

NORTH YORKSHIRE COUNCIL

15 May 2024

Proposed Changes to the Constitution

Report of the Assistant Chief Executive Legal and Democratic Services

1.0 PURPOSE OF REPORT

- 1.1 To report back to Members for information, amendments to the Constitution made by the Assistant Chief Executive Legal and Democratic Services under his delegated powers.
- 1.2 To present to Members, for their approval, proposed amendments to the Constitution.
- 1.3 To recommend to Members that the Constitution continues to be reviewed on an ongoing basis by the Members' Working Group on the Constitution.

2.0 BACKGROUND

- 2.1 The Constitution is maintained by the Assistant Chief Executive Legal and Democratic Services and kept under review on an ongoing basis.
- 2.2 Under Article 15.02(c) of the Constitution, the Assistant Chief Executive Legal and Democratic Services has delegated power to amend the Constitution:
 - (i) to correct administrative issues such as cross-references, title changes, typographical errors and formatting;
 - (ii) to ensure that the Constitution and the Council's procedures meet all legal requirements;
 - (iii) to reflect changes to arrangements for the distribution of responsibilities and the delegation of powers in accordance with decisions taken by the person(s) or body with authority to take such action; and
 - (iv) consequentially, to give effect to changes explicitly approved by the full Council;

and any such amendments as set out in sub-paragraph (c)(ii) above shall be reported to the next meeting of the full Council.

- 2.3 Full Council previously agreed at the time of adopting the Constitution in 2023, that a full review of the Constitution should take place after one years' operation post Vesting Day. This is discussed later in this report.

3.0 AMENDMENTS TO THE CONSTITUTION

- 3.1 Part A of the amendments chart at **Appendix 1** sets out proposed amendments to the Constitution for Members' consideration, relating to:

- a) updating the Notes for the Standards and Governance Committee membership page to include the names of the additional Independent Persons for Standards appointed by full Council on 17 July 2023;
- b) making consequential amendments to reflect previously agreed changes to Financial Procedure Rule 28 (approval and acceptance process for the different type of grants), agreed by full Council on 15 November 2023 (and previously considered by the Members' Constitution Working Group).

3.2 The more substantive items for consideration are the subject of separate sections of this report below.

3.3 Part B of the amendments chart at **Appendix 1** sets out amendments for information which have been undertaken by the Assistant Chief Executive Legal and Democratic Services under his delegated powers in Article 15.02(c) of the Constitution and which are being reported back to full Council for information. The Assistant Chief Executive Legal and Democratic Services has recently used his delegated powers to amend the Constitution to:

- a) update out of date references in the Scrutiny of Health Committee terms of reference to the Strategic health authorities and the Healthcare Commission as they have ceased to exist and were replaced by the Health and Care Partnerships and the Integrated Care Boards;
- b) correct typographical/administrative/formatting errors.

3.4 Subject to any comments Members may have, full Council is recommended to:

- a) approve the proposed amendments to the Constitution set out in Part A of **Appendix 1**;
- b) note the amendments to the Constitution set out in Part B of **Appendix 1** to this report, made by the Assistant Chief Executive Legal and Democratic Services under his delegated powers and reported back to full Council for information.

4.0 **PROCUREMENT AND CONTRACT PROCEDURE RULES**

4.1 Proposed amendments to the Procurement and Contract Procedure Rules, previously considered by Members' Constitution Working Group and Executive, were approved by full Council on 15 November 2023.

4.2 Full Council also specifically delegated to the Assistant Chief Executive Legal and Democratic Services the power to make the necessary consequential changes to the Procurement and Contract Procedure Rules to incorporate the changes made by the Health Care Services (Provider Selection Regime) Regulations 2023. These rules make changes with regard to public healthcare services and seeks to promote collaboration and flexible decision making. It provides for a "Provider Selection Regime" (PSR) to come into force for certain health care services and will require some changes to the existing Procurement and Contract Procedure Rules. The Assistant Chief Executive Legal and Democratic Services has used his specific delegation from full Council on 15 November 2023 to consequentially amend the Procurement and Contract Procedure Rules as set out by way of tracked changes in **Appendix 2a** to this report.

4.3 In addition, the procurement thresholds for 2024 were released via the Public Procurement (Agreement on Government Procurement) (Thresholds) (Amendment) Regulations 2023 and these apply from 1 January 2024. The Assistant Chief Executive Legal and Democratic Services used his general delegation under Article 15.02(c) of the Constitution to consequentially amend the Procurement and Contract Procedure Rules as set out in **Appendix 2a** to this report.

4.4 The nature of the amendments made under the delegations are:

- Reference to the Health Care Services (Provider Selection Regime) Regulations 2023 and the implications of this added to the overarching statement at the beginning of the Rules.
- Inclusion of new terminology linked to the PSR (i.e. Health Care Services, PSR and PSR Governance Process).
- WTO GPA threshold updated throughout in line with the updated values.
- Inclusion of details around mixed procurement which include Health Care Services and when the PSR must be used.
- Inclusion of tables detailing the transparency procedures for the various Health Care Services processes and some minor formatting amendments to these tables.
- Reference to regulations updated throughout to differentiate between the PSR and the Public Contract Regulations (PCR).
- New Rule added detailing options for Health Care Services processes and rule numbers updated through to reflect additions.
- New PSR Governance Process added detailing authorisation process.
- Reference to Health Care Service updated throughout where required.

4.5 Some further minor typographical errors were amended by the Assistant Chief Executive Legal and Democratic Services and a clean version of the current Rules, with the changes accepted, is set out at **Appendix 2b** to this report for ease of reference.

4.6 Members are requested to note this report back regarding changes made to the Procurement and Contract Procedure Rules by the Assistant Chief Executive Legal and Democratic Services under his delegated powers.

5.0 **DEVELOPMENT PLAN COMMITTEE**

5.1 At its meeting on 15 November 2023, full Council agreed the approach to Member engagement and decision-making throughout the preparation of Development Plan Documents and Neighbourhood Plans as set out in that report, including the establishment of a Development Plan Committee, and consequential amendments to the Constitution.

5.2 Following the full Council meeting in November, the Assistant Chief Executive Legal and Democratic Services amended the Constitution consequentially to include Terms of Reference and Delegated Powers for the Development Plan Committee in accordance with the agreed approach. A copy is attached at **Appendix 3**. The membership list was also updated to reflect a membership change.

5.3 Members are requested to note this report back regarding the Development Plan Committee Terms of Reference and Delegated Powers attached at **Appendix 3**.

6.0 **COUNCIL PROCEDURE RULES**

6.1 A number of areas for discussion, suggested by Members, were considered by the Members' Working Group on the Constitution at its meeting on 21 March 2024, and by the Executive on 16 April 2024, relating to the number and length of council meetings, public and Member questions and motions. These areas are covered by Council Procedure Rules 2 and 9 to 14, extracts of which are attached at **Appendix 4** to this report.

6.2 The Working Group and Executive considered the issues raised below and recommend to full Council for approval, certain changes to the Council Procedure Rules:

a) The number of Council meetings

- i. that an additional Council meeting in February 2025 be introduced which is dedicated to the consideration of the Budget and the Council Plan;
- ii. this is to be the scheduled date of 19 February 2025;
- iii. all other business normally scheduled for 19 February 2025 to be moved to the reserve date of 21 February 2025;
- iv. for 2026, consideration should be given to spacing the meetings so that, for example, the dedicated Budget and Council Plan meeting is held in February and the other meeting held in March or April;
- v. for 2026, a reserve date should be kept for the Budget and Council Plan meeting. The Working Group considered this should be the following Wednesday, subject to seeking the views of the Corporate Director Finance. Following consultation with the Corporate Director, it is recommended that the reserve date for the Budget and Council Plan meeting be scheduled for the Friday in the week of the meeting, as this will help in ensuring there is maximum time available for billing purposes;
- vi. no public questions or statements to be allowed at the Council meeting dedicated to the Budget and Council Plan;
- vii. that there should be a greater time for Members to speak on the Council Budget – 6 minutes each for the mover and seconder and every spokesperson of a political group.

b) Public questions

- i. that public questions and statements should remain, **except** for the dedicated meeting for the consideration of the Budget and Council Plan (where no public questions or statements should be permitted);
- ii. where public questions/statements are permitted, there should be a limit of 30 minutes for public questions/statements at full Council meetings: 5 questions or statements maximum to be allowed at Council meetings (rationale that a question is 3 minutes, an answer 3 minutes and so that is the 30 minute total allowed in the Constitution);
- iii. each question/statement must relate to an item for decision on the Council agenda.

- iv. that there should be only one question or statement per individual, organisation or group in a given 6 month period (from the point at which the initial question was asked) for the Executive and Council meetings;
- v. that there should be no supplementary questions allowed at meetings of full Council;
- vi. the Chair of Council can refuse to accept a question or statement for a full Council meeting if it is the same as asked at Executive or Council in the previous 6 months;
- vii. the Chair of Council can refuse to accept questions/statements submitted to full Council or can refer them to other committees;
- viii. where there are multiple questions/statements on the same theme, there should be one spokesperson;
- ix. the Chair of Council should decide, in consultation with the Assistant Chief Executive Legal and Democratic Services, which questions are asked and in what order;
- x. there should be an express provision that no public planning related questions/statements are to come to full Council (as they are quasi judicial in nature and should generally be answered through the planning regime by being submitted to the Strategic Planning Committee) unless they specifically relate to a decision making item on the Council agenda;
- xi. that there should be no public questions or statements allowed at any Council or committee meeting from publicly declared candidates for elections, during the pre-election period.

c) Motions

- i. motions on notice should be moved higher up the order of business, to after the Leader's statement;
- ii. Scrutiny Board shall determine which overview and scrutiny committee is the most appropriate to consider motions referred from Council. Once the relevant overview and scrutiny committee has considered the matter, it should be referred back to the relevant decision making body rather than automatically being referred back to full Council;
- iii. that the provision in Council Procedure Rule 14 (Previous Decisions and Motions) regarding the proposer of a motion and 15 other members being able to call back something for re-debate be amended to provide for a 6 month embargo on bringing matters back for review/re-debate unless there has been a substantial material change in circumstances.

6.2.1 Proposed amendments reflecting the above are set out by way of tracked changes on the extracts in **Appendix 4**.

6.2.2 The proposed amendments set out in **Appendix 4** indicate where they are to apply to full Council meetings only. These include:

- re the order of public questions/statements:
 - Proposed Rule 9.2.1 - that the Chair may refuse to accept questions/statements submitted for full Council or may refer them for consideration to another committee.
 - Proposed Rule 9.2.3 – that the Chair may refuse to accept a question or statement for a full Council meeting if it is the same as asked/made at a meeting of full Council or the Executive in the previous six months.
- Rule 9.4 (number of public questions/statements) - No individual, organisation or group may submit more than one question or statement to full Council or Executive in a six month period (from when an initial question was asked or statement made by that individual, organisation or group).
- Rule 9.5 (scope of questions/statements) - a question/statement may be rejected if it:
 - ◆ in relation to full Council meetings, does not relate to an item for decision on the Council agenda;
 - ◆ it is directed to full Council and relates to a planning matter (unless the matter is specifically on the agenda for that full Council meeting);
 - ◆ is submitted by an individual, organisation or group who has submitted a question or statement to full Council or the Executive in the previous six months; [in respect of a purported question/statement for a full Council meeting];
- Proposed Rule 9.8.2 – that provisions re supplemental questions do not apply to meetings of full Council.

6.2.3 Council Procedure Rule 22 applies the CPR with any necessary modification to committee and sub-committee meetings (with specified exceptions). A proposed amendment is included to indicate that the CPR do not apply to committees and sub-committees where expressly excluded. Therefore as the proposed amendments are currently drafted, where the amendments specifically reference “full Council”, they will not apply to committees and sub-committees. Should Members feel that any of those proposed amendments only currently specified to apply to full Council should also apply to all committees and sub-committees, then it is recommended that delegated authority be given to the Assistant Chief Executive Legal and Democratic Services to make any further amendments to the CPR as may be required by Members.

6.3 Subject to any comments Members may have, it is recommended that the draft amendments to the Council Procedure Rules set out in **Appendix 4** be approved and that the Assistant Chief Executive Legal and Democratic Services be authorised to make any further amendments as Members may require to the Council Procedure Rules.

7.0 **OVERVIEW AND SCRUTINY OF HOUSING SERVICES**

7.1 The Members' Working Group on the Constitution and the Executive considered a report of the Corporate Director Community Development regarding the overview and scrutiny of housing services. The report sought views regarding how the scrutiny of housing services could be taken forward in light of concerns that the existing arrangements do not create the capacity to enable this complex, detailed and high-profile area of work to be effectively reviewed on an ongoing basis. The report highlighted the need for Council to revise the current arrangements for the oversight and scrutiny of its housing services without the need to significantly change its existing constitution.

Background

7.2 When the new North Yorkshire Council was created, responsibility for the overview and scrutiny of housing services was added to the remit of the existing Care and Independence scrutiny committee. Feedback from Members post Vesting Day would suggest that their existing workload would not allow for sufficient time to be afforded to this additional area of work and they have suggested that alternative arrangements should be explored.

7.3 As set out in the accompanying HRA Governance Arrangements working paper (**Appendix 5**), there has been a considerable change in the landscape for the regulation of social housing through the introduction of the Social Housing Regulation Act 2023 and subsequently the launch of the revised consumer standards for social housing with effect from April 2024 onwards. North Yorkshire Council, as a landlord, has a significant amount of policy review, service improvement and embedding of governance arrangements to complete in order to demonstrate compliance with the new requirements meaning that more Member time should be dedicated to overview and scrutiny of Housing.

7.4 In addition to providing oversight and scrutiny of the Council's HRA functions, the committee also needs to perform this role for the full range of housing services for which NYC is responsible for and which extends to housing strategy, homelessness and housing needs, the delivery of affordable housing as well as private sector housing renewal.

7.5 This report suggests that the work associated with overseeing and scrutinising housing services could be transferred to the Transition (LGR) Overview and Scrutiny Committee or that a new overview and scrutiny committee that focussed upon housing and related matters (potentially including some aspects of the existing work of the Transition (LGR) Overview and Scrutiny Committee) be created.

7.6 The Transition (LGR) Overview and Scrutiny committee currently scrutinises Leisure, Culture, Tourism, Arts, Waste Collection, Bereavement Services and Licensing, as well as the significant decisions made by the Executive regarding the new unitary authority and Local Government Reorganisation.

7.7 The Committee has been retained until 31 March 2026 with a review after two years (i.e. after 31 March 2025). The Members' Working Group on the Constitution and Executive have considered the status of the Transition (LGR) Overview and Scrutiny Committee and are now making certain recommendations to full Council.

7.8 In September 2023 the Council sought an external view of the Housing Revenue Account (HRA) and HRA Business Plan, which brings together the HRAs of the

three former stockholding councils and a review of the governance and associated arrangements in place in relation to compliance with the Regulator of Social Housing's (RSH's) current and (at that point proposed) revised Consumer Standards.

7.9 One of the suggestions was that North Yorkshire Council's governance arrangements could be enhanced to provide greater assurance that the Council can oversee its responsibilities as a Registered Provider.

7.10 Following this, regarding the current overview and scrutiny arrangements it was suggested that given the breadth and importance of the committee's remit there is likely to be significant pressure on meeting agendas and a risk that social housing activity receives insufficient attention. Scrutinising social housing activities may also benefit from different/ additional skillsets and one option the Council may wish to consider is establishing housing-specific member scrutiny arrangements.

7.11 Currently the responsibility for overview and scrutiny of housing at the Council rests within the Terms of Reference the Care and Independence and Housing Overview and Scrutiny Committee which "Scrutinises the needs of vulnerable adults, older people and people whose independence needs to be supported by intervention from the public or voluntary sector and housing".

7.12 Given the workload associated with the increasing regulation of the council's landlord function it is suggested to remove the overview of scrutiny of housing from the Terms of Reference of the Care and Independence and Housing Overview and Scrutiny Committee.

7.13 It is suggested that the responsibility for the overview of scrutiny of housing could rest within the Terms of Reference of the Transition (LGR) Overview and Scrutiny Committee and amend the scope of that committee to cover: 'Housing, Leisure, Culture, Tourism, Arts, Waste Collection, Bereavement Services and Licensing. Alternatively, a new overview and scrutiny committee be created that focussed upon housing and related matters (potentially including some aspects of the existing work of the Transition (LGR) Overview and Scrutiny Committee). The future role of the Transition (LGR) Overview and Scrutiny Committee could then be reviewed.

7.14 The Housing element would have the following requirements:

7.14.1 Scope

In scope for the work of the committee would be the functions of the Housing Service:

- Housing Delivery, Enabling, Partnerships
- Housing Needs
- Housing Standards
- Landlord Services
- Private Sector Renewal.

7.14.2 Out of scope

- Planning/Local Plan/ wider housing delivery.

7.15 Workplan

Appendix 5 contains an example cyclical work plan based upon regulatory reporting requirements. Key reports that the committee would need to consider will be:

- HRA Business Plan

- Self-assessment of compliance with the Complaints Handling Code
- Tenant Satisfaction Measures
- Quarterly Performance and financial monitoring.
- Complaints monitoring
- Resident Panel Feedback.

7.16 Task and Finish Groups

It is envisaged that specific Task and Finish Groups would be required, for example, regarding Housing Policy, to speed up scrutiny of and therefore adoption of a plethora of policies required by the Regulator to fulfil our landlord function.

7.17 Membership

We would require a level of flexibility in order to co-opt external experts in, for example,

- Tenant engagement/involvement
- Landlord health and safety
- Asset management and
- Local authority finance.
- Tenant representatives.

7.18 Links to Tenant Scrutiny

A core element of consumer standards compliance is providing opportunities for tenants to scrutinise and hold their landlord to account, we will need to consider how member-scrutiny and tenant scrutiny can work together. This will be kept under review during development of the Tenant Scrutiny arrangements.

Alternative options considered

7.19 Do nothing. As stated above, the option of leaving the oversight and scrutiny of housing services with the Care and Independence and Housing Overview and Scrutiny committee would seem to rule out this option due to concerns around workload.

7.20 Create a new overview and scrutiny committee. This option would enable a sharp focus upon housing related matters and could include aspects of the work of the existing Transition (LGR) Overview and Scrutiny Committee. The necessary changes to the Constitution and committee appointments could be made at Council in May and so the new committee could be meeting by June 2024. This would then mean that an additional committee had been created, increasing the workload upon members. As such, there may be value in reviewing the ongoing position of the Transition (LGR) Overview and Scrutiny Committee.

7.21 Transfer responsibility for the oversight and scrutiny of housing services to an existing committee. This has the least impact overall and can be delivered relatively quickly in order to meet the regulatory challenges faced by NYC.

Implications

7.22 Any financial implications would be minimal. There will be a need to provide specific training to committee members to ensure up to date knowledge of the new regulatory environment.

7.23 Regarding legal implications, the requirement for local authorities in England to establish overview and scrutiny committees is set out in sections 9F to 9FI of the

Local Government Act 2000 as amended by the Localism Act 2011. The legislation permits the Council to determine its own overview and scrutiny arrangements to best suit its needs.

- 7.24 There are no equalities or climate change implications.
- 7.25 Transferring the responsibility for the overview and scrutiny of housing services from the Care and Independence and Housing Overview and Scrutiny committee to the Transition (LGR) Overview and Scrutiny committee or to a dedicated housing overview and scrutiny committee delivers the best outcomes for the authority and its residents.
- 7.26 The Members' Working Group on the Constitution and the Executive considered these matters at their meetings on 21 March 2024 and 16 April 2024 respectively and agreed that it be recommended to full Council, that:
- i. the Transition (LGR) Overview and Scrutiny Committee should formally cease as of the 15 May 2024 Council meeting. Any outstanding work should be re-allocated, in liaison with Scrutiny Board, to the other overview and scrutiny committees (with the exception of matters relating to leisure);
 - ii. A new Housing and Leisure Overview and Scrutiny Committee to be created at the 15 May 2024 Council meeting, appointments to which to be made at full Council (16 members politically balanced as per the other overview and scrutiny committees) and the first meeting of the new overview and scrutiny committee to follow in June 2024.
- 7.27 Since consideration of this report by the Members' Working Group on the Constitution and the Executive, a further proposed administrative amendment to Article 6 is tracked at **Appendix 5b**, to remove reference to the Local Enterprise Partnership, which has now transferred to the York and North Yorkshire Combined Authority, from the Terms of Reference of the Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee. The opportunity has been taken to make this further proposed amendment to Article 6 ensure the Constitution is kept up to date.

8.0 **INDEPENDENT REMUNERATION PANEL TERMS OF REFERENCE**

- 8.1 The Members' Working Group on the Constitution and Executive considered a report regarding draft changes to the Terms of Reference for the Council's Independent Remuneration Panel on Member Allowances that has been proposed by the Panel Members.

Background

- 8.2 The Independent Remuneration Panel was convened by legislation in 2003. The role of the Panel is to consider issues relating to Members' remuneration and expenses and then to make recommendations and provide advice to the Council.
- 8.3 The Panel currently consists of four members, recruited by open advert for a four-year term of office. It is open for any member of the public to apply. Members may be re-appointed for a further term of up to four years. Interviews for and appointments to the Panel are made by the Leaders of the Political Groups, the

Chief Executive, the Monitoring Officer, and the Chair of the Panel, or another Member of the Panel. The Panel chooses its own Chair and duration.

Terms of Reference

8.4 In December 2023, the Panel undertook a review of their Terms of Reference. The Panel members felt that the existing Terms of Reference needed to be refreshed to accurately reflect that work that was being undertaken. The amendments that are proposed are relatively minor points of clarification, context and simplification and do not alter the role, remit and responsibilities of the Panel. The current Terms of Reference are at **Appendix 6** and the proposed revised Terms of Reference are at **Appendix 7**.

8.5 The Terms of Reference for the Independent Remuneration Panel are not included in the Constitution for the Council, reflecting the independent nature of the Panel which has to be at arm's length from the Council. The Terms of Reference were, however, taken to the Member Working Group on the Constitution and Executive for review ahead of them being presented to full Council.

8.6 Subject to any comments Members may have, it is recommended that the proposed revised Terms of Reference for the Council's Independent Remuneration Panel on Member Allowances that have been proposed by the Panel Members as set out at **Appendix 7**, be approved.

9.0 **FULL REVIEW OF CONSTITUTION**

9.1 At the time of adopting the Constitution for North Yorkshire Council, full Council agreed that a review of the Constitution should take place after 12 months' operation of the unitary authority.

9.2 The inaugural year of North Yorkshire Council is now complete and the Members' Working Group on the Constitution and the Executive have given initial consideration to the form and scope of the review. Members agreed that as the Constitution is a 'living' document, which has been continually reviewed by the all-Party Constitution Working Group throughout the first year of the authority, there may be limited merit in undertaking a full review of the whole Constitution at this time, which would consume a significant proportion of officer and Member time.

9.3 It is therefore recommended to full Council that there be a continuation of the current ongoing review procedure, rather a full review at this time.

10.0 **FINANCIAL IMPLICATIONS**

10.1 There are no significant financial implications arising from this report.

11.0 **LEGAL IMPLICATIONS**

11.1 The legal implications are set out in the body of this report.

12.0 **ENVIRONMENTAL/CLIMATE CHANGE IMPLICATIONS**

12.1 There are no significant environmental or climate change implications arising from this report.

13.0 **CONSULTATION**

13.1 Relevant Officers and Members have been consulted on the proposed changes set out in this report and its Appendices.

13.2 This report also incorporates the views of the Members' Working Group on the Constitution as expressed at the Group's meeting on 21 March 2024 and the Executive on 16 April 2024.

14.0 **REASONS FOR RECOMMENDATIONS**

14.1 For the reasons set out in the body of this report and in the Appendices, it is recommended that, subject to any comments Members may have, the matters raised in this report be considered and the recommendations and proposed changes to the Constitution set out below be noted and approved as indicated.

15.0 **RECOMMENDATIONS**

15.1 That, subject to any comments Members may have:

- (a) the proposed amendments to the Constitution set out in **Part A of Appendix 1** be approved;
- (b) Members note the amendments to the Constitution set out in **Part B of Appendix 1** to this report, made by the Assistant Chief Executive Legal and Democratic Services under his delegated powers and reported back to full Council for information;
- (c) Members note the consequential amendments to the Procurement and Contract Procedure Rules as set out in **Appendices 2a and 2b** to this report made by the Assistant Chief Executive Legal and Democratic Services under his general delegations in Article 15.02(c) of the Constitution and specific delegated power from full Council on 15 November 2023, and reported back to full Council for information;
- (d) Members note the Development Plan Committee Terms of Reference and Delegated Powers consequentially included in the Constitution and attached at **Appendix 3** to this report, reported back to full Council for information;
- (e) full Council agree that there be 5 full Council meetings per year, the fourth meeting to consider the Council Budget and Council Plan only and the reserve date to be used for the rest of Council business; and:
 - i. that for 2025, the scheduled meeting on 19 February 2025 be the additional Council meeting dedicated to the consideration of the Budget and the Council Plan and all other business normally scheduled for 19 February 2025 be moved to the reserve date of 21 February 2025;
 - ii. that for 2026, the meetings be spaced so that the dedicated Budget and Council Plan meeting is held in February and the other meeting held in March or April;
 - iii. that for 2026, a reserve date should be kept for the Budget and Council Plan meeting; instead of this being on the Friday in the week of the

meeting, it is recommended that the reserve date be on the following Wednesday (a week after the Budget and Council Plan Council meeting);

- (f) the proposed amendments to the Council Procedure Rules set out in section 6 of this report and **Appendix 4** be approved and the Assistant Chief Executive Legal and Democratic Services be authorised to make any further amendments to the Council Procedure Rules that Members may require;
- (g) the Transition (LGR) Overview and Scrutiny Committee should formally cease as of the 15 May 2024 Council meeting and that any outstanding work should be re-allocated, in liaison with Scrutiny Board, to the other overview and scrutiny committees (with the exception of matters relating to leisure); that the proposed amendments to the overview and scrutiny committee terms of reference in Article 6 of the Constitution as set out by way of tracked changes in **Appendix 5b** be approved; and that the Assistant Chief Executive Legal and Democratic Services be authorised to make any further consequential amendments which may be required to the Constitution;
- (h) a new Housing and Leisure Overview and Scrutiny Committee of 16 Members and politically balanced (as per the other overview and scrutiny committees) be created at the 15 May 2024 Council meeting, appointments to which to be made at that meeting of full Council and the first meeting of the new overview and scrutiny committee to follow in June 2024; that the proposed amendments to the overview and scrutiny committee membership lists in Part 3, Schedule 3 of the Constitution as set out by way of tracked changes in **Appendix 5c** be approved; and that the Assistant Chief Executive Legal and Democratic Services be authorised to make any further consequential amendments which may be required to the Constitution;
- (i) the proposed revised Terms of Reference for the Council's Independent Remuneration Panel on Member Allowances that have been proposed by the Panel Members as set out at **Appendix 7**, be approved;
- (j) instead of a detailed review of the Constitution post 12 months' operation of the new authority, the current process of ongoing review by the Members' Working Group on the Constitution be continued.

