAL at Cayton CP School is 34. Governors requested a MAL of 30. MAL has been 30 for the preceding four years. The anticipated number of applications for 2009/10 is 25. This includes both in and out of area requests. It is considered that a MAL of 30 is appropriate for the reasons stated above.

The IAL at Ripon Cathedral CE Primary School is 35. Governors requested a MAL of 30. Governors believe that a MAL of 35 has had an adverse effect on the achievement and standard of pupils, forcing an inappropriate class structure at KS1 and oversized KS2 classes. Governors are keen to serve their local catchment area. Intakes have always been supplemented by out-of-catchment pupils. Governors are aware that other schools within the city are facing falling rolls. It is considered that a MAL of 30 would be appropriate in these circumstances for all the reasons cited by Governors and in the interests of ensuring compliance with Infant Class Size legislation. There are places available at other primary schools within Ripon.

The IAL at Hampsthwaite CE Primary School is 17. Governors requested a MAL of 15. MAL has been 15 for previous three years. Generally two thirds of applications for places are from families living within the normal area of the school. The school operates with four classes across the two key stages. It is considered that a MAL of 15 would be appropriate in these circumstances and would be compatible with the duty to comply with the infant class size limit.

The IAL at Norton CP School is 73. Governors have requested a MAL of 60 to assist their class organisation. It is considered that a MAL of 60 is appropriate for this school. It will enable the school to plan its class organisation in compliance with the infant class size duty. The school is able to accommodate all demand for both in and out of area applicants.

The IAL for Oatlands Community Junior School is 81. The MAL at the school was previously 70, but it was increased in 2003/04 to accommodate pupil numbers from Oatlands Infant School. The MAL for 2008/09 is 70. Governors have requested a MAL of 70 for 2009/10. The reason for this is that it is becoming increasingly difficult to manage the class structures with the current number of pupils on roll. Year on year the school have been forced to reorganise classes. A MAL of 75 equates to 37/38 children per class in each year group. A parental survey confirmed that large and mixed age classes was the overriding concern of parents. The Governors have funded additional staffing, but feel that large class sizes jeopardise the quality of education. The school has experienced strained community relations resulting from traffic increase from parents delivering and collecting children from school in a residential cul-de-sac. It is considered that a MAL of 70 would be appropriate for all the reasons stated above. A large proportion of children attending both the Infant and Junior Schools are from outside the school's catchment area. With a MAL of 70 demand for places from in area pupils can be met. It is more likely that parents will object to this proposal due to the disparity of places between Infant and Junior schools. A place at the junior school, however, is not guaranteed on the basis that a child attended the infant school. This will be made clear to parents in the Guide for Parents 2009/10.

The IAL at Pickering Community Infant School is 76. Governors have requested a MAL of 75 to assist in enabling them to comply with the infant class size duty. The school operates three reception classes, one of which is a mixed year group class. It is considered that a MAL of 75 is appropriate for this school. The school is able to accommodate all demand from both in and out of area applicants. Generally the MAL is not reached.

The IAL at Romanby Primary School is 44. Governors have requested a MAL of 40 to enable them to organise classes in compliance with the Infant Class Size duty. Falling pupil numbers have given rise to reduced staffing levels. It is considered that a MAL of 40 is appropriate for this school. It will enable the school to plan class organisation in line with staffing levels and to comply with the infant class size duty. The school is able to accommodate likely demand for places.

The IAL at Wedderburn Infant and Nursery School is 80. Governors requested a MAL of 60. The school has had a steadily falling roll for the last few years. A new Children's Centre for the Wedderburn/Woodlands area will utilise three temporary classroom units at the school. Building work on the alterations is due to commence during the 2007/08 academic year. It is considered that the change of use of the temporary classroom units will reduce the net capacity of the school. A MAL of 60 would therefore be appropriate and will enable the school to plan its class organisation in compliance with the infant class size duty.