BARRY KHAN
Assistant Chief Executive Legal and Democratic Services

County Hall
NORTHALLERTON

25 April 2024

Background Documents:
North Yorkshire Council Constitution
The Local Government 2000 as amended

Appendices

- 1. Proposed Amendments Chart
- 2a. Consequential tracked change amendments to the Procurement and Contract Procedure Rules.

- 2b. Procurement and Contract Procedure Rules (consequential tracked changes accepted).
3. Development Plan Committee Terms of Reference
4. Extracts from Council Procedure Rules
5. HRA Governance paper
- 5b. Proposed amendments to Article 6 (Overview and Scrutiny Committees' terms of reference)
- 5c. Proposed amendments to Part 3, Schedule 3 of the Constitution (Overview and scrutiny committee membership lists)
6. Current Terms of Reference of Independent Remuneration Panel on Member Allowances
7. Proposed revised Terms of Reference of Independent Remuneration Panel on Member Allowances
8. Equality Impact Assessment Screening Form
9. Climate Change Impact Assessment Screening Form

APPENDIX 1

Proposed Amendments to Constitution – for full Council in May 2024

Where amendments are suggested to part of a paragraph, only the relevant part is replicated in the amendment chart below.

| <u>PART A: ITEMS FOR DECISION</u> | | | |
|---|---|--|--|
| Provision in Constitution | Current Wording | Proposed Amendment | Reason(s) |
| Part 3 – Responsibility for Functions Schedule 1 – Council Committees, their membership and powers Standards and Governance Committee | Note: (i) The Standards and Governance Committee is subject to the rules on political balance. (ii) The Independent Persons for Standards are Hilary Gilbertson MBE and Louise Holroyd. | Note: (i) The Standards and Governance Committee is subject to the rules on political balance. (ii) The Independent Persons for Standards are <u>Gillian Baker</u> , Hilary Gilbertson MBE, Louise Holroyd, <u>Roy Martin</u> , <u>James Nelson and Richinda Taylor</u> . | To update the Notes for the Standards and Governance Committee membership page to include the names of the additional Independent Persons for Standards appointed by full Council on 17 July 2023. Deleted: and |
| Part 3 – Responsibility for Functions Schedule 2 – The Executive Executive Members' Delegation Scheme Paragraph 6 | 6. In respect of grant or other external funding: (a) Following consultation with the relevant Corporate Director and the Corporate Director of Resources, to authorise the submission of bids for grant or other external funding in excess of £500,000; and (b) Following consultation with the relevant Corporate Director, the Corporate Director of Resources and the Assistant Chief Executive Legal and Democratic Services to authorise the acceptance of | 6. In respect of grant or other external funding: (a) <u>To be consulted, along with the Executive Member for Finance, regarding the submission of bids for grant or other external funding of £200,000 or more (save in the case of recurring grants, where consultation with the Executive Member will be at the discretion of the Chief Finance Officer), as set out in Financial Procedure Rule 28.4;</u> and (b) Following consultation with the <u>Chief Finance Officer and the Executive</u> | To make consequential amendments to reflect changes to Financial Procedure Rule 28 (approval and acceptance process for the different type of grants) agreed by full Council on 15 November 2023 (and previously considered by the Members' Constitution Working Group). Deleted: Following consultation with the relevant Corporate Director and the Corporate Director of Resources, to Deleted: in excess Deleted: 5 Deleted: relevant Corporate Director, the Corporate Director of Resources Chief Finance Of |

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| | <p>any offer of grant or other external funding of £200,000 to £1million (inclusive) in line with the requirements of Rules 28.5 of the Financial Procedure Rules;</p> <p>subject, in all cases, to the implications for the Council being consistent with the budget and policy framework, and subject also to the requirements of the Financial Procedure Rules in relation to Partnerships and Accountable Bodies at Rules 29 and 30 respectively.</p> | <p><u>Member for Finance.</u> to authorise the acceptance of any offer of <u>new</u> grant or other external funding of £200,000 to £1million (inclusive) in line with the requirements of Rules 28.5 of the Financial Procedure Rules;</p> <p><u>(c) To be consulted, along with the Executive Member for Finance, regarding the acceptance of recurring grants or other external funding of £200,000 or more, as set out in Financial Procedure Rule 28.5;</u></p> <p>subject, in all cases, to the implications for the Council being consistent with the budget and policy framework, and subject also to the requirements of the Financial Procedure Rules in relation to Partnerships and Accountable Bodies at Rules 29 and 30 respectively.</p> | <p>Deleted: and the Assistant Chief Executive Legal and Democratic Services,</p> |
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PART B: ITEMS FOR INFORMATION

| | | | | |
|---|--|--|---|---|
| <p>Part 2 – Articles</p> <p>Article 6 – Overview and Scrutiny Committees</p> <p>6.01 Terms of Reference</p> <p>Scrutiny of Health</p> | <p>To review any matter relating to the planning, provision and operation of health services in the County, including Ambulance Trusts and the policies of the Strategic Health Authority.</p> <p>The aim is to act as a lever to improve the health of local people, ensuring that the needs of the local people are considered as an integral part of the delivery and development of health services.</p> <p>To focus on action to achieve health improvement; to examine health care in the context of the wider determinants of health; to examine how health services address the needs of local communities; especially to address health inequalities; to ensure that local health and health related issues are being tackled jointly and in a co-ordinated way across agencies.</p> <p>To contribute to the annual health checks by providing commentaries to the Health Care Commission on the performance of NHS Trusts serving North Yorkshire and on the experiences that the Committee has had with those Trusts.</p> | <p>To review any matter relating to the planning, provision and operation of health services in the County, including Ambulance Trusts and the policies of the <u>Health and Care Partnerships</u>.</p> <p>The aim is to act as a lever to improve the health of local people, ensuring that the needs of the local people are considered as an integral part of the delivery and development of health services, <u>and will look:</u></p> <ul style="list-style-type: none"> • <u>To</u> focus on action to achieve health improvement; • <u>To</u> examine health care in the context of the wider determinants of health; • <u>To</u> examine how health services address the needs of local communities; • <u>To</u> especially to address health inequalities; • <u>To</u> ensure that local health and health related issues are being tackled jointly and in a co-ordinated way across agencies; • To contribute to annual health checks by providing <u>feedback</u> to the <u>Integrated Care Boards and</u> NHS Trusts serving North Yorkshire <u>on their performance</u> and the experiences that the Committee has with <u>them</u>. | <p>To update out of date references namely to replace the references to the Strategic health authorities and the Healthcare Commission as they have ceased to exist and were replaced by the Health and Care Partnerships and the Integrated Care Boards.</p> | <p>Deleted: Strategic Health Authority</p> <p>Deleted: .</p> <p>Deleted: t</p> <p>Deleted: t</p> <p>Deleted: t</p> <p>Deleted: .</p> <p>Deleted: the</p> <p>Deleted: commentaries</p> <p>Deleted: Health Care Commission</p> <p>Deleted: on the performance of</p> <p>Deleted: on</p> <p>Deleted: had</p> <p>Deleted: those Trusts</p> |
| <p>Part 3</p> <p>Schedule 1 – Council Committees, their membership and their powers</p> <p>Pension Fund Committee</p> | | <p><i>The Pension Fund Committee membership list in the Constitution has been updated to reflect membership changes.</i></p> | <p>To keep the Constitution up to date.</p> | |

| | | | |
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| <p>Part 3</p> <p>Schedule 1 – Council Committees, their membership and their powers</p> <p>Health and Wellbeing Board Terms of Reference</p> | <p>1. Core Functions</p> <p>1.1 The Health and Social Care Act 2012 requires the Council to establish a Health and Wellbeing Board (the Board) for Irea to encourage the improvement and integration of working of health and social care for North Yorkshire.</p> | <p>1. Core Functions</p> <p>1.1 The Health and Social Care Act 2012 requires the Council to establish a Health and Wellbeing Board (the Board) for <u>its area</u> to encourage the improvement and integration of working of health and social care for North Yorkshire.</p> | <p>To correct a typographical error.</p> |
| <p>Whole Constitution</p> | | <p><i>Minor formatting/typographical/administrative errors have been corrected in the Constitution under the Monitoring Officer's delegated powers as set out in Article 15.02(c)(i) of the Constitution to correct administrative issues.</i></p> | <p>To ensure that the Constitution is accurate and up to date.</p> |

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Procurement and Contract Procedure Rules

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2. General
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*These Rules constitute the Council's Standing Orders in relation to contracts under Section 135 of the Local Government Act 1972 and apply to all contracts (excluding those stated in **Rule 2.2**), including those made in the course of the discharge of functions which are the responsibility of the Executive.*

Please note that any reference within these Rules to the Public Contracts Regulations 2015 and any requirement arising from them remain in force in accordance with the Withdrawal Agreement 2019 until replaced by future legislation. [The Health Care Services \(Provider Selection Regime\) Regulations 2023](#) comes into effect 1st January 2024 and will replace the [Public Contracts Regulations 2015 when arranging health care services and revoke the National Health Service Regulations 2013](#). Further guidance will be issued by the Procurement and Contract Management Service in due course.

1. INTRODUCTION

1.1 These terms will have the following meanings in the Procurement and Contract Procedure Rules:-

Above Threshold Process means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant WTO GPA Threshold

Above Threshold Tender means a tender submitted as part of an Above Threshold Process

Best Value Form means the form to be completed to capture the rationale for not seeking bids in accordance with **Rule 8.6**

Competitive Grant Form means the form to be completed confirming the competitive process being undertaken to award the Grant

Concession means as defined in Regulation 3(4) of the Concession Contracts Regulations 2016

Constitution means the Council's Constitution of which these Rules form part

Contract means any agreement, excluding a Grant, made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in **Rule 2.2**

Contracts Finder means the web-based portal as described in Chapters 7 & 8 of the Public Contracts Regulations 2015

Contract Management Practitioners Group means the Council's practitioner group responsible for improving contract management standards, chaired by the Senior Contract Officer/s

Contract Register means the register of Contracts maintained by the Council as set out in **Rule 18.6**

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| Contractor | means a person or entity with whom the Council has a contract |
| Council | means The North Yorkshire Council |
| Decision Record | means a record of a decision produced in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 |
| Director | means the Chief Executive Officer; Assistant Chief Executive HR and Business Support, Assistant Chief Executive Legal and Democratic Services, Assistant Chief Executive Local Engagement, Corporate Director of Environment; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director of Resources; Corporate Director of Community Development as the context requires |
| Directors Recommendation | means a written record of the decision and justification to apply one of the exceptions set out in Rule 17.2 to be signed and kept by the relevant Director |
| Electronic Signatures | means an advanced electronic signature which is: <ul style="list-style-type: none"> (i) uniquely linked to the signatory; and (ii) capable of identifying the signatory; and (iii) created using means that the signatory can maintain under his/her sole control; and (iv) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable. |
| E-Sourcing system | means the Council's chosen E-sourcing system |
| FPP | means the Forward Procurement Plan which outlines all future procurement requirements of the Council |
| Framework Agreement | means an agreement with one or more contracting authorities and one or more economic operator which establishes an arrangement for: <ul style="list-style-type: none"> (i) multiple orders to be placed with one Contractor (a single supplier framework), or (ii) a framework of multiple Contractors to engage in further competitions or direct award (a multiple supplier framework) |
| Gateway Process | means the Council's value based gateway commissioning and procurement process that combines assessment and |

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understanding of various aspects of value with appropriate review and scrutiny at defined points in the commissioning and procurement cycle

Health Care Services means those services detailed within Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023

Grant means a sum of money awarded by the Council to third parties

HoP means the Head of Procurement and Contract Management

Internal Audit means the Council's appointed internal auditors (currently Veritau)

ITB means an Invitation to Bid

ITQ means an invitation to Quote

ITT means an Invitation to Tender

Key Decision means a decision made in connection with the discharge of a function which is the responsibility of the Executive set out in Article 13.03(b) of the Constitution

Leasing Agreement means a contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the contract period

LDSO means a Legal and Democratic Services Officer

Member means an elected member of the Council or co-opted member on a Council committee

Monitoring Officer means the Council's appointed Monitoring Officer

Officer means a Council employee or other authorised agent

PAB means the Procurement Assurance Board, chaired by the HoP

Participant means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract

PSBO means Public Sector Buying Organisation

PCR means the Public Contracts Regulations 2015

Person means any individual, partnership, company, trust, other local authority, Government department or agency

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| Procurement and Contract Management Service | means the procurement and contract management team at the Council |
| Procurement Manual | means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules |
| Procurement and Contract Management Strategy | means the Council's approved Procurement and Contract Management Strategy |
| Property Contract | means a contract which creates an estate or interest in land or buildings |
| <u>PSR</u> | <u>means The Health Care Services (Provider Selection Regime) Regulations 2023</u> |
| <u>PSR Governance Process</u> | <u>means the Council's value based governance commissioning and procurement process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points in the commissioning and procurement cycle</u> |
| Responsible Officer | means the Officer from the directorate who is responsible for the procurement and/or management of a Contract |
| Rules | means these Procurement and Contract Procedure Rules |
| SCM | means Senior Category Manager |
| S151 Officer | means the Council's appointed Section 151 Officer |
| Services or Supplies | means as defined in Regulation 2 of the PCRs |
| Social and Other Specific Services | means those services defined as such in Schedule 3 of the PCRs |
| SQ | means the Selection Questionnaire |
| WTO GPA Threshold | means the current threshold above which the PCR's apply, currently £ <u>214,904</u> inclusive of VAT for services and supplies £663,540, inclusive of VAT for social and other specific services and £5, <u>372,609</u> for works inclusive of VAT |
| Waiver Request Form | means the prescribed form to be completed when requesting a waiver in accordance with Rule 17.5 |
| Works | means as defined in Regulation 2 of the PCRs |

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1.2 These Rules form part of the overall control framework within which the Council operates. They aim to facilitate sound, innovative service delivery by setting out best

practice for the administration of all procurement and contract management matters throughout the Council, ensuring a high quality of procurement and contract management information, robust procurement and contract management and enabling good decision making. They should not be viewed as a barrier to executive action and are constantly kept under review to ensure that they remain relevant to the day to day activities of the Council and contribute to the delivery of value for money.

1.3 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, WTO requirement) include a reference to any amendment or re-enactment of such legislation;
- (b) the value of any Contract or Grant are to the total estimated value payable (including VAT where applicable) over the full period of the Contract or Grant including any options or extensions to the Contract or Grant.
- (c) Directors, the S151 Officer and the Monitoring Officer shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-
 - (i) Director - **Rules 9.6, 16.1 (e) and (j)**
 - (ii) S151 Officer - **Rules 2.1**
 - (iii) Monitoring Officer - **Rules 2.1**

where delegation is not permitted, except in exceptional circumstances. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the S151 Officer and the Monitoring Officer.

2. GENERAL

- 2.1 These Rules are made by the Council on the advice of the S151 Officer (in consultation with the Monitoring Officer) under Article 14.02 of the Constitution and define the correct procedures to be followed when the Council enters into any contractual arrangement and should be read in conjunction with the Finance Procedure Rules under Article 14.01 of the Constitution.
- 2.2 These Rules apply to all Grants and Contracts for Works, Supplies, Services or Social and Other Specific Services, and Health Care Services (unless otherwise specified) but do not apply to: -
- (a) contracts of employment;
 - (b) property contracts (which are covered by the Property Procedure Rules); and
 - (c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options contracts) (which are covered by the Financial Procedure Rules).
- 2.3 The S151 Officer (in consultation with the Monitoring Officer) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.

- 2.4 The S151 Officer has produced a Procurement Manual which sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Manual.
- 2.5 The S151 Officer has also produced a Finance Manual which gives advice on financial procedures.
- 2.6 Where a contract for the acquisition or hire of goods or services involves any form of Leasing Agreement to finance the transaction then the S151 Officer shall undertake the negotiation of terms and authorise the arrangement in accordance with Rule 20.10 of the Financial Procedure Rules.
- 2.7 Directors and the HoP shall ensure that all documentation relating to Contracts, Grants and procurement processes is retained in accordance with the Council's Records Retention and Destruction Schedule.
- 2.8 Where the Council has awarded a contract to any person to supervise or otherwise manage a contract on its behalf such a person shall be required to comply with these Rules as if they were an Officer of the Council.
- 2.9 Wherever appropriate procurement shall be undertaken using the standard documents contained in the Procurement Manual applying to SQ's, ITT's or ITBs. Wherever alternative documents are to be used they must be approved by the HoP and where appropriate the Monitoring Officer.
- 2.10 All Officers shall adhere to the approved Procurement and Contract Management Strategy of the Council.
- 2.11 Where the Council is procuring in partnership with another contracting authority who are the lead procurer, subject to agreement from the HoP, the Council will follow the lead procurers Procurement and Contract Procedure Rules or equivalent.
- 2.12 Where the total Grant or Contract value is within the values in the first column of **Tables 1-5**, below, the award and transparency procedure in the second and third column must be followed.
- 2.13 Where a procurement includes two or more types of provision (i.e. Goods, Services and Works) the value shall be based on the provision that characterises the main subject of the Contract in question.
- 2.14 When a contract comprises a mixture of in-scope Health Care Services and out-of-scope Services or Goods, relevant authorities may only use the PSR to arrange those services when both of the below requirements are satisfied:
- The main subject-matter of the contract is in-scope Health Care Services
 - The relevant authority is of the view that the other goods or services could not reasonably be supplied under a separate contract.
- 2.15 For the purposes of the Transparency Procedures set out in **Tables 1-5** below, the Responsible Officer must also consider the Key Decision criteria set out in Article 13.03(b)(i) of the Constitution when determining whether the procurement comprises a Key Decision.

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Table 1: Goods and Services (excluding Social & Other Specific Services)

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---|--|--|---|
| Above WTO GPA Threshold (currently £214,904 inclusive of VAT) | Follow the appropriate procedure as set out in Rules 11 and 12. The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service. | Approval must be sought through the Gateway Process. The Responsible Officer must complete the Decision Record Process and, where applicable, the Key Decision Process. Contract details must be published on the Contract Register and on Contracts Finder. | Two signatures: The Director (or by an Officer authorised by the Director to sign on the Directors behalf), AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6. |

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Table 2: Works and Concessions

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---|--|--|---|
| £0 up to £5,000 (exclusive of VAT) | A single quotation shall be invited in accordance with Rule 8. The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service. | Contract award is approved by the Responsible Officer. Contract details do not need to be published on the Contract Register or to Contracts Finder. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf) |
| £5,000 (excluding VAT) up to £50,000 (inclusive of VAT) | Quotes should be invited or the Best Value Form process followed in accordance with Rule 8. The opportunity does not need to be advertised on the e-tendering system, | Contract award is approved by the Responsible Officer. Contract details must be published on the Contract Register. Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT). | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf) |

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| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|--|--|--|--|
| Above UK Procurement Threshold (currently £663,540 inclusive of VAT) | Follow the appropriate procedure as set out in Rules 11 and 12 . The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service. | Approval must be sought through the Gateway Process. The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process. Contract details must be published on the Contract Register and on Contracts Finder. | Two signatures. The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate). Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 . |

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Table 4: Health Care Services (Excluding Social & Other Specific Services)

Direct Award Process A

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|------------------------------------|---|---|--|
| £0 – £50,000 (including VAT) | Follow the appropriate procedure as set out in Rule 15 . The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £50,000 – £663,540 (including VAT) | Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|--------------------------------------|------------------------|--|--|
| <u>Over £663,540 (including VAT)</u> | | <u>The Responsible Officer must complete the Key Decision process.</u> | <p><u>Two signatures</u> <u>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</u> AND <u>The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</u></p> <p><u>Sealing (where appropriate)</u> <u>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</u></p> |

Direct Award Process B

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|---|--|--|---|
| <u>£0 – £50,000 (including VAT)</u> | <p><u>Follow the appropriate procedure as set out in Rule 15.</u></p> <p><u>The Gateway Process must be completed.</u></p> | <u>Where applicable, the Responsible Officer must complete the Key Decision process.</u> | <p><u>One signature</u> <u>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</u></p> |
| <u>£50,000 – £663,540 (including VAT)</u> | <p><u>Expressions of Interest must be sought on the E-Sourcing system.</u></p> <p><u>Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder.</u></p> | <p><u>The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above.</u></p> <p><u>Where applicable, the Responsible Officer must complete the Key Decision process.</u></p> | <p><u>One signature</u> <u>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</u></p> |
| <u>Over £663,540 (including VAT)</u> | | <u>The Responsible Officer must complete the Key Decision process.</u> | <p><u>Two signatures</u> <u>The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</u> AND <u>The Monitoring Officer (or by an Officer</u></p> |

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|-----------------------------|------------------------|-------------------------------|---|
| | | | <p>authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p> |

Direct Award Process C

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|---|---|--|---|
| <u>£0 – £50,000 (including VAT)</u> | <p>Follow the appropriate procedure as set out in Rule 15.</p> <p>The Gateway Process must be completed.</p> | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| <u>£50,000 – £663,540 (including VAT)</u> | <p>An intention to award notice must be published on Find a Tender Service and to Contracts Finder.</p> <p>Awarded contract details must be published on the Contract Register,</p> | <p>The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| <u>Over £663,540 (including VAT)</u> | Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Key Decision process. | <p>Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate) Monitoring Officer (or by an Officer</p> |

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|-----------------------------|------------------------|-------------------------------|---|
| | | | authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6. |

Most Suitable Provider Process

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|---|---|---|---|
| <u>£0 – £50,000 (including VAT)</u> | Follow the appropriate procedure as set out in Rule 15. The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| <u>£50,000 – £663,540 (including VAT)</u> | A Notice of Intention to follow the Most Suitable Provider Process must be published via Find a Tender Service An Intention to Award Notice must be published to Contracts Finder and Find a Tender Service. | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| <u>Over £663,540 (including VAT)</u> | Finder and Find a Tender Service. Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6. |

Competitive Process

| <u>Total Contract Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing Contract</u> |
|---|--|---|--|
| <u>£0 – £50,000 (including VAT)</u> | Follow the appropriate procedure as set out in <u>Rule 15</u> . The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| <u>£50,000 – £663,540 (including VAT)</u> | The opportunity must be advertised on the E-Sourcing system. Find a Tender Service and Contracts Finder. Awarded contract details must be published on the Contract Register. | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| <u>Over £663,540 (including VAT)</u> | Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with <u>Rule 6</u> . |

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Table 5: Grants awarded by the Council

| <u>Total Grant Value</u> | <u>Award Procedure</u> | <u>Transparency Procedure</u> | <u>Signature/Sealing</u> |
|--------------------------|---|---|--|
| <u>£0 up to £100,000</u> | The Best Value Form or a Competitive Grant Form must be completed in accordance with <u>Rule 23</u> . | The Responsible Officer must complete the Decision Record process and/or the Key Decision Process where applicable. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |

| Total Grant Value | Award Procedure | Transparency Procedure | Signature/Sealing |
|-------------------|---|---|---|
| | | <p>Contract details must be published on the Contract Register for contracts above £5,000 (excl. VAT).</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> | |
| £100,000+ | <p>A competitive application process must be completed in accordance with Rule 23.</p> <p>Where the value is below the thresholds set out in Rule 19.2 a Competitive Grant Form must be completed.</p> <p>Where the value exceeds the thresholds set out in Rule 19.2 the Gateway Process must be completed.</p> | <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p> | <p>Sealing</p> <p>Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 (unless signing is agreed by the Monitoring Officer).</p> |

3. COMPLIANCE WITH LEGISLATION AND STANDARDS

- 3.1 Every Contract and Grant shall comply with all relevant applicable legislation and government guidance.
- 3.2 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards.

4. POWERS AND KEY DECISIONS

- 4.1 In consultation with the Monitoring Officer Directors shall ensure that the Council has the legal power to enter into any Contract or Grant and that in respect of all Contracts

and Grants, regardless of whether they involve the procurement or provision by the Council of Works, Supplies, Services or Social and Other Specific Services, and Health Care Services. Directors shall ensure that no Contract or Grant shall be entered into which is ultra vires.

- 4.2 Directors shall ensure that a written record of the decision to procure a Grant or Contract is made in accordance with the Gateway process where **Rule 19** applies. Where such a decision comprises a Key Decision under the Constitution, Directors shall ensure that it is entered on to the Forward Plan and treated as a Key Decision in all respects.

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5. FORM OF CONTRACT

- 5.1 Every Contract and Grant shall be evidenced in writing and must be signed or sealed (as appropriate) by both parties. Signature or sealing by the Council shall be in accordance with the requirements set out in **Rule 2** and **Rule 6**.
- 5.2 Wherever appropriate, and for all Contracts exceeding £50,000 including VAT in value, such written agreements shall be made on the basis of terms and conditions agreed by the Monitoring Officer. Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions proposed by a Contractor provided that the advice of the Monitoring Officer as to their effect has been sought and considered.
- 5.3 The written form of agreement must clearly specify the obligations of the Council and the Contractor and shall include:-
- (a) the work to be done or the Supplies, Services or Social and Other Specific Services, or Health and Care Services to be provided
 - (b) the standards which will apply to what is provided
 - (c) the price or other consideration payable
 - (d) the time in which the Contract is to be carried out
 - (e) the remedies which will apply to any breach of Contract.

6. SIGNATURE/SEALING OF CONTRACTS

- 6.1 Every written Contract or Grant must be either signed or sealed in accordance with this Rule. The Monitoring Officer (or an Officer authorised by the Monitoring Officer) will determine whether a Contract must be signed or sealed.
- 6.2 The Monitoring Officer and such of his staff as he may designate are authorised to sign any such contract or Grant.
- 6.3 The Monitoring Officer also authorises such Contracts or Grants to be signed as outlined in **Rule 2.12**, **Tables 1-5** and **Rule 1.3(c)** provided that:-
- (a) appropriate authority exists for the Council to enter into the Contract, and
 - (b) the Contract is either:-

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- (i) in a nationally recognised form, or
 - (ii) a standard form prepared or approved by the Monitoring Officer, or
 - (iii) is otherwise in a form approved by the Monitoring Officer; and
- (c) any variations to approved forms of Contract must themselves be approved by the Monitoring Officer, whether they are affected by amending the Contract itself or by correspondence.