The IAL at Boroughbridge High School is 130. Governors have requested a MAL of 124 which was the MAL for 2008/09 and better fits class structure. It is considered that a MAL of 124 is appropriate for this school and will satisfy demand for places.

The IAL at Brayton College is 250. Governors have requested a MAL of 240. The reason for this request is to enable the school to plan for 8 classes. It is considered that a MAL of 240 is appropriate for this school. Pupil numbers have been falling. At 240 the school can satisfy all likely requests for places from both in area and out of area applicants.

9 schools disagreed with the proposed maximum admission limit for their own school:

The Governing Body of Appleton Roebuck Primary School is not in agreement with the proposed MAL of 12. They state "numbers are not yet uniform throughout the school. A higher MAL would allow us to maintain numbers and compensate for lean years. It is a key number for us for funding only purposes." It is considered, however, that the proposed MAL of 12 is in line with the net capacity. The school anticipates that for 2009/10 there will be 10 children in Reception. The LA forecast figure for 2009/10 is 13. There is no evidence to suggest that a MAL of 15 is required in order to meet demand for places within the normal area of the school. Unfortunately many schools are in a falling roll situation. It would be inappropriate to raise the MAL in order to seek to compensate for lower numbers elsewhere in the school.

The Governing Body of Arncliffe CE Primary School would like the MAL to be raised to 6 because they have had an extension to the buildings and, as a village school, take in children from the surrounding villages. Governors felt that they would not like to turn away children from the area. The ethos of the diocese is to take all children wishing to attend the school. It is considered, however, that the proposed MAL is 4 is in line with the current net capacity of the school. This figure is also sufficient to meet forecast demand for places from pupils within the normal area of the school.

The Governing Body of Brompton on Swale CE Primary School is not in agreement with the proposed MAL of 25. Governors propose a MAL of 30 because there is a proposed new development in the village. It is considered, however, that on the basis of the current net capacity calculation the proposed MAL of 25 is appropriate. This figure is also sufficient to meet forecast demand for places from pupils within the normal area of the school.

The Governing Body of Carlton Miniott Community Primary School is not in agreement with the proposed MAL of 25. Governors propose a MAL of 28, because they intend to add an extra temporary classroom to the school in order to enable them to create single year teaching groups throughout the school. It is considered, however, that on the basis of the current net capacity calculation the proposed MAL of 25 is appropriate. This figure is also sufficient to meet forecast demand for places.

The Governing Body of Hackness CE VC Primary School is not in agreement with the proposed MAL of 7. Governors state ‘our current roll is 63. Governors are very keen to sustain the current class organisation of 3 classes. If our roll falls below 56 we would be unable to sustain this organisation. Furthermore, from Year 2 to Year 6 there are between 9 and 12 pupils per year group. Although our reception intake has been below 7 the previous two years, we always take children further up the school. If our MAL is set too low we will be unable to do this’. It is considered, however, that on the basis of the current capacity the proposed MAL of 7 is appropriate. School forecasts indicate that a MAL of 7 will meet demand form places from both in and out of area applicants for 2009/10. It would be inappropriate to raise a MAL where there is no indication that there is an increased demand for places from pupils within the normal area of the school.

The Governing Body of Hawes CP School are not in agreement with the proposed MAL of 16. Governors propose a MAL of 20 because they state they ‘already have a year group larger than this and pupil numbers are rising, as foreign workers with families are moving into the area’. It is considered, however, that a MAL of 16 is in line with the net capacity of the school. The County Council’s forecasts indicate that the likely number of applicants for 2009/10 will be 10, the school believe that this figure will be 14.

The Governing Body of Kellington Primary School are not in agreement with the proposed MAL of 19. Governors state that they have a ‘current 26 part time place nursery – therefore possibility of having to refuse a place in reception for nursery pupils. Total numbers are reducing and we do not wish to find ourselves in a position where we are turning pupils away in the future. We have 18 already on the list for September 2008’. Currently the school have 13 in area applications and 3 out of area applications for 2009. The County Council forecast is 18 pupils and it is considered, however, that a MAL of 19 is in line with the net capacity of the school and can satisfy the demand for pupils both within and outside the normal area of the school. A nursery class is intended to serve a wider area than the school catchment area. All allocations to nursery classes are made on the basis that this does not guarantee the child a place at the school.