6.4 Only the Monitoring Officer (or a Legal and Democratic Services' Officer (LDSO) authorised by the Monitoring Officer) may seal a Contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so. Where agreed by the Monitoring Officer, electronic Deeds may be executed by the Monitoring Officer or a LDSO using the Council's chosen electronic deeds execution system.

6.5 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.

6.6 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative, as agreed by the HoP.

6.7 The use of Electronic Signatures is not permitted in circumstances where:

- (a) the Contract is to be sealed (except where 6.4 applies);
- (b) a physical handwritten signature needs to be filed;
- (c) there is a proviso in the Contract which prevents the use of an Electronic Signature;
- (d) the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- (e) the Contract needs to be notarised.

7. BONDS AND LIQUIDATED DAMAGES

7.1 Where appropriate the Council shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract.

7.2 Where considered appropriate by the Council, the Contractor will be required to provide a parent company guarantee/performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the contract or such other sum as the S151 Officer considers appropriate.

7.3 Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Director of Environment shall consider appropriate except where: -

- (a) the identity of the developer renders the need for a bond unnecessary, or
- (b) adequate alternative security is provided, or

- (c) the Director of Environment (in consultation with the S151 Officer) agrees that it is inappropriate for a bond to be required.

8. QUOTES

8.1 Rule 8 does not apply to Contracts for Health Care Services or Grants.

SINGLE QUOTATION

- 8.2 Where the estimated value of a Contract is less than or equal to £5,000 excluding VAT or less (taking into account the whole life cost of the Contract, including extensions and/or variations) a quote must be obtained.
- 8.3 There is no requirement to use an E-Sourcing system or publish the opportunity on Contracts Finder for contracts below £5,000 (excluding VAT).
- 8.4 A single quote cannot be accepted where the value exceeds £5,000 excluding VAT. If the value of the quote exceeds £5,000 excluding VAT three quotes must be obtained or the best value form completed in accordance with **Rules 8.4 to 8.10**.

MINIMUM THREE QUOTES PROCESS/BEST VALUE FORM

- 8.5 Where the estimated value of a Contract is above £5,000 excluding VAT, and less than £50,000 including of VAT (taking into account the whole life cost of the Contract including extensions and/or variations) a minimum of three quotes should be sought.
- 8.6 Where possible quotes should be sought from at least one local supplier based within North Yorkshire and at least one Small and Medium Enterprise (SME).
- 8.7 If three quotes are not sought, the Contract may be directly awarded using the Best Value Form as long as sufficient justification is given for not undertaking a quotes process. It is the Officer's responsibility to complete the Best Value Form.
- 8.8 A three quote process/best value form cannot be accepted where the value exceeds the upper limit for this process (i.e. £50,000 inclusive of VAT). If the value of the quote exceeds the upper limit for this process the bids process must be followed in accordance with **Rule 9**.
- 8.9 Where the estimated value of a Contract is between £30,000 and £50,000 inclusive of VAT (taking into account the whole life cost of the Contract, including extensions and/or variations):
- (a) there is no requirement to advertise the opportunity, however if the Council chooses to advertise the opportunity, then it must also be advertised on Contracts Finder; and
 - (b) once the contract is awarded, details must be published on Contracts Finder.
- 8.10 It is the Officer's responsibility to keep a record of quotes sought for audit purposes and to demonstrate best value has been achieved.

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8.11 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

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9. BIDS

9.1 Rule 9 does not apply to Contracts for Health Care Services or Grants.

9.2 If the estimated value of a Contract exceeds £50,000 inclusive of VAT but is less than the appropriate WTO GPA Threshold, bids must be invited from all potential Contractors in accordance with **Rule 2.12, Tables 1-3**.

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9.3 A notice advertising the opportunity shall be published through the E-Sourcing System and on Contracts Finder and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITB documents may be obtained and the closing date for receipts of bids by the Council.

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9.4 All potential Contractors invited to submit bids shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been invited to submit bids under **Rule 9.1** to also submit variant bids (i.e. bids which do not comply with some or all of the requirements of the primary bid). The same opportunity to submit variant bids must be given to all potential Contractors.

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9.5 A written bid may only be considered if:-

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- (a) it has been received electronically through the E-Sourcing System, or
- (b) (where permitted in exceptional circumstances) it has been received in a sealed envelope marked "Bid" and indicating the subject matter of the bid; and
- (c) it has been opened after the expiry of the deadline for submissions and at the same time as other bids for the same subject matter in the presence of at least two Officers authorised to open bids.

9.6 Before bids are requested the evaluation criteria must be recorded in writing in the SQ and/ITB documents. The evaluation criteria must be identified and the weighting between price and quality established and stated in the request for bids sent to participants.

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9.7 If a bid other than the lowest or the most economically advantageous bid is to be accepted, the written approval of the Director (in consultation with the S151 Officer or if the relevant Director is the S151 Officer, in consultation with the Chief Executive) shall be sought and obtained before the bid is accepted.

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9.8 A bid cannot be accepted where the value exceeds the relevant WTO GPA Threshold. If the value of the bid exceeds the relevant WTO GPA Threshold a Director must seek tenders in accordance with **Rules 11 and 12**.

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9.9 Before a Contract is awarded after a bid exercise such steps shall be taken by the Responsible Officer, as are reasonably necessary (having regard to the subject matter,

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value, duration of the Contract and other relevant factors) to complete a risk assessment of the potential Contractor's financial stability.

9.10 Bids may be altered only in accordance with **Rule 10**.

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9.11 Where a Contract is terminated within the first 6 months of the Contract commencement date, the Council may award the Contract to the second placed supplier, provided that this demonstrates Best Value and with agreement from the HoP in consultation with the appropriate SCM.

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9.12 The evaluation of bids shall be carried out by a panel of suitably qualified Officers who are considered appropriate having regard for the subject matter and value of the Contract.

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9.13 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

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10. POST BID NEGOTIATION AND CLARIFICATION

10.1 Rule 10 does not apply to Contracts for Health Care Services or Grants.

10.2 Post bid negotiations may not be undertaken where the value of the Contract exceeds the relevant WTO GPA Threshold. If the value of the bid exceeds the relevant WTO GPA Threshold, the Director must invite tenders in accordance with **Rules 11 and 12**.

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10.3 Post bid negotiations with selected Participants shall only be carried out where: -

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- (a) post tender negotiations are permitted by law; and
- (b) the Director in consultation with the HoP considers that added value may be obtained; and
- (c) post bid negotiations are conducted by a team of suitably experienced Officers approved by the Director and who have been trained in post bid negotiations; and
- (d) a comprehensive, written record of the post bid negotiations is kept by the Director; and
- (e) a clear record of the added value to be obtained as a result of the post bid negotiations is incorporated into the Contract with the successful Participant.

10.4 **Rules 10.2 and 10.3** shall not operate to prevent clarification of all or part of any bid to the extent permitted by law and where such clarifications are sought the provisions of **Rules 10.3(c) and 10.3(d)** shall apply.

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11. ABOVE THRESHOLD PROCESS

11.1 Rule 11 does not apply to Contracts for Health Care Services or Grants.

11.2 Where the estimated value of the Contract exceeds the WTO GPA Threshold, Above Threshold Tenders shall be invited and awarded in accordance with the PCRs and as prescribed in **Rule 11 and 12**.

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General Requirements

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11.3 Before an Above Threshold Tender is requested the evaluation criteria to be applied to the Above Threshold Tender must be recorded in writing in the SQ and/or ITT document. The evaluation criteria must be identified and the weighting between price and quality established and stated in the SQ and/or ITT sent to Participants.

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11.4 Irrespective of the procurement process being undertaken a notice must be published on the Find a Tender Service system and Contracts Finder, where possible this should be through the E-Sourcing system or an appropriate alternative system as agreed with the HoP.

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11.5 All Participants invited to submit Above Threshold Tenders shall be provided in all instances with identical instructions and information.

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11.6 Where considered appropriate, the HoP may, in consultation with the SCM, permit Participants to submit variant Above Threshold Tenders (i.e. tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant Above Threshold Tenders shall be given to all Participants. Variant Above Threshold Tenders shall only be considered if the Participant also submits a compliant primary tender.

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11.7 The evaluation of the Above Threshold Tenders shall be carried out by Officers who are considered appropriate having regard for the subject matter and value of the Contract.

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11.8 All procurements undertaken in accordance with **Rule 11** shall have a minimum of 3 appropriate Officers (excluding the Procurement and Contract Management Service representative) to undertake the evaluation process. The evaluation process shall include:

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- Individual evaluation assessment and scoring
- Consensus marking exercise, chaired by a member of the Procurement and Contract Management Service
- Independent review by SCM, where required
- Moderation by evaluation panel, where required

11.9 All evaluation panel members must have completed the evaluation training prior to completing any evaluation process.

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11.10 Where a Contract is terminated within the first 6 months of the Contract commencement date, the Council may award the contract to the second placed supplier with agreement from the HoP in consultation with the Monitoring Officer provided that this demonstrated Best Value and the original award criteria have not changed.

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11.11 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

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12. OPTIONS FOR ABOVE THRESHOLD PROCESS

12.1 Rule 12 does not apply to Contracts for Health Care Services or Grants.

12.2 The Gateway Process shall identify which Above Threshold Tender Procedures shall be used to invite tenders for Contracts with a value in excess of the relevant WTO GPA Threshold.

- (i) the Open Procedure (as prescribed by [PCR Regulation 27](#))
- (ii) the Restricted Procedure (as prescribed by [PCR Regulation 28](#))
- (iii) the Competitive Procedure with Negotiation (as prescribed by [PCR Regulation 29](#))
- (iv) the Competitive Dialogue Procedure (as prescribed by [PCR Regulation 30](#))
- (v) the Innovation Partnership Procurement (as prescribed by [PCR Regulation 31](#))
- (vi) use of the Negotiated Procedure without prior publication (as prescribed by [PCR Regulation 32](#))
- (vii) Social and Other Specific Services (Light Touch Regime) (as prescribed by [PCR Regulations 74-76](#))

and such identified process shall be used for the invitation of Above Threshold Tenders in accordance with the requirements of the PCR's.

12.3 The Gateway Process shall also identify which of the following techniques and instruments which can be used for Electronic and Aggregated Procurements:

- (i) Framework Agreement (as prescribed by [PCR Regulation 33](#))
- (ii) Dynamic Purchasing System (as prescribed by [PCR Regulation 34](#))
- (iii) Electronic auctions (as prescribed by [PCR Regulation 35](#))
- (iv) Electronic catalogues (as prescribed by [PCR Regulation 36](#)).

13. RECEIPT AND OPENING OF ABOVE THRESHOLD TENDERS

13.1 Rule 13 does not apply to Contracts for Health Care Services or Grants.

13.2 A written Above Threshold Tender may only be considered if: -

- (a) it has been received electronically through the E-Sourcing System, or (where permitted in exceptional circumstances, and subject to agreement by the HoP) it has been received electronically through an appropriate alternative method, such as a secure email inbox; or
- (b) (where permitted under Regulation 84(h)) it has been received in hard copy in a sealed envelope marked "Above Threshold Tender" and indicating the subject matter of the Above Threshold Tender, and the identity of the Participant cannot be ascertained from the tender envelope; and

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(c) (subject to **Rule 13.4**) it has been received by the Above Threshold Tender closing date and time.

13.3 The S151 Officer (or a person designated by them) shall be responsible for the reception and safe custody of Above Threshold Tenders until they are opened.

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13.4 Electronically submitted Above Threshold Tenders, whether electronic or hard copy must be opened at the same time, in an auditable way, by an independent Officer from the Procurement and Contract Management Service.

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13.5 Where permitted under Regulation 84(h) of the PCRs and Above Threshold Tenders are returned in hard copy format a written record shall be maintained by the HoP, of the Above Threshold Tenders received. Such a record shall include the date and time of Above Threshold Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable).

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13.6 Above Threshold Tenders submitted in hard copy must be opened at the same time and in the presence of the S151 Officer (or a person designated by them) or, where the Procurement and Contract Management Services is undertaking the procurement, the Monitoring Officer (or an Officer designated).

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13.7 If an Above Threshold Tender is received after the specified closing date and time it may not be considered unless the HoP is satisfied that the Above Threshold Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be delivered before the specified time but that delivery was prevented by an event beyond the control of the Participant.

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14. ABOVE THRESHOLD TENDER EVALUATION AND ACCEPTANCE

14.1 Rule 14 does not apply to Contracts for Health Care Services or Grants.

14.2 The relevant officers shall evaluate Above Threshold Tenders using the evaluation criteria published in accordance with **Rule 11.2**.

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14.3 Before a Contract is awarded the HoP shall, in consultation with the SCMs, determine whether it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be recorded in accordance with the Gateway Process (Gate 3) where appropriate.

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14.4 On completion of the evaluation of the Above Threshold Tenders received and once all internal approvals have been obtained through the Gateway Process (Gate 3), the HoP (or an Officer authorised by the HoP) shall write to all Participants informing them of the outcome of the Above Threshold Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCR's.

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14.5 The HoP (or an Officer authorised by the HoP) shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant, except where not required for example for call-offs under an existing Framework.

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14.6 The HoP (or an Officer authorised by the HoP) shall send for publication a Contract Award Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract.

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15. OPTIONS FOR HEALTH CARE SERVICES PROCESS

15.1 The PSR governance process will identify which procedure shall be used for all Health Care Service contracts irrespective of value.

- a) Direct Award A (as prescribed by PSR Regulation 7)
- b) Direct Award B (as prescribed by PSR Regulation 8)
- c) Direct Award C (as prescribed by PSR Regulation 9)
- d) The Most Suitable Provider Process (as prescribed by PSR Regulation 10)
- e) The Competitive Process (as prescribed by PSR Regulation 11)

Such identified processes shall be used for the invitation and/or contract award in accordance with the requirements of the PSR.

16. CERTIFICATION OF CONTRACTS

16.1 The Local Government (Contracts) Act (LGCA) 1997 clarified the power of local authorities to enter into certain contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers are authorised to do so, following consultation with the relevant Executive Member: the Director Children and Young People's Service, the Director of Environment, the Director Health and Adult Services, the Director of Community Development, the Director of Public Health, the Monitoring Officer and the S151 Officer.

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17. EXCEPTIONS TO PROCUREMENT AND CONTRACT PROCEDURE RULES

17.1 Rule 17 does not apply to Contracts for Health Care Services or Grants.

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17.2 A Director does not need to invite bids in accordance with **Rule 9** in the following circumstances: -

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- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or
- (b) the contract is to be awarded to the Council's teckal company which is legally controlled by the Council; or
- (c) the instruction of Counsel by the Monitoring Officer; or
- (d) where funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms; or

- (e) purchases at public auctions (including internet auction sites, e.g. Ebay) where the Director is satisfied that value for money will be achieved; or
- (f) the purchase of Supplies, Works, Services or Social and Other Specific Services which are of such a specialised nature as to be obtainable from one Contractor only; or
- (g) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such supplies from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or
- (h) Social or Other Specific Services Contracts where:-
 - (i) the service is currently supplied by a Contractor to the satisfaction of the relevant Director, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further bids, or
 - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Director Health and Adult Services and the Director Children and Young People's Service considers it inappropriate for bids to be invited, or
 - (iii) where the relevant Director is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or
- (i) in relation to Pilot schemes for a proof of contract/trialling a product or area of innovation.
- (j) Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies.

17.3 Where any of the exceptions set out in **(e) to (j)** above are applied a Directors Recommendation, in consultation with the relevant SCMs, shall be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule.

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17.4 A Director does not need to invite Above Threshold Tenders in accordance with **Rule 11 and 12**, in the following circumstances however the gateway process at **Rule 19** shall still apply:

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- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBO's) and where such Framework Agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing Framework Agreement. This is not mandatory but is deemed best practice; or
- (b) where:

- (i) Regulations 12 or 72 of the PCRs apply; or
- (ii) any other specific exclusions as set out in the PCRs apply.

Waivers

17.5 Specific exceptions to these Rules are permitted in such other circumstances as the S151 Officer and the Monitoring Officer may agree.

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17.6 Requests for waivers shall be made using the Waiver Request Form prescribed by the S151 Officer which shall specify the reasons for the request.

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17.7 Any requests for waivers shall be made in consultation with the relevant SCM's, and be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all waivers made under this Rule.

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18. COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS

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18.1 Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.

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18.2 The S151 Officer shall be responsible for monitoring adherence to these Rules.

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18.3 The HoP shall nominate a representative to act as a key contact point in relation to procurement matters for spend categories; such representatives shall be termed SCMs.

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18.4 Each Director, in conjunction with the HoP, shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the Procurement Manual and the Finance Manual referred to in **Rule 2.5**.

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18.5 An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Audit Committee.

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18.6 The Council maintains a Contract Register the purpose of which is to record key details of:

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18.6.1 all Contracts with an aggregate value of £5,000 (exclusive of VAT) or more; and

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18.6.2 all Health Care Services contracts irrespective of value.

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18.7 All Responsible Officers will notify the Procurement and Contract Management Service of any Contract awarded:

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18.7.1 above £5,000; or

18.7.2 any contract for Health Care Services irrespective of value.

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The Responsible Officer will use the format prescribed by the Procurement and Contract Management Service and report this information quarterly.

18.8 The HoP shall ensure that:-

- (a) all relevant Contracts (including those Contracts to which **Rule 17** applies) are entered onto the Contract Register; and
- (b) the Contract Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the Council's Records Retention and Destruction Schedule.

Contracts Finder

18.9 When a Procurement leading to a Contract in excess of £30,000 inclusive of VAT is awarded the Procurement and Contract Management Service shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder via the ESourcing system.

18.10 When a Procurement leading to a Health Care Services Contract of any value is awarded, the Procurement and Contract Management Service shall ensure that such information as is detailed in the PSRs is published on Contracts Finder via the E-Sourcing system.

19. GATEWAY PROCESS AND PSR GOVERNANCE PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER

19.1 When a procurement or Grant is being considered which is expected to exceed the financial value thresholds specified in **Rule 19.2** the Gateway Process must be completed and signed off by the relevant Officers, as detailed in **Table 6** below.

Table 6: Gateway Process - Authorisation to Approve

| Gateway Process gate | Approval process |
|---|---|
| Gate 1 – Commissioning and Procurement Options Appraisal (includes Grants) | PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance - S151 Officer or delegated Assistant Director AND The Monitoring Officer or delegated officer |
| Gate 2 – Authorisation of Documents | An Officer from the Procurement and Contract Management Service AND SCM or delegated Officer |
| Gate 3 – Contract/ Grant Award | PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance - S151 Officer or delegated Assistant Director |

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| | |
|---|--|
| Gate 4(a) – Contract / Grant Extension/Variation/Novation | <p>PAB or HoP or delegated SCM</p> <p>AND</p> <p>The relevant Director or delegated Assistant Director</p> <p>AND</p> <p>Finance - S151 Officer or delegated Assistant Director</p> <p>AND, where appropriate</p> <p>Monitoring Officer or delegated officer – <i>only in cases where the extension is not part of the original Contract.</i></p> |
| Gate 4(b) – Contract/ Grant Termination (during the contract period) | <p>PAB or HoP or delegated senior officer</p> <p>AND</p> <p>The relevant Director or delegated Assistant Director</p> <p>AND</p> <p>Finance - S151 Officer or delegated Assistant Director</p> <p>AND</p> <p>Monitoring Officer or delegated officer</p> |

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19.2 The whole contract financial value thresholds for the purposes of **Rule 19.1** are:

- (a) Works and Concession Contracts - £1,000,000, inclusive of VAT
- (b) Social and Other Specific Services Contracts - £663,540, inclusive of VAT
- (c) Goods and Services Contracts - £214,904, inclusive of VAT.

The above values are used to determine the Gateway Process threshold for Grants.

19.3 In relation to Health Care Services contracts the PSR Governance Process must be completed and signed off by the relevant Officers, as detailed in **Table 7** below.

Table 7: PSR Governance Process - Authorisation to Approve

| PSR Governance Process | Approval process |
|---|--|
| PSR Direct Award Process A, B or C – Contract Appraisal and Award | <p>PAB or HoP or delegated SCM</p> <p>AND</p> <p>The relevant Director or delegated Officer</p> |
| PSR Most Suitable Provider Process or Competitive Process - Options Appraisal / Project Initiation | <p>PAB or HoP or delegated SCM</p> <p>AND</p> <p>The relevant Director or delegated Officer</p> |
| PSR review – Authorisation of Documents | <p>An Officer from the Procurement and Contract Management Service</p> <p>AND</p> <p>SCM or delegated Officer</p> |
| PSR Most Suitable Provider Process or Competitive Process – Contract/ Grant Award | <p>PAB or HoP or delegated SCM</p> <p>AND</p> <p>The relevant Director or delegated Officer</p> |

| | |
|---|--|
| <u>PSR Contract Modification – Contract / Grant Extension/Variation/Novation</u> | <u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Officer</u> AND, where appropriate <u>Monitoring Officer or delegated officer – only in cases where the extension is not part of the original Contract.</u> |
| <u>PSR Contract Termination – Contract / Grant Termination (during the contract period)</u> | <u>PAB or HoP or delegated SCM</u> AND <u>The relevant Director or delegated Officer</u> AND <u>Monitoring Officer or delegated officer</u> |

19.4 The whole contract financial value thresholds for the purposes of Rule 19.3 are:

(a) Health Care Services Contracts – any value

20. CONTRACT MANAGEMENT

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20.1 The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such relevant records and details shall be made available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gate 4).

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20.2 Where appropriate the Responsible Officer will attend the Contract Management Practitioners Group.

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Contract Variation/Novation

20.3 Contracts with a value below the relevant WTO GPA Threshold may be varied or extended or novated in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the Monitoring Officer, whether or not they are affected by amending the Contract itself or by correspondence.

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20.4 Contracts with a value in excess of the relevant WTO GPA Threshold may be varied or extended in accordance with the terms of that Contract and/or as outlined in Regulation 72 of the PCRs. Approval must be sought in accordance with **Rule 19.1**, (Table 5 - Gateway Process - Authorisation to Approve Gate 4a).

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20.5 Health Care Services Contract variations must be done in accordance with Regulation 13 of the PSRs. Approval must be sought in accordance with Rule 19.3.

Contract Termination

20.6 If an Officer requires a Contract which exceeds the financial values stated in **Rule 19.2** or any Health Care Service Contract to be terminated then this must be done in

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accordance with the terms of the Contract and in accordance with the PCRs or PSRs, where applicable. Approval must be sought in accordance with Rule 19.1 or Rule 19.3 (as applicable).

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21. TRAINING FOR PROCUREMENT AND CONTRACT MANAGEMENT

21.1 Where appropriate any Officer involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.

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21.2 Where appropriate the Responsible Officer involved in contract management shall have received a level of formal training commensurate with the nature of the contract.

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22. DECLARATION OF INTERESTS

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22.1 A Conflict of Interest declaration must be completed by all members of the evaluation panel. A Confidentiality Agreement or Declaration form must also be completed by any members of the evaluation panel who are not directly employed by the Council, unless there are alternative appropriate confidentiality provisions within the persons appointment documents (such as a consultancy agreement).

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22.2 If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract or Grant in which they have an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer.

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22.3 In relation to Health Care Services Contracts, conflicts of interest must be managed in line with Regulation 21 of the PSRs.

23. GRANTS

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23.1 A grant is a sum of funds for a specific purpose. Under a grant agreement, the funder makes a payment to the recipient for a specific purpose. The recipient is not obliged to deliver any goods or services to the funder. The Council may grant-fund third party organisations for example to help deliver community cohesion or to provide complementary activities. Responsible Officers should in consultation with Procurement and Contract Management Service and Monitoring Officer understand if the Grant is subject to the PCRs or PSRs.

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23.2 Grants up to a value of £100,000 may be directly awarded where a Best Value Form is completed, and subsidy control law must be complied with. It is the Officer's responsibility to complete the Best Value Form.

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23.3 For any Grant over £100,000, a competitive grants process must be completed and subsidy control law complied with. Where a competitive grants process is undertaken, a Competitive Grants Form must be completed. Where appropriate, the opportunity should be advertised on the Council's ESourcing system.

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23.4 Where the value of a grant exceeds the relevant WTO GPA Threshold, any value for Health Care Service Contracts, or £1,000,000 for works, the Gateway Process shall be completed in accordance with Rule 19.

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| 23.5 Specific exceptions to **Rule 23** are permitted in circumstances as the Monitoring Officer and S151 Officer may agree.

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| 23.6 The Responsible Officer shall take all such steps as are appropriate to monitor and review the delivery of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the Grant monitoring and review process the Responsible Officer shall maintain adequate records of delivery and details of review meetings with the grant recipient.

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| 24. **HIRING AND ENGAGING STAFF**

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| 24.1 Where an Officer is hiring or engaging a staff member who is not on the Council payroll there is a legal requirement to determine whether it is the responsibility of the Council to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35).

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Procurement and Contract Procedure Rules

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*These Rules constitute the Council's Standing Orders in relation to contracts under Section 135 of the Local Government Act 1972 and apply to all contracts (excluding those stated in **Rule 2.2**), including those made in the course of the discharge of functions which are the responsibility of the Executive.*

Please note that any reference within these Rules to the Public Contracts Regulations 2015 and any requirement arising from them remain in force in accordance with the Withdrawal Agreement 2019 until replaced by future legislation. The Health Care Services (Provider Selection Regime) Regulations 2023 comes into effect 1st January 2024 and will replace the Public Contracts Regulations 2015 when arranging health care services and revoke the National Health Service Regulations 2013. Further guidance will be issued by the Procurement and Contract Management Service in due course.

1. INTRODUCTION

1.1 These terms will have the following meanings in the Procurement and Contract Procedure Rules:-

Above Threshold Process means the procurement process to be followed where the estimated whole life value of a Contract exceeds the relevant WTO GPA Threshold

Above Threshold Tender means a tender submitted as part of an Above Threshold Process

Best Value Form means the form to be completed to capture the rationale for not seeking bids in accordance with **Rule 8.6**

Competitive Grant Form means the form to be completed confirming the competitive process being undertaken to award the Grant

Concession means as defined in Regulation 3(4) of the Concession Contracts Regulations 2016

Constitution means the Council's Constitution of which these Rules form part

Contract means any agreement, excluding a Grant, made between the Council and any other person which is intended to be legally enforceable and involves the acceptance of an offer made by one party to commit itself to an action or series of actions and subject to the exceptions in **Rule 2.2**

Contracts Finder means the web-based portal as described in Chapters 7 & 8 of the Public Contracts Regulations 2015

Contract Management Practitioners Group means the Council's practitioner group responsible for improving contract management standards, chaired by the Senior Contract Officer/s

Contract Register means the register of Contracts maintained by the Council as set out in **Rule 18.6**

Contractor means a person or entity with whom the Council has a contract

| | |
|---------------------------------|--|
| Council | means The North Yorkshire Council |
| Decision Record | means a record of a decision produced in accordance with the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012 |
| Director | means the Chief Executive Officer; Assistant Chief Executive HR and Business Support, Assistant Chief Executive Legal and Democratic Services, Assistant Chief Executive Local Engagement, Corporate Director of Environment; Corporate Director Health and Adult Services; Corporate Director Children and Young People's Service; Corporate Director of Resources; Corporate Director of Community Development as the context requires |
| Directors Recommendation | means a written record of the decision and justification to apply one of the exceptions set out in Rule 17.2 to be signed and kept by the relevant Director |
| Electronic Signatures | means an advanced electronic signature which is: <ul style="list-style-type: none"> (i) uniquely linked to the signatory; and (ii) capable of identifying the signatory; and (iii) created using means that the signatory can maintain under his/her sole control; and (iv) linked to the data to which it relates in such a manner that any subsequent change of the data is detectable. |
| E-Sourcing system | means the Council's chosen E-sourcing system |
| FPP | means the Forward Procurement Plan which outlines all future procurement requirements of the Council |
| Framework Agreement | means an agreement with one or more contracting authorities and one or more economic operator which establishes an arrangement for: <ul style="list-style-type: none"> (i) multiple orders to be placed with one Contractor (a single supplier framework), or (ii) a framework of multiple Contractors to engage in further competitions or direct award (a multiple supplier framework) |
| Gateway Process | means the Council's value based gateway commissioning and procurement process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points in the commissioning and procurement cycle |

| | |
|--|--|
| Grant | means a sum of money awarded by the Council to third parties |
| Health Care Services | means those services detailed within Schedule 1 of the Health Care Services (Provider Selection Regime) Regulations 2023 |
| HoP | means the Head of Procurement and Contract Management |
| Internal Audit | means the Council's appointed internal auditors (currently Veritau) |
| ITB | means an Invitation to Bid |
| ITQ | means an invitation to Quote |
| ITT | means an Invitation to Tender |
| Key Decision | means a decision made in connection with the discharge of a function which is the responsibility of the Executive set out in Article 13.03(b) of the Constitution |
| Leasing Agreement | means a contract for the provision of finance to enable goods or services to be obtained and where ownership in those goods does not automatically pass to the Council at the end of the contract period |
| LDSO | means a Legal and Democratic Services Officer |
| Member | means an elected member of the Council or co-opted member on a Council committee |
| Monitoring Officer | means the Council's appointed Monitoring Officer |
| Officer | means a Council employee or other authorised agent |
| PAB | means the Procurement Assurance Board, chaired by the HoP |
| Participant | means a person or entity participating in a procurement process, who has expressed an interest in tendering for a Contract or who has tendered for a Contract |
| PSBO | means Public Sector Buying Organisation |
| PCR | means the Public Contracts Regulations 2015 |
| Person | means any individual, partnership, company, trust, other local authority, Government department or agency |
| Procurement and Contract Management Service | means the procurement and contract management team at the Council |

| | |
|---|---|
| Procurement Manual | means the manual to accompany these Rules which provides detailed guidance on procurement techniques and the effect of the Rules |
| Procurement and Contract Management Strategy | means the Council's approved Procurement and Contract Management Strategy |
| Property Contract | means a contract which creates an estate or interest in land or buildings |
| PSR | means The Health Care Services (Provider Selection Regime) Regulations 2023 |
| PSR Governance Process | means the Council's value based governance commissioning and procurement process that combines assessment and understanding of various aspects of value with appropriate review and scrutiny at defined points in the commissioning and procurement cycle |
| Responsible Officer | means the Officer from the directorate who is responsible for the procurement and/or management of a Contract |
| Rules | means these Procurement and Contract Procedure Rules |
| SCM | means Senior Category Manager |
| S151 Officer | means the Council's appointed Section 151 Officer |
| Services or Supplies | means as defined in Regulation 2 of the PCRs |
| Social and Other Specific Services | means those services defined as such in Schedule 3 of the PCRs |
| SQ | means the Selection Questionnaire |
| WTO GPA Threshold | means the current threshold above which the PCR's apply, currently £214,904 inclusive of VAT for services and supplies £663,540.00 inclusive of VAT for social and other specific services and £5,327,609 for works inclusive of VAT |
| Waiver Request Form | means the prescribed form to be completed when requesting a waiver in accordance with Rule 17.5 |
| Works | means as defined in Regulation 2 of the PCRs |

1.2 These Rules form part of the overall control framework within which the Council operates. They aim to facilitate sound, innovative service delivery by setting out best practice for the administration of all procurement and contract management matters throughout the Council, ensuring a high quality of procurement and contract management information, robust procurement and contract management and enabling good decision making. They should not be viewed as a barrier to executive action and are constantly kept under review to ensure that they remain relevant to the day to day activities of the Council and contribute to the delivery of value for money.

1.3 References in these Rules to:-

- (a) any legislation (e.g. Act, Statutory Instrument, WTO requirement) include a reference to any amendment or re-enactment of such legislation;
- (b) the value of any Contract or Grant are to the total estimated value payable (including VAT where applicable) over the full period of the Contract or Grant including any options or extensions to the Contract or Grant.
- (c) Directors, the S151 Officer and the Monitoring Officer shall be taken to include such Officers as are designated by those officers to undertake the duties and responsibilities set out in these Rules, except in the case of the following Rules:-
 - (i) Director - **Rules 9.6, 16.1 (e) and (j)**
 - (ii) S151 Officer - **Rules 2.1**
 - (iii) Monitoring Officer - **Rules 2.1**

where delegation is not permitted, except in exceptional circumstances. A record of all duties and responsibilities as delegated under these Rules is to be maintained by each Director, the S151 Officer and the Monitoring Officer.

2. GENERAL

- 2.1 These Rules are made by the Council on the advice of the S151 Officer (in consultation with the Monitoring Officer) under Article 14.02 of the Constitution and define the correct procedures to be followed when the Council enters into any contractual arrangement and should be read in conjunction with the Finance Procedure Rules under Article 14.01 of the Constitution.
- 2.2 These Rules apply to all Grants and Contracts for Works, Supplies, Services or Social and Other Specific Services, and Health Care Services (unless otherwise specified) but do not apply to: -
 - (a) contracts of employment;
 - (b) property contracts (which are covered by the Property Procedure Rules); and
 - (c) financial instruments (including, but without limitation, shares, bonds, bills of exchange, future or options contracts) (which are covered by the Financial Procedure Rules).
- 2.3 The S151 Officer (in consultation with the Monitoring Officer) shall review the application and effect of these Rules and make an annual report or as required but no less than once per year to the Audit Committee recommending such amendments to the Rules as are considered appropriate.
- 2.4 The S151 Officer has produced a Procurement Manual which sets out important issues to be considered in the procurement context. These Rules should be read in conjunction with the Procurement Manual.
- 2.5 The S151 Officer has also produced a Finance Manual which gives advice on financial procedures.
- 2.6 Where a contract for the acquisition or hire of goods or services involves any form of Leasing Agreement to finance the transaction then the S151 Officer shall undertake

the negotiation of terms and authorise the arrangement in accordance with Rule 20.10 of the Financial Procedure Rules.

- 2.7 Directors and the HoP shall ensure that all documentation relating to Contracts, Grants and procurement processes is retained in accordance with the Council's Records Retention and Destruction Schedule.
- 2.8 Where the Council has awarded a contract to any person to supervise or otherwise manage a contract on its behalf such a person shall be required to comply with these Rules as if they were an Officer of the Council.
- 2.9 Wherever appropriate procurement shall be undertaken using the standard documents contained in the Procurement Manual applying to SQ's, ITT's or ITBs. Wherever alternative documents are to be used they must be approved by the HoP and where appropriate the Monitoring Officer.
- 2.10 All Officers shall adhere to the approved Procurement and Contract Management Strategy of the Council.
- 2.11 Where the Council is procuring in partnership with another contracting authority who are the lead procurer, subject to agreement from the HoP, the Council will follow the lead procurers Procurement and Contract Procedure Rules or equivalent.
- 2.12 Where the total Grant or Contract value is within the values in the first column of **Tables 1-5**, below, the award and transparency procedure in the second and third column must be followed.
- 2.13 Where a procurement includes two or more types of provision (i.e. Goods, Services and Works) the value shall be based on the provision that characterises the main subject of the Contract in question.
- 2.14 When a contract comprises a mixture of in-scope Health Care Services and out-of-scope Services or Goods, relevant authorities may only use the PSR to arrange those services when both of the below requirements are satisfied:
 - The main subject-matter of the contract is in-scope Health Care Services
 - The relevant authority is of the view that the other goods or services could not reasonably be supplied under a separate contract.
- 2.15 For the purposes of the Transparency Procedures set out in **Tables 1-5** below, the Responsible Officer must also consider the Key Decision criteria set out in Article 13.03(b)(i) of the Constitution when determining whether the procurement comprises a Key Decision.

Table 1: Goods and Services (excluding Social & Other Specific Services)

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|--|---|---|---|
| £0 up to £5,000 (exclusive of VAT) | <p>A single quotation shall be invited in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>Contract details do not need be published on the Contract Register or to Contracts Finder.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | <p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |
| £5,000 (excluding VAT) up to £50,000 (inclusive of VAT) | <p>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>Contract details must be published on the Contract Register.</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | <p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |
| £50,000 (inclusive of VAT) up to WTO GPA Threshold (currently £214,904 inclusive of VAT) | <p>Bids must be invited in accordance with Rule 9.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder. It does not need to be</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract</p> | <p>One signature</p> <p>The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---|--|---|---|
| | advertised on Find a Tender Service. | Register and on Contracts Finder. | |
| Above WTO GPA Threshold (currently £214,904 inclusive of VAT) | <p>Follow the appropriate procedure as set out in Rules 11 and 12.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service.</p> | <p>Approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record Process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p> | <p>Two signatures: The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p> |

Table 2: Works and Concessions

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---|--|---|--|
| £0 up to £5,000 (exclusive of VAT) | <p>A single quotation shall be invited in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>Contract details do not need to be published on the Contract Register or to Contracts Finder.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | <p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |
| £5,000 (excluding VAT) up to £50,000 (inclusive of VAT) | <p>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>Contract details must be published on the Contract Register.</p> <p>Contract details must be published on Contracts</p> | <p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---|--|--|--|
| | <p>the e-tendering system, contracts finder or Find a Tender Service.</p> | <p>Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | |
| <p>£50,000 (inclusive of VAT) up to WTO GPA Threshold (currently £5,327,609 inclusive of VAT for Works)</p> | <p>Bids must be invited in accordance with Rule 9.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder. It does not need to be advertised on Find a Tender Service.</p> <p>Contract details must be published on the Contract Register and to Contracts Finder.</p> | <p>Contract award is approved by the Responsible Officer. For Contracts with a value of £1,000,000 or greater approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and to Contracts Finder.</p> | <p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>Contracts with a value in excess of £1,000,000 (inclusive of VAT) must be sealed by the Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p> |
| <p>Above WTO GPA Threshold (currently £5,372,609 inclusive of VAT for Works)</p> | <p>Follow the appropriate Procedure as set out in Rules 11 and 12.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service.</p> | <p>Approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p> | <p>Contracts must be sealed by the Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p> |

Table 3: Social & Other Specific Services (Excluding Health Care Services)

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|--|---|---|--|
| £0 up to £5,000 (exclusive of VAT) | <p>A single quotation shall be invited in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>Contract details do not need to be published on the Contract Register or the Contracts Finder.</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | <p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |
| £5,000 up to £50,000 inclusive of VAT | <p>Quotes should be invited or the Best Value Form process followed in accordance with Rule 8.</p> <p>The opportunity does not need to be advertised on the e-tendering system, contracts finder or Find a Tender Service.</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>Contract details must be published on the Contract Register.</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> <p>Where applicable, the Responsible Officer must complete the Key Decision process.</p> | <p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |
| £50,000 inclusive of VAT up to WTO GPA Threshold (currently £663,540 inclusive of VAT) | <p>Bids must be invited in accordance with Rule 9.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder. It does not need to be</p> | <p>Contract award is approved by the Responsible Officer.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract</p> | <p>One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf).</p> |

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|--|--|---|---|
| | advertised on Find a Tender Service. | Register and on Contracts Finder. | |
| Above UK Procurement Threshold (currently £663,540 inclusive of VAT) | <p>Follow the appropriate procedure as set out in Rules 11 and 12.</p> <p>The opportunity must be advertised on the e-tendering system, Contracts Finder and Find a Tender Service.</p> | <p>Approval must be sought through the Gateway Process.</p> <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p> | <p>Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf).</p> <p>AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p> |

Table 4: Health Care Services (Excluding Social & Other Specific Services)

Direct Award Process A

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---------------------------------------|---|---|--|
| £0 – £50,000 (including VAT) | Follow the appropriate procedure as set out in Rule 15 . The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £50,000 – £663,540 (including VAT) | Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| Over £663,540 (including VAT) | | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 . |

Direct Award Process B

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---------------------------------------|---|---|--|
| £0 – £50,000 (including VAT) | Follow the appropriate procedure as set out in Rule 15 . The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £50,000 – £663,540 (including VAT) | Expressions of Interest must be sought on the E-Sourcing system. Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| Over £663,540 (including VAT) | | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 . |

Direct Award Process C

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|---------------------------------|---|---|--|
| £0 – £50,000 (including VAT) | Follow the appropriate procedure as set out in Rule 15 . | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|--|--|---|--|
| £50,000 – £663,540 (including VAT) | The Gateway Process must be completed. An intention to award notice must be published on Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| Over £663,540 (including VAT) | Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 . |

Most Suitable Provider Process

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|--|---|---|--|
| £0 – £50,000 (including VAT) | Follow the appropriate procedure as set out in Rule 15 . The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £50,000 – £663,540 (including VAT) | A Notice of Intention to follow the Most Suitable Provider Process must be published via Find a Tender Service An Intention to Award Notice must be published to Contracts | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|-------------------------------|---|---|--|
| Over £663,540 (including VAT) | Finder and Find a Tender Service. Awarded contract details must be published on the Contract Register, Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf). Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 . |

Competitive Process

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|------------------------------------|--|---|---|
| £0 – £50,000 (including VAT) | Follow the appropriate procedure as set out in Rule 15 . The Gateway Process must be completed. | Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| £50,000 – £663,540 (including VAT) | The opportunity must be advertised on the E-Sourcing system, Find a Tender Service and Contracts Finder. Awarded contract details must be published on the Contract Register, | The Responsible Officer must complete the Decision Record process for Contracts with a value of £50,000 inclusive of VAT or above. Where applicable, the Responsible Officer must complete the Key Decision process. | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |
| Over £663,540 (including VAT) | Find a Tender Service and to Contracts Finder. | The Responsible Officer must complete the Key Decision process. | Two signatures The Director (or by an Officer authorised by the Director to sign on the Directors behalf). AND The Monitoring Officer (or by an Officer authorised by the |

| Total Contract Value | Award Procedure | Transparency Procedure | Signature/Sealing Contract |
|----------------------|-----------------|------------------------|---|
| | | | <p>Monitoring Officer to sign on his behalf).</p> <p>Sealing (where appropriate) Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6.</p> |

Table 5: Grants awarded by the Council

| Total Grant Value | Award Procedure | Transparency Procedure | Signature/Sealing |
|-------------------|--|--|--|
| £0 up to £100,000 | The Best Value Form or a Competitive Grant Form must be completed in accordance with Rule 23. | <p>The Responsible Officer must complete the Decision Record process and/or the Key Decision Process where applicable.</p> <p>Contract details must be published on the Contract Register for contracts above £5,000 (excl. VAT).</p> <p>Contract details must be published on Contracts Finder for contracts above £30,000 (incl. VAT).</p> <p>The Responsible Officer will notify the Procurement and Contract Management Service of any Contract awarded to enable the contract to be published on the Contract Register and Contracts Finder (where applicable).</p> | One signature The Director within the relevant Directorate (or by an Officer authorised by the Director to sign on the Directors behalf). |

| Total Grant Value | Award Procedure | Transparency Procedure | Signature/Sealing |
|-------------------|---|---|--|
| £100,000+ | <p>A competitive application process must be completed in accordance with Rule 23.</p> <p>Where the value is below the thresholds set out in Rule 19.2 a Competitive Grant Form must be completed.</p> <p>Where the value exceeds the thresholds set out in Rule 19.2 the Gateway Process must be completed.</p> | <p>The Responsible Officer must complete the Decision Record process and, where applicable, the Key Decision Process.</p> <p>Contract details must be published on the Contract Register and on Contracts Finder.</p> | <p>Sealing Monitoring Officer (or by an Officer authorised by the Monitoring Officer to sign on his behalf) in accordance with Rule 6 (unless signing is agreed by the Monitoring Officer).</p> |

3. COMPLIANCE WITH LEGISLATION AND STANDARDS

- 3.1 Every Contract and Grant shall comply with all relevant applicable legislation and government guidance.
- 3.2 Where relevant, every Contract shall specify that materials used, goods provided, services supplied or works undertaken (as the case may be) shall comply with applicable standards.

4. POWERS AND KEY DECISIONS

- 4.1 In consultation with the Monitoring Officer Directors shall ensure that the Council has the legal power to enter into any Contract or Grant and that in respect of all Contracts and Grants, regardless of whether they involve the procurement or provision by the Council of Works, Supplies, Services or Social and Other Specific Services, and Health Care Services, Directors shall ensure that no Contract or Grant shall be entered into which is ultra vires.
- 4.2 Directors shall ensure that a written record of the decision to procure a Grant or Contract is made in accordance with the Gateway process where **Rule 19** applies. Where such a decision comprises a Key Decision under the Constitution, Directors shall ensure that it is entered on to the Forward Plan and treated as a Key Decision in all respects.

5. FORM OF CONTRACT

- 5.1 Every Contract and Grant shall be evidenced in writing and must be signed or sealed (as appropriate) by both parties. Signature or sealing by the Council shall be in accordance with the requirements set out in **Rule 2** and **Rule 6**.
- 5.2 Wherever appropriate, and for all Contracts exceeding £50,000 including VAT in value, such written agreements shall be made on the basis of terms and conditions agreed by the Monitoring Officer. Such terms and conditions may be incorporated into standard order conditions. The Council may accept different terms and conditions

proposed by a Contractor provided that the advice of the Monitoring Officer as to their effect has been sought and considered.

- 5.3 The written form of agreement must clearly specify the obligations of the Council and the Contractor and shall include:-
- (a) the work to be done or the Supplies, Services or Social and Other Specific Services, or Health and Care Services to be provided
 - (b) the standards which will apply to what is provided
 - (c) the price or other consideration payable
 - (d) the time in which the Contract is to be carried out
 - (e) the remedies which will apply to any breach of Contract.

6. SIGNATURE/SEALING OF CONTRACTS

- 6.1 Every written Contract or Grant must be either signed or sealed in accordance with this Rule. The Monitoring Officer (or an Officer authorised by the Monitoring Officer) will determine whether a Contract must be signed or sealed.
- 6.2 The Monitoring Officer and such of his staff as he may designate are authorised to sign any such contract or Grant.
- 6.3 The Monitoring Officer also authorises such Contracts or Grants to be signed as outlined in **Rule 2.12, Tables 1-5** and **Rule 1.3(c)** provided that:-
- (a) appropriate authority exists for the Council to enter into the Contract, and
 - (b) the Contract is either:-
 - (i) in a nationally recognised form, or
 - (ii) a standard form prepared or approved by the Monitoring Officer, or
 - (iii) is otherwise in a form approved by the Monitoring Officer; and
 - (c) any variations to approved forms of Contract must themselves be approved by the Monitoring Officer, whether they are affected by amending the Contract itself or by correspondence.
- 6.4 Only the Monitoring Officer (or a Legal and Democratic Services' Officer (LDSO) authorised by the Monitoring Officer) may seal a Contract on behalf of the Council, in each case being satisfied that there is appropriate authority to do so. Where agreed by the Monitoring Officer, electronic Deeds may be executed by the Monitoring Officer or a LDSO using the Council's chosen electronic deeds execution system.
- 6.5 Signatures may be affixed to a Contract either using physical, handwritten means or an Electronic Signature, as appropriate and in accordance with UK law.
- 6.6 Electronic Signatures may only be affixed using the Council's chosen electronic signature system or an approved alternative, as agreed by the HoP.
- 6.7 The use of Electronic Signatures is not permitted in circumstances where:

- (a) the Contract is to be sealed (except where 6.4 applies);
- (b) a physical handwritten signature needs to be filed;
- (c) there is a proviso in the Contract which prevents the use of an Electronic Signature;
- (d) the Contract may need to be enforced in a jurisdiction where Electronic Signatures are not accepted;
- (e) the Contract needs to be notarised.

7. BONDS AND LIQUIDATED DAMAGES

- 7.1 Where appropriate the Council shall consider whether to include provision for the payment of liquidated damages by a Contractor for breach of Contract.
- 7.2 Where considered appropriate by the Council, the Contractor will be required to provide a parent company guarantee/performance bond to secure the performance of the Contract. Such performance bonds should provide for a sum of not less than 10% of the total value of the contract or such other sum as the S151 Officer considers appropriate.
- 7.3 Agreements made under Section 38 (adoption of new highways) or Section 278 (development of existing highways) of the Highways Act 1980 shall always include provision for a bond in respect of such sum as the Director of Environment shall consider appropriate except where: -
 - (a) the identity of the developer renders the need for a bond unnecessary, or
 - (b) adequate alternative security is provided, or
 - (c) the Director of Environment (in consultation with the S151 Officer) agrees that it is inappropriate for a bond to be required.

8. QUOTES

- 8.1 Rule 8 does not apply to Contracts for Health Care Services or Grants.

SINGLE QUOTATION

- 8.2 Where the estimated value of a Contract is less than or equal to £5,000 excluding VAT or less (taking into account the whole life cost of the Contract, including extensions and/or variations) a quote must be obtained.
- 8.3 There is no requirement to use an E-Sourcing system or publish the opportunity on Contracts Finder for contracts below £5,000 (excluding VAT).
- 8.4 A single quote cannot be accepted where the value exceeds £5,000 excluding VAT. If the value of the quote exceeds £5,000 excluding VAT three quotes must be obtained or the best value form completed in accordance with **Rules 8.5 to 8.11**.

MINIMUM THREE QUOTES PROCESS/BEST VALUE FORM

- 8.5 Where the estimated value of a Contract is above £5,000 excluding VAT, and less than £50,000 including of VAT (taking into account the whole life cost of the Contract including extensions and/or variations) a minimum of three quotes should be sought.
- 8.6 Where possible quotes should be sought from at least one local supplier based within North Yorkshire and at least one Small and Medium Enterprise (SME).
- 8.7 If three quotes are not sought, the Contract may be directly awarded using the Best Value Form as long as sufficient justification is given for not undertaking a quotes process. It is the Officer's responsibility to complete the Best Value Form.
- 8.8 A three quote process/best value form cannot be accepted where the value exceeds the upper limit for this process (i.e. £50,000 inclusive of VAT). If the value of the quote exceeds the upper limit for this process the bids process must be followed in accordance with **Rule 9**.
- 8.9 Where the estimated value of a Contract is between £30,000 and £50,000 inclusive of VAT (taking into account the whole life cost of the Contract, including extensions and/or variations):
- (a) there is no requirement to advertise the opportunity, however if the Council chooses to advertise the opportunity, then it must also be advertised on Contracts Finder; and
 - (b) once the contract is awarded, details must be published on Contracts Finder.
- 8.10 It is the Officer's responsibility to keep a record of quotes sought for audit purposes and to demonstrate best value has been achieved.
- 8.11 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

9. BIDS

- 9.1 Rule 9 does not apply to Contracts for Health Care Services or Grants.
- 9.2 If the estimated value of a Contract exceeds £50,000 inclusive of VAT but is less than the appropriate WTO GPA Threshold, bids must be invited from all potential Contractors in accordance with **Rule 2.12, Tables 1-3**.
- 9.3 A notice advertising the opportunity shall be published through the E-Sourcing System and on Contracts Finder and, if considered appropriate, a local newspaper and a suitable professional or trade journal or website. The form of advertising shall take into account the value, location and subject matter of the Contract. The notice shall specify brief details of the Contract, how the ITB documents may be obtained and the closing date for receipts of bids by the Council.
- 9.4 All potential Contractors invited to submit bids shall be provided in all instances with identical information and instructions. Where considered appropriate, Directors may permit potential Contractors who have been invited to submit bids under **Rule 9.2** to also submit variant bids (i.e. bids which do not comply with some or all of the requirements of the primary bid). The same opportunity to submit variant bids must be given to all potential Contractors.
- 9.5 A written bid may only be considered if:-

- (a) it has been received electronically through the E-Sourcing System, or
 - (b) (where permitted in exceptional circumstances) it has been received in a sealed envelope marked "Bid" and indicating the subject matter of the bid; and
 - (c) it has been opened after the expiry of the deadline for submissions and at the same time as other bids for the same subject matter in the presence of at least two Officers authorised to open bids.
- 9.6 Before bids are requested the evaluation criteria must be recorded in writing in the SQ and/ITB documents. The evaluation criteria must be identified and the weighting between price and quality established and stated in the request for bids sent to participants.
- 9.7 If a bid other than the lowest or the most economically advantageous bid is to be accepted, the written approval of the Director (in consultation with the S151 Officer or if the relevant Director is the S151 Officer, in consultation with the Chief Executive) shall be sought and obtained before the bid is accepted.
- 9.8 A bid cannot be accepted where the value exceeds the relevant WTO GPA Threshold. If the value of the bid exceeds the relevant WTO GPA Threshold a Director must seek tenders in accordance with **Rules 11 and 12**.
- 9.9 Before a Contract is awarded after a bid exercise such steps shall be taken by the Responsible Officer, as are reasonably necessary (having regard to the subject matter, value, duration of the Contract and other relevant factors) to complete a risk assessment of the potential Contractor's financial stability.
- 9.10 Bids may be altered only in accordance with **Rule 10**.
- 9.11 Where a Contract is terminated within the first 6 months of the Contract commencement date, the Council may award the Contract to the second placed supplier, provided that this demonstrates Best Value and with agreement from the HoP in consultation with the appropriate SCM.
- 9.12 The evaluation of bids shall be carried out by a panel of suitably qualified Officers who are considered appropriate having regard for the subject matter and value of the Contract.
- 9.13 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

10. POST BID NEGOTIATION AND CLARIFICATION

- 10.1 Rule 10 does not apply to Contracts for Health Care Services or Grants.
- 10.2 Post bid negotiations may not be undertaken where the value of the Contract exceeds the relevant WTO GPA Threshold. If the value of the bid exceeds the relevant WTO GPA Threshold, the Director must invite tenders in accordance with **Rules 11 and 12**.
- 10.3 Post bid negotiations with selected Participants shall only be carried out where: -
- (a) post tender negotiations are permitted by law; and
 - (b) the Director in consultation with the HoP considers that added value may be obtained; and
 - (c) post bid negotiations are conducted by a team of suitably experienced Officers approved by the Director and who have been trained in post bid negotiations; and
 - (d) a comprehensive, written record of the post bid negotiations is kept by the Director; and
 - (e) a clear record of the added value to be obtained as a result of the post bid negotiations is incorporated into the Contract with the successful Participant.
- 10.4 **Rules 10.2 and 10.3** shall not operate to prevent clarification of all or part of any bid to the extent permitted by law and where such clarifications are sought the provisions of **Rules 10.3(c) and 10.3(d)** shall apply.