The Governors of Sessay CE VC Primary School are not in agreement with the proposed MAL of 15. Governors state that “school has the capacity for 17 per year group. Two classes cover Foundation KS1 giving scope for flexibility to remain below 30. Increased provisional numbers due to Sutton’s closure.” It is considered, however, that a MAL of 15 is consistent with the net capacity of the school. Forecast pupil numbers for 2009/10 are 15 but school applications indicate that the majority of applicants are from outside the normal area of the school. In a climate of generally falling rolls, it would be inappropriate to increase a MAL in order to accommodate demand for places from out of area applicants.

The Governors of Thornton in Craven CP School are not in agreement with the proposed MAL of 10. Governors state that there are “12 recently completed houses built in the village. The school has a history of being oversubscribed. The school is still carrying 3 smaller cohorts and needs to maintain numbers to ensure funding. Need to maintain adequate class sizes for future years.” It is considered, however, that the proposed MAL of 10 is consistent with the current capacity of the school and the likely demand for places from pupils within the normal area of the school. A smaller cohort in other year groups does not justify an increase in MAL.

Two schools disagreed with the proposed MAL for another school:

The Governors of Oatlands Community Infant School stated “our two schools (Infant & Junior) should have the same MAL (75) so children at Oatlands Infants have automatic transfer.” As indicated above, however, Governors at Oatlands Junior School have requested a MAL of 70 and it is considered that this request is appropriate in the circumstances. Children cannot be given an automatic transfer from Infant to Junior school where they are two separate schools. Even in a situation where the MAL at each school is the same, it is not possible to ensure automatic transfer, since other children may move into the area and, where a school is oversubscribed, these children may have priority within the oversubscription criteria.

The Governors at South Craven stated that they "would wish to record their continuing opposition to the increase in the selective system that has been caused by the increase of places." The Maximum Admission Limits for Ermysted's Grammar School and Skipton Girls' High School were last increased in 2004, when the MAL for each school rose from 87 to 112. This increase came about as a result of increased capacity at Ermysted's Grammar School. The MAL at Skipton Girls High School was raised to ensure equal opportunities for girls and boys.

The proposed Coordinated Admissions Arrangements for secondary transfer and first admission to Primary Schools are attached as Appendix 5C. Of the 373 schools consulted, two schools commented regarding the proposed arrangements.

Governors of Oatlands Infant School are not in agreement with the proposed Coordinated Admissions Arrangements for primary schools, specifically in relation to the fact that for transfer from an infant to junior schools parents must complete a common application form for their child. Where a child is transferring from an infant school there is no guarantee, however, they will get a place at the linked junior school. Forms must be completed to enable allocations to be made in accordance with the published over subscription criteria.

The Governing Body of South Craven School does not believe that the Adjudicator's comments in relation to referral ADA 001076 have been fully or properly addressed. The response to this issue is set out earlier in this report.

The Executive RECOMMENDS:

(a) That the proposed Admissions Policy for Community and Voluntary Controlled schools for the academic year 2009/10 as shown in Appendix 5A be approved.

(b) That the proposed Admissions Policy for Community and Voluntary Controlled Nursery Schools, Nursery Classes and Pre-reception Classes for the academic year 2009/10 as shown in Appendix 5B be approved.

(c) That the proposed Co-ordinated Admission Arrangements for the academic year 2009/10 as shown in Appendix 5C be approved.