11. ABOVE THRESHOLD PROCESS

- 11.1 Rule 11 does not apply to Contracts for Health Care Services or Grants.
- 11.2 Where the estimated value of the Contract exceeds the WTO GPA Threshold, Above Threshold Tenders shall be invited and awarded in accordance with the PCRs and as prescribed in **Rule 11 and 12**.

General Requirements

- 11.3 Before an Above Threshold Tender is requested the evaluation criteria to be applied to the Above Threshold Tender must be recorded in writing in the SQ and/or ITT document. The evaluation criteria must be identified and the weighting between price and quality established and stated in the SQ and/or ITT sent to Participants.
- 11.4 Irrespective of the procurement process being undertaken a notice must be published on the Find a Tender Service system and Contracts Finder, where possible this should be through the E-Sourcing system or an appropriate alternative system as agreed with the HoP.
- 11.5 All Participants invited to submit Above Threshold Tenders shall be provided in all instances with identical instructions and information.
- 11.6 Where considered appropriate, the HoP may, in consultation with the SCM, permit Participants to submit variant Above Threshold Tenders (i.e. tenders which do not comply with some or all of the requirements of the primary tender). The same opportunity to submit variant Above Threshold Tenders shall be given to all

Participants. Variant Above Threshold Tenders shall only be considered if the Participant also submits a compliant primary tender.

- 11.7 The evaluation of the Above Threshold Tenders shall be carried out by Officers who are considered appropriate having regard for the subject matter and value of the Contract.
- 11.8 All procurements undertaken in accordance with **Rule 11** shall have a minimum of 3 appropriate Officers (excluding the Procurement and Contract Management Service representative) to undertake the evaluation process. The evaluation process shall include:
- Individual evaluation assessment and scoring
 - Consensus marking exercise, chaired by a member of the Procurement and Contract Management Service
 - Independent review by SCM, where required
 - Moderation by evaluation panel, where required
- 11.9 All evaluation panel members must have completed the evaluation training prior to completing any evaluation process.
- 11.10 Where a Contract is terminated within the first 6 months of the Contract commencement date, the Council may award the contract to the second placed supplier with agreement from the HoP in consultation with the Monitoring Officer provided that this demonstrated Best Value and the original award criteria have not changed.
- 11.11 The Responsible Officer must follow the Council's Access to Information Rules, for example the Responsible Officer must complete the Key Decision process where applicable, and publish a decision record.

12. OPTIONS FOR ABOVE THRESHOLD PROCESS

- 12.1 Rule 12 does not apply to Contracts for Health Care Services or Grants
- 12.2 The Gateway Process shall identify which Above Threshold Tender Procedures shall be used to invite tenders for Contracts with a value in excess of the relevant WTO GPA Threshold.
- (i) the Open Procedure (as prescribed by PCR Regulation 27)
 - (ii) the Restricted Procedure (as prescribed by PCR Regulation 28)
 - (iii) the Competitive Procedure with Negotiation (as prescribed by PCR Regulation 29)
 - (iv) the Competitive Dialogue Procedure (as prescribed by PCR Regulation 30)
 - (v) the Innovation Partnership Procurement (as prescribed by PCR Regulation 31)
 - (vi) use of the Negotiated Procedure without prior publication (as prescribed by PCR Regulation 32)
 - (vii) Social and Other Specific Services (Light Touch Regime) (as prescribed by PCR Regulations 74-76)

and such identified process shall be used for the invitation of Above Threshold Tenders in accordance with the requirements of the PCR's.

- 12.3 The Gateway Process shall also identify which of the following techniques and instruments which can be used for Electronic and Aggregated Procurements:
- (i) Framework Agreement (as prescribed by PCR Regulation 33)
 - (ii) Dynamic Purchasing System (as prescribed by PCR Regulation 34)
 - (iii) Electronic auctions (as prescribed by PCR Regulation 35)
 - (iv) Electronic catalogues (as prescribed by PCR Regulation 36).

13. RECEIPT AND OPENING OF ABOVE THRESHOLD TENDERS

- 13.1 Rule 13 does not apply to Contracts for Health Care Services or Grants.
- 13.2 A written Above Threshold Tender may only be considered if: -
- (a) it has been received electronically through the E-Sourcing System, or (where permitted in exceptional circumstances, and subject to agreement by the HoP) it has been received electronically through an appropriate alternative method, such as a secure email inbox; or
 - (b) (where permitted under Regulation 84(h)) it has been received in hard copy in a sealed envelope marked "Above Threshold Tender" and indicating the subject matter of the Above Threshold Tender, and the identity of the Participant cannot be ascertained from the tender envelope; and
 - (c) (subject to **Rule 13.5**) it has been received by the Above Threshold Tender closing date and time.
- 13.3 The S151 Officer (or a person designated by them) shall be responsible for the reception and safe custody of Above Threshold Tenders until they are opened.
- 13.4 Electronically submitted Above Threshold Tenders, whether electronic or hard copy must be opened at the same time, in an auditable way, by an independent Officer from the Procurement and Contract Management Service.
- 13.5 Where permitted under Regulation 84(h) of the PCRs and Above Threshold Tenders are returned in hard copy format a written record shall be maintained by the HoP, of the Above Threshold Tenders received. Such a record shall include the date and time of Above Threshold Tender opening, the identity of the Officer(s) present, the identities of Participants and the tendered sums (where readily ascertainable).
- 13.6 Above Threshold Tenders submitted in hard copy must be opened at the same time and in the presence of the S151 Officer (or a person designated by them) or, where the Procurement and Contract Management Services is undertaking the procurement, the Monitoring Officer (or an Officer designated).
- 13.7 If an Above Threshold Tender is received after the specified closing date and time it may not be considered unless the HoP is satisfied that the Above Threshold Tender was submitted electronically or posted or otherwise dispatched in sufficient time to be

delivered before the specified time but that delivery was prevented by an event beyond the control of the Participant.

14. ABOVE THRESHOLD TENDER EVALUATION AND ACCEPTANCE

- 14.1 Rule 14 does not apply to Contracts for Health Care Services or Grants.
- 14.2 The relevant officers shall evaluate Above Threshold Tenders using the evaluation criteria published in accordance with **Rule 11.3**.
- 14.3 Before a Contract is awarded the HoP shall, in consultation with the SCMs, determine whether it is proportionate and appropriate to complete a risk assessment to ascertain the financial stability of the successful Participant. The risk assessment shall take into account the subject matter, complexity, duration, value and any other such factors as may be deemed to be relevant. This shall be recorded in accordance with the Gateway Process (Gate 3) where appropriate.
- 14.4 On completion of the evaluation of the Above Threshold Tenders received and once all internal approvals have been obtained through the Gateway Process (Gate 3), the HoP (or an Officer authorised by the HoP) shall write to all Participants informing them of the outcome of the Above Threshold Tender evaluation and providing feedback on the content of their submission, in accordance with Regulation 55 of the PCR's.
- 14.5 The HoP (or an Officer authorised by the HoP) shall wait a minimum of ten days (15 days if not sent electronically) from the date of issue of the letters notifying the Participants of the result of the evaluation before completing the Contract with the successful Participant, except where not required for example for call-offs under an existing Framework.
- 14.6 The HoP (or an Officer authorised by the HoP) shall send for publication a Contract Award Notice stating the outcome of the procurement procedure no more than 30 days after the award of the Contract.

15. OPTIONS FOR HEALTH CARE SERVICES PROCESS

- 15.1 The PSR governance process will identify which procedure shall be used for all Health Care Service contracts irrespective of value.
 - a) Direct Award A (as prescribed by PSR Regulation 7)
 - b) Direct Award B (as prescribed by PSR Regulation 8)
 - c) Direct Award C (as prescribed by PSR Regulation 9)
 - d) The Most Suitable Provider Process (as prescribed by PSR Regulation 10)
 - e) The Competitive Process (as prescribed by PSR Regulation 11)

Such identified processes shall be used for the invitation and/or contract award in accordance with the requirements of the PSR.

16. CERTIFICATION OF CONTRACTS

- 16.1 The Local Government (Contracts) Act (LGCA) 1997 clarified the power of local authorities to enter into certain contracts, including Private Finance Initiative Contracts. Where Contracts need to be certified under the 1997 Act, only the following Officers

are authorised to do so, following consultation with the relevant Executive Member: the Director Children and Young People's Service, the Director of Environment, the Director Health and Adult Services, the Director of Community Development, the Director of Public Health, the Monitoring Officer and the S151 Officer.

17. EXCEPTIONS TO PROCUREMENT AND CONTRACT PROCEDURE RULES

17.1 Rule 17 does not apply to Contracts for Health Care Services or Grants.

17.2 A Director does not need to invite bids in accordance with **Rule 9** in the following circumstances: -

- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBOs) and where such framework agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement; or
- (b) the contract is to be awarded to the Council's teckal company which is legally controlled by the Council; or
- (c) the instruction of Counsel by the Monitoring Officer; or
- (d) where funding is received by the Council, either in its own right or as an accountable body, and the terms of such grant or other external funding state that it must be applied in accordance with those terms; or
- (e) purchases at public auctions (including internet auction sites, e.g. Ebay) where the Director is satisfied that value for money will be achieved; or
- (f) the purchase of Supplies, Works, Services or Social and Other Specific Services which are of such a specialised nature as to be obtainable from one Contractor only; or
- (g) repairs to or the supply of parts for existing proprietary machinery or plant where to obtain such supplies from an alternative supplier would invalidate the warranty or contractual provisions with the existing supplier; or
- (h) Social or Other Specific Services Contracts where:-
 - (i) the service is currently supplied by a Contractor to the satisfaction of the relevant Director, is considered to be offering value for money and where the foreseeable disruption to service users cannot justify the invitation of further bids, or
 - (ii) the service is of a specialist or personal nature and where service users must be involved in the selection of the Contractor and where the Director Health and Adult Services and the Director Children and Young People's Service considers it inappropriate for bids to be invited, or
 - (iii) where the relevant Director is satisfied that the urgency of the need for the service prevents the invitation of bids in which case consideration shall be given to the duration of that service; or

- (i) in relation to Pilot schemes for a proof of contract/trialling a product or area of innovation.
 - (j) Contracts where the Director with the agreement of the HoP agree that for reasons of extreme urgency brought about by unforeseeable events unattributable to the Council, the timescales for obtaining bids cannot be met. A written record shall be signed and dated by the Director, whenever this Rule applies.
- 17.3 Where any of the exceptions set out in **(e) to (j)** above are applied a Directors Recommendation, in consultation with the relevant SCMs, shall be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all recommendations made under this Rule.
- 17.4 A Director does not need to invite Above Threshold Tenders in accordance with **Rule 11 and 12**, in the following circumstances however the gateway process at **Rule 19** shall still apply:
- (a) purchases via Framework Agreements which have been established either by the Council or by other public sector bodies or consortia (including, but not limited to PSBO's) and where such Framework Agreements are lawfully accessible to the Council. Contracts awarded from such Framework Agreements shall be awarded in accordance with the provisions of that Framework Agreement. Where appropriate Officers should apply a minimum 10 day standstill period for all call-off Contracts awarded under an existing Framework Agreement. This is not mandatory but is deemed best practice; or
 - (b) where:
 - (i) Regulations 12 or 72 of the PCRs apply; or
 - (ii) any other specific exclusions as set out in the PCRs apply.

Waivers

- 17.5 Specific exceptions to these Rules are permitted in such other circumstances as the S151 Officer and the Monitoring Officer may agree.
- 17.6 Requests for waivers shall be made using the Waiver Request Form prescribed by the S151 Officer which shall specify the reasons for the request.
- 17.7 Any requests for waivers shall be made in consultation with the relevant SCM's, and be signed, dated and kept. The Procurement and Contract Management Service shall maintain a register of all waivers made under this Rule.

18. COMPLIANCE, CONTRACT REGISTER AND FORWARD PROCUREMENT PLANS

- 18.1 Every Officer shall comply with these Rules and any unauthorised failure to do so may lead to disciplinary action.
- 18.2 The S151 Officer shall be responsible for monitoring adherence to these Rules.
- 18.3 The HoP shall nominate a representative to act as a key contact point in relation to procurement matters for spend categories; such representatives shall be termed SCMs.
- 18.4 Each Director, in conjunction with the HoP, shall take all such steps as are reasonably necessary to ensure that Officers within their Directorate are aware of and comply with these Rules, the Procurement Manual and the Finance Manual referred to in **Rule 2.5**.
- 18.5 An annual report on procurement matters, such report to include an annual procurement plan and actions arising from the annual procurement plan, will be presented to a meeting of the Audit Committee.
- 18.6 The Council maintains a Contract Register the purpose of which is to record key details of:
- 18.6.1 all Contracts with an aggregate value of £5,000 (exclusive of VAT) or more; and
- 18.6.2 all Health Care Services contracts irrespective of value.
- 18.7 All Responsible Officers will notify the Procurement and Contract Management Service of any Contract awarded:
- 18.7.1 above £5,000; or
- 18.7.2 any contract for Health Care Services irrespective of value.

The Responsible Officer will use the format prescribed by the Procurement and Contract Management Service and report this information quarterly.

- 18.8 The HoP shall ensure that:-
- (a) all relevant Contracts (including those Contracts to which **Rule 16** applies) are entered onto the Contract Register; and
- (b) the Contract Register is maintained by entering new Contracts onto it and removing expired Contracts from it in line with the Council's Records Retention and Destruction Schedule.

Contracts Finder

- 18.9 When a Procurement leading to a Contract in excess of £30,000 inclusive of VAT is awarded the Procurement and Contract Management Service shall ensure that such information as is prescribed in the PCRs is published on Contracts Finder via the ESourcing system.
- 18.10 When a Procurement leading to a Health Care Services Contract of any value is awarded, the Procurement and Contract Management Service shall ensure that such

information as is detailed in the PSRs is published on Contracts Finder via the E-Sourcing.

19. GATEWAY PROCESS AND PSR GOVERNANCE PROCESS REPORTS INCLUDING NOTIFICATION OF SECTION 151 OFFICER AND MONITORING OFFICER

19.1 When a procurement or Grant is being considered which is expected to exceed the financial value thresholds specified in **Rule 19.2** the Gateway Process must be completed and signed off by the relevant Officers, as detailed in **Table 5** below.

Table 6: Gateway Process - Authorisation to Approve

| Gateway Process gate | Approval process |
|---|---|
| Gate 1 – Commissioning and Procurement Options Appraisal (includes Grants) | PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance - S151 Officer or delegated Assistant Director AND The Monitoring Officer or delegated officer |
| Gate 2 – Authorisation of Documents | An Officer from the Procurement and Contract Management Service AND SCM or delegated Officer |
| Gate 3 – Contract/ Grant Award | PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance - S151 Officer or delegated Assistant Director |
| Gate 4(a) – Contract / Grant Extension/Variation/Novation | PAB or HoP or delegated SCM AND The relevant Director or delegated Assistant Director AND Finance - S151 Officer or delegated Assistant Director AND, where appropriate Monitoring Officer or delegated officer – <i>only in cases where the extension is not part of the original Contract.</i> |
| Gate 4(b) – Contract/ Grant Termination (during the contract period) | PAB or HoP or delegated senior officer AND The relevant Director or delegated Assistant Director AND Finance - S151 Officer or delegated Assistant Director AND Monitoring Officer or delegated officer |

19.2 The whole contract financial value thresholds for the purposes of **Rule 19.1** are:

- (a) Works and Concession Contracts - £1,000,000 inclusive of VAT
- (b) Social and Other Specific Services Contracts - £663,540 inclusive of VAT
- (c) Goods and Services Contracts - £214,904 inclusive of VAT.

The above values are used to determine the Gateway Process threshold for Grants.

19.3 In relation to Health Care Services contracts the PSR Governance Process must be completed and signed off by the relevant Officers, as detailed in **Table 7** below.

Table 7: PSR Governance Process - Authorisation to Approve

| PSR Governance Process | Approval process |
|---|--|
| PSR Direct Award Process A, B or C – Contract Appraisal and Award | PAB or HoP or delegated SCM AND The relevant Director or delegated Officer |
| PSR Most Suitable Provider Process or Competitive Process - Options Appraisal / Project Initiation | PAB or HoP or delegated SCM AND The relevant Director or delegated Officer |
| PSR review – Authorisation of Documents | An Officer from the Procurement and Contract Management Service AND SCM or delegated Officer |
| PSR Most Suitable Provider Process or Competitive Process – Contract/ Grant Award | PAB or HoP or delegated SCM AND The relevant Director or delegated Officer |
| PSR Contract Modification – Contract / Grant Extension/Variation/Novation | PAB or HoP or delegated SCM AND The relevant Director or delegated Officer AND, where appropriate Monitoring Officer or delegated officer – <i>only in cases where the extension is not part of the original Contract.</i> |
| PSR Contract Termination – Contract / Grant Termination (during the contract period) | PAB or HoP or delegated SCM AND The relevant Director or delegated Officer AND Monitoring Officer or delegated officer |

19.4 The whole contract financial value thresholds for the purposes of **Rule 19.3** are:

- (a) Health Care Services Contracts – any value

20. CONTRACT MANAGEMENT

20.1 The Responsible Officer shall take all such steps as are appropriate to monitor and review the performance of the Contract, having regard to its value, nature, duration and subject matter. As part of the monitoring and review process the Responsible Officer shall maintain adequate records of Contract performance and details of review meetings with the Contractor. Such relevant records and details shall be made

available to Internal Audit whenever required and shall be recorded in any relevant Gateway Process report (Gate 4).

- 20.2 Where appropriate the Responsible Officer will attend the Contract Management Practitioners Group.

Contract Variation/Novation

- 20.3 Contracts with a value below the relevant WTO GPA Threshold may be varied or extended or novated in accordance with the terms of that Contract. Any proposed variations which have the effect of materially changing the Contract must be approved by the Monitoring Officer, whether or not they are affected by amending the Contract itself or by correspondence.
- 20.4 Contracts with a value in excess of the relevant WTO GPA Threshold may be varied or extended in accordance with the terms of that Contract and/or as outlined in Regulation 72 of the PCRs. Approval must be sought in accordance with **Rule 19.1**, (Table 5 - Gateway Process - Authorisation to Approve Gate 4a).
- 20.5 Health Care Services Contract variations must be done in accordance with Regulation 13 of the PSRs. Approval must be sought in accordance with **Rule 19.3**.

Contract Termination

- 20.6 If an Officer requires a Contract which exceeds the financial values stated in **Rule 19.2** or any Health Care Service Contract to be terminated then this must be done in accordance with the terms of the Contract and in accordance with the PCRs or PSRs, where applicable. Approval must be sought in accordance with **Rule 19.1** or **Rule 19.3** (as applicable).

21. TRAINING FOR PROCUREMENT AND CONTRACT MANAGEMENT

- 21.1 Where appropriate any Officer involved in procurement activities shall have received a level of formal training commensurate with the nature of the procurement activity being undertaken.
- 21.2 Where appropriate the Responsible Officer involved in contract management shall have received a level of formal training commensurate with the nature of the contract.

22. DECLARATION OF INTERESTS

- 22.1 A Conflict of Interest declaration must be completed by all members of the evaluation panel. A Confidentiality Agreement or Declaration form must also be completed by any members of the evaluation panel who are not directly employed by the Council, unless there are alternative appropriate confidentiality provisions within the persons appointment documents (such as a consultancy agreement).
- 22.2 If it comes to the knowledge of a Member, Responsible Officer or other Officer that a Contract or Grant in which they have an interest (determined in accordance with the Members' and/or Officers' Code of Conduct as appropriate) has been or is proposed to be entered into by the Council, they shall immediately give written notice to the Monitoring Officer.
- 22.3 In relation to Health Care Services Contracts, conflicts of interest must be managed in line with Regulation 21 of the PSRs.

23. GRANTS

- 23.1 A grant is a sum of funds for a specific purpose. Under a grant agreement, the funder makes a payment to the recipient for a specific purpose. The recipient is not obliged to deliver any goods or services to the funder. The Council may grant-fund third party organisations for example to help deliver community cohesion or to provide complementary activities. Responsible Officers should in consultation with Procurement and Contract Management Service and Monitoring Officer understand if the Grant is subject to the PCRs or PSRs.
- 23.2 Grants up to a value of £100,000 may be directly awarded where a Best Value Form is completed, and subsidy control law must be complied with. It is the Officer's responsibility to complete the Best Value Form.
- 23.3 For any Grant over £100,000, a competitive grants process must be completed and subsidy control law complied with. Where a competitive grants process is undertaken, a Competitive Grants Form must be completed. Where appropriate, the opportunity should be advertised on the Council's ESourcing system.
- 23.4 Where the value of a grant exceeds the relevant WTO GPA Threshold, any value for Health Care Service Contracts, or £1,000,000 for works, the Gateway Process shall be completed in accordance with **Rule 19**.
- 23.5 Specific exceptions to **Rule 23** are permitted in circumstances as the Monitoring Officer and S151 Officer may agree.
- 23.6 The Responsible Officer shall take all such steps as are appropriate to monitor and review the delivery of the grant agreement, having regard to its value, nature, duration and subject matter. As part of the Grant monitoring and review process the Responsible Officer shall maintain adequate records of delivery and details of review meetings with the grant recipient.

24. HIRING AND ENGAGING STAFF

- 24.1 Where an Officer is hiring or engaging a staff member who is not on the Council payroll there is a legal requirement to determine whether it is the responsibility of the Council to deduct tax and national insurance at source, in accordance with the requirements of the Social Security Contributions (Intermediaries) Regulations 2000, as amended (IR35).

Development Plan Committee

Membership

| | Councillors Names | | Political Group |
|----|---------------------------------|--|--------------------------------|
| 1 | BAKER, Alyson | | Conservatives and Independents |
| 2 | BASTIMAN, Derek | | Conservatives and Independents |
| 3 | GOODRICK, Caroline | | Conservatives and Independents |
| 4 | HESELTINE, Robert | | Conservatives and Independents |
| 5 | HUGILL, David | | Conservatives and Independents |
| 6 | HULL, Nathan | | Conservatives and Independents |
| 7 | JONES, Tom | | Conservatives and Independents |
| 8 | LEE, Andrew | | Conservatives and Independents |
| 9 | PARASKOS, Andy | | Conservatives and Independents |
| 10 | PEACOCK, Yvonne | | Conservatives and Independents |
| 11 | MANN, John | | Conservatives and Independents |
| 12 | TRUMPER, Phil | | Conservatives and Independents |
| 13 | WINDASS, Robert | | Conservatives and Independents |
| 14 | ANDREWS, Joy | | Liberal Democrats and Liberals |
| 15 | CUNLIFFE-LISTER, Felicity | | Liberal Democrats and Liberals |
| 16 | GOSTLOW, Hannah | | Liberal Democrats and Liberals |
| 17 | MARSH, Pat | | Liberal Democrats and Liberals |
| 18 | COLLING, Liz | | Labour |
| 19 | PACKHAM, Bob | | Labour |
| 20 | SHARMA, Subash | | Labour |
| 21 | BROWN, Andy | | Green |
| 22 | FOSTER, Kevin | | Green |
| 23 | CATTANACH, John | | North Yorkshire Independents |
| 24 | VACANCY (Thirsk and Malton ACC) | | North Yorkshire Independents |

| |
|--|
| Total Membership – (24) Quorum – (6) |
| Con+Ind – 13 Lib Dem and Lib - 4 Labour - 3 Green Party – 2 NY Ind - 2 Total - 24 |

Terms of Reference

1. To support and be consulted on the preparation of any Development Plan Documents (DPDs), excluding Neighbourhood Plans (for which the relevant Area Constituency Committee is the primary consultative committee).
2. To provide strategic oversight and develop a collective understanding of the key issues and opportunities in bringing together the Local Plan for North Yorkshire.
3. To facilitate a collaborative working relationship between officers and Members throughout the evolution of DPDs (excluding Neighbourhood Plans), meeting both informally (as required) as well as formally at key decision making stages,
4. To exercise the specific functions and powers as set out below.

Delegated Powers

The Development Plan Committee has the following functions and responsibilities:

- *(a) To support and be consulted on the preparation of any Development Plan Documents excluding Neighbourhood Plans, at all stages of the plan-making process.
- *(b) To make comments and recommendations to the Area Constituency Committees and to the Executive at formal stages of the plan making process in respect of any Development Plan Documents excluding Neighbourhood Plans.

APPENDIX 4

Extracts from Council Procedure Rules

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2. ORDINARY MEETINGS

2.1 Timing of Meetings

Ordinary meetings of the full Council shall be held in every year as follows:

- (a) on the third Wednesday in February; ~~this meeting is dedicated to the consideration of the Council's Budget and the Council Plan ("the Budget and Council Plan meeting");~~
- (b) on a Wednesday in March or April;
- (c) the penultimate Wednesday in July;
- (d) the second Wednesday in November;
- (e) or on such other dates as the Council shall determine.

The ~~third Friday~~ in February shall be reserved in the diary, each year, for a further ~~Budget and Council Plan~~ meeting, if necessary, to deal with business left outstanding from the meeting held the previous week.

~~Provisions regarding the Annual meeting of full Council are set out in Council Procedure Rule 1 and provisions regarding Extraordinary meetings are set out in Council Procedure Rule 3.~~

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2.2 Notice of Meetings

Five clear days* at least before a meeting of the Council notice of the time and place will be published at the Council's offices. Where the meeting is called by Members of the Council, the notice will be signed by those Members and will specify the business to be transacted. A summons to attend a meeting of the Council, specifying the business proposed to be transacted and signed by the Chief Executive Officer and Assistant Chief Executive Legal and Democratic Services, will be sent by post to the usual place of residence of every Member of the Council, or to such other place specified in writing by the Member to the Assistant Chief Executive Legal and Democratic Services.

2.3 Order of Business

- (a) ~~Save as expressly provided otherwise elsewhere in these Council Procedure Rules,~~ the order of business at Council meetings shall be:
 - (i) if both the Chair and the Vice-Chair are absent to choose a person to preside at the meeting;
 - (ii) any business given priority by or required to be done by statute;
 - (iii) approval, as a correct record, of the Minutes of the previous meeting, including minutes of any special or extraordinary meeting;

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* "Five clear days" – as defined in Access to Information Procedure Rule 4.

- (iv) to receive any communication from the Chair;
- (v) to elect the Leader at the annual meeting in an election year;
- (vi) the statement by the Leader and any questions from Members to the Leader;

~~(vii)~~ Notices of motion in the order in which they have been received, unless the Chair directs that, for the efficient conduct of business, they should be considered earlier on the agenda. At each meeting of the Council, the Chair may, at their discretion, bring forward to noon, or as soon as convenient thereafter, debate on one motion of which notice has been given under Council Procedure Rule 11 and for which adequate reason has been given why it should be debated on the day.

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- (viii) any questions or statements from members of the public who are residents of North Yorkshire relating to Council business, subject to:
 - ♦ notice having been given of the question or statement and the Member to whom it is addressed at least three working days before the meeting; and
 - ♦ no member of the public being entitled to speak for more than three minutes.

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~~(ix)~~ at the annual meeting in an election year, to appoint Members to serve on committees of the Council and/or as representatives of the Council on other bodies unless power to make those appointments has been delegated to other bodies or persons;

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~~(x)~~ any business remaining from the previous meeting;

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(xi) any matter referred to the Council for decision by:

- (a) the Executive;
- (b) the Standards and Governance Committee;
- (c) the Head of Paid Service, Monitoring Officer or Chief Finance Officer;
- (d) a committee of the Council, other than an overview and scrutiny committee;
- (e) the Corporate Parenting Members' Group;

(xii) any statement by an Executive portfolio holder, each of which may be followed by any questions or statements.

Each Scrutiny Chair shall present a report on the work of their Committee.

A summary of the key points of any statement made under this Procedure Rule shall be printed and be made available to all Members as part of the agenda for the meeting.

Members putting questions or statements to a portfolio holder or Chair of the Scrutiny Board or of an Overview and Scrutiny Committee are limited to speaking for a maximum of two minutes.

(xiii) any matter referred to the Council by the following Committees:

- (a) Care and Independence and Housing Overview and Scrutiny Committee;
- (b) Corporate and Partnerships Overview and Scrutiny Committee;
- (c) Scrutiny of Health Committee;
- (d) Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee;
- (e) Children and Families Overview and Scrutiny Committee;
- (f) Transition (LGR) Overview and Scrutiny Committee.

(xiv) Council Procedure Rule 10 questions;

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(xv) other business, if any, specified in the summons for the meeting.

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- (b) The order of business of any meeting of the Council, other than business falling under items (a) (i), (ii) and (iii), may be varied either at the discretion of the Chair or by a resolution passed on a motion duly moved, seconded and put without discussion.

2.4 Reports, Statements and Questions

- (a) Any reports of the Executive or committees shall, whenever possible, be printed and circulated to Members of the Council before the meetings at which they are to be considered.
- (b) The Leader of the Council may make a statement to the Council on any matters relevant to the Council and any portfolio holder (including the Leader if they hold a portfolio) or Chair of any overview and scrutiny committee may make a statement to the Council on any matters relevant to that portfolio or the work of that overview and scrutiny committee. The provisions of Council Procedure Rule 10 shall apply to questions under this Council Procedure Rule.

...

9. QUESTIONS AND STATEMENTS BY THE PUBLIC

9.1 General

With the exception of the Budget and Council Plan meeting, members of the public may ask questions or make statements at ordinary meetings of the Council, and meetings of the Executive and of committees.

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9.1.1 This Council Procedure Rule 9 does not apply to:

- the Council's Planning Committees, Statutory Licensing Sub-Committees and General Licensing and Registration Sub-Committees or any other committee of a quasi-judicial nature), where there are other procedures in place to permit public questions/statements. Public questions/statements at planning committees are governed by the Code of Practice for Councillors and Officers dealing with planning matters in Part 5 of the Constitution;

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- full Council Budget and Council Plan meetings.

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9.2 Order of Questions/Statements

9.2.1 Subject to the other provisions of Council Procedure Rule 9 regarding public questions and statements, the Chair, in consultation with the Assistant Chief Executive Legal and Democratic Services, will decide which questions are asked, or statements made, and in which order. The Chair may refuse to accept questions or statements submitted for full Council or may refer them for consideration to another committee.

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9.2.2 The Chair may group together similar questions or statements. Where there are multiple questions/statements on the same theme, there should be one spokesperson. The Chair has discretion when grouping together similar questions to limit the time for asking such questions and may also, in their discretion, accept one question or statement only per theme or topic and has discretion as to the handling and management of multiple questions/statements on one topic.

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9.2.3 The Chair may refuse to accept a question or statement for a full Council meeting if it is the same as asked/made at a meeting of full Council or the Executive in the previous six months.

9.3 Notice of Questions/Statements

- (a) A question may only be asked (or statement made) if notice including the full text of the question or statement has been given by delivering it in writing or by electronic mail to the Assistant Chief Executive Legal and Democratic Services no later than midday three working days before the day of the meeting. Each question must give the name of the questioner. The question will be put to the relevant executive portfolio holder or committee Chair. Each statement must give the name of the person by whom it is to be made.
- (b) Copies of all public questions received for a meeting of Council will be circulated to all Members in the Council Chamber.

9.4 Number of Questions/Statements

No individual, organisation or group may submit more than one question or statement to full Council or Executive in a six month period (from when an initial question was asked or statement made by that individual, organisation or group).

Deleted: At any one meeting no person may submit more than one question or statement and no more than one such question may be asked or statement made on behalf of one organisation.

9.5 Scope of Questions/Statements

The Assistant Chief Executive Legal and Democratic Services may reject a question or statement if it:

- ♦ is not submitted by a person who can demonstrate a connection to North Yorkshire through living, working or studying in the county;
- ♦ is not about a matter for which the local authority has a responsibility or which affects the county;
- ♦ in relation to full Council meetings, the question or statement does not relate to an item for decision on the Council agenda;
- ♦ is defamatory, frivolous or offensive;
- ♦ is essentially a complaint about and/or appeal against a committee decision;
- ♦ it is directed to full Council and relates to a planning matter (unless the matter is specifically on the agenda for that full Council meeting);
- ♦ is not within the purview of that particular committee;
- ♦ is substantially the same as a question which has been put at a meeting of the Council in the past six months;
- ♦ is submitted by an individual, organisation or group who has submitted a question or statement to full Council or the Executive in the previous six

months; [in respect of a purported question/statement for a full Council meeting];

- ♦ is submitted by a publicly declared candidate for election during the pre-election period; or
- ♦ requires the disclosure of confidential or exempt information.

9.6 Record of Questions/Statements

The Assistant Chief Executive Legal and Democratic Services will enter each question and statement in a book open to public inspection and will immediately send a copy of any question to the Member to whom it is to be put. Rejected questions or statements will include reasons for rejection. Copies of all questions and statements will be circulated to all Members and will be made available to the public attending the meeting.

9.7 Asking the Question or Making the Statement at the Meeting

- (a) The Chair will invite the questioner to put the question to the relevant portfolio holder or committee Chair. If a questioner who has submitted a written question is unable to be present, they may ask a representative to attend to put the question/make the statement on their behalf. Except in exceptional circumstances (as the Assistant Chief Executive Legal and Democratic Services may agree), the questioner must attend the meeting or send a representative to read out the question or statement, otherwise the question/statement will not be dealt with at the meeting and a written response will be provided.
- (b) The Chair will invite the person to ask their question/make their statement. If they are unable to be present they may ask a representative to ask the question or make the statement on their behalf.
- (c) No person asking a question or making a statement may speak for more than three minutes, and the total time allowed at any meeting for questions and statements by the public shall be half an hour. Members answering a public question or statement may speak for up to three minutes. This therefore allows for a maximum of 5 public questions/statements during the thirty minute time period. In accordance with Council Procedure Rule 9.2, the Chair has discretion as to the handling of questions/statements to be taken during that thirty minute time period.

9.8 Supplemental Question

9.8.1 Subject to Council Procedure Rule 9.8.2, a questioner who has put a question in person may also put one supplementary question without notice to the Member who has replied to their original question. A supplementary question must arise directly out of the original question or the reply and is permitted solely for the purpose of clarifying the information provided in response to the original question. In these circumstances the speaking time for the questioner asking a supplemental question will be limited to thirty seconds or such longer time as the Chair might agree. The Member responding to the supplemental question has unlimited time to respond. The Chair may reject a supplementary question on any of the grounds in Rule 9.5 above.

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9.8.2 Council Procedure Rule 9.8 regarding supplemental questions does not apply to meetings of full Council.

9.9 Written Answers

Any question which cannot be dealt with during public question time, either because of lack of time or because of the non-attendance of the Member to whom it was to be put or because notice required by this Rule was not given, will be dealt with by a written answer within two weeks.

9.10 Reference of Question to the Executive or a Committee

Unless the Chair decides otherwise, no discussion will take place on any question or statement, but any Member may move that a matter raised by a question or statement be deferred to the next meeting or referred to the Executive or the appropriate committee or sub-committee. Once seconded, such a motion will be voted on without discussion. No other decision may be taken in relation to any question or statement.

10. QUESTIONS BY MEMBERS

10.1 Written Questions and Written Responses Addressed Outside of Meetings

- (a) Members may at any time ask a question of the Leader, Executive Member or the Chair of any Committee or sub-committee by providing written notice of the question to the Assistant Chief Executive Legal and Democratic Services.
- (b) The Leader, Executive Member, Committee or sub-committee Chair concerned must provide a written response within 10 working days.
- (c) The question and response will be published on the Council's website.
- (d) The Assistant Chief Executive Legal and Democratic Services may reject a question or statement if it:
 - i. is not about a matter for which the local authority has a responsibility or which affects the County;
 - ii. is defamatory, frivolous or offensive;
 - iii. is substantially the same as a question which has been put at a meeting of the Council in the past six months; or
 - iv. requires the disclosure of confidential or exempt information.

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10.2 Statement by the Leader and Questions and Statements by Members to the Leader

- (a) At each Ordinary meeting of the Council the Leader may make a statement to the Council on any matters relevant to the Council and any portfolio holder (including the Leader if they hold a portfolio.)
- (b) A Member may ask the Leader a question or make a statement in relation to the presentation of the Leader's report and statement to Council during the time allocated for such questions and statements.
- (c) A maximum of 10 minutes will be permitted for questions and statements to the Leader under this agenda item.

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10.3 Statement by an Executive Member and Questions and Statements by Members to the Executive Member

- (a) At each Ordinary meeting of the Council statements made by portfolio holders will be made in rotation but follow the order set out below, subject to the first statement at any Council meeting being made last at the subsequent meeting:
- Communications, safer communities and emergency planning;
 - Finance, Assets including Pension Fund, Property, Procurement and Commercial, Technology, Transformation, Revenue and Benefits and HR;
 - Open to Business, including Planning, economic development and regeneration, Visitor Economy, Broadband and Harbours;
 - Corporate Services, locality working and structures, including Stronger Communities, Policy and Performance, Refugee and Asylum issues, Community Safety including CCTV, Legal and Democratic Services, Members support, Elections and Customer Contact;
 - Highways and Transportation including Parking Services, Street Scene, Parks and Grounds, Integrated Passenger Transport, Public Rights of Way and Coastal Protection and Flooding;
 - Health and Adult Services including Public Health and Prevention and Service Development;
 - Culture, Arts and Housing including Culture, Arts, Libraries, Museums, Archives, Key venues, Leisure and Housing;
 - Children and Families including Inclusion;
 - Managing our Environment including Environment services including Low Carbon, Bio-diversity, Natural capital, Waste Services, Regulatory Services, Registration, Bereavement, Coroners Service and Licensing;
 - Education, Learning and Skills, including Outdoor Education and Skills.
- (b) The Leader of the Council may make a statement to the Council on any matters relevant to the Council and any portfolio holder (including the Leader if they hold a portfolio).
- (c) A Member may ask the Executive Member a question or make a statement in relation to the Executive Member's statement to Council during the time allocated for such questions.
- (d) A maximum of 5 minutes will be permitted for questions and comments to the Executive Member under this agenda item.
- (e) A summary of the key points of any statement made under this Procedure Rule shall be printed and be made available to all Members as part of the agenda for the meeting.

10.4 Statement by the Chair of the Scrutiny Board or of an Overview and Scrutiny Committee and Questions and Statements by Members to that Chair

- (a) At each Ordinary meeting of the Council the Chair of the Scrutiny Board and/or any Chair of an Overview and Scrutiny Committee may make a statement to the Council on any matters relevant to the work of that committee.
- (b) A Member may ask the Chair of the Scrutiny Board and/or any Chair of an Overview and Scrutiny Committee a question or make a statement in relation to their statement to Council during the time allocated for such questions.

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- (c) A maximum of 5 minutes will be permitted for questions and statements under this agenda item.

10.5 Questions by Members to the Chairs of any Committee or Sub-committee, the Leader and Executive Members

- (a) A Member may during the time allowed for this agenda item ask the Chair of any Committee or Sub-committee (other than an Overview and Scrutiny Committee), the Leader and Executive Members any question on a matter within the purview of their committee or portfolio.
- (b) Every question shall be put and answered, without discussion but the Member to whom a question has been put may decline to answer.
- (c) A maximum of 10 minutes will be permitted for this agenda item.

10.6 Notice and Order of Questions and Supplementary Questions

- This Rule applies to questions and statements under 10.2-10.5 above.
- Questions for which 2 clear working days' written notice have been given to the Assistant Chief Executive Legal and Democratic Services will be dealt with under the relevant agenda item first. Thereafter, the Chair will determine the order of questioning and statements and at their discretion will, as far as possible, invite the questions and/or statements in the order indicated by Members raising their hand but subject to the need to ensure a reasonable balance across the political groups and independent Members of the Council.
- Copies of all written Member questions received for a meeting of full Council will be circulated to all Members in the Council Chamber.
- With the consent of the Chair, Members may be allowed a short supplementary question which must arise from the response. The Member has 30 seconds to ask their supplementary question.

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10.7 Discretion of the Chair in relation to Member Questions and Statements

- (a) This Rule applies to questions and statements under 10.2-10.5 above.
- (b) The Chair may reject any Member question or statement if it does not pertain to a matter for which the Council has a responsibility or which directly affects the County.
- (c) The Chair may reject a Member question or statement if it relates to a matter which is purely of personal concern to an individual Member's division. In such instances the Chair will ask that the relevant Executive Member, committee Chair or Officer respond to the question in writing within 10 working days of the meeting.

10.8 Response

- (a) This Rule applies to questions and statements under 10.2-10.5 above.
- (b) An answer may take the form of a direct oral answer or where the desired information is in a publication of the Council or other published work, a reference to that publication.
- (c) Where the reply to any question or statement cannot conveniently be given orally, or where there has been insufficient time for any question/statement for

which written notice has been provided in accordance with CPR 10.6 above, it shall be deemed a sufficient reply if the answer is supplied to the Member asking the question or making the statement as soon as reasonably possible and copies shall at the same time be placed in the Members' Group Rooms.

11. MOTIONS ON NOTICE

11.1 Council Meetings

- (a) Except in the cases specified in Council Procedure Rule 12, a motion may not be moved unless notice of it has been given in accordance with the following provisions.
- (b) Every notice of motion, shall relate to a matter for which the Council has duties or powers or which affects North Yorkshire or to the performance of the Chair, the Leader, the Executive or any member of it, or any committee. All such notices shall be in writing signed by the Member giving the notice and any proposed seconder and other supporter; and shall be given or sent by post or fax, or by e-mail from a North Yorkshire Councillor email address) in which case signatures are not required, to the Assistant Chief Executive Legal and Democratic Services, who shall enter it in a book, to be open to inspection by Members, at their office. A notice of motion received after midnight on the ninth day before a meeting of the Council shall not be specified in the summons for that meeting.
- (c) The Assistant Chief Executive Legal and Democratic Services shall insert in the summons for any meeting of the Council all notices of motion duly given in the order in which they have been received, unless the Member giving a notice has stated in writing prior to the ninth day before the meeting that they propose to move the motion at some later meeting or has withdrawn the notice.
- (d) If a Member who gives notice of a motion under this Council Procedure Rule considers that the Chair should allow the motion to be debated by the Council without being referred to the Executive or a relevant committee for prior consideration, they shall give or send by post/fax or email to the Assistant Chief Executive Legal and Democratic Services a written statement of their reasons. Provided that the statement of reasons is received not later than the ninth day before a meeting of the Council the Assistant Chief Executive Legal and Democratic Services shall arrange for the statement to accompany the summons for that meeting.
- (e) A motion which appears on the summons for a meeting shall be dealt with at that meeting if either:-
 - (i) the Chair considers that to do so would be convenient or conducive to the despatch of business; or
 - (ii) a motion 'That the motion be considered now' is put to the vote and passed. The proposer of the motion "That the motion be considered now" shall not speak for more than five minutes; and the seconder shall second it without comment. One Member may speak in opposition to the motion 'That the motion be considered now' and that Member shall not speak for more than five minutes.
- (f) If the motion is not dealt with at the meeting at which it is brought forward it shall be moved and seconded without comment and, without discussion, shall stand referred to the Executive or to those committees within whose

responsibilities or terms of reference it comes, in the view of the Chair, or as the Council may determine. Where the matter stands referred to an overview and scrutiny committee, the Scrutiny Board shall determine which particular overview and scrutiny committee is the most appropriate to consider the matter.

- (g) A member who has proposed or seconded a motion which has been referred to the Executive or a committee shall receive notice of the meeting of the Executive or committee at which it is proposed to consider the motion and shall have the right to attend the meeting and to explain the motion.
- (h) If a motion is referred to the Executive or one committee only, the Executive or that committee shall report to the relevant decision-making body upon that motion together with its recommendation. If a motion is referred to more than one committee, the Executive shall report to the relevant decision-making body upon that motion together with its recommendations. The report of the Executive or any committee to which a motion has been referred shall contain a statement of that motion.
- (i) When the Executive or a committee reports back on a motion, the motion, as originally moved and seconded at the earlier meeting, will be the matter before the relevant decision-making body. Any recommendation of the Executive or committee to amend the motion will therefore be an amendment to the motion and any recommendation to support or oppose the motion will be only an expression of views.

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11.2 Other Meetings

- (a) The Assistant Chief Executive Legal and Democratic Services shall insert in the summons for a meeting of a committee of the Council every notice of motion which is specified by a Member giving the notice as being for consideration by that committee, provided that:-
 - (i) the notice of motion is in writing signed by the Member giving the notice and the proposed seconder and other supporter;
 - (ii) the notice of motion is given or sent by post (or by e-mail from a North Yorkshire Councillor email address in which case signatures are not required), to the Assistant Chief Executive Legal and Democratic Services and received by them not later than the twenty-first day before the meeting of the committee.*
- * This is to allow sufficient time for an Officers' report to be prepared on the subject matter of the notice of motion as an aid to enabling a decision to be taken on it at that meeting.
- (b) A Member shall wherever possible give notice of a motion to committee rather than to Council.
 - (c) A Member who has proposed a notice of motion to committee in accordance with the provisions of this Council Procedure Rule may speak for not more than 5 minutes when the Council considers a report on that notice of motion.

11.3 Motions Affecting Council Staff

If the appointment, promotion, dismissal, salary, superannuation, conditions of service, or conduct of any person employed by the Council arises at a meeting of the Council, the Executive, a committee or sub-committee the matter shall not be discussed until the Council, Executive, committee or sub-committee has decided whether or not to exclude the public under Section 100A of the Local Government Act 1972.

12. MOTIONS WITHOUT NOTICE

The following motions and amendments may be moved without notice:-

- (a) Appointment of a Chair of the meeting at which the motion is made.
- (b) Motions relating to the accuracy of the minutes, closure, adjournment, order of business, or next business.
- (c) Reference to the Executive or to a committee.
- (d) Motion to exclude the public and press under Section 100A of the Local Government Act 1972.
- (e) Appointment of members of a committee or outside body, so far as arising from an item mentioned in the summons for the meeting.
- (f) Adoption of reports and recommendations of the Executive, committees or Officers and any consequent motions.
- (g) Amendment to motions.
- (h) Extending the time limit for speeches.
- (i) That an item of business specified in the summons shall have precedence, or other variation of order of business.
- (j) Suspending Council Procedure Rules in a case of emergency.
- (k) That a Member named under Council Procedure Rules be not further heard or do leave the meeting.
- (l) Giving any consent of the Council required by Council Procedure Rules.
- (m) A motion "That the motion be considered now".
- (n) A motion "That the Council debate this matter in committee."

13. RULES OF DEBATE

- (a) A Member shall stand when speaking and shall address the Chair. If two or more Members rise, the Chair shall call on one of them to speak. (This Standing Order will be deemed to have been complied with if any Member who, as a result of a disability, would find it difficult to stand, indicates their wish to speak by raising their hand.)
- (b) Except with the consent of the Council, and subject to the provisions of Council Procedure Rules, a Member shall not speak for more than three minutes on any motion or amendment, excluding the mover and the Executive Member or

Chair of any Committee directly involved, who may speak for not more than five minutes.

(i) At Budget and Council Plan full Council meetings, the mover, seconder and each spokesperson of a political group shall each be able to speak for 6 minutes in relation to the budget item.

- (c) Whenever the Chair rises during a debate, any Member who is speaking or standing shall resume his seat and all Members shall be silent.
- (d) The ruling of the Chair on points of procedure or order and their interpretation of Council Procedure Rules shall be conclusive and no debate upon their ruling shall be allowed.
- (e) Every motion or amendment shall be moved and seconded and, unless the Chair agrees otherwise shall be handed in writing to the Chair, or to the Assistant Chief Executive Legal and Democratic Services, and shall be read before it is discussed or to put to the meeting.
- (f) When seconding a motion or amendment a Member may reserve their speech until a later period of the debate.
- (g) A Member shall direct their speech to
 - ♦ the motion or question under discussion, or
 - ♦ an amendment, or
 - ♦ a point of order or
 - ♦ a personal explanation.

A Member rising to a point of order or in personal explanation is entitled to be heard forthwith, but a point of order must specify the Council Procedure Rule to which it relates and a personal explanation must be confined to some material part of a speech by them which may have been misunderstood.

- (h) An amendment shall be either:-
 - (i) to refer the matter to an appropriate body or individual for consideration or recommendation;
 - (ii) to delete words;
 - (iii) to delete words and add others; or
 - (iv) to add words;

but such deletion or addition of words shall not have the effect of introducing a new proposal into, or of negating the motion before the Council and every amendment must be relevant to the motion to which it is moved. Where an amendment does not directly seek to negate or nullify a motion, the Chair has the discretion to reject any amendment that seeks to substantially alter the proposal of the original motion so as to lose the intention of the original motion.

- (i) Any number of amendments may be moved but once an amendment to a motion has been moved and seconded no other amendment may be moved until the first amendment has been dealt with.

- (j) If an amendment is rejected, other amendments may be moved to the motion. If an amendment is carried, the motion as amended will then be the motion to which any further amendment may be moved.
- (k) An amendment may be withdrawn by the proposer with the agreement of the seconder and the consent of the Council (to be signified without discussion), and after the proposer has asked for consent to withdraw an amendment, no Member shall speak upon it unless such consent is refused.
- (l) A Member shall not speak more than once on any motion or amendment, except in
- ♦ the exercise of the right of reply, given by paragraph (p) of this Council Procedure Rule, or
 - ♦ on a point of order, or
 - ♦ by way of personal explanation, or
 - ♦ to move any of the motions specified in paragraph (m) of this Council Procedure Rule.
- (m) At the conclusion of a speech of another Member, a Member may move without comment one of the following and, if seconded, the Chair shall proceed as follows:-
- (i) "That the Council proceed to the next business"
- Unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first give the mover of the original motion a right of reply, and then put to the vote the motion to proceed to next business;
- (ii) "That the question be now put;"
- Unless in their opinion the matter before the meeting has been insufficiently discussed, they shall first put to the vote the motion that the question be now put, and, if it is passed, then give the mover of the original motion their right of reply under paragraph (p) of this Council Procedure Rule before putting the motion to the vote;
- (iii) "That the debate be now adjourned" or "that the Council do now adjourn":
- If in their opinion the matter before the meeting has not been sufficiently discussed and cannot reasonably be sufficiently discussed on that occasion they shall put the adjournment motion to the vote without giving the mover of the original motion a right of reply.
- (n) A second motion "That the Council do now proceed to the next business", "That the debate be now adjourned" or "That the Council do now adjourn" may not be made during the same debate within a period of one hour unless, in the opinion of the Chair, the circumstances of the debate are materially altered.
- (o) During the same debate, no Member shall propose or second more than one motion for adjournment of the debate or for the adjournment of the Council, or that the Council do proceed to the next business, or that the question be put.
- (p) The mover of an amendment has no right of reply, but the proposer of a motion (other than a motion proposed under paragraph (m) of this Council Procedure Rule) shall have the right of reply and may speak for up to 5 minutes:-

- (i) at the close of the debate on the motion and immediately before it is put to the vote (except where paragraph (m) of this Council Procedure Rule requires it to be put to the vote forthwith);
- (ii) immediately before any motion to proceed to next business is put to the vote.