(d) That the proposed Maximum Admission Limits for Community and Voluntary Controlled schools as shown in Appendices 5D and 5E be approved and the limits for Voluntary Aided schools be noted

6. **Constitutional Issues:** The Members' Working Group on the Constitution has considered again the call-in procedures set out in Overview and Scrutiny Procedure Rule 16 and, in particular, the time limit of ten working days within which a meeting of the relevant Overview and Scrutiny Committee shall be held, dating from the date of the call-in. There was recognition that the existing time limit of ten working days provided little flexibility,

since it is always necessary to give five clear working days notice of any meeting, which means that, in practice, there are only four possible days on which a meeting of the Overview and Scrutiny Committee can be held within the time limit. There was discussion of whether there was merit in extending the time limit to fifteen working days, recognising that such an extension could give rise to additional delays before Executive decisions were implemented, if they were called in and if the Overview and Scrutiny Committee decided to refer them back to the decision making body. Members had differing views, however, on whether extending the deadline to fifteen working days would provide any significant addictional flexibility in finding dates which were suitable in Members heavily committed diaries. Recognising, however, that there might be circumstances where an extension of a day or two might assist in finding a more suitable date and, because of the dates of ensuing Executive meetings, this would not lead to any great delay, the Working Group proposed a modification to the Rule, which is set out below, which the Executive supports. The Executive also supports a proposal that Overview and Scrutiny Committee Procedural Rule 16(c) also be amended to provide that the Head of Committee Services shall notify all Members, by email, of the receipt of a call-in notice. The Members Working Group on the Constitution noted that paragraph (j) of that rule provides for the operation of the provisions relating to call-in and urgency to be monitored annually and a report submitted to Council with proposals for review, if necessary. The Members Working Group expressed the view that those provisions should be implemented.

Members have been informed that it is anticipated that the Head of Committee Services will leave that post prior to the meeting of the County Council in May, although he will remain in the employment of the County Council, and the post of Head of Committee Services will be disestablished, with the Head of Legal Services taking over responsibility for the functions carried out by that Unit. It is therefore proposed that, when the post of Head of Committee Services is disestablished, references to the Head of Committee Services and to the Head of Legal Services in the Constitution should all be changed to Head of Legal and Committee Services.

From time to time the County Council enters into contractual or service level arrangements with external bodies whereby the Council agrees to undertake work for or on behalf of the external bodies, or to provide services to them. Examples are the provision of legal and committee services to the North Yorkshire Fire and Rescue Authority, financial services provided to the North York Moors National Park Authority, and human resources services provided to Richmondshire District Council. There are many other examples.

The Council is statutorily empowered to enter into such arrangements by the Local Authorities (Supply of Goods and Services) Act 1970, the well-being powers in S.2 Local Government Act 2000 and other statutory powers. The ability to undertake such work enables services and work to be provided efficiently and cost effectively between the County Council and other bodies. It is, however, important that such arrangements are properly approved by the Council by means of effective delegation. At present, whilst the Delegation Scheme clearly enables Chief Officers to manage and promote services for which they are responsible, delegated power to agree to provide services and undertake work for external bodies needs to be clarified. It is important that the delegation arrangements are clear so that the Council is effectively insured for any work undertaken for external bodies, and so that officers involved in delivering the work or services are properly indemnified. To ensure that the matter is clear an amendment to the Officer Delegation Scheme is recommended below and, for the avoidance of doubt Members are asked to confirm agreement to the arrangements for the provision of work or services to external bodies that are already in place.

The Constitution still contains references to the School Organisation Committee. A that body was disestablished by statute during 2007, it is recommended below that reference in the Constitution to that body be deleted.

The Contract, Financial and Property Procedure Rules form part of the Constitution of the County Council. It falls within the Audit Committee's Terms of Reference to review and recommend to the Executive changes to Finance (FPR), Contract (CPR) and Property (PPR) Procedure Rules. Because the Rules govern activities that officers undertake on a daily basis, it is inevitable that suggestions and/or requirements for addition or amendment emerge on a continuous basis. For practical reasons, therefore, whilst officers conduct an annual review of the various Procedure Rules, it is accepted that particular circumstances may arise that require urgent changes to be made during the year.