If any amendment to a motion is proposed, the mover of the motion shall have a right of reply at the close of the debate on each amendment and, whether the motion is amended or not, at the close of the debate on the motion, but, in exercising a right of reply, the mover of the motion may not introduce any new matter.

Once the right of reply has been exercised a decision must be taken without further discussion.

- (q) When a motion is under debate only the following may be moved:-
 - (i) that the motion be amended;
 - (ii) that consideration of the motion be postponed;
 - (iii) that the meeting be adjourned;
 - (iv) that the debate be adjourned;
 - (v) that the Council proceed to the next business;
 - (vi) that the question be now put;
 - (vii) that a Member be not further heard;
 - (viii) that a Member leave the meeting;
 - (ix) that the public be excluded under Section 100A of the Local Government Act 1972;
 - (x) that the Council debate this matter in committee.
- (r) The rules of debate set out in this Council Procedure Rule shall be suspended for any debate for which the Council has resolved, either on a motion for which notice has been given in the printed agenda or on a motion moved without notice under the relevant Council Procedure Rule "that the Council debate this matter in committee".

14. PREVIOUS DECISIONS AND MOTIONS

14.1 Subject to Council Procedure Rule 14.2, no motion to rescind a resolution which has been passed within the preceding 12 months or which would have the effect of rescinding such resolution or a material part thereof, and no motion to the same effect as a motion which has been negatived within the preceding 12 months, shall be in order unless the notice of it in the summons bears, in addition to the name of the Member proposing the motion, the names of 15 other Members; and, when any such motion has been disposed of by the Council, it shall not be competent for any Member to propose a similar motion within a further period of 12 months.

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14.2 No matter can be recalled for review or re-debate under Council Procedure Rule 14.1 within 6 months of its original consideration unless there has been a substantial material change in circumstances as determined by the Chair in consultation with the Assistant Chief Executive Legal and Democratic Services.

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14.3 This Council Procedure Rule shall not apply to motions which are moved on the recommendation of the Executive or a committee.

...

22. APPLICATION TO COMMITTEES AND SUB-COMMITTEES

These Council Procedure Rules, in so far as they are applicable and are not expressly excluded in the Rules, shall with any necessary modification apply to committee and sub-committee meetings, except Council Procedure Rules 11.1 and 17 and those parts of Council Procedure Rule 13 which relate to standing, to speaking more than once and to reducing amendments to writing, and those parts of Council Procedure Rule 15 which relate to a division by name.

HRA Governance Arrangements

Summary of the responsibilities of North Yorkshire Council as a Registered Provider of social housing, in terms of existing regulation and policy currently being developed, to inform the development of a 'Housing Overview and Scrutiny Committee'.

Existing Overview and Scrutiny Arrangements for Housing Services

The Care and Independence and Housing Overview and Scrutiny Committee is the existing Overview and Scrutiny Committee at North Yorkshire Council tasked with considering matters relating to Housing. Separately, elements of Housing Services may be considered on an ad-hoc basis by O&S Committees with other remits (Children and Families, Corporate, Health, Transport and Economy). Given the scale of the Care and Independence and Housing Committee's existing workload and the anticipated level of regulatory oversight required by the Social Housing Regulation Act 2023, thought is needed to how existing overview and scrutiny arrangements might be altered to provide dedicated capacity to cover North Yorkshire Council's Social Housing Landlord functions.

Social Housing Regulation Act 2023

The Act received Royal Assent on 20th July 2023 and provides the legal basis for the measures set out in the 2020 social housing white paper. The intention is to deliver "transformational change" for social housing residents to empower residents, provide greater redress, better regulation, and improve the quality of social housing.

Through the Act the Government intends to strengthen the regulatory regime to change the behaviour of social housing landlords to focus on the tenants' needs and hold landlords to account for their performance.

Consumer Standards

Government is currently consulting on the revised consumer standards, to be enforced by the Regulator for Social Housing and subject to inspection, which cover:

- The Safety and Quality Standard
- The Transparency, Influence and Accountability Standard
- The Neighbourhood and Community Standard
- The Tenancy Standard.

HRA Governance Arrangements

In order to satisfy and provide oversight of the regulatory requirements on consumer standards any Overview and Scrutiny Committee for Housing would need to cover the following:

| Safety and Quality Standard | Transparency, Influence and Accountability Standard | Neighbourhood and Community Standard | Tenancy Standards |
|--|--|---|--------------------------|
| Stock Condition Data | Tenant Involvement | Maintenance of Shared Spaces | Allocations |
| Health and Safety | Tenancy Policy Development | Safer Neighbourhoods | Tenancy Fraud |
| Compliance with the Decent Homes Standard | Complaints Handling and Compliance | Domestic Abuse Policy | Tenancy Sustainment |
| Delivery of repairs, maintenance and planned improvements to stock | Tenant Satisfaction Measures (TSMs) | | Tenancy Policy |
| Adaptations | | | Mutual Exchange |

And, to provide additional assurance the Committee should have oversight of the following items:

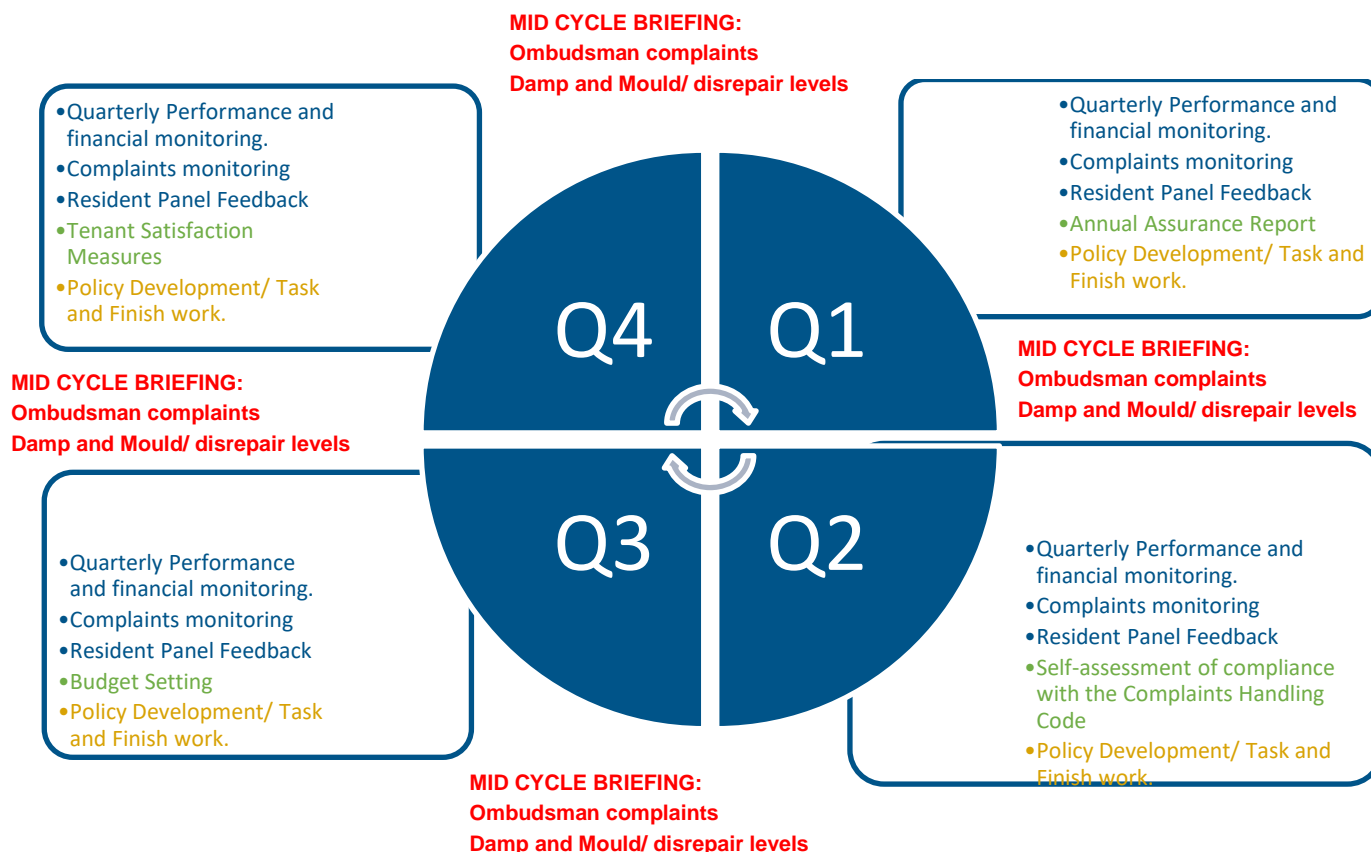
- HRA Business/ Development Plans
- Housing Investment/ Improvement Programme
- HRA Budget
- Value for Money
- Service Transformation
- Preparation for Regulatory Inspection

There is also the question of scrutiny of North Yorkshire's wider role as the strategic housing authority, encompassing Housing Strategy, Homelessness and Housing Needs, Affordable Housing Delivery and Private Sector Housing Renewal on a regular or task and finish basis. It is suggested that the consumer regulation requirements alone could fill the quarterly agendas of a Committee, particularly in the short term. This could be further reviewed once the new arrangements have been established and progress has been made on the initial work load.

There is a raft of strategic social housing plans and policies which are due to go through the decision making process, these will require scrutiny and monitoring, as well as the regular performance and financial monitoring the committee would receive:

- North Yorkshire Housing Strategy 2024-29
- North Yorkshire Allocations Policy
- North Yorkshire Tenancy Strategy and Policies
- North Yorkshire Tenant Participation Strategy and policies
- Housing Investment/Improvement Plan

Proposed/ Example Cyclical Work Plan



Links to Tenant Led Performance Panel(s)

Providing a link between Elected Member Overview and Scrutiny and the Tenant Performance Panels is key to effective scrutiny of housing services. The Tenant Performance Panel(s) should regularly be invited to provide their feedback and supported by Elected Members in their work. Expertise from Scrutiny Officers should be shared with those Officers supporting the Tenant Performance Panel(s).

Technical Expertise and Commissioning

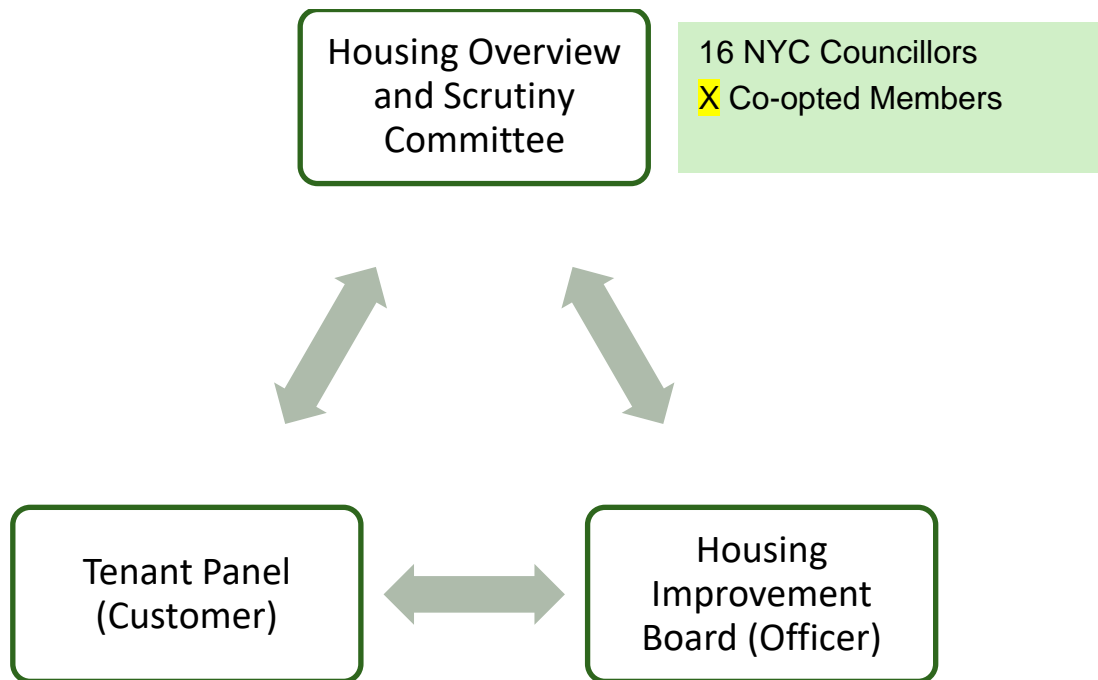
Aside from the significant local understanding of Elected Members and Officers the provision of external expertise can be invaluable. It could be advantageous to co-opt tenant representatives (ie Chair of Tenant Scrutiny Panel) and subject experts or to have a pool of technical advisors from various backgrounds (For example, Registered Providers, Construction Industry, Tenant Participation) to attend and advise as appropriate.

Committee Constitution and Co-optees

Existing North Yorkshire O&S Committees are constructed of 16 participants and politically proportionate. It would be important that any O&S Committee considering these issues has external co-optees. Independence in these posts is key for to learn and challenge how we view good governance in housing. We could seek executive experience from a registered provider as well as non-executive experience from a Housing Organisation - it is the breadth of experience that will give

us assurance that we are performing well for our residents. Co-optees should be appointed for a minimum term of 3 years in order to provide consistency and retain the acquired knowledge base.

Proposed Structure



Training for Committee Members

Committee members will require a training package, focussed on the Social Housing Regulations Act 2023 the legislative impacts for the Council and the new regulatory and inspection regime. Co-optees and Members will also require training regarding aims and expectations of co-opted members.

A skills matrix would be a useful tool to employ, ensuring that the knowledge and experience of the Committee meets requirements.

CASE STUDIES: What does 'Good Scrutiny' look like?

Cambridge City Council's Housing Scrutiny Committee has included co-opted council tenant members since 2014. These co-optees are elected by council tenants once every four years and have full voting rights for items relating to the Council's housing. As well as bringing valuable insights to committee debates, the tenant co-optees also provide a link to the City's tenant organisations and will often be asked to help with consultation and engagement activities outside of scrutiny. The committee keeps tenants updated about their work through regular updates in 'Open House'; the tenant newsletter produced by the Council.

Rotherham Metropolitan Borough Council's Improving Places Scrutiny Committee has also co-opted two tenants. These non-voting co-opted members are selected by Rotherfed – the Tenants Federation for Rotherham. They play an important role on the committee and ask questions that the other 2 PRIORITISE 15 members might not have asked. More than this, their presence on the committee shows tenants that they are being taken seriously and that councillors are listening to tenant views. The two tenant members also provide a valuable link between scrutiny and Rotherfed.

Rotherham Metropolitan Borough Council have funded and supported tenant led scrutiny work. A housing department contract to provide scrutiny inquiries was won by Rotherfed – Rotherham's tenants federation. The young tenants involved in their review were able to present their report to the Improving Places Scrutiny Committee who have endorsed the action plan and asked for further reports in future. The discussion of the completed reports at the scrutiny committee has helped publicise the work and improve councillor awareness of tenant issues.

Lambeth Council co-opted three tenants onto their inquiry into Resident Involvement. Once a role description had been agreed, three tenants who were already active in the Council's resident engagement arrangements and area forums were invited to take part in the informal task and finish group that undertook the inquiry. The co-opted tenants were 'involved, engaged, knowledgeable, open-minded and constructive' and able to make an important contribution to the work. The councillors really found the involvement of the three tenants to be helpful as it gave them the view from the ground. The closed sessions of the task and finish group were also helpful in allowing free and open dialogue.

Dudley Metropolitan Borough Council have established a Housing Assurance Board, to guide, challenge, and assure Dudley Council that they are upholding all responsibilities to customers, the regulator, and staff. This board is responsible for shaping future asset management and investment strategy for homes and communities. The recovery programme that has been developed following engagement with the regulator will also report into this. The remit of this board will be far wider than asset management, this board will need to be able to cultivate putting customers back at the forefront of all conversations around housing. The board will be made up of the executive team of housing and communities, cabinet members, the chair of the newly forming Customer Assurance Board, and the two independent members.

EXAMPLE TERMS OF REFERENCE

The websites of five councils of a similar size to North Yorkshire Council and 15 large councils were reviewed including the scrutiny and overview arrangements set out in the constitutions of those councils. The amount of information available on the websites of the smaller councils was in general less than for the larger councils.

Purpose and Scope

A range of approaches is taken to how the overview and scrutiny of housing operates at committee level.

Some councils have a housing specific overview and scrutiny committee. The Terms of Reference for those committees can be set out at quite a high level:

“To scrutinise the Council’s policies and the provision, planning, financing, management and performance of services relating to housing provided by the Supporting Communities and Supporting People Directorates and other service providers” (**Camden Council Housing Scrutiny Committee**).

However for some councils the Terms of Reference for the committee with responsibility for the overview and scrutiny of housing are set out in more detail:

“To fulfil the functions of an Overview and Scrutiny Committee as they relate to any policies, services and activities concerning:

- Council Housing management services, repairs and maintenance programmes
- Best use of housing stock across all housing providers
- Neighbourhood management initiatives and the housing growth agenda (Birmingham Social Housing Partnership)
- Private rented sector, licensing and regulation
- Tenancy engagement in the management and development of social housing and Housing Liaison Boards
- Exempt accommodation
- Housing Options for vulnerable adults, children, young people and offenders
- Temporary accommodation provision
- Homelessness and rough sleeping
- Supply of homes to meet housing need”.

(Birmingham City Council Homes Overview and Scrutiny Committee)

“The Housing Scrutiny Committee is one of the Council’s 5 scrutiny committees. This Committee carries out the functions of an overview and scrutiny committee in respect of matters relating to Housing Services. They can consider matters relating to the performance of the Council’s partners, including RSLs, in respect of housing and housing related matters, as appropriate. They can also consider residents’ experience of the borough’s privately rented housing and seek and

receive the views of residents concerning housing matters through the council's resident engagement arrangements.

1. To carry out the functions of an overview and scrutiny committee in respect of matters relating to Housing Services
2. To consider and make recommendations to the Executive, the Executive member for Housing and to Corporate Directors or other council officers with relevant delegated authority in relation to any aspect of the council's housing landlord functions and services
3. To consider and make recommendations to the Executive, the Executive member for Housing and to Corporate Directors or other council officers with relevant delegated authority in relation to other functions and services directly affecting any aspect of the council's housing landlord functions and services
4. To review the operation and effectiveness of the council's resident engagement arrangements from time to time
5. To consider matters relating to the performance of the Council's partners, including RSLs, in respect of housing and housing related matters as appropriate
6. To consider residents' experience of the borough's privately rented housing
7. To seek and receive the views of residents concerning housing matters through the council's resident engagement arrangements
8. To undertake a scrutiny review of its own choosing and any further reviews as directed by the Policy and Performance Scrutiny Committee and, consulting all relevant sections of the community, to make recommendations to the Executive thereon
9. To carry out any review referred to it by the Policy and Performance Scrutiny Committee following consideration of a Councillor Call for Action referral".

(Islington Council Housing Scrutiny Committee)

"To scrutinise private sector housing enforcement and regulation and the work of the Housing Department in supporting the borough's goal to improve housing quality in its social homes and neighbourhoods, and managing the Lambeth Housing Partnership with other Registered Providers.

This includes:

- housing needs
- homelessness
- home ownership
- leaseholders and rents
- tenancy and estate management
- housing repairs
- compliance and major works; and,
- the Direct Labour Organisation (DLO).
- private rented sector and HMO licensed properties/policy
- building safety and stock condition in Lambeth managed properties
- climate change and sustainability policies with regards to Lambeth run properties and housing land estates
- management of Lambeth housing land".

(Lambeth Council Housing Scrutiny Sub-Committee)

Sheffield City Council also has a housing-specific which is named the Housing Policy Committee.

A number of the councils have committees with a wider remit:

“Focusing on services affecting the lives of citizens living and working in the council’s neighbourhoods to monitor progress as a citizen focused city and prioritising environmental sustainability” **(Leeds City Council Scrutiny Board (Environment, Housing and Communities))**.

“The role of the Communities Scrutiny Commission is the overview and scrutiny of matters that affect Bristol communities, including:

- Housing
- citizens' services
- crime and disorder including the statutory scrutiny function
- recycling
- waste and environmental issues
- parks
- libraries
- sport and leisure
- neighbourhoods”

(Bristol City Council Communities Scrutiny Commission)

“The Housing and City Development Scrutiny Committee has been established to discharge the functions conferred by the Localism Act 2011 and other relevant legislation for matters relating to housing and city development, including economic development, employment and skills, business growth and inward investment, property and asset management, housing, transport, traffic and parking”

(Nottingham City Council Housing and City Development Scrutiny Committee)

Membership

A number of the councils reviewed have arrangements in place which permit individuals who are not councillors to be co-opted to scrutiny panels, with examples set out below.

“All overview and scrutiny committees shall be entitled to appoint a reasonable number of non-voting co-optees. Co-optees shall be drawn from groups or organisations or represent service users who have an interest in services whose overview and scrutiny falls within a committee’s specific remit” **(Bristol City Council)**.

“The Council may appoint up to three resident observers to the [Housing Scrutiny] Committee to represent the views and experiences of local people” **(Islington Council)**.

“Overview and Scrutiny committees can choose to appoint additional non-statutory co-opted members to be members of committees and can choose to give them voting rights. These co-opted members should bring relevant skills and experience in the area covered by the remit of the committee and, in-keeping with the politically impartial role of the committees, should not represent a political or lobbying organisation” (**Nottingham City Council**).

Article 6 – Overview and Scrutiny Committees

Overview and Scrutiny – General Comments

6.01 Terms of reference

The Council will appoint the Overview and Scrutiny Committees set out in the left hand column of the table below to discharge the functions conferred by section 9F of the Local Government Act 2000 as amended in relation to the matters set out in the right hand column of the table.

| COMMITTEE | SCOPE |
|--|---|
| Care and Independence | The needs of vulnerable adults and older people and people whose independence needs to be supported by intervention from the public or voluntary sector. |
| Corporate and Partnerships | The Council's corporate organisation and structure, resource allocation, asset management, procurement policy, people strategy, equality and diversity, performance managements, communications and access to services. Partnership working, community development, community engagement, community strategies and community safety. This Committee shall be the Crime and Disorder Committee for the purposes of Part 3 of the Police and Justice Act 2006. |
| Transport, Economy, Environment and Enterprise | Transport and communications infrastructure of all kinds, however owned or provided, and how the transport needs of the community are met. Supporting business, economic development and regeneration, and helping people develop their skills, including lifelong learning. Sustainable development, climate change strategy, countryside management, waste management, environmental conservation and enhancement flooding and cultural issues. |
| Children and Families | The interests of young people, including education, care and protection and family support. |
| Scrutiny of Health | To review any matter relating to the planning, provision and operation of health services in the County, including Ambulance Trusts and the policies of the Health and Care Partnerships. |

Deleted: and Housing

Deleted: and housing.

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Deleted: the work of the Local Enterprise Partnership

| COMMITTEE | SCOPE |
|-----------------------------------|--|
| | <p>The aim is to act as a lever to improve the health of local people, ensuring that the needs of the local people are considered as an integral part of the delivery and development of health services and will look:</p> <ul style="list-style-type: none"> • To focus on action to achieve health improvement; • To examine health care in the context of the wider determinants of health; • To examine how health services address the needs of local communities; • To especially address health inequalities; • To ensure that local health and health related issues are being tackled jointly and in a co-ordinated way across agencies; • To contribute to the annual health checks by providing feedback to the Integrated Care Boards and NHS Trusts serving North Yorkshire on their performance and the experiences that the Committee has had with them. |
| <p><u>Housing and Leisure</u></p> | <p><u>The Council's role and remit as a social landlord, including: policy review; service improvement; governance arrangements to help ensure compliance with provision and regulation of social housing.</u></p> <p><u>In addition, those housing services for which the Council is responsible, including: housing strategy; homelessness and housing needs; the delivery of affordable housing as well as private sector housing renewal.</u></p> <p><u>The Council's role as a provider of leisure services.</u></p> <p><u>Members other than councillors can be co-opted onto the Committee, without voting rights, to provide expert input for some or all of the following areas of work: Tenant engagement/involvement; Landlord health and safety; Asset management and Local authority finance; Tenant representatives.</u></p> <p><u>A separate tenant involvement group will be established which will link in with the Housing and Leisure Overview and Scrutiny Committee on matters relating to policy review and service improvement.</u></p> |

Deleted: Transition (LGR) Overview and Scrutiny Committee

6.02 General Role

Within their terms of reference, Overview and Scrutiny Committees:

- (a) will review and/or scrutinise decisions made or actions taken in connection with the discharge of any of the Council's functions;
- (b) will make reports and/or recommendations to the full Council and/or the Executive and/or any joint or Area Constituency Committee in connection with the discharge of any functions;
- (c) will consider any matter affecting the county or its inhabitants;
- (d) will consider decisions which have been called in, under the Overview and Scrutiny Procedure Rules, and decide whether to refer such decisions to full Council, or refer them back to the decision maker;
- (e) may monitor the performance and effectiveness of the services they overview; and
- (f) will seek to resolve issues raised by Members under Councillor Call for Action in accordance with the Overview and Scrutiny Procedure Rules of this Constitution.

6.03 Specific Functions

To undertake the following specific functions within their terms of reference:

- (a) **Policy development and review.** Overview and Scrutiny Committees may:
 - (i) assist the Council and the Executive in the development of its budget and policy framework by in-depth analysis of policy issues;
 - (ii) conduct research, community and other consultation in the analysis of policy issues and possible options;
 - (iii) consider and implement mechanisms to encourage and enhance community participation in the development of policy options;
 - (i) question members of the Executive and/or committees and senior Officers about their views on issues and proposals affecting the area; and
 - (ii) liaise with other external organisations, whether national, regional or local, to ensure that the interests of local people are enhanced by collaborative working.
- (b) **Scrutiny.** Overview and Scrutiny Committees may:
 - (i) review and scrutinise the performance of, and decisions made by the Executive and/or committees and council Officers both in relation to individual decisions and generally;

- (ii) review and scrutinise the performance of the Council in relation to its policy objectives, performance targets and/or particular service areas;
 - (iii) require reconsideration of executive decisions which have been called in (see Overview and Scrutiny Procedure Rule 16);
 - (iv) question members of the Executive and/or committees and senior Officers about their decisions and performance, whether generally in comparison with service plans and targets over a period of time, or in relation to particular decisions, initiatives or projects;
 - (v) make recommendations to the Executive and/or appropriate committees and/or Council arising from the outcome of the scrutiny process;
 - (vi) review and scrutinise the performance of bodies providing public services in North Yorkshire by inviting reports from them and/or requesting them to address the Overview and Scrutiny Committee and local people about their activities and performance; and
 - (vii) question and gather evidence from any person (with their consent).
- (c) **Scrutiny Reviews.** Overview and Scrutiny Committees will receive reports from scrutiny reviews, and may offer recommendations for improvement to the Executive.
- (a) **Finance.** Overview and Scrutiny Committees will exercise overall responsibility for the finances made available to them.
- (b) **Quarterly report.** Overview and Scrutiny Committees must report quarterly to full Council on their workings and may make recommendations for future work programmes and amendments to the Overview and Scrutiny Procedures Rules, if appropriate.
- (f) **Officers.** Overview and Scrutiny Committees may exercise overall responsibility for the work programme of the Officers employed to support their work.