Due to the devolved nature of procurement activity within the County Council, there is a wide range of knowledge, skills and experience regarding procurement best practice. Clearly the need for knowledge / skills / experience will vary depending on the nature of the procurement being undertaken by a particular officer. Work to develop a training needs analysis framework and subsequent training matrix is underway. Therefore, for the purposes of the CPR, the following new Rule is proposed –

> "That any officer involved in procurement activity should have received a level of formal training commensurate with the nature of the procurement activity being undertaken"

Whilst it will not be possible for all relevant officers to meet this requirement with immediate effect, the approval of this proposed new Rule will underline the need for the training. A timetable to deliver the necessary training will then be reflected in the Procurement Strategy Action Plan for 2008/09 et seq.

There is a longstanding requirement to update the Financial Procedure Rules (FPR) to reflect the development of the Revenue Budget / MTFS procedures in recent years as well as changes to the way the Capital Plan is now managed and monitored. Because these two processes are still in respective states of flux, the consequential changes to the FPR will be drafted and referred to the Audit Committee once the Budget setting process for 2008/09 has been concluded. However, certain issues have arisen from day to day affairs that require immediate consideration. Prior to 1 April 2007, the grant funding for local transport major schemes, and thereby the related terms and conditions, were accepted in the normal way by the Corporate Director – Business and Environmental Services and the Corporate Director – Finance and Central Services. However, the Department for Transport (DfT) has now moved from Transport Supplementary Grant, supported borrowing and Section 56 funding, to a 100% grant regime; this is based on powers contained in Section 31 of the Local Government Act 2003. Following these changes authorities must specifically confirm that they accept the terms and conditions of the Section 31 grant and provide documentary evidence to that effect. There are various ways in which an Authority may demonstrate that this necessary acceptance is in place, one of which is to delegate the necessary authority to the appropriate Officer, include it in the Authority's Constitution (Officers' Delegation Scheme), and reflect it in the Financial Procedure Rules. DfT officials indicated that they do not regard the County Council's existing Officers' Delegation Scheme and other arrangements as sufficient for their purpose. To expedite matters for the Highways schemes concerned (that involved withheld grant payments at the time in excess of £4m) the Executive referred the full terms and conditions of S.31 grant to the County Council so that evidence could be produced to the DfT officials that the full County Council had accepted every aspect of the Terms and Conditions relating to this specific offer of S.31 grant for these two specific schemes. Having complied with the requirements of the DfT officials, the grant is now being paid. To avoid the need for each offer, including terms and conditions, to be referred to full County Council, the Audit Committee has proposed an amendment to the Scheme of Delegation to Officers, together with consequential amendments to the Financial Procedure Rules, to add to the authority of the Corporate Director - Finance and Central Services as set out below –

> "4.6(o) To agree the terms and conditions of grant offers made to the Council; to accept such grant offers and sign associated documentation on behalf of the Council, provided that in cases of grant offers that exceed the sum of (£figure to be determined) the agreement and acceptance shall be subject to consultation with the Director to whose service the grant is relevant and with the Head of Legal Services."

In practice the issue involved in the S.31 case is, in principle, no different to the acceptance of any grant, whether the County Council or its responsible officers are fully aware of the consequences of possible non compliance with the terms and conditions of a grant before it is accepted At any one time there will be over 100 different grants that the County Council is in receipt of or in the process of accepting. These can range from a few £000s to £ms. The Audit Committee and Executive have taken the view that it would be sensible, therefore, for any change to the Scheme of Delegation to Officers, and in this particular regard the Corporate Director - Finance & Central Services (CDFCS)

- to be applied in relation to the acceptance of any grant, and
- to be matched by consequential amendments to the Financial Procedure Rules, but
- also reflect the materiality (ie size of grant) issue.

and relevant recommendations are set out below

The Members Working Group also discussed issues relating to the role and operation of Area Committees, including the possibility of holding a Members Seminar to look further at the role and operation of Area Committees to allow wide Member involvement in such discussions. The Working Group agreed that it should be permissible for Members of the County Council to give, prior to a meeting of an Area Committee, written notice of a question to which officers should give a written response, at the meeting, subject to the question not requiring excessive research or an exceptionally long response. The Chief Executive indicated that he believed that it should possible to provide such responses at Area Committee meetings, if written notice was given some days previously.