6.04 Proceedings of Overview and Scrutiny Committees

Overview and Scrutiny Committees will conduct their proceedings in accordance with the Overview and Scrutiny Procedure Rules set out in Part 4 of this Constitution, and such of the Council Procedure Rules as apply to meetings of committees.

6.05 Membership of Overview and Scrutiny Committees

Membership of the Overview and Scrutiny Committees listed at 6.01 above is set out in Part 3 of this Constitution.

6.06 Sub-Committees and Task Groups

- (a) Any Overview and Scrutiny Committee may appoint one or more sub-committees or task groups either on a standing basis or for a particular purpose or time.

- (b) Any two or more Overview and Scrutiny Committees may jointly establish a task group to undertake a study of policy development and review, and/or scrutiny, in relation to any particular matter(s) or issue(s) which relate to services falling within the scope of the committees which establish the task group. Any such task group will:
- ♦ report back to the committees which established it;
 - ♦ not itself have the powers of an Overview and Scrutiny Committee, except in the regulation of its own proceedings;
 - ♦ although not a formal committee or sub-committee, operate in accordance with the Access to Information Procedure Rules.
- (c) Any two or more Overview and Scrutiny Committees may establish a joint sub-committee, the membership of the sub-committee being determined by the appointing Committees. Such a joint sub-committee will appoint its own Chair. Such a joint sub-committee will have the powers of an Overview and Scrutiny Committee, and is empowered to express a view on a particular matter on behalf of the Overview and Scrutiny Committees which appointed it, and Overview and Scrutiny Procedure Rule 11 shall apply to any reports from a joint sub-committee.

6.07 Joint Scrutiny of Health Overview and Scrutiny Committees

- (a) The Council may appoint a joint Scrutiny of Health Committee with one or more other authorities and arrange for relevant scrutiny of health functions (eg health scrutiny reviews, consideration of cross boundary health issues) in relation to any (or all) of those authorities to be exercisable by the joint committee, subject to such terms and conditions as the authorities may consider appropriate.
- (b) Such a joint Scrutiny of Health Committee may be appointed either on a standing basis or for a particular purpose or period of time and on either a discretionary basis or as a result of statutory requirement.

6.08 Statutory Scrutiny Officer

- (a) The Council must appoint a designated Scrutiny Officer to:
- promote the role of Overview and Scrutiny Committees;
 - provide support for them and Members of them; and
 - provide support and guidance to Members and Officers in relation to the functions of Overview and Scrutiny Committees.
- (b) The Monitoring Officer, Chief Finance Officer and Head of Paid Service cannot act as Scrutiny Officer.
- (c) The Council's Head of Democratic Services and Scrutiny is currently designated as Scrutiny Officer.

Schedule 3

Membership of Overview and Scrutiny Committees

The following pages set out the membership of the Council's Overview and Scrutiny Committees.

The terms of reference, role, and specific functions of these committees are set out in Article 6 of the Constitution.

Care and Independence Overview and Scrutiny Committee

Deleted: and Housing

1. Membership

| Councillors (16) | | | | | | |
|---|-------------------------|-------------------------|--------------------------------|--|-------------|-------|
| | <i>Councillors Name</i> | <i>Chair/Vice Chair</i> | <i>Political Group</i> | <i>Electoral Division</i> | | |
| 1 | ARTHUR, Karl | | Conservative | Cliffe & North Duffield | | |
| 2 | DICKINSON, Caroline | | Conservative | Northallerton South | | |
| 3 | Vacancy | | Conservative | | | |
| 4 | KNAPTON, Nigel | | Conservative | Easingwold | | |
| 5 | MOORHOUSE, Heather | | Conservative | Great Ayton | | |
| 6 | PARASKOS, Andy | | Conservative | Spofforth with Lower Wharfedale & Tockwith | | |
| 7 | SEDGWICK, Karin | Chair | Conservative | Leyburn & Middleham | | |
| 8 | SWIERS, Roberta | | Conservative | Cayton | | |
| 9 | HESELTINE, Robert | | Conservatives and Independents | Skipton East & South | | |
| 10 | BROWN, Andy | | Green Party | Aire Valley | | |
| 11 | VACANCY | | North Yorkshire Independent | | | |
| 12 | BROADBENT, Eric | Vice Chair | Labour | Northstead | | |
| 13 | PROUD, Jack | | Labour | Selby East | | |
| 14 | LACEY, Peter | | Liberal Democrats and Liberal | Coppice Valley & Duchy | | |
| 15 | Vacancy | | | Stray, Woodlands & Hookstone | | |
| 16 | BARRETT, Philip | | North Yorkshire Independent | Glusburn, Cross Hills & Sutton-in Craven | | |
| Members other than Councillors – (3) | | | | | | |
| Non Voting | | | | | | |
| | <i>Name of Member</i> | <i>Representative</i> | <i>Substitute Member</i> | | | |
| 1 | QUINN, Jill | Dementia Forward | | | | |
| 2 | PADGHAM, Mike | Independent Care Group | | | | |
| 3 | VACANCY | | | | | |
| Total Membership – (19) | | | Quorum – (4) | | | |
| Con | Lib Dem and Lib | NY Ind | Labour | Ind | Green Party | Total |
| 9 | 2 | 1 | 2 | 1 | 1 | 16 |

Corporate and Partnerships Overview and Scrutiny Committee

1. Membership

| Councillors (16) | | | | | | |
|--------------------------------|-----------------------------|-------------------------|--------------------------------|------------------------------|--------------------|--------------|
| | <i>Councillors Name</i> | <i>Chair/Vice Chair</i> | <i>Political Group</i> | <i>Electoral Division</i> | | |
| 1 | ARTHUR, Karl | | Conservative | Cliffe & North Duffield | | |
| 2 | BROWN, Nick | | Conservative | Wathvale & Bishop Monkton | | |
| 3 | FOSTER, Richard | | Conservative | Wharfedale | | |
| 4 | GROGAN, Tim | | Conservative | Monk Fryston & South Milford | | |
| 5 | IRETON, David | | Conservative | Bentham & Ingleton | | |
| 6 | TAYLOR, Malcolm | | Conservative | Huby & Tollerton | | |
| 7 | TRUMPER, Phil | | Conservative | Whitby West | | |
| 8 | HESELTINE, Robert | | Conservatives and Independents | Skipton East & South | | |
| 9 | WILLIAMS, Andrew | Chair | Conservatives and Independents | Ripon Minster & Moorside | | |
| 10 | FOSTER, Kevin | | Green Party | Hipswell & Colburn | | |
| 11 | SHARMA, Subash | | Labour | Newby | | |
| 12 | SHAW-WRIGHT, Steve | | Labour | Selby West | | |
| 13 | ALDRED, Chris | | Liberal Democrats and Liberal | High Harrogate | | |
| 14 | GRIFFITHS, Bryn | Vice Chair | Liberal Democrats and Liberal | Stokesley | | |
| 15 | DONOHUE-MONCRIEFF, Michelle | | Independent (Unaffiliated) | Hunmanby & Sherburn | | |
| 16 | SCHOFIELD, Mike | | North Yorkshire Independent | Harlow and St Georges | | |
| Total Membership – (16) | | | Quorum – (4) | | | |
| Con | Lib Dem and Lib | NY Ind | Labour | Ind | Green Party | Total |
| 9 | 2 | 2 | 2 | 0 | 1 | 16 |

Scrutiny of Health Committee

1. Membership

| Councillors (16) | | | | | | |
|--------------------------------|-------------------------|-------------------------|-------------------------------|--|--------------------|--------------|
| | <i>Councillors Name</i> | <i>Chair/Vice Chair</i> | <i>Political Group</i> | <i>Electoral Division</i> | | |
| 1 | BROWN, Nick | | Conservative | Aire Valley | | |
| 2 | DICKINSON, Caroline | | Conservative | Northallerton South | | |
| 3 | FOSTER, Richard | | Conservative | Wharfedale | | |
| 4 | GIBBS, Sam | | Conservative | Valley Gardens & Central Harrogate | | |
| 5 | PARASKOS, Andy | | Conservative | Spofforth with Lower Wharfedale and Tockwith | | |
| 6 | LEE, Andrew | Chair | Conservative | Appleton Roebuck & Church Fenton | | |
| 7 | MANN, John | | Conservative | Oatlands & Pannal | | |
| 8 | MOORHOUSE, Heather | | Conservative | Great Ayton | | |
| 9 | PEARSON, Clive | | Conservative | Esk Valley & Coast | | |
| 10 | NOLAND, David | | Green Party | Skipton North & Embsay-with-Eastby | | |
| 11 | SOLLOWAY, Andy | | Independent (unaffiliated) | Skipton West & West Craven | | |
| 12 | COLLING, Liz | Vice Chair | Labour | Falsgrave & Stepney | | |
| 13 | MAW, Rich | | Labour | Weaponness & Ramshill | | |
| 14 | LACEY, Peter | | Liberal Democrats and Liberal | Coppice Valley & Duchy | | |
| 15 | MURDAY, Andrew | | Liberal Democrats and Liberal | Pateley Bridge & Nidderdale | | |
| 16 | Vacancy | | North Yorkshire Independent | | | |
| Total Membership – (16) | | | Quorum – (4) | | | |
| Con | Lib Dem and Lib | NY Ind | Labour | Ind | Green Party | Total |
| 9 | 2 | 1 | 2 | 1 | 1 | 16 |

Transport, Economy, Environment and Enterprise Overview and Scrutiny Committee

1. Membership

| Councillors (16) | | | | | | |
|--------------------------------|------------------------|---------------|---------------------|--------------------------------|--|--------------|
| | Councillors Name | | Chair/Vice Chair | Political Group | Electoral Division | |
| 1 | CRANE, Mark | | | Conservative | Brayton & Barlow | |
| 2 | HASLAM, Paul | | | Independent (Unaffiliated) | Bilton & Nidd Gorge | |
| 3 | IRETON, David | | | Conservative | Bentham & Ingleton | |
| 4 | JEFFELS, David | | | Conservative | Derwent Valley & Moor | |
| 5 | STAVELEY, David | | Chair | Conservative | Settle & Penyghent | |
| 6 | TRUMPER, Phil | | | Conservative | Whitby West | |
| 7 | WATSON, Steve | | | Conservative | Northallerton North & Brompton | |
| 8 | WINDASS, Robert | | | Conservative | Boroughbridge & Claro | |
| 9 | GOODRICK, Caroline | | | Conservatives and Independents | Sheriff Hutton & Derwent | |
| 10 | WARNEKEN, Arnold | | | Green Party | Ouseburn | |
| 11 | DAVIS, Melanie | | Vice-Chair | Labour | Selby West | |
| 12 | SHARMA, Subash | | | Labour | Newby | |
| 13 | GOSTLOW, Hannah | | | Liberal Democrats and Liberal | Knaresborough East | |
| 14 | MASON, Steve | | | Liberal Democrats and Liberal | Amotherby & Ampleforth | |
| 15 | BARRETT, Philip | | | North Yorkshire Independent | Glusburn, Cross Hills and Sutton-in-Craven | |
| 16 | CATTANACH, John | | | North Yorkshire Independent | Cawood & Escrick | |
| Total Membership – (16) | | | Quorum – (4) | | | |
| Con | Lib Dem and Lib | NY Ind | Labour | Ind | Green Party | Total |
| 9 | 2 | 2 | 2 | 0 | 1 | 16 |

Children and Families Overview and Scrutiny Committee

1. Membership

| Councillors (16) | | | | | | | |
|---|-----------------------|--------|------------------|----------------------------------|-------------------------------|-------|--|
| | Councillors Name | | Chair/Vice Chair | Political Group | Electoral Division | | |
| 1 | BAKER, Alyson | | | Conservative | Hillside & Raskelf | | |
| 2 | JABBOUR, George | | | Conservative | Helmsley & Sinnington | | |
| 3 | HULL, Nathan | | | Conservative | Washburn & Birstwith | | |
| 4 | JEFFELS, David | | | Conservative | Derwent Valley & Moor | | |
| 5 | JONES, Tom | | | Conservative | Scotton & Lower Wensleydale | | |
| 6 | LUNN, Cliff | | | Conservative | Thorpe Willoughby & Hambleton | | |
| 7 | MANN, John | | | Conservative | Oatlands & Pannal | | |
| 8 | PHILLIPS, Heather | | Vice Chair | Conservative | Seamer | | |
| 9 | PEACOCK, Yvonne | | | Conservative | Upper Dales | | |
| 10 | Vacancy | | | | | | |
| 11 | POSKITT, Kirsty | | | North Yorkshire Independent | Tadcaster | | |
| 12 | DUCKETT, Stephanie | | | Labour | Barlby & Riccall | | |
| 13 | RITCHIE, John | | | Labour | Woodlands | | |
| 14 | BRODIGAN, Barbara | | Chair | Liberal Democrats and Liberal | Ripon Ure & Spa | | |
| 15 | SLATER, Monika | | | Liberal Democrats and Liberal | Harlow and St Georges | | |
| 16 | JEFFERSON, Janet | | | North Yorkshire Independent | Castle | | |
| Members other than Councillors – (5) Voting | | | | | | | |
| | Name of Member | | | Representation | | | |
| 1 | SMITH, Andrew | | | Church of England | | | |
| 2 | VACANCY | | | Non-Conformist Church | | | |
| 3 | HIGGINS, Emma | | | Roman Catholic Church | | | |
| 4 | CAVELL-TAYLOR, Dr Tom | | | Parent Governor | | | |
| 5 | KIRKHAM, Anna | | | Parent Governor | | | |
| Non Voting – (4) Non-voting | | | | | | | |
| 1 | STRACHAN, Ross | | | Secondary Teacher Representative | | | |
| 2 | MALTBY, Stephen | | | Primary Teacher Representative | | | |
| 3 | WATSON, David | | | Voluntary Sector | | | |
| 4 | SHARP, David | | | Voluntary Sector | | | |
| Total Membership – (25) | | | | Quorum – (4) | | | |
| Con | Lib Dem and Lib | NY Ind | Labour | Ind | Green Party | Total | |
| 9 | 2 | 1 | 2 | 1 | 0 | 16 | |

Deleted:

Deleted:

Deleted:

Deleted: Transition (LGR)¶
Overview and Scrutiny Committee¶
¶
1. Membership¶
¶
Councillors (16) ...

Housing and Leisure Overview and Scrutiny Committee

1. Membership

| <u>Councillors (16)</u> | | | | | | |
|--------------------------------|-------------------------|-------------------------|------------------------|---------------------------|------------|--------------|
| | <u>Councillors Name</u> | <u>Chair/Vice Chair</u> | <u>Political Group</u> | <u>Electoral Division</u> | | |
| <u>1</u> | | | | | | |
| <u>2</u> | | | | | | |
| <u>3</u> | | | | | | |
| <u>4</u> | | | | | | |
| <u>5</u> | | | | | | |
| <u>6</u> | | | | | | |
| <u>7</u> | | | | | | |
| <u>8</u> | | | | | | |
| <u>9</u> | | | | | | |
| <u>10</u> | | | | | | |
| <u>11</u> | | | | | | |
| <u>12</u> | | | | | | |
| <u>13</u> | | | | | | |
| <u>14</u> | | | | | | |
| <u>15</u> | | | | | | |
| <u>16</u> | | | | | | |
| Total Membership – (16) | | | Quorum – (4) | | | |
| <u>Con and Ind</u> | <u>Lib Dem and Lib</u> | <u>Labour</u> | <u>NY Ind</u> | <u>Green</u> | <u>Ind</u> | <u>Total</u> |
| <u>9</u> | <u>2</u> | <u>2</u> | <u>2</u> | <u>1</u> | <u>0</u> | <u>16</u> |

West Yorkshire Joint Health Overview and Scrutiny Committee

| | | |
|---------------|---|--|
| COATES, A | Bradford Metropolitan District Council | |
| JAMIL, R | Bradford Metropolitan District Council | |
| BLAGBROUGH, H | Calderdale Council | |
| HUTCHINSON, C | Calderdale Council | |
| ADDY, B | Kirklees Council | |
| SMAJE, L | Kirklees Council | |
| ANDERSON, C | Leeds City Council | |
| SCOPES, A | Leeds City Council | |
| LEE, A | North Yorkshire Council | |
| SOLLOWAY, A | North Yorkshire Council | |
| RHODES, B | Wakefield Metropolitan District Council | |
| SWIFT, K | Wakefield Metropolitan District Council | |

North Yorkshire and West Yorkshire Mandatory Joint Health Overview and Scrutiny Committee

| | | |
|----------------|-------------------------|--|
| VACANCY | North Yorkshire Council | |
| SOLLOWAY, Andy | North Yorkshire Council | |

Appendix 6 – Current Terms of Reference for the Independent Remuneration Panel on Member Allowances

NORTH YORKSHIRE COUNTY COUNCIL

INDEPENDENT REMUNERATION PANEL

The Panel is convened under the Local Authorities (Members' Allowances) (England) Regulations 2003. These regulations, which arise out of the relevant provisions in the Local Government Act 2000, require all local authorities to maintain an Independent Remuneration Panel to review and provide advice to their council on Members' allowances. This allows an independent group to review and make recommendations on the appropriate levels of remuneration and expenses to Councillors who, by law, have to make a decision on the levels of remuneration and expenses they collectively receive.

The independent remuneration panel consists of four members. The panel makes recommendations and provides advice to the county council about its members' allowances scheme. Before the council makes or amends its members' allowances scheme it must have regard to, and publicise, the panel's recommendations.

Terms of Reference

- (i) To consider issues relating to Members' remuneration and expenses;
- (ii) To consider representations;
- (iii) To make recommendations and provide advice to the County Council;
- (iv) To carry out a triennial full review of Special Responsibility Allowances;
- (v) To respond to requests to consider issues relating to the remuneration and expenses of independent and community members on relevant bodies; and
- (vi) To consider the remuneration of Councillors serving on other bodies/organisations when requested.

Appendix 7 - Proposed Terms of Reference for the Independent Remuneration Panel on Member Allowances

NORTH YORKSHIRE COUNCIL INDEPENDENT REMUNERATION PANEL – TERMS OF REFERENCE

The Panel is convened under the Local Authorities (Members' Allowances) (England) Regulations 2003. These Regulations, which arise out of the relevant provisions in the Local Government Act 2000, require all local authorities to maintain an Independent Remuneration Panel to review and provide advice on Members' allowances. Before the Council makes or amends its allowances scheme, it must have regard to the Panel's recommendations.

North Yorkshire's Members Allowances Scheme is set out in its Constitution. The following key principles underpin the Scheme:

- (1) It is important to encourage individuals to be involved in the work of the Council. People of all backgrounds and ages should feel attracted to become Councillors if they so wish, and at the very least the allowance structure should put no barriers in their way.
- (2) The work of a Councillor requires commitment and – if the role is to be carried out well – a significant investment of time. Councillors have a wide ranging role varying from local issues to the national scene. It is the Government's intention that this should be reasonably and properly remunerated.
- (3) That said, we do not wish to see the Public Service ethos lost from our Council. A balance has to be struck between paying 'a rate for the job' and recognising the significant Public Service element that is rightfully a strong feature of our system of local government.
- (4) The cost of any scheme must give value for money.
- (5) Any system must be easily understood, transparent and ensure accountability to the electorate.

The Panel must consist of a minimum of three members and will normally be four in number. It is required to produce a report making recommendations as to the matters set out in Regulation 21. These matters include the amount of allowances, and the responsibilities or duties which attract a special responsibility allowance.

Terms of Reference

- (i) To consider any issues within its remit under the Regulations relating to Members' Allowances
- (ii) In undertaking the above, to require the Council to provide all relevant information, and to request representations from Members and officers as it considers appropriate
- (iii) To consider any other representations made to the Panel
- (iv) To provide an annual report with recommendations as to Members' Allowances in a timely manner
- (v) To carry out a full review of the responsibilities and duties attracting a special responsibility allowance at least once every four years
- (vi) If necessary to carry out ad hoc reviews of allowances
- (vii) Outside the statutory scheme, to consider if requested the allowances to be paid to Members serving on other bodies.

| Initial equality impact assessment screening form | | | |
|---|--|----|------------------------------|
| This form records an equality screening process to determine the relevance of equality to a proposal, and a decision whether or not a full EIA would be appropriate or proportionate. | | | |
| Directorate | Central Services | | |
| Service area | Legal and Democratic Services | | |
| Proposal being screened | To consider proposed amendments to the Constitution. | | |
| Officer(s) carrying out screening | Barry Khan, Assistant Chief Executive Legal and Democratic Services and Monitoring Officer, North Yorkshire Council | | |
| What are you proposing to do? | Approve amendments to the Constitution. | | |
| Why are you proposing this? What are the desired outcomes? | To enable safe and legal decision making for the Council and to pick up amendments required following the coming into force of the Constitution on Vesting Day (1 April 2023). | | |
| Does the proposal involve a significant commitment or removal of resources? Please give details. | No significant implications. | | |
| Impact on people with any of the following protected characteristics as defined by the Equality Act 2010, or NYCC's additional agreed characteristics | | | |
| As part of this assessment, please consider the following questions: | | | |
| <ul style="list-style-type: none"> To what extent is this service used by particular groups of people with protected characteristics? Does the proposal relate to functions that previous consultation has identified as important? Do different groups have different needs or experiences in the area the proposal relates to? | | | |
| If for any characteristic it is considered that there is likely to be an adverse impact or you have ticked 'Don't know/no info available', then a full EIA should be carried out where this is proportionate. You are advised to speak to your Equality rep for advice if you are in any doubt. | | | |
| Protected characteristic | Potential for adverse impact | | Don't know/No info available |
| | Yes | No | |
| Age | | No | |
| Disability | | No | |
| Sex | | No | |
| Race | | No | |
| Sexual orientation | | No | |
| Gender reassignment | | No | |
| Religion or belief | | No | |
| Pregnancy or maternity | | No | |
| Marriage or civil partnership | | No | |
| NYCC additional characteristics | | | |
| People in rural areas | | No | |
| People on a low income | | No | |
| Carer (unpaid family or friend) | | No | |
| Does the proposal relate to an area where there are known inequalities/probable impacts (e.g. disabled people's access to public transport)? Please give details. | The decision relates to the whole area and applies equally. | | |

| | | | | |
|--|--|--|------------------------------|--|
| <p>Will the proposal have a significant effect on how other organisations operate? (e.g. partners, funding criteria, etc.). Do any of these organisations support people with protected characteristics? Please explain why you have reached this conclusion.</p> | <p>No significant implications.</p> | | | |
| <p>Decision (Please tick one option)</p> | <p>EIA not relevant or proportionate:</p> | <p><input checked="" type="checkbox"/></p> | <p>Continue to full EIA:</p> | |
| <p>Reason for decision</p> | <p>The approval of amendments to the Constitution will not have an adverse impact on any protected characteristic and therefore a full EIA would be disproportionate in this case.</p> | | | |
| <p>Signed (Assistant Director or equivalent)</p> | <p><i>Barry Khan</i></p> | | | |
| <p>Date</p> | <p>2 April 2024</p> | | | |

Initial Climate Change Impact Assessment (Form created August 2021)

The intention of this document is to help the council to gain an initial understanding of the impact of a project or decision on the environment. This document should be completed in consultation with the supporting guidance. Dependent on this initial assessment you may need to go on to complete a full Climate Change Impact Assessment. The final document will be published as part of the decision-making process.

If you have any additional queries, which are not covered by the guidance please email climatechange@northyorks.gov.uk

| | |
|---|---|
| Title of proposal | Proposed amendments to the Council's Constitution |
| Brief description of proposal | To consider proposed amendments to the Constitution. |
| Directorate | Central Services |
| Service area | Legal and Democratic Services |
| Lead officer | Barry Khan, Assistant Chief Executive Legal and Democratic Services and Monitoring Officer, North Yorkshire Council |
| Names and roles of other people involved in carrying out the impact assessment | Moira Beighton, Senior Governance Lawyer, North Yorkshire Council |

The chart below contains the main environmental factors to consider in your initial assessment – choose the appropriate option from the drop-down list for each one.

Remember to think about the following;

- Travel

- Construction
- Data storage
- Use of buildings
- Change of land use
- Opportunities for recycling and reuse

| Environmental factor to consider | For the council | For the county | Overall |
|--|-------------------------------------|-------------------------------------|-------------------------------------|
| Greenhouse gas emissions | No effect on emissions | No Effect on emissions | No effect on emissions |
| Waste | No effect on waste | No effect on waste | No effect on waste |
| Water use | No effect on water usage | No effect on water usage | No effect on water usage |
| Pollution (air, land, water, noise, light) | No effect on pollution | No effect on pollution | No effect on pollution |
| Resilience to adverse weather/climate events (flooding, drought etc) | No effect on resilience | No effect on resilience | No effect on resilience |
| Ecological effects (biodiversity, loss of habitat etc) | No effect on ecology | No effect on ecology | No effect on ecology |
| Heritage and landscape | No effect on heritage and landscape | No effect on heritage and landscape | No effect on heritage and landscape |

If any of these factors are likely to result in a negative or positive environmental impact then a full climate change impact assessment will be required. It is important that we capture information about both positive and negative impacts to aid the council in calculating its carbon footprint and environmental impact.

| | | | | |
|--|--|----------------------------|------------------------|--|
| Decision (Please tick one option) | Full CCIA not relevant or proportionate: | Not relevant/proportionate | Continue to full CCIA: | |
| Reason for decision | The issues covered by the report do not of themselves present any significant climate change implications. | | | |
| Signed (Assistant Director or equivalent) | BARRY KHAN, Assistant Chief Executive Legal and Democratic Services and Monitoring Officer | | | |
| Date | 2 April 2024 | | | |