The Members Working Group on the Constitution considered what mechanisms, if any, there were for Members to comment on, or otherwise contribute to, the views on members' remuneration which the Chief Executive sends to the Independent Panel, for them to take into account when they are considering what recommendations to make to the County Council for the Members Allowances Scheme for the following year. The Chief Executive indicated that he would be happy to send, to Group Leaders, a draft of the paper he was proposing to submit to the Independent Panel for Members' comments, prior to its submission.

The Members Working Group on the Constitution also considered a number of other issues, including proposals to reduce the number of hard copy agendas printed and posted, both to representatives of the press and Members of the County Council, where these were for

Substitute Members or sent to Members for information. The Members Working Group supported the proposal that steps should be taken to reduce the number of hard copy agendas produced by providing, instead, agendas sent by email, recognising that all reports for public consideration were also placed on the County Council's website. Members of Committees, or Substitute Members who were expected to attend the meeting as Members would continue to be sent hard copy agendas and specific reports could be provided to Members in hard copy in response to a specific request

The Executive RECOMMENDS:

(i) That Overview and Scrutiny Committee Procedural Rule 16(c) and (h) be amended by adding, after the words “within ten working days of the decision to call-in” the words “or such later date as the Leader may agree to, subject to it being practicable for any reference back under paragraph (d) to be included, for reconsideration, on the agenda for the second meeting of the Executive, in the County Council Diary of meetings, following receipt of the call-in request.”

(ii) That Overview and Scrutiny Committee Procedural Rule 16(c) also be amended to provide that Head of Committee Services shall notify all Members, by email, of the receipt of a call-in notice.

(iii) That, when the post of Head of Committee Services is disestablished, references to the Head of Committee Services and the Head of Legal Services in the Constitution be changed to Head of Legal and Committee Services.

(iv) That the Officer Delegation Scheme be amended to include the following:

That Chief Officers be authorised to agree that the Council shall undertake work on behalf of, and to provide services to, external bodies in accordance with the Council's legal powers and duties'

and agreement be confirmed to any currently existing arrangements for the provision of works and services to external bodies.

(v) That, as the School Organisation Committee no longer exists, references to it in Schedule 5 – Appointments to Outside Bodies and paragraphs 4.2(d) and 4.8(b) of the Scheme of Delegation to Officers be deleted.

(vi) That a new rule be added to the Contract Procedure Rules as follows:- “That any officer involved in procurement activity should have received a level of formal training commensurate with the nature of the procurement activity being undertaken”.

(vii) That the Scheme of Delegation to Officers be amended to add to the authority of the Corporate Director – Finance and Central Services the power to agree the terms and conditions of grant offers made to the Council –

“4.6(o) To agree the terms and conditions of grant offers made to the Council; to accept such grant offers and sign associated documentation on behalf of the Council, provided that in cases of grant offers that exceed the sum of £50,000 the agreement and acceptance shall be subject to consultation with the Director to whose service the grant is relevant and with the Head of Legal Services.”

(viii) Consequentially the Financial Procedure Rules be amended as set out below:-

(a) create a separate section in the FPR relating specifically to grants, therefore

(b) delete Rules 6.25/6.27 and 7.16/7.18 and replace with the following

7. **Appointments to Committees and Outside Bodies:** In order to provide an opportunity for political groups and independent Members on the Council to propose changes to memberships, or substitute memberships of Committees, or other bodies to which the County Council makes appointments, the Executive recommends below that such nominations be approved.

The Executive RECOMMENDS:

That any proposals for other changes to memberships, or substitute memberships, of Committees or other bodies to which the County Council makes appointments, put forward by the relevant political group, at or before the meeting of the Council, be approved.

JOHN WEIGHELL
Chairman

County Hall,
NORTHALLERTON.

12 February, 2